



**AMADOR COUNTY
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March 12, 2007

Buena Vista Rancheria of Me-Wuk Indians of California
Attention: Comments on Draft TEIR
P.O. Box 162283
Sacramento, California 95816

Re: Comments on 2007 Draft TEIR for Proposed Buena Vista Rancheria Casino Project

Dear Sir or Madam:

The County of Amador ("County") submits this letter and attached Appendices to provide comments on the document entitled Draft Tribal Environmental Impact Report ("DTEIR" or "Draft TEIR") for the Buena Vista Rancheria of Me-Wuk Indians Gaming and Entertainment Facility ("Project") issued on or about January 26, 2007.

The DTEIR contemplates a Las Vegas-style casino facility of 328,521 square feet in size, with 2000 slot machines, 80 gaming tables, restaurants and lounges, a 3,451 parking space, multi story parking garage, and wastewater and potable water treatment facilities, all of which will generate enormous vehicle traffic on narrow, rural two lane roads that are seriously inadequate to handle such traffic both with regard to public safety and traffic flow. It also goes without saying that the proposed casino will produce enormous revenues of a magnitude that will allow the Tribe, consisting of one adult member and her children, as well as its New York and Nevada investors to pay for proper and appropriate mitigation.

The proposed casino project will have profound and permanent impacts on the County and its residents on a wide range of issues from public safety to quality of life to physical integrity. The Governor in negotiating the language of the Amended Compact recognized the public dislocation and outcry in counties and cities where casino operations have overwhelmed the resources of government and residents, and inserted protective language requiring a meaningful environmental evaluation including mitigation measures and alternatives. The DTEIR fails to come close to satisfying the requirements of the Amended Compact. It omits discussing many issues of importance, and does not even provide analysis and reports on critically important matters, including potable water availability and wastewater discharge onto neighboring properties and nearby waterways. Further it defers any meaningful analysis of mitigation measures until some undetermined time in the future or arbitrarily sets mitigation measures at what the Tribe has labeled "Fair Share". The County is deeply concerned that without adequate mitigation the many and substantial financial and environmental burdens of this Project will fall unfairly on County residents and taxpayers. There are some impacts that would potentially be long term or irreversible that have virtually no concrete mitigation measures proposed. An example of this is the apparent intent to draw down groundwater levels for the benefit of the casino such that adjacent and nearby parcels may have their wells rendered unusable. This is something that is not speculative, in that it has occurred with other casino

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projects in the State. Those casinos, however, were developed without the protections the Governor included in the Amended Compact.

Faced with a proposed Project of this magnitude, it is the responsibility of the County and its elected officials and staff to safeguard the quality of life for all of our residents to the greatest extent possible, including without limit to ensure public safety, preserve cost effective operation of County services without undue and unfair financial burdens on County residents, and to protect infrastructure, environment, agriculture, historical integrity and open space area. To identify specific areas of concern, County administrative staff and its various departments, agencies and affiliates have collaborated in providing the following comments on the DTEIR. The County administrative staff has also collaborated with other local government and State agencies to seek their input on the impacts of the Project. In certain instances, the County has retained the expert services of outside consultants to assist in evaluating and commenting on the DTEIR. The comments in the appendices attached to this letter are incorporated herein by this reference and should be addressed in the Final TEIR.

A. REQUIREMENTS FOR DTEIR

The "Amendment to Tribal-State Compact between the State of California and the Buena Vista Rancheria of Me-Wuk Indians of California" (the "Amended Compact" or "Amendment") states in Section 10.8.1 that, "The TEIR shall provide detailed information about the Significant Effect(s) on the Off-Reservation Environment which the Project is likely to have...[and] shall list ways in which the Significant Effects on the environment might be minimized...." It also states that "the direct and indirect Significant Effects on the Off-Reservation Environment...shall be clearly identified and described..."¹ The draft TEIR substantially fails to satisfy these requirements.

The DTEIR repeatedly neglects to provide information in sufficient detail or provides incorrect or inaccurate information for a meaningful evaluation of Off-Reservation impacts², much less for the development and proposal of adequate mitigation. This failing occurs throughout the document, and a number of instances of particular relevance to the County are enumerated below.

Section 10.8.1(b) of the Amendment states in pertinent part, "Formulation of mitigation measures should not be deferred until some future time." The draft TEIR, however, defers definitive discussion of countless mitigation measures, including many crucial to the public safety, fiscal integrity and quality of life in Amador County. The DTEIR's deferral of the definitive description and funding of mitigation measures is contrary to the Amended Compact and makes the negotiation of an Intergovernmental Agreement with the County very difficult

¹ "Significant Effect(s) on the Environment" is defined broadly in section 10.8.7(b) of the Amended Compact.

² The term "Off-Reservation" is used as a convenience to refer to land outside the acreage owned by the Tribe, but we note that such land is not a "Reservation" as that term is defined by federal law and reserve all rights regarding same.

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because it removes the factual foundation for bargaining. Section 10.8.8 requires the Tribe to "negotiate and enter into an enforceable written agreement with the County with the respect to the matters set forth below:

- (i) Provisions providing for the timely mitigation of any Significant Effect on the Off-Reservation Environment (which effects may include, but are not limited to, aesthetics, agricultural resources, air quality, biological resources, land use, mineral resources, traffic, noise, utilities and service systems, and cumulative effects), where such effect is attributable, in whole or in part, to the Project unless the parties agree that the particular mitigation is infeasible, taking into account economic, environmental, social, technological, or other considerations.
- (ii) Provisions relating to compensation for law enforcement, fire protection, emergency medical services and any other public services to be provided by the County and/or the City of Lone to the Tribe for the purposes of the Tribe's Gaming Operation as a consequence of the Project. Where public service is provided by the City of Lone, the county may negotiate the appropriate compensation to be provided to the City.
- (iii) Provisions providing for reasonable compensation for programs designed to address gambling addiction.
- (iv) Provisions providing for mitigation of any effect on public safety attributable to the Project, including any compensation to the County and the City of Lone as a consequence thereof. Any amount allocated to the City of Lone shall be paid directly to the City.

Thus, the inadequacy of the mitigation measures set forth in the Draft TEIR makes very difficult the viability of the good faith negotiations and resulting agreement required by the Amended Compact. The parties will find it very hard to discuss and agree upon mitigation measures that haven't been adequately described, quantified, or financially analyzed in the Draft TEIR. The Draft TEIR's deferral of mitigation measures in essence puts onto the County the burden of investigating and listing mitigation measures and their related costs. This is contrary to the clear wording of the Amendment and is extremely unfair to the County because it requires the County to expend substantial resources in order to obtain information the DTEIR should include. In this regard, the DTEIR (at a minimum) fails to respond satisfactorily to the letter to the Tribe from the Governor's Office dated November 28, 2005, commenting on serious deficiencies in the Tribe's prior TEIR.³

³ For example, that letter concluded the TEIR's "promise to fund traffic improvements, in some instances on a 'fair share' basis, without specific information regarding the nature and cost of the proposed mitigation measure," is contrary to the Amended Compact, as was the TEIR's vague discussion of potable water and effects on the off-reservation environment. The current DTEIR repeats these failures.

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Moreover, the DTEIR's failure to analyze and seriously consider project alternatives which are smaller in scope or to identify why such projects would not meet the Tribe's needs, similarly forces the County to expend scarce resources to protect the public health, safety and welfare.

B. OVERVIEW COMMENTS ON THE DTEIR

The DTEIR is deficient in many important respects. While the re-issued DTEIR is substantially longer than the first iteration in 2005, many critical areas still do not have a complete analysis of potential impacts, mitigation options, and a final decision on what mitigation is proposed. In many cases, the analysis of impacts and determination of appropriate mitigation for what will be clearly adverse impacts from the project are improperly deferred to a later, undetermined time.

It is also worthy of note that, contrary to its claim of diminishing size, the revised DTEIR calls for a much larger facility than its 2005 predecessor. The project overall has grown by an additional 83,116 square feet with the gaming area larger by 16,525 square feet.

Two of the most critical of the incomplete areas of analysis are the source for the Project's potable water and the method of wastewater disposal. While the DTEIR devotes considerable verbiage discussing these two critical areas, there is still inadequate detail and no final resolution. The analysis of these areas is incomplete and faulty. Additional discussion of these two areas will be articulated further in that specific section of these "Comments."

The Amendment requires the Draft TEIR to "include a detailed statement setting forth ... whether the proposed mitigation would be effective to substantially reduce the Significant Effects on the Environment." It appears that nowhere in the Draft TEIR, for any mitigation measure, is such a detailed statement made. The Draft TEIR merely assigns a label to each mitigation measure under the heading of "Significance with Mitigation". See Table ES-1, starting on page ES-9. There is no detailed statement relative to potential mitigation level of any given proposed mitigation or, put another way, exactly what a particular mitigation measure will achieve and what level of impact will remain.

Further, in most cases, the Draft TEIR merely states something that is proposed as a mitigation, without considering major implementation issues. For example, when in the Project development process will the mitigation occur (when will mitigation measures begin and be completed)? How will the performance of mitigation be assured and by whom? The DTEIR should contain a plan to measure the success of the proposed mitigation after completion and operation of the Casino begins. The concept of mitigation in environmental practice in California includes all of these elements. A list of things that could be done to mitigate a given impact does not satisfy the requirement to require effective mitigation. Two notable examples of this, discussed in detail herein, are the plans for obtaining a reliable potable water source and how to handle waste water discharge.

The DTEIR also has a significant flaw in almost all mitigations that involve funding offsite improvements or services from government agencies. It routinely makes use of a concept of "fair share" in determining what level of funding the Tribe will pay. This is flawed for numerous

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reasons. First, the fair share concept applies to a project which is otherwise subject to property taxes which contribute to pay for project impacts in conjunction with "fair share" payments; the Tribe, however, asserts the land on which the casino project is sited is not subject to property taxes so the DTEIR's reliance on fair share essentially amounts to cherry-picking the parts of the tax-base system/formula it likes and disregarding those it doesn't. The County notes that should the Tribe agree that the site is subject to property taxes, the DTEIR's reliance on fair share analysis can be revisited. Second, fair share applies to projects over which the County has discretionary approval powers and can condition approval on the project paying the public costs of the project including required mitigation in circumstances where "fair share" is inadequate. Third, when it comes to traffic, for example, County RTP policy requires that a project that is inconsistent with the General Plan (the Project is inconsistent) must pay full cost, with possible reimbursement from later projects. Because the Project is in an overwhelmingly rural/ag area that may not develop for 40-50 years or more, the County cannot wait for later projects far into the future to fund needed health/safety improvements. Finally, the County believes that the Amended Compact is clear that offsite impacts are to be mitigated fully by the Project/Tribe and not merely funding them to some arbitrarily selected "fair share" amount. The revenue generated by the Project will more than cover the mitigation costs, and should do so instead of burdening County taxpayers and government with those costs.

The discussion of "Alternative" projects (Amendment requirement 10.8.1(iv)) is flawed by the arbitrary and self-serving selection of four alternative projects: No Project, Phased Project, Reduce Project to 75% and Reconfigured Access Driveway with Additional Site Access and Parking. The reduced project would reduce the gaming floor by 25%, and reduce slot machines to 1,650 and gaming tables to 60. The DTEIR acknowledges that the environmental impact of this reduction would at a minimum be a reduction of vehicle trips to the casino each day and consequently, in reduced traffic impacts. Nowhere in the DTEIR is there a serious discussion of why this alternative was not selected. By the logic employed in the discussion of alternatives, the reduced-scale alternative is certainly environmentally preferable. If it is not, the DTEIR is silent on why it is not. Further the DTEIR is silent as to why this alternative would not meet the asserted objectives of the Tribe; if it does not meet those objectives, the DTEIR should specify why. This is particularly true given the fact that there is only one adult member of the Tribe. If the DTEIR contends that the 75% alternative would be insufficient to attract investors, or to meet the objectives of the Tribe, it must state its reasons as required by section 10.8.1(b) ["The TEIR must include sufficient information about each alternative to allow meaningful evaluation, analysis, and comparison."]

While a smaller-scale casino might result in lower revenues for the Tribe and/or its investors, it appears almost certain that its effect on the Off-Reservation environment would be less. A smaller-scale gaming operation would still provide a substantial gaming revenue stream, although the size of the profit stream might not be as great as that produced by a larger casino project. Since the Amendment requires the range of alternatives in the DTEIR should "feasibly attain most of the basic objectives of the Project and which would avoid or substantially lessen any of the Significant Effects on the Environment," the apparently automatic selection of the larger-scale alternative is not justified.

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Further, if the proposed alternative was chosen on the basis of maximizing revenues to the Tribe, rather than on the basis of a balance between revenue and an environmentally more preferable alternative, that fact should be acknowledged in the comparison of the merits of the alternatives. More importantly, the DTEIR should contain a detailed discussion of facts showing why a Reduced Alternative Project will not generate sufficient revenue to meet the goals of what is functionally a one-person Tribe.

The DTEIR's discussion of the No Project alternative pays only lip service to this possibility. The DTEIR repeatedly asserts that the County has no jurisdiction over the site and as a result the Tribe can build anything it wants there, suggesting that what the Tribe would build would have impacts similar or even greater than the casino project but without the mitigation required by the Amended Compact. There are several problems with this analysis.

First, Federal law is clearly to the contrary: the land is subject to the County's land use jurisdiction if the Tribe were to try to build anything other than a casino on it. The DTEIR states that under the No-Project Alternative, the County would be denied the comprehensive review process that is required under the Compact. The DTEIR states that no analysis of off-reservation impacts or mitigation measures would be required for projects other than a Class III gaming facility. This is simply not the case.

The land on which the Buena Vista Rancheria is located is not federal land, nor is it Indian land. The federal government has not taken the land into trust nor has it set it aside as a reservation. The National Indian Gaming Commission opined that the land is "Indian land" as that term is used in the Indian Gaming Regulatory Act ("IGRA"), but even that designation has been challenged in federal court. (IGRA defines Indian lands narrowly: lands within Indian reservations and any lands held in trust or restricted status by the United States for the benefit of a tribe or individual Indians and over which an Indian tribe exercises governmental power. See 25 U.S.C. sec 2703(4).)

Of greatest importance, however, is the fact that even if the Buena Vista Rancheria land is deemed "Indian land" under IGRA, it is still fee land owned by the tribe. As such, if it is used for any purpose other than gaming authorized by IGRA, it is entirely subject to the jurisdiction of the State of California and the County of Amador. Any other projects the tribe might try to undertake would be subject to CEQA and all other relevant state laws and local ordinances. (See *Alaska v. Native Village of Venetie*, 522 U.S. 520 (1998).

Moreover, it would be virtually impossible for the Tribe to build anything on this site which would have greater impact on the health and well-being of residents, generate more traffic, consume more water, produce more wastewater and create more air pollution than the project proposed. Certainly the DTEIR does not give any examples of such developments. Thus, its discussion of the No Project alternative is flawed and must be revised.

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C. COMMENTS ON THE DTEIR'S EXECUTIVE SUMMARY AND PROJECT DESCRIPTION

Page ES-2 - The Draft TEIR clearly identifies significant environmental impacts outside of Amador County that are directly attributable to the proposed project. However, the Draft TEIR states that the Compact does not obligate the Tribe to perform or fund mitigation outside of Amador County's jurisdiction and makes it clear that the Tribe has no intention of implementing any mitigation measures outside of the County's boundaries. By signing the Compact, the Tribe has specifically committed "...to mitigate to the extent practicable the off-reservation environmental and direct fiscal impacts of its Gaming Facility on local communities and local governments..." (third paragraph, first page of the Compact). We do not agree with the Tribe's attempt to limit its mitigation obligations under the Amended Compact; the purpose of those mitigation provisions is to ensure that local governments are not unduly burdened by the operation of gaming facilities. Given the interconnecting roadway systems linking Sacramento, San Joaquin and Amador Counties, should the Tribe refuse to mitigate impacted roadway segments in San Joaquin and Sacramento Counties, those substandard out-of-county roadways will have a significant impact on the nearby road segments in Amador County which the Tribe is plainly obligated to mitigate. The Final TEIR should clearly identify how the project will be in conformance with the terms of the Amended Compact if no commitment is made by the Tribe to minimize the off-reservation impacts that occur outside of the County's jurisdiction, including without limit how County roadways will be impacted by the failure to perform mitigation on roadways close to but beyond the County line.

Furthermore, the Tribe's position is contrary to CEQA which we understand was the model for the Amended Compact. In *City of Marina v. Board of Trustees* (2006) 39 Cal. 4th 341, the California State University Monterey Bay argued that it lacked legal authority to expend money on necessary off-campus mitigation measures. However, the court concluded that public agencies are responsible for mitigating or avoiding their projects' significant effects not just on the agency's own property but on the environment. As a party to the Amended Compact, the Tribe is responsible for fully mitigating the environmental impacts of their gaming facility, regardless of the location of the identified improvements.

Page ES-8 - The Draft TEIR concludes that no impacts would occur on other public services, defined as sewer, water and drainage, because the Project does not include connection to those public services. For sewer and drainage services, the Project would clearly connect to the existing service systems by directing wastewater and storm water discharge into the local drainage system. Therefore, the TEIR cannot dismiss the project's impacts on the off-reservation drainage system. For water supply, the Draft TEIR clearly identifies water supply options that would result in off-reservation impacts. The text of the Draft TEIR should be revised to reflect this fact and a detailed discussion of the off-reservation public service impacts should be provided.

Page ES-8 - The Draft TEIR concludes that public service and traffic impacts will be reduced to a less-than-significant level with implementation of the identified mitigation measures but then

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states that the Tribe is not obligated to implement mitigation measures outside of the County. If the mitigation measures identified in the Draft TEIR are not implemented, then clearly the impact would remain significant and unavoidable. The Draft TEIR's conclusion that public service and traffic impacts will be reduced to less-than-significant levels is disingenuous and does not provide responsible agencies and the public with the information necessary to clearly understand the Project's anticipated environmental impacts.

Page ES-8 - The Draft TEIR concludes that the implementation of the Phased Project Alternative would initially result in no impact on off-reservation groundwater resources but provides no substantiation for this statement. The Draft TEIR should clearly identify the groundwater impacts associated with this alternative and provide appropriate mitigation.

Project Description

Table ES-1, Page 4 of 13 - Impact CUL-3 identifies a potential impact on a significant architectural resource and then concludes that no impact will occur and no mitigation is necessary. Justification for this inconsistency and the impact conclusion needs to be provided in the Final TEIR.

Page 2-4 - The discussion of project background states that the Tribe has continuously reduced the size of the proposed project to minimize potential environmental impacts. However, based on the information included in the Draft TEIR, the gaming portion of the facility has substantially increased over time, with the current proposal being the largest gaming facility proposed at the site. The second paragraph on page 2-5 states that a previous Draft TEIR was released that included a project description similar to the proposed project described in the current Draft TEIR. However, the previous TEIR included 55,000 square feet of gaming floor and a total area of 245,405 square feet. In the Notice of Preparation for the current project, the size of the gaming area was increased to 60,000 square feet and a total area was increased to 260,000 square feet. The size of the project has been further increased in the Draft TEIR. The current project has increased the gaming area to 71,525 square feet and the total area to 328,521 square feet. This represents an increase of over 30 percent in the gaming area and over 33 percent in the total area when compared to the previous TEIR.

The authors of the Draft TEIR are being disingenuous in their discussion of the Project's background by attempting to obscure the fact that the Project's size has substantially increased over time and that this increase is clearly inconsistent with the Notice of Preparation released for this Project. The Tribe should provide justification for substantially increasing the size of the proposed Project.

Page 2-14 - The Compact does not require that a No Project Alternative be evaluated in the Draft TEIR; however, the Tribe has included such an alternative. The Draft TEIR states that this alternative has been included in order to provide a baseline of impacts. Based on the summary of impacts for this alternative included through the document, it is clear that this alternative has been included solely to justify the proposed Project in the face of multiple significant and unavoidable impacts. The conclusion that some as yet unknown speculative project would

generate substantially greater impacts than those anticipated with the proposed gaming facility, which is made multiple times in this document, is inaccurate. If the Tribe wishes to provide a baseline for environmental analysis, the proposed Project should be compared to the historic uses of the project site, not an unknown, speculative future project. Further, as discussed above, the Tribe's assertion that if a casino were not built on the site, that it could build whatever else it wanted without restriction, is wrong as a matter of law. Any non-gaming project would be subject to County land use jurisdiction. A similar flaw exists with regard to Alternative # 4 which proposes a different driveway location and a large parking facility on a parcel of land adjacent to the reservation which is not Indian lands. That parcel is not subject to the Amended Compact. Further, the parcel is under the jurisdiction of the County and subject to the environmental and land use laws of the County and State of California. The DTEIR fails to address this.

D. COMMENTS ON SPECIFIC ISSUES WITHIN THE DTEIR

Chapter 3A – Aesthetics

Section AES-1: This section states that there will be significant temporary changes in the scenic vista during the construction phase of the Project. It seems to dismiss them as similar to the sight of a piece of farm equipment working in a field, or that "recreationists" and "roadway users" pass the site so quickly that they won't notice it. The section goes on to state that there will be an impact to the scenic vista for passing "recreationists" (this is the term used in the DTEIR for people passing by the Project), roadway users, and nearby residents. The report then completely disregards this impact and calls it "Less than significant", with no mitigation proposed. Relative to the roadway users and "recreationists" the scenic impact as described will be significant. The current tourism industry, a significant contributor to the County's economy, is built in large part on the scenic beauty of the County. Placing an eyesore such as the construction of the Project in a scenic valley such as Jackson Valley could cause a disruption to the tourism industry and as a result have a negative impact on the revenue base for the County.

Section AES-3: This section describes the "significant" impact of the adverse effect on a scenic vista associated with the finished Project. The mitigation measure proposes to "Implement project landscaping plan to provide a visual buffer and to improve aesthetics," and to "Design and construct buildings to be compatible with and respectful of local character." The mitigation is inadequate; it does not eliminate or substantially reduce the impact, which has to do with character, mass, and scale (exacerbated by the 33% increase in the size of the Project building since the last DTEIR and TEIR), not architectural details. No architectural themes, materials, and colors will eliminate or substantially lessen the effect of obstruction and especially the introduction of a large-scale commercial use into a rural area. This makes discussing alternatives all the more important.

The suggested mitigation to use native vegetation in landscaping and preserve trees on (presumably other) tribal lands is desirable. However, this mitigation measure does not eliminate or substantially lessen the identified effect; whether native landscaping is used or not,

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the visual character of the area will be altered, and project alternatives should be discussed to prevent the Project from significantly disrupting the scenic vista.

Mitigation Measure AES-3b is ineffective and provides no indication that the building's design will be compatible with the surrounding natural environment. Due to the substantial change anticipated in the visual environment associated with Project implementation, the identification of effective and implementable design measures is critical. Specific development guidelines need to be identified in order to achieve the objectives of this mitigation measure.

Section AES-4a: This section attempts to describe the replacement of trees removed to widen roads and intersections. Unfortunately, the section also states that this is not to occur until after the Project is completed and in fact up to a year after that. There is no explanation on why it will take up to two and one half years after the start of the Project construction and up to one year after completion of the Project to replace these trees. The timeline is unsatisfactory.

Further, Mitigation Measure AES-4a requires that all disturbed areas of natural vegetation be replanted and that trees be replaced at a 1:1 ratio. However, no information is provided regarding where this vegetation will be replanted. Because this vegetation is primarily being removed to accommodate road improvements, it isn't feasible to replant the vegetation at the site of its removal. If an off-site mitigation replanting area is proposed, it needs to be clearly identified and the feasibility of implementing this mitigation needs to be documented.

Impact AES-4 identifies significant visual impacts related to the removal of trees in relation to necessary roadway improvements and identifies the specific tree removal areas in Figures 3A-1 through 3A-3. However, these figures only identify improvements at intersections and do not identify the tree removal that will be necessary with the roadway segment improvements identified in the Traffic Section of the Draft TEIR. These roadway segments include the length of Jackson Valley Road and Coal Mine Road. The expanded right-of-way necessary to upgrade these roadway segments to County standards, including the addition of drainage easements on both sides of the roadways, will result in the loss of additional trees and other native vegetation. The full visual impacts of the identified roadway impacts needs to be identified and described.

Section AES-7: This section talks about the significant impact that the artificial light of the Project and headlights of the additional traffic will have on the surrounding scenic vista. The mitigation proposes the use of landscaping as a visual buffer, low-sheen and non-reflective surface materials, and the application of minimum lighting standards. The use of "minimum lighting standards" is not specifically defined. This makes it impossible for County staff to evaluate whether or not appropriate lighting is being proposed.

The section also describes how there will be bright bands of horizontal light emanating from the gaps between floors of the parking structure. Those gaps could be shielded with a siding that would allow for air movement but obscure the light emanating from the gaps between floors.

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The plan also discusses the light emanating from signage. The visual renderings of the Project structure would appear to have a very large potentially lighted sign on the north (most exposed to the scenic vista) side of the parking structure. This would be an additional distraction to the scenic vista and source of offsite light disruption that is simply not necessary. Low level signage is more than adequate to identify the Project, which, because of its size, is unlikely to be overlooked under any circumstances.

Section AES-8: This section is identified in Chapter 3, page 3A-18 as, "Creation of a new source of substantial light or glare that would adversely affect day or nighttime views of historic building or views in the area associated with completed road improvements (less than significant). The section is left out of Table ES-1 altogether.

Chapter 3B – Agricultural Resources and Land Use

Section LUA-1: This section simply dismisses the concept that the proposed Project is a land use that conflicts with surrounding land uses as having no feasible mitigation and therefore, a significant and unavoidable impact. It appears that little or no effort was exercised in looking for possible mitigations, and the impact is simply dismissed.

Section LUA-2: This section dismisses the fact that the Project or the widening of roads and intersections will cause a loss of offsite farmland to non-agricultural use. The DTEIR then dismisses this impact as "less than significant." While the Project and road widening may not amount to a significant loss of farm land, future encroachment from the Project to absorb surrounding lands for additional parking, a hotel structure, or housing cannot be so easily dismissed. There should be a commitment in the TEIR that such future expansion will not take place.

At page 3B-2, the Draft TEIR states that the Pacific Coast Property to the east of the project site is not enrolled within a Williamson Act contract. However, the conclusion on page 3B-7 for Alternative 4 states that the use of this property would require cancellation of a Williamson Act contract. This contradiction needs to be resolved.

Chapter 3C – Air Quality

Section AIR-3: Chronically the lower foothill and foothill region has some of the worst air quality in Northern California. The poor air quality comes from all of the air pollution of the San Francisco Bay Area and the greater San Joaquin and Sacramento valley region being carried east on the prevailing winds and then getting trapped against the foothills and Sierras. The Project admits that it will have a significant impact on this problem. The proposed mitigation is to "Reduce emissions by implementation of alternative transportation programs." Unfortunately, the Project does not do this. Casual observation of other casinos has seen as many as twenty or more buses at the facility. The mitigation calls the problem of air quality "significant and unavoidable."

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This section mentions that the number of trips and calculations for vehicular emissions were based on the number of employee and patron vehicle trips. There is no evidence that an estimate was made for the number of delivery truck or bus trips to be made on any given day. If the option to truck water to the Project from offsite is selected, this section also needs to evaluate the air quality impacts of these truck trips.

At page 3C-9, in calculating the construction-related emissions, the Draft TEIR assumed that four daily haul truck trips would be required for 80 days, with an average one-way haul distance of 20 miles. This represents 12,800 vehicle miles traveled by haul trucks. However, as described on page 2-9 of the project description, approximately 300,000 cubic yards of material would be removed from the Project site. Based on a typical 20-cubic yard haul truck, this would represent 15,000 truck trips within an 80-day timeframe, or 187 trucks per day. Based on an average one-way haul distance of 20 miles, this represents 600,000 vehicle miles traveled by diesel trucks during construction, or 587,200 vehicle miles more than assumed in the Draft TEIR's Air Quality Section. Based on this oversight, the Draft TEIR has substantially underestimated the air quality, noise and traffic impacts associated with construction activities at the site. Without this analysis, the Draft TEIR is clearly deficient and a corrected analysis needs to be prepared and recirculated for additional public review.

At page 3C-9, the air quality analysis further assumes that only 2 acres per day will be disturbed during site grading activities. However, the development footprint of the Project site is over 17 acres and due to the extensive grading that will be necessary on the site, including excavations depths of as much as 60 feet in some areas, the daily area of disturbance will clearly be larger than 2 acres. The air quality analysis has substantially underestimated the air quality impacts associated with Project construction activities.

At page 3C-10, the air quality analysis assumes an 18-month construction schedule. However, the project description on page 2-10 clearly states that construction will occur over a 14-month period. Because the same amount of construction would need to occur in a shorter timeframe with the 14-month schedule, the daily emissions would be higher than predicted with an 18-month schedule. The air quality analysis has again underestimated and miscalculated the daily emissions associated with Project construction activities.

At page 3C-11, impact AIR-2 concludes that health risks associated with exposure to toxic air contaminants generated from diesel engines will be less than significant with the implementation of Mitigation Measure AIR-1b. However, the analysis of the construction-emission health risks ignores the substantial number of trucks necessary to haul soil off of the site. Also, Mitigation Measure AIR-1b only addresses off-road emissions and does nothing to minimize the on-road emissions generated from haul trucks. Because a health risk assessment was not prepared as part of the Draft TEIR, the authors of the DTEIR have no ability to quantify the actual risk for residents in the area and their less-than-significant conclusion is no better than a guess.

This also applies to the long-term health risks associated with the large volume of traffic generated from the facility and the number of diesel-powered buses and delivery trucks anticipated at the site. Also, if the site runs short of water supply from onsite wells, as is

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expected, water will need to be trucked to the site. This would include trucking in at least forty-one 2,000 gallon trucks a day to meet the water demand. The preparation of a detailed Health Risk Assessment is clearly necessary for this Project in order to determine whether residents near the site and adjacent to the Project's access roads will be exposed to excessive levels of toxic air contaminants.

The calculation of the Project's operational air quality emissions completely ignores the large number of buses and delivery trucks that will be generated by the proposed project and the fact that the buses would typically remain running for extended periods when dropping off or picking up patrons, as acknowledged in the Noise Section on page 31-12. As identified in the Air Quality Technical Data included in Appendix E, the air quality modeling assumed 0.1 percent of the vehicles coming to the site would be school buses and 0.2 percent would be urban buses. This assumption substantially underpredicts the Project's operational air quality impacts.

At page 3C-15, impact AIR-4 references a "super cumulative scenario" but provides no definition of this term and seems to ignore any discussion of cumulative impacts in Table 3C-7.

At page 3C-16, in Table 3C-7, the emissions generated by the Project on State Route 88 between SR 104 to SR 49 are identified as decreasing when compared to the existing conditions. This same problem occurs in Table 3C-8. This would seem to indicate a flaw in the air quality modeling that may affect other air quality conclusions in the Draft TEIR. The Project's emissions should be remodeled to ensure accuracy.

At page 3C-17, the discussion under Alternative 1 states that air quality impacts would only slightly be reduced when compared to the proposed Project. However, almost any other development on the site would have substantially fewer vehicle trips than the proposed Project. It is difficult to contemplate an alternative development at the site that would be able to generate up to 9,000 vehicle trips on a weekend, similar to the proposed Project, or that would require the same offsite road improvements. The discussion of this Alternative needs to be more closely based on reality.

At page 3C-19, the emissions estimates for full buildout of the phased alternative, identified in Table 3C-11, are substantially higher than identified in Table 3C-6 for full buildout of the Project. These totals should be the same if they represent the same ultimate buildout assumption. Clarification of the modeling output needs to be provided.

At page 3C-20, the second paragraph references Impact AIR-6 but there is no Impact AIR-6 identified in the document. Clarification should be provided as to why this impact was omitted.

At page 3C-20, the Air Quality section needs to provide some analysis of the air quality impacts associated with using natural gas at the project site.

At page 3C-20, the discussion of air quality impacts included in the Draft TEIR completely ignores the substantial carbon dioxide emissions that will be generated by the proposed Project, particularly considering the substantial vehicle miles that will be driven by patrons coming from

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the Stockton and Sacramento areas. These emissions will directly contribute to greenhouse gas emissions. A detailed discussion of the project's impacts on global warming needs to be included in the TEIR as well as a discussion of the project's compatibility with the requirements of newly-adopted Assembly Bill 32.

Chapter 3D – Biological Resources

Section BIO-2a: This mitigation measure discusses the loss of wetlands habitat. It proposes to minimize such loss, but where disruption is unavoidable to engage in a 3:1 replacement ratio. On page 3D-13 the DTEIR proposes to prepare a wetlands mitigation plan. Unfortunately this is only a promise to engage in the preparation of this plan. The plan must be completed as part of the DTEIR. Without the completion of the wetlands mitigations plan the County cannot intelligently comment on the adequacy of the plan. Indeed the DTEIR admits (same page), "No specific wetland mitigation sites have been identified within study area." Without the completion of the plan how can the County confirm that statement?

Also at page 3D-13, impact BIO-3 states that the proposed Project is not likely to affect any special-status species and then later states that special-status plant species may be present in vernal pools adjacent to the study area that may be indirectly affected. The impact discussion concludes that the impact is potentially significant. This contradiction in conclusions needs to be resolved.

Additionally, the County adopts the comments made by the U.S. Department of Fish & Wildlife in its letter dated March 5, 2007. The County joins USDFW's request for a habitat assessment by a qualified botanist or biologist during the appropriate season, and requests that such an assessment be done for the Project site and for the sites of needed roadway mitigation.

At page 3D-18, the mitigation for the disturbance of vernal pool tadpole shrimp (federally listed as endangered) and vernal pool fairy shrimp (federally listed as threatened) includes initiating consultation with the U.S. Fish and Wildlife Service. However, consultation in no way mitigates for the actual impact. The Tribe provides no commitment to actually implementing any mitigation for the loss of these species and has made it clear that the County is responsible for implementing all offsite improvements. Without a commitment to implement appropriate mitigation measures for the loss of these sensitive species, the impact will remain significant and unavoidable.

Chapter 3E – Cultural Resources

Section CUL-2b: See page 3E-24. This mitigation imposes a burden on the Amador County Sheriff / Coroner. Investigations of the type described can be very time consuming and labor intensive, therefore, a significant impact. No mitigation measure is proposed for this impact.

There is no mention that the group of Native Americans who identify themselves as the "Historic lone Band of Me-Wuk Indians" (who are not a part of the B.I.A. recognized lone Band of Me-Wuk Indians) have been consulted for information on burial sites on or near the Project site.

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This group has claimed to have extensive knowledge of family burials in this area and should be consulted for their knowledge and input.

Section CUL-3 and CUL-4: These two sections discuss the potential scenic or other disruption of two historic structures. The first historic structure is a stone house; the second is the Buena Vista Saloon. The stone house is listed as "no impact." The Buena Vista Saloon is listed as having a "significant" impact. The proposed "mitigation" is to photograph and document the structure. This is no mitigation at all. Using the "significant and unavoidable" rubric, the DTEIR indicates that the Saloon will simply be a casualty of the Project and the Tribe need not preserve it. This is incorrect. Road realignment and all other means necessary should be employed to preserve the store in its present location. The store should not be dismissed as a "significant and unavoidable" loss merely for the financial expedience of the Tribe. Proper mitigation should be proposed.

Chapter 3F – Geology, Soils, and Seismicity

At page 3F-1, the name of the road that provides direct access to the site makes it clear that extensive mining has occurred in the Project area in the past. The area has a long history of clay and lignite mining, and local residents witnessed the cave-in of an underground tunnel on Coal Mine Road. In one instance, according to former industry workers, there was a description of a tunnel collapse that affected the surface in the form of a sink hole. According to such sources, the mining tunnels in the area are of a relatively shallow depth (15 to 20 feet) and the underground workings have been encountered during drilling on the Project site. These tunnels can easily collapse when exposed to pressures from above. However, the Geology Section of the Draft TEIR includes no discussion of the historical mining activities in the area or the hazards associated with constructing on top of these mining tunnels. More detailed exploration of the Project's geological hazards, including mining tunnels, needs to be conducted prior to completion of the Final TEIR to ensure construction is actually feasible on the Project site and nearby roadway segments. Include discussion of evidence of such tunnels found by the Tribe or its consultants to date.

At page 3F-2, the discussion of fault rupture hazards identifies the Dunnigan Hills fault as being 40 miles to the northeast when it is actually located to the northwest.

At page 3F-2, the discussion of ground-shaking hazards states that the hazard is extremely low due to the substantial distance between the Project site and any known active faults. However, in the paragraph above this statement, the Draft TEIR states that the Foothill Fault System is located within 1.8 miles of the Project site and Figure 3F-1 identifies a fault within less than a ½ mile from the site. Therefore, a more detailed analysis of the potential seismic hazards associated with site development needs to be prepared.

This section also describes the adverse impact of soil erosion, storm water runoff, and sedimentation that could occur during the construction phase of the Project. The section also describes the normally required standard measures to prevent or minimize this problem.

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However, it does not designate who will monitor the efforts for success and what action or recourse there is in the event of failure.

Chapter 3G – Hazards and Hazardous Materials

This chapter refers to gasoline and diesel fuels to be maintained on site for use by the casino but not for sale to the public (ref. page 3G-7). The document does not describe the quantities or storage methods for these fuels, including whether there is any proposal for an underground storage tank for these fuels. The DTEIR also incorrectly states that the Amador County Environmental Health Department will undertake the initial investigation of unauthorized releases from underground tanks. If the Tribe proposes the County Environmental Health Department take on this responsibility, it must so state and propose appropriate mitigation.

Section HAZ-1a: This section appears to cite the Amador County Environmental Health Department as having jurisdiction over this site. Is that what the DTEIR proposes? This mitigation measure lists several hazardous materials including chlorine and sulfur dioxide gas. It is not clear if these materials are intended to be handled at this facility and, if so, what quantities would be on hand at any give time. These details should be provided. The DTEIR should also call for the Project to provide a standard "Business Plan" to the County and to all fire authorities who may need to respond to an emergency at the Project.

Section HAZ-2b: This section refers to the potential for human exposure due to potentially harmful pesticide and fertilizer residues encountered in soils during construction. It is not clear if the reference is to on site or off site construction. The mitigation cites the Amador County Environmental Health Department as the agency to review the results of soils sampling or screening to identify appropriate handling in accordance with department guidelines. If the Tribe proposes the Environmental Health Department to have a role in this regard, it should so state. The Department may participate in addressing concerns about materials testing and disposal in the event of off site discoveries, but the Agricultural Commissioner would likely be the lead in determining personal protective measures to be taken.

Section HAZ-3: This section indicates that Ione Elementary School and Ione Junior High School are more than five miles from the Project and are therefore outside the .25 mile zone of consideration around the Project for potential releases of hazardous substances. The section also states, "...and transport routes would not be likely to come within 0.25 mile of these sensitive receptors." This is inadequate. The reality is that any transport of hazardous substances from Sacramento is likely to come through Ione on Hwy. 104 and 124, which is within 0.25 miles of both schools. The DTEIR should ensure that the Project has a firm plan that would require all such transports to travel to and from the Project via other routes. Hwy. 88 is also inappropriate in that it passes immediately adjacent to schools in San Joaquin County if approaching from the west and two schools in Amador County if approaching from the east.

Section HAZ-4a: This section discusses the potential of the Project and the traffic attending the Project to cause wild land fires. It describes fire prevention methods that would be employed to lessen this danger. This is laudable. However, it does not discuss or make

reference to an enhancement of the wild land fire fighting capabilities of the local or State fire agencies responsible. At least one major wild land fire has burned through the area immediately around the Project in the last ten years alone. Prevention is the first step and is proposed here. However, the ability to stop the fire once it starts is essential also. This section must make direct reference to and propose enhancement for the fire fighting resource that the DTEIR discusses later in Chapter 3K.

At page 4-15, appendix H, the document reports the discovery of toluene in wells 1 and 2. It is known that the wax plant located to the west of the Project site in the past used toluene in the extraction process. Based on information on hand, monitoring wells at that site failed to show toluene in groundwater. While concentrations of toluene discovered may not indicate a significant potential impact to public health or the environment, the document does not discuss this matter at all. It is possible that a plume of some significance underlies the Project. Construction and groundwater extraction could increase potential exposure. This should be investigated more thoroughly.

Chapter 3H - Mineral Resources

At page 3H-1, according to knowledgeable locals, the mineral resources underlying the Project site are owned by a private company not affiliated with the Tribe. The discussion of the Project site's mineral resources should include a discussion of who owns the site's mineral resources and what effect this ownership would have on site development.

Chapter 3I - Noise

The construction phase calculation for this chapter fails to include the approximately 15,000 dirt hauling truck trips of unknown path that will be required to remove the 300,000 cubic yards of overburden dirt that is to be removed from the Project (ref. page 2-9). It also fails to take into consideration the number of bus and delivery truck trips that will occur after the Project is complete and operational.

This chapter also makes several references to the County "reducing the speed limit" in areas of roadway where other physical construction measures for reducing traffic noise have failed. This is a good concept in that it would probably work to reduce noise. Unfortunately the laws on how the County may set speed limits do not include the authority to reduce speed limits for noise reduction purposes. Therefore, reducing the speed limits based on this justification would be illegal and would render enforcement of the speed limit illegal. Other legal mitigation must be provided.

In the discussion of noise impacts, the nearest sensitive receptor is identified as a residence located at least 500 feet from the Project site (see Page 3I-9). However, page 3C-16 identifies the nearest sensitive receptor as a residence located approximately 300 feet west of the Project site. Because distance directly affects the attenuation of noise, this miscalculation contributes to an underestimation of the actual noise impacts associated with Project implementation. The noise modeling should be rerun to address this distance error.

At page 3I-10, the mitigation measures identified in the Draft TEIR to reduce traffic noise levels are ineffective and infeasible. The use of noise-reducing pavement has been shown to only negligibly reduce traffic noise levels and the effect tends to be short-lived. Reducing speed limits on County roads is infeasible because the speed limits have been set according to the design speeds of the roadways. When speed limits are set substantially below a roadway's design speeds, increased traffic accidents tend to occur due to greater differences in individual vehicle speeds on the roadway. This is an additional liability that the County cannot be subjected to for the sake of the proposed Project. The mitigation also identifies the construction of earth berms or solid walls between the roadway and residences. However, no analysis is provided of where these berms/walls would be necessary, whether they would be feasible, or what adverse visual impact would occur with building these structures within a rural area.

Section 3J – Population and Housing

Section POP-1: This section discusses the growth inducing aspects of the Project. It also discusses the potential for the Project to use up what is left of available housing within Amador County. The DTEIR indicates that housing availability in Amador County is already well below average. This will all have an impact on the work force availability for Amador County as a whole.

This section concludes that the impact on Amador County from growth inducement and the depletion of available housing is "significant". However, it then further concludes that there is no feasible mitigation measure and that the impact is "significant and unavoidable". On page 3J-10 the DTEIR states that, "On site housing is not feasible due to the limited developable area on the reservation." This is correct. The Jackson Rancheria found this problem when they constructed and operated their casino. However, they did not come to the same "no feasible mitigation" conclusion. The Jackson Rancheria purchased available, and properly zoned, offsite land and built a major apartment complex in the Sutter Hill area of the City of Sutter Creek. Rather than merely dismiss the problem as an unfair burden for the County that they could not mitigate, they found a mitigation measure and employed it. This Project could do the same thing, finding an appropriate offsite location and building affordable workforce housing.

Chapter 3K – Public Services

Section PS-1: This section discusses the significant impacts on the fire services that are responsible for fire protection and rescue services in the areas surrounding the Project. The Jackson Valley Fire Department, Amador Fire Protection District, and the State of California Department of Forestry and Fire Protection as separate governmental agencies from the County have commented under separate cover. Copies of their comments are included with the County's comments as Appendix One (Jackson Valley Fire Department), Appendix Two

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(Amador Fire Protection District) and Appendix Three (California Department of Forestry and Fire Protection)⁴.

The DTEIR endeavors to analyze the fiscal costs of providing funding for fire department facilities and resources and providing fire protection services in a manner that the County does not agree with. The Project and DTEIR take on the concept of "fair share" in many of the funding offsets. For the reasons discussed above, this is inadequate and seeks improperly to require taxpayers to bear the burden of providing required services to the casino. The requirements of the Amendment are to fully fund and mitigate the impacts of the Project, not to pay what the Tribe arbitrarily deems to be a "fair share."

As the County urged the Tribe in 2005 in connection with the prior, flawed DTEIR, the Tribe should retain a professional fire services consultant to advise on the fire services, personnel and equipment necessary and appropriate for the Project, and include that data in the DTEIR. The DTEIR should specify the proposed mitigation regarding fire services including the personnel needed, the equipment needed, and whether or not facilities exist to house them and, if not, whether the Tribe proposes that such facilities be constructed, and where and by whom. As the Tribe is undoubtedly aware, the Amended Compact requires the Tribe to take all steps necessary to reasonably ensure the ongoing availability of sufficient and qualified fire suppression services to the Project before it can open for business.

Section PS-2: In this section, the DTEIR discusses the substantial impacts to law enforcement services of the Project. The DTEIR fails to adequately examine and research this area at all. Appendix G of the DTEIR is included in this area of impacts. There are many deficiencies, inaccuracies, and omissions in this section.

There is no study of offsite impacts such as calls for service, crimes, traffic collisions, etc. that will be the result of patrons and employees traveling to and from the Project. This is a large part of the impacts that have not been examined by the DTEIR at all. In fact the Amador County Sheriff's Office has documented that 43% of its crimes and calls for service that are related to the Jackson Rancheria Casino are offsite. There is no mention of the offsite impacts on the California Highway Patrol. In fact the CHP is not even mentioned from the standpoint of mitigating the impact on that agency.

The DTEIR uses comparative analysis of the Project to three other Northern California casino facilities, those being Thunder Valley, Jackson Rancheria, and Cache Creek. While it is helpful to gather statistics from these casinos on the number of crimes and calls for service they generate for law enforcement, it is not an accurate comparison to look at the number of law enforcement officers for which local government is reimbursed. The physical conditions at the Project site and surrounding area need to be discussed specifically.

⁴ We incorporate the comments of the Jackson Valley Fire Department, Amador Fire Protection District and the California Department of Forestry and Fire Protection into these comments by this reference.

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Section II of Appendix G contains inaccurate and outdated information on its comparative analysis. The Jackson Rancheria Casino currently funds five officers for the Amador County Sheriff's Office, not just two. However, not being an Amendment covered casino they are not required to fund any positions.

The DTEIR also uses an arbitrary funding level description to contemplate mitigation levels for the City of Lone and City of Jackson police and fire impacts. Why the DTEIR includes Jackson and not Sutter Creek is not articulated in the DTEIR and should be. There is no discussion of the potential for offsite impacts to public services in the City of Lone, including without limit its Police or Fire Departments. These potential impacts need to be quantified before any meaningful discussion and negotiation between the County (as the representative in negotiations for the cities) and the Tribe can occur.

Section PS-3: This section discusses the impact of potential growth inducement on the Amador County Unified School District. The DTEIR recognizes this as a "significant" impact. Then under Mitigation Measure PS-3a the DTEIR dismisses the matter altogether and attempts to shift the burden to housing development builders, with the statement, "In accordance with those mandates, school fees will be paid by residential or other development projects." It is interesting that in other places of the DTEIR the Project sets its obligation (the County thinks incorrectly) on the developer fees or taxes that any other large retail enterprise would pay. However, here it asserts that it has no obligation and that housing project developers should carry the burden.

The current developer fee for a large retail project in the Amador County Unified School District is forty-two cents a square foot. There are additional property taxes paid by a large retail project. This area should have further documented analysis and provide for meaningful mitigation measures, and not merely dismiss it out of hand for the Project's financial benefit.

It is the County's understanding that the Amador County Unified School District / County Office of Education will be commenting under separate cover. However, the County does not have a copy of that comment document at this time.

Section PS-4: The DTEIR in this section and in Appendix G fails to analyze the impacts on the criminal justice system at all. There is no attempt to quantify those impacts in any way. The DTEIR merely states that there is a "significant" impact on the criminal justice system that includes the County Jail, District Attorney, Public Defender's Office, Probation Department and the Courts. In spite of the fact that statistical data was provided to the Tribe in 2005, even that data is not reflected in the DTEIR.

No meaningful negotiation and discussion between the County and the Tribe can occur with such a vacuum of information. The DTEIR must adequately study and document these impacts that are significant.

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The DTEIR again, in spite of the complete lack of impact data, attempts to directly correlate the mitigation levels to the tax rate and mitigation fees for other large projects. This analysis is flawed for the reasons elaborated above.

The Amador Superior Court has sent comments to the Tribe under separate cover. The County attaches those comments to this document as Appendix 4⁵.

In sum, the DTEIR's cursory and selective discussion of public services necessitated by the Project is seriously inadequate. Indeed, it falls well short even of the discussion of such matters in the 2005 DTEIR and FTEIR. Accordingly, the County has been deprived of the opportunity to comment meaningfully as contemplated by the Amended Compact; in the interests of assisting the Tribe in preparing an adequate FTEIR, the County references and incorporates herein its comments on public services set forth in its comment letter of June 24, 2005 regarding the 2005 DTEIR.

Section PS-5: This section describes the impacts on Amador County Health and Human Services Agency. This is described to include public health services, child protective services, drug and alcohol counseling, and communicable disease investigations; it does not acknowledge the potential for impacts on other County services such as the public library. It also does not address the need for problem gambling or gambling addiction counseling. This counseling is a mandate under the Amendment (section 10.8.8(iii)). The language of the mandate does not contemplate a program run by the Project. It contemplates a program run by the County and reasonable compensation being paid by the Project.

Under mitigation the DTEIR commits to "Develop caseload tracking system and provide funding for additional resource needs." This is a vague, inadequate and incomplete mitigation. This mitigation needs to be expanded to thoroughly detail what is proposed for funding and why.

This section also ties funding for this group of public services to the "...existing applicable mitigation fee rates or payment in lieu of tax, as calculated in Appendix G." There are two problems with this concept. The first is the obligation for the Project to pay for all mitigation measures fully, and the second is that there are no figures for Health and Human Services in Appendix G. Appendix G spends all of its pages articulating figures for fire, EMS and law enforcement.

Chapter 3L – Recreation

In this section the Project again defers any responsibility for payment of impact mitigation to "residential or other development projects or other applicable taxes." In other places the Project proposes to pay developer fees commensurate with those that a large retail project would pay. However, the Project has again selected this area and decided to shift its responsibility for mitigation to some other project for the Project's financial gain.

⁵ As with all other appendices, the County incorporates the comments of the Amador Superior Court into these comments by reference.

Chapter 3M – Traffic, Transportation and Circulation

The County has commissioned the study of this area by two outside consultants. The first is a report prepared by Dowling Associates, Inc. (Appendix 5) dated February 12, 2007. The second is a report prepared by RBF Consulting (Appendix 6) dated February 23, 2007. Both of these documents provide significant and extensive comments. Each of these documents is included as an Appendix to these comments.⁶

Amador County staff has provided the following comments, in addition to the consultants' comments mentioned above:

On Buena Vista Road, for example – and this comment applies to all roadways similarly affected – the drawings show additional lanes at the expected widths, but they do not show any feature for the roadside drainage ditches or culverts (or anything else such as turnouts, school bus stops, transit shelter/stops, etc.), which would need to be accounted for as part of the required right of way. The drainage ditches and associated right of way would require at least five additional feet on each side beyond the shoulders shown, and this then defines the new right of way line, not the line as shown on the drawings. This is critical to note as the acquisition of the right of way is a major expense and effort and may – in some cases – be a determining factor to the buildability of a project, or that phase of a project. The DTEIR cost estimate needs to accurately reflect that these features are needed and accounted for in their mitigation efforts.

1. The DTEIR identifies projects for which "fair share" contributions will be provided as mitigation. The DTEIR did not provide construction cost estimates for these projects to determine fair share or fair share amounts to be paid. We received several days ago cost estimates for some of the mitigation; however, they are significantly incomplete and full information must be provided to allow adequate evaluation. Generally speaking, the traffic impact study should have followed the Traffic Impact Study Guidelines adopted by Amador County which are similar to the Caltrans Traffic Impact Study Guidelines. These guidelines clearly call for the preparation of enough plan detail to show needed right of way and some detail cost estimates, all of which are lacking in this document. This needs to be added to the DTEIR. Some of these projects are identified for funding in the 2004 RTP. They will need to be constructed before the gaming facility is open. For these projects that need to be constructed before the gaming facilities open, the Tribe should construct them and then get a reduction in the amount of the regional traffic mitigation fees for the value of the transportation facility that would have been built without the gaming facility.

2. The DTEIR does not provide adequate project descriptions for the mitigations listed, which the tribe is expected to build. Furthermore, it does not assess their potential environmental impacts or assure that they are even feasible. The DTEIR should provide complete project descriptions, including preliminary plan line drawings for the roads and

⁶ The County incorporates the reports from Dowling Associates, Inc. and RBF Consulting into these comments by this reference.

intersection projects it will build, showing needed rights of way and expected construction easements. It should also include preliminary environmental analysis for each project. Without this level of thorough project description and environmental evaluation, the roadway and intersection projects may not be feasible mitigation measures at all. The traffic impacts they are intending to resolve cannot be fully addressed.

3. The DTEIR does not state for the intersections or roadway projects identified whether or not they are feasible due to many concerns over right of way acquisition. Failure to obtain the right of way to construct needed improvements renders these mitigation measures invalid and the Project's impact unmitigated. Please discuss the amount and likely expense of needed right of way.

4. The DTEIR is not clear with regard to who will build the roadway and intersection improvements identified as mitigation. There is some implication that the County will be given responsibility on county roads and even state highway projects for Caltrans if the Project provides only fair share funding contributions. Amador County Public Works is not staffed or equipped to construct the county roadway or intersection improvements needed to support this Project. All county roads and intersection mitigation measures should be identified as the Tribe's responsibility for construction under the County's current encroachment process. Likewise, any fair share contribution to the proposed state highway improvements may draw limited Caltrans resources away from previously prioritized regional highway projects. Due to the lack of current state funding and an existing list of unfundable state projects, the presumption that Caltrans will build the needed mitigations in time to address the Project's impacts is false and misleading. The DTEIR should identify the Tribe as responsible for full funding of the highway projects not presently programmed by Caltrans or programmed for funding in the RTP, or the Project's impacts are not going to be fully mitigated and the roads will be unsafe the day the casino opens.

5. The DTEIR states that fair share contributions will be made toward the cost of regionally beneficial improvements by paying the county-wide traffic mitigation fee that is adopted and the Tribe should be credited for the cost of regionally beneficial improvements that are installed. The DTEIR should specify that the Project is responsible to pay the county-wide traffic mitigation fee in effect at the time the Project goes under construction and the only credit that will be received is for projects already identified in the RTP for funding. This is because the gaming facility will add traffic to other transportation facilities listed in the RTP in existing and cumulative conditions and it is not being required to contribute to them except by paying the full traffic mitigation fees.

6. The DTEIR should include a mitigation monitoring plan in sufficient detail to ensure that the mitigation measures will be carried out according to a schedule correlated with the construction of the Flying Cloud facility, and it should identify the agencies responsible and capable of ensuring mitigation is completed and identify specific consequences if mitigation measures are not completed. It should also state that the facility will not open for business until all required roadway improvements are completed.

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7. The DTEIR does not calculate any annual costs for maintenance of county roads in the project vicinity; likewise, no mitigation was proposed. The DTEIR should include a mitigation measure to pay these annual costs. The Tribe should meet with Public Works and develop some analysis of the increased annual cost of road maintenance and other staffing and equipment and resource costs to the agency that, but for this single Project, are not needed in this part of the county.
8. Table ES-1 and other tables list Amador County as a responsible agency for road segments for improvements or intersections which are clearly in the City of Ione or a Caltrans facility. For example, page 8 of 13 under 2025 impacts, Amador County is listed for T-14 and T-15 which are Caltrans facilities located in the City of Ione and not within the jurisdiction of Amador County to implement those measures.
9. Page 16, Appendix F, Table 3-1, Intersection Summary, there are references to Amador County as being the responsible agency for 3-legged intersections between Caltrans facilities and Amador County facilities. It is clear that Amador County does not have the ability to build improvements by itself on a Caltrans facility. Some detail or explanation needs to be offered by the Tribe as to how these improvements are to be made or what role and agreements they may have with Caltrans regarding Caltrans facilities and improvements.
10. In Appendix F, the traffic impact analysis only considers the scenarios consisting of existing and existing plus proposed projects (in its entirety or in various phases). This traffic analysis needs to include a section for existing, existing plus approved projects, plus proposed projects (in its entirety or in various phases). Without analyzing the scenario that includes the existing plus approved projects plus casino project the traffic doesn't get captured from these approved projects that are yet to be built out, and so the total traffic counts used are not accounting for projects that have been approved but traffic is not on the road (therefore not being captured by the existing current count). For example, an old county subdivision in the Ione area known as Camanche 3B could very well add 265 new developable lots, and a newly approved subdivision in the City of Ione, Ione Wildflower, on SR104 and Brickyard Road is building out 276 new lots which were not on the books last year at the time this Project was initially submitted to the County for the tribal EIR review then. There is no existing traffic from these projects, but they are approved and will be developing/building homes soon.
11. The traffic impact study gives very little information about the distribution scenario that is depicted in Figure 7-1. It does list nearby cities and their populations, as well as nearby casinos and their level of gaming capacity, but otherwise there is no discussion on how the traffic distribution assignment was made for the distribution roads. Was this based on some kind of market analysis? Was it based on some mathematical percentage application of the various population centers or gaming locations? It is not clear and it is not stated, and should be. The County should be able to review and comment on the documentation for the basis of the distribution that has been used.
12. School bus stops, school pedestrian traffic and transit needs for transit stops, especially in the area of Jackson Valley Road at Buena Vista, have not been considered or commented on

at all. Clearly The Oaks community, the school bus system and the rural county style school bus pickup locations are going to be drastically impacted by new construction to upgrade the existing county roads to new collector or arterial standards. There is no mention of this transportation need in the study or how to mitigate the impacts on school bus stops and child pedestrian traffic to and from the Oaks or Jackson Valley Road. That mitigation must be included in the DTEIR; the safety of school children depends on it.

13. The DTEIR makes reference to cost estimates and engineering drawings prepared by Kimley-Horn; however, the drawings are conceptual and not sufficiently detailed to be useful and, as discussed above, the cost estimates are incomplete. Please provide complete estimates and engineering drawings. Also, the cross-sections shown need to not just reflect current county minimum standards but they need to reflect engineered cross sections based on an engineering analysis of the expected traffic and traffic loading from both construction and phased operations and increased traffic over time. For example, the roadway sections proposed should be calculated using an appropriate R-value taking into consideration the subsurface soil strengths in the area and an analysis of the proposed traffic mix using the main roads. A "Traffic Index" needs to be developed for this traffic mix and applied to the R-value to provide suitable cross sections for the traffic loading in this area. Current road conditions cannot possibly support even the level of construction traffic being proposed to develop this site without significant and permanent damage to the road structure and drainage that is there. For example, the Project envisions mass grading that would involve over 15000 truck trips on roads now not able to handle it. But for this Project, these roads would be adequate for the local farmers and residents and the occasional tourist; therefore, we will require that substantial road engineering be performed. Another example of road impacts from activities not identified or addressed in the traffic impact study will come from extensive water hauling to the facility. In comments made in other sections regarding capacity for water at the site, it seems clear that the site will soon run short of water supply from onsite wells and will have to truck in at least forty-one 2000 gallon trucks a day to meet the water demand. What is the effect of this on the roads? Does this change the traffic signal warrants or LOS calculations? In addition to the mass-grading trucks, the buses, delivery trucks and water-hauling truck impacts should be addressed in determining a TI for the road sections required. Public Works suggests that a Traffic Index of 10 or higher is needed to meet the demands of this kind of traffic. Given this is a likely cross section to design from the cost estimates need to reflect this as well.

14. An encroachment permit from Amador County will be required to make any driveway connection onto Coal Mine Road. This is not acknowledged in the DTEIR.

15. The traffic study also does not identify in this section or the drainage section the flooding of Coal Mine Road which, from past experience, appears to be about its deepest level at the approximate location shown for the alternate driveway access. Photos of recent flooding of the roadways were previously provided to the Tribe. Even without the alternate driveway access at this location it is clear that Coal Mine Road has significant drainage problems in rain events and may prevent emergency vehicles and patrons from leaving or reaching the facility, thereby forcing all traffic down Coal Mine Road to the south over sharp, windy curves and unimproved roadway sections (see the prior comment on Coal Mine Road South entrance). Clearly, the

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grades for Coal Mine Road need to be adjusted or improved and included in the cost estimates mentioned above.

16. The County also offers all of the comments from ACTC consultant, Joe Holland, of Dowling Associates in the February 12, 2007 letter.

The comments below are from Section 3-M of the main TEIR document.

17. The DTEIR states that a "One Time Contribution" will be made to the cost of certain "unfunded" safety improvements to Coal Mine Road as described in the RTP. There are no such safety improvements described in the RTP Table 5; however, the County has identified several needed safety improvements on Coal Mine Road south of the access locations. The Tribe has indicated 15% of the project's traffic would be coming up North Camanche Parkway and South Coal Mine to enter the facility, and yet proposes no mitigation. It is well known that the proposed access location on South Coal Mine is at the bottom of a fairly steep grade and a sharp corner where patrons will need to be stopping and slowing and making their right hand turn, requiring implementation of mitigation and safety measures on South Coal Mine and the south entrance proposed on Coal Mine Road. Identify appropriate mitigation measures.

18. Page 3M-6. Under segments at the bottom of the page there is a segment listed as "Buena Vista Road to SR104". There is no such segment. It is either Buena Vista Road to 124 or Buena Vista Road to 88. Similarly, a segment is listed at the bottom of the page, SR104 (east) to SR49, and there is no such segment. Is this possibly SR 88 to SR49?

19. Page 3M-7. Pedestrian and Bicycle Circulation. This section notes pedestrian travel and bicycle travel is uncommon throughout much of the study area. In fact, bicycle travel on roadways near the Project is common and the Project area hosts several cycling events each year, attracting hundreds of participants. It also should be noted in the DTEIR that in the area of The Oaks Community there are children bicycling and pedestrian traffic in one of the areas proposed to be the most heavily traveled intersection and road segment for this Project, and yet no mitigation has been mentioned or referred to. Pedestrian bicycle traffic impacts here need to be addressed.

20. Page 3m-12. Mitigation measure T-2 is listed to contribute funds toward improvement of the Main Street/Preston Avenue intersection. It further states "the tribe will contribute a fair share of funds to the County toward installing a traffic signal..." While the Tribe proposes to make a fair share contribution, it should be noted that at this location the facilities involved are state highway facilities in the City of Lone. Numerous other incidences of this type of reference to state or city facilities being the responsibility of Amador County to implement mitigation measures are made. How does the Tribe propose the County could mitigate measures on state highway facilities in a city where it does not have jurisdiction? How are fair share amounts determined?

21. Page 3M-12. Mitigation measure T-3-Fund improvement of Buena Vista Road from Jackson Valley Road to Coal Mine Road. This mitigation measure states the Tribe will fund

improvement of this segment, which involves improving to a 4-lane class I arterial standard. However, there is no mention made of the bridge. It does appear in the recently-provided cost estimates, but those estimates are consistently low and do not include all elements needed. Please verify that the bridge widening needs to be included in this project, including environmental clearance and complete cost estimates.

22. Page 3M-14. Mitigation measure T-8. This is to improve the SR104/SR124 intersection, and the text indicates this impact does not occur within the jurisdiction of Amador County and therefore the Tribe is not obligated to mitigate the impact. While it is true, this is in the city of lone and not in Amador County's jurisdiction, it is a state highway facility and it is a critical improvement within the City of lone in order for the impacts to be mitigated. Also, failure to mitigate will clearly impact the functioning of County roads and therefore the Tribe is obligated under the Amended Compact to mitigate.

23. Page 3M-15. Mitigation measure T-12, improve SR88 from Buena Vista Road to SR49. The text says "because this impact does not occur within the jurisdiction of Amador County the tribe is not obligated..." This segment of road is within Amador County, but it is a Caltrans facility and like so many other references in this document it is conflicting and confusing as to how the Tribe proposes to mitigate these numerous impacts on three-legged intersections where two legs are a Caltrans or a City of lone facility and one leg is in the County. Please clarify. Also, failure to mitigate will clearly impact the functioning of County roads and therefore the Tribe is obligated under the Amended Compact to mitigate.

24. Page 114, Appendix, Section 11.3.1, Jackson Valley Road/Martin Lane Intersection. The text indicated providing an all way stop control with advance warning beacons on SR 88 may be considered. It is unclear how this proposed measure is going to help the sight distance and alignment issue that exists on Jackson Valley Road at Martin Lane. This reference is perhaps incorrectly placed at this location. What mitigation is proposed for this location?

25. Page 114, Section 11.3.2, Coal Mine Road. The text states the alignment of Coal Mine Road is winding and hilly but only a small percentage⁷ of the traffic will use this section of Coal Mine Road to access the casino. This section also makes reference to unfunded improvements noted in the RTP; however, this is not a valid reference because Table 5, RTP, does not contain this project as a project funded or otherwise. However, Amador County has identified this segment as needing safety improvements and any traffic coming to the site from the South Coal Mine entrance is going to encounter a considerable safety hazard from a downhill, left-turning, sight-distance-limited alignment that is not noted in the tribal traffic study. This needs to be noted and mitigated. Additionally, when Coal Mine Road (toward Buena Vista Road) is flooded, the south Coal Mine Road access will carry 100% of the Project traffic.

26. Page 31, Appendix F, SR 16 between Latrobe Rd and Murrieta Pkwy should be identified as level of LOS D not LOS A per Sacramento County LOS criteria in the existing

⁷ The County notes 15% of 9,200 trips per day, which is a 690% increase, is not a small percentage on a road now carrying less than 200 ADT.

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condition scenario in Table 6-2. There are many LOS capacity errors occurring throughout the body of the report which need to be corrected.

27. Page 32, Appendix F. The roadway classification and capacity being used in the analysis of Meiss Road between Lone Road and Amador County is incorrect. It does not conform to the Sacramento County standards and needs to be corrected and reanalyzed.
28. Page 50, Appendix F, SR16 between Latrobe Rod and Murrieta Parkway should be identified and LOS D and not LOS A per Sacramento County LOS criteria in Table 8-2.
29. Page 53, Appendix, SR16 between Latrobe Road and Murrieta Parkway should be identified as LOS D for existing conditions and LOS E for existing plus project conditions per Sacramento County LOS criteria in Table 8-3.
30. Page 53, Appendix F. SR16 between Murrieta Parkway and Lone Road should be identified as LOS B for existing plus project conditions per Sacramento County LOS criteria in Table 8-3.
31. Page 140, Appendix F, Tables 12-5 and 12-6 show inaccurate LOS capacities for SR16 and need to be corrected and the analysis rerun.
32. Page ii. The traffic trip generation should note that ChukChansi Casino is in Madera County. This also applies to other similar references in appendix F.
33. Page xv, Appendix F, traffic impact study lists appendices A-H but they were not included in the DTEIR. The County just received them and has been unable to review their contents to verify analysis and documentation; the County reserves its right to do so after March 12, 2007.
34. Page 15, Table 3-1. Three intersections are missing from this table. They are SR16/Latrobe Road, SR16/SR124 and SR16/SR49. These intersections should be included because figure 7-1 shows that the Project will add traffic and they are likely to have unacceptable LOS conditions in the 2025 analysis scenario. Additionally, the Project's fair share of future improvements at these locations should be determined by the analysis and cost estimates and plans to be developed (as noted in earlier comments).
35. Figure 3-1. SR88/SR104/Jackson Valley Road shows an all-way-stop intersection; however, it only has stop controls on SR104 and the Jackson Valley sides. The analysis in the traffic modeling needs to be redone to correctly show this. We expect significant differences in the outcomes once this is correctly run.
36. Page 25, paragraph 3. It should be stated that SR16 and SR49 in Amador County are on the Interregional Road System Route (IRRS) and so a different level of service applies, as noted elsewhere in the document.

37. Page 31, Table 6-2. SR104 is shown as a class II arterial, however, this facility is in the RTP as a class II collector. The different capacity level analysis needs to be rerun to show the level of service at existing, existing plus approved, and existing plus approved plus proposed Project (in its various phases).

38. Page 34, Trip generation/distribution assignment. The consultant lists three casinos where traffic counts were taken but does not state which time of year they were taken. It is well known traffic counts at casinos have a seasonal variation. Without knowing what time of the year they were taken or what time of the day they were taken it is impossible to tell if this data correlates or compares correctly with the proposed analysis given. Additionally, it is stated in the second paragraph "the gaming areas of all three casinos are comparable in a similar range." However, as the table clearly shows, the Flying Cloud Casino is anywhere from 10% up to 50% larger than the other casinos studied. It is impossible to conclude that the fitted curve analysis used can be extrapolated to data well outside any of the data collected, and we need to see some different justification for the extrapolation of data or some additional traffic counts at casinos with this size gaming square footage and documented traffic counts which correspond to new fitted curves.

39. Page 39, Table 7-2. Under weekday and weekend the table labels the data as "average" and yet we know that an average of Saturday and Sunday for weekend and Monday through Friday for weekday does not reflect the correct conditions because we know the peak traffic generation occurs around noon on Saturday. If this table is used the traffic generation rates will be significantly low. This analysis needs to be corrected and portrayed accordingly.

40. Page 52, Table 8-3, Table 9-9, Table 10-5. This comment relates to Coal Mine Road, Buena Vista Road to Project access. There is use of a footnote g., which is repeated in several other tables, making some reference to improvements at other locations that will add mitigation. But there is no analysis or LOS results to substantiate the claim. Lacking any substantiation the Project's impact needs to be considered as unmitigated based solely on the analysis of data provided in this report. The table needs to be corrected or the justification proof of mitigation needs to be provided.

41. Page 124, Section 12.4, Mitigation measures Amador County. Many of the mitigation measures described in this section are stated simply as "contribute a fair share" towards making an intersection or road segment improvement. The EIR needs to address whether and how unfunded improvements will be built with only partial financial contribution by the Project, given the fact that partial payments towards such improvements will not be considered full mitigation of Project impacts. If "mitigation" is allowed this way, the roads would be unsafe and impacts unmitigated the day the casino opens. These unacceptable levels of service mean unacceptable levels of traffic congestion and increased potential for degradation of traffic safety. Payment of a fair share toward improvements that may occur sometime in the future will not mitigate these congestions. Identified mitigation improvements need to be implemented in time to accommodate the identified impacts. How this can be done financially needs to be determined and may include full funding by the project proponent with a reimbursement agreement with the County.

42. Increased traffic from the Project will generate litter on County roads. Identify litter impacts and proposed mitigation.

43. No mention was made of agricultural conflicts such as slow-moving agricultural vehicles and livestock crossings, which are common in the Project area. This serious issue must be studied and mitigated.

Comments below relate to drainage concerns in portions of the DTEIR

44. Page 3D-21, Alternative 4, would result in impacts on 0.3 acre of stock pond and 0.88 acre of seasonal wetlands. The report refers to Mitigation Measure BIO-1 to reduce this impact to less than significant impact. There is no Mitigation Measure BIO-1 provided.

45. Page 3F-3, Regulatory Setting – This section needs to include Amador County Guidelines For Grading And Erosion Control Ordinance No. 1581 for off reservation grading involving 50 cy or more of earthwork.

46. Page 3O-17, Alternative 4, Reconfigure Access Driveway with additional Site access and Parking. Unless previously surfaced area is used for the proposed additional parking lot, this will at least double the Project's surface water runoff and direct it towards the northeast or to the north and around to the west to the Control Point 2 outlet, bypassing the wetlands and water quality unit altogether. Identify impacts.

47. Page 4-2, Table 4-1, Cumulative Analysis Approach and Applicable Impact Zone by Resource Area – The two Resource Topics of Utilities and Water Resources are not checked to identify a Resource Zone.

48. Pages 4-3 and 4-4, Analysis of cumulative effects considered the cumulative developments and cumulative projected build out. There are a number of approved and proposed developments in both the County and Cities that have not been included.

Public Works Comments on Drainage Appendix D.

DTEIR Appendix D- Technical Drainage Study Addendum 2
Prepared by Kimley-Horn and Associates, Inc. June 2006

This section contains these recommendations:

1. *File an NOI for SWPPP.*
2. *Collect and route storm water discharge from on-site impervious surfaces through Catch basin's, vaults, filters, prior to discharge to on-reservation wetlands*
3. *Develop and implement "Tribal BMP's"*

- Convert the existing culvert at the northwest corner of the reservation property to function as a reverse siphon to retain any petrochemicals in on-reservation wetlands.
- Implement berm monitoring and maintenance program to prevent storm water from overtopping perimeter berms around the north and west boundaries of the wetlands. A spillway shall be constructed at the northwest end of the wetlands in order to direct and control potential storm water overtopping, and allow excess waters to flow westward via existing waterways tributary to Jackson Creek.

49. This section does not specify where the spillway will discharge. Is it Coal Mine Road? At what flow rate? How high will the berm be? What will the flooding hazard be if the berm fails? How will this work if Coal Mine Road is elevated to deal with the known flooding which occurs there now (as suggested by County's comments in the traffic study section)?

50. Area RF2 appears to have landscape planters plus grass or impervious areas in the northern half, and access roadways to the parking structure in the southern half area. Why wouldn't flow from drainage area RF2 be directed to the filtering devices and underground storage that discharges toward the wetlands and Control Point 2 instead of toward Control Point 1 without any filtering? Please review and correct or revise.

51. If drainage area RF2 should need to be directed to filtration and storage, and then released to the wetlands area and Control Point 2, the underground storage capacity would have to be increased to 5133+ cf. Please review and correct or revise.

52. Appendix D Drainage Plan Section 3.2 Proposed Runoff Summary indicates that wastewater effluent flow will add to the volume at Control Point 2, but will not drain through the wetland area, that the outfall of the wastewater system will be designed not to allow the flow to back up into the wetlands. This is the only place this is mentioned. Appendix H Water and Wastewater Feasibility Study, Project Site Surface Hydrology indicates the wastewater discharge point would be located within the Rancheria, therefore, the NPDES Permit would be issued and regulated by EPA instead of RWQCB. Will the effluent be discharged to the wetlands or not? Where will the discharge point be? By pipe conveyance? Separate outlet at Control Point 2? How will it function with the existing flooding at the culvert crossing Coal Mine Road?

53. The wetlands, the drainage channel to the west to Jackson Creek, and the surrounding property west and north are all part of the 100 year flood plain, and Coal Mine Road is prone to flooding in this area. Drainage to the drainage channel along the west side of Coal Mine Road and on/off reservation drainage to the north and east intercepted and directed westerly and southerly to the wetlands and outlet are not discussed. The DTEIR does not discuss the 100 year flooding effects on Coal Mine Road, and yet the wetlands area is to be used for storm water/treated effluent disposal. The DTEIR does not discuss the drainage channel to Jackson Creek, nor does it discuss the Lake Amador Dam break limits.

54. The existing wetlands described in the DTEIR, the Technical Drainage Study, and the Water and Wastewater Feasibility study are located in the Special Flood Hazard Areas Inundated By 100-year Flood Zone A (No base flood elevations determined) of the Federal emergency Management Agency Flood Insurance Rate Map June 6, 2000. The last paragraph under Conclusions in the Technical Drainage Study states "The Flying Cloud Casino at Buena Vista Rancheria does not adversely affect the historic storm runoff watercourses. The Technical Drainage Study shows 16,913 cf flow towards the northeast of the property (OFF1, ON2D, ON3D, OFF4). There is no further discussion of this water. What happens to it?"

55. The Water and Wastewater Feasibility Study shows the surface water flows from the pond/spring by the Tribal Headquarters (and the flow off the eastern boundary near the north end of the property) runs north, west, and back south to the outlet point of the 18" CMP at the northwest corner of the property intercepting all Project site runoff, as well as offsite northerly of the Rancheria. All this surface water runoff is discounted as having no impact on the flow to/through the wetlands detention area. This surface water runoff of 16,913 cf is routed around and back to the point of discharge which is the outlet of the 18" CMP across Coal Mine Road located at the northwest point of the wetlands. Because the wetlands are part of the 100 year flood plain of Jackson Creek, how will the wetlands storage area discharge to the channel when the channel is backed up with flood water and Coal Mine Road is itself flooded? Will the berm spillway mentioned in the Technical Drainage Study be to the property north of the project site which is also in the 100 year flood plain? How is that going to work?

56. The Technical Drainage Study does not address the effect that the total contributing flow from On-site Project, Off-site Project, On-site Spring, Off Rancheria (including west side of Coal Mine Road) and Proposed Development Treated Effluent along with the flooding of the 100 year flood plain will have at the outlet of the 18" CMP crossing Coal Mine Road at the northwest corner of the wetlands.

Chapter 3N – Utilities and Service Systems

Impact UTL-1: This section discusses the impacts on solid waste removal. The County finds the discussion and research to be inadequate and potentially faulty. Though the DTEIR finds that landfill capacity out of county is such that the contribution by this Project would be less than significant, transfer stations in county may not have as much capacity for handling solid waste. There is the potential for significant impact to processing capacity, especially considering the cumulative effect of two casinos (and perhaps more). The County finds no discussion of practices or policies for segregation of universal wastes, sharps, or other problematic waste streams. There is no discussion of overall waste reduction and/or recycling strategies or programs.

Section 3N-6 Impact UTL-1 states the two regional transfer stations have a combined capacity of 10,000 tons per day and the Project would produce 2.1 tpd, or use 0.02% of the regional capacity. Given it is unlikely anyone will haul any of the Project's garbage to the Pine Grove transfer station, what is the reference for your generation rates of casino waste, and, what will the impact be to the local facility at Buena Vista transfer station?

Chapter 3O – Water Resources

Plant upset and/or equipment failure are not unexpected for wastewater treatment plants in this size range. Without a reservoir to contain inadequately treated effluent impacts to the receiving water are likely. One of the disadvantages cited for the MBR treatment units on page 5-12 of appendix H is the need for an emergency storage basin. The proposal describes a dual system, each unit capable of processing 167,000 GPD. It is not clear that this redundancy sufficiently reduces the potential for significant off site impacts to a less than significant level, especially since it will take both systems to handle the full load of treatment each day. Neither of the two systems could handle a full day needs if the other system were to fail or needed to be taken off-line for maintenance. A 250,000 gallon reclaimed water tank is proposed, presumably to be maintained as a relatively full supply for irrigation and similar uses at most times. The DTEIR contains no meaningful discussion of emergency storage provisions.

The document indicates an NPDES discharge permit would be necessary for the WWTP discharge. It also indicates that since the point of discharge is within trust land the oversight agency would be the USEPA. Given the proximity of the discharge point to, and immediate discharge impact on, County lands, the Regional Water Board should properly have jurisdiction; and would be more aggressive in pursuing correction and enforcement. The County asserts the Regional Water Board has jurisdiction under the unique circumstances presented and, in any event, the Project should agree to let the Regional Board take authority of the wastewater issue.

The County asks the question, unanswered in the DTEIR, would the discharge of reclaimed water into this unnamed slough and/or Jackson Creek result in its designation as an effluent dominated waterway under 303(d)?

The land application option discussed in appendix H requires either winter storage or a direct discharge option. Unless the site of land application was converted to trust land, this would be subject to Regional Board oversight. In addition to the stringent oversight provided by the Regional Board, land application only would be preferred to direct discharge due to the reduced potential for immediate environmental impact in the event of poor plant performance.

Finally, there is no discussion in the DTEIR of service by a regional wastewater treatment plant, even though there is preliminary planning currently underway for such a project in the area. This would be expected to reduce the potential for plant upset and environmental or public health impacts. This is especially true in this case where it is speculative at best that the Project will be allowed to discharge treated water to a surface area leading to a waterway, inasmuch as the NPDES permit from the EPA has not been issued.

Chapter 3P – Groundwater Resources

The Draft TEIR identifies groundwater pumped from within the site boundaries as the project's single water-supply source and the analysis in the Groundwater Resources Section focuses solely on the environmental impacts associated with the use of groundwater. However,

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Mitigation Measure GW-1c states that the Tribe will secure supplementary sources of surface water either prior to implementation of the Project or in the event that the monitoring group determines that the aquifer cannot sustain the proposed levels of pumping. The supplementary water sources are discussed in detail in the Water and Wastewater Feasibility Study included as Appendix H. However, there is absolutely no analysis included in the Draft TEIR regarding the adverse off-reservation impacts that would occur with implementation of these water supply options.

Five alternative water supply options are identified in the Feasibility Study. The first option includes acquiring water from the Amador Water Agency lone Water Treatment Plant. The Feasibility Study acknowledges that this option is dependent upon expansion of the treatment plant, which has not occurred and may not happen in the future. Therefore, this option would be an unreliable source of water for the project. This option also requires a five mile pipeline extension that would result in direct physical environmental impacts that have not been described in the Draft TEIR.

The second option includes acquiring water from the planned Camanche Reservoir Water Treatment Plant. This unfunded project has not been constructed and is, therefore, an unreliable source of water for the project. Further, in order to acquire water from this source, a water pipeline would need to extend from the treatment plant to the Tribe's property resulting in direct physical environmental impacts that have not been described in the Draft TEIR.

The third option includes supplying water from the Jackson Valley Irrigation District by way of a raw water pipeline extension from Jackson Valley Road. However, the Irrigation District has denied the Tribe's request for water service (Letter from Thomas Hoover, General Manager JVID to John Tang, CEO Buena Vista Rancheria included in Appendix H). Therefore, this option is currently infeasible. Furthermore, this option would result in direct physical environmental impacts that have not been described in the Draft TEIR.

The fourth option includes acquiring water from a private property on Camanche Parkway that would be delivered through a new pipeline to the project site. However, the well on this property is currently not operational and presumably is inadequate to meet the Project's needs based on the need for a new well to supply the Project. No information is provided regarding the potential capacity of this new well. Based on the location of this well generally at the top of a ridgeline and outside of the boundaries of Jackson Valley, there is a high probability that the yield from such a well would be very low. No information is provided in the Draft TEIR regarding the actual feasibility of this water source or the environmental impacts associated with its use.

The fifth water supply option includes trucking water to the site from offsite locations. No discussion is included in the Draft TEIR regarding the environmental impacts associated with this option or the actual legality of such a proposal due to potential public health hazards. Trucking water to a facility that requires an average of 130,000 gallons of water per day would clearly not be a viable long-term water supply option for the proposed Project.

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The Compact specifically requires that the environmental impacts for all of the off-reservation components of the project be evaluated in the TEIR and that mitigation measures be provided. The analysis of water supply issues in the Draft TEIR completely fails to include this analysis and is, therefore, not in compliance with the requirements of the Compact.

The Draft TEIR concludes on page 3P-12 that the maximum sustainable yield for the three proposed water supply wells is 40 gpm for Well 1, 25 gpm for Well 2, and 55 gpm for Well 3. According to Table 3P-3, the well tests that determined these yields were conducted in November, December and February, respectively. According to the Feasibility Study, the average monthly rainfall between November and February in this area ranges between 2.87 and 4.19 inches. However, the monthly rainfall substantially drops during the summer months with an average of 0.10 inch during July and August. Seasonal variations in rainfall directly affect groundwater resources and the yields of groundwater wells. This is clearly evident from the test of Well 1 that was conducted in July, in which the yield from this well dropped by over 21 percent to 31.5 gpm (Table 3P-3). By conducting the well tests during the wettest period of the year when groundwater levels would be at their peak and assuming that these groundwater levels would remain static throughout the year, the Draft TEIR has substantially overestimated the well yields from the three onsite wells.

Also, because the well tests were not conducted at the same time, the Feasibility Study lacks any analysis of the effect of pumping from all three wells simultaneously, which would be required to meet the Project's water supply requirements. For Wells 2 and 3, which are essentially directly adjacent to each other, the net effect is that a single cone of depression would be created and pumping the maximum yield from one would substantially diminish the maximum yield of the other.

The pump tests for Wells 1 and 2 were only conducted for approximately 24 hours, while the pump test for Well 3 lasted for 77 hours. The drawdown within Well 3 after 24 hours was approximately 45 feet. At the conclusion of the 77 hour test, the drawdown had increased an additional 20 feet and was continuing on a downward trend (Feasibility Study Figure I-3). For Well 2, the drawdown after 24 hours was 105.8 feet. The trend over this period was continuously downward. The total water column within this well is identified as 148 feet. Assuming another 20 feet of drawdown if a 77-hour test were conducted, only 22 feet would remain in the water column for this well. Also, the recovery for this well was only 57%, indicating a limited capacity to sustain a long-term yield. Clearly, this well would not have sufficient water to maintain continuous pumping during the peak summer months at the Project site.

Table 6-1 of the Feasibility Study recommends a peak pumping rate of 140 gpm with the use of recycled water and 210 gpm without the use of recycled water. The footnote to this table recommends this pumping rate based on a 1.5 safety factor to ensure that the well pumps do not operate at full capacity 24-hours per day. However, the Draft TEIR concludes that the maximum yield from the three wells is only 120 gpm. To meet the project's water demands, continuous 24-hour pumping would be required for all three wells. By assuming that the pumps would operate at their maximum yield for 24 hours a day and 365 days a year, there is little-to-

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no margin of safety in the event one or more of the wells is inoperable or yields are diminished during summer months or periods of drought. The holding tank on the project site is estimated to have the capacity to supply the Project's water demands for only two days. Without a more reliable water source, chronic water shortages would be expected to occur at the site, which could result in direct public health hazards that have been ignored in the Draft TEIR.

Table 2-8 of the Feasibility Study identifies a weekday demand of 120,000 gpd and a weekend demand of 180,000 gpd. Averaged over a typical week, this would equate to 137,143 gpd, or an average water demand of over 95 gpm. However, the table erroneously identifies the average water demand as 90 gpm. Due to the tenuous nature of the groundwater supply on the project site, this increase further undermines the water supply conclusions of the Draft TEIR.

A much more detailed analysis needs to be included in the Draft TEIR of the effects on offsite well users of continuously pumping the onsite wells at maximum capacity. As stated in the Draft TEIR, the residents in the area are almost exclusively served by groundwater wells.

The formation of a monitoring group consisting of voluntary local residents is a completely ineffective mitigation measure. The group would have absolutely no authority to control the groundwater pumping on the site and would have no recourse if the Tribe overdraws the groundwater table. Therefore, this mitigation does nothing to minimize the Project's significant groundwater impacts.

Water quality supplied by the known wells requires treatment for secondary water quality standards and may require treatment for radiological and possibly other primary drinking water standards. Recommended treatment methods involve reverse osmosis (RO) or nanofiltration (NF) membranes. The County finds no discussion of the volume of raw water required to produce the needed volume of treated water. The percentage of water lost in treatment may represent a significant increase in the water demand above the estimates provided, increasing the potential for offsite impacts.

The County finds no information describing the reasonable long term yield estimates for the aquifer to support the assumption that the degree of extraction from this use and all other uses, existing and planned, do not exceed aquifer recharge. Statements in the DTEIR suggest an extensive, laterally continuous confined aquifer. It is worth noting that eight of the nine wells constructed by Hunt Drilling four years prior yielded very little water even though at least one was drilled to 900 feet below the ground surface; appendix H, page 4-9. The eight non-producing wells are not shown and no discussion of this anomaly is found. It may be that groundwater resources are much more limited and subject to adverse impacts due to overdraft than figures 3P-4 and 3P-5 suggest.

Buena Vista Rancheria of Me-Wuk Indians of California
Attn: Comments on Draft TEIR
March 12, 2007
Page 37

The Amador Water Agency has commented in separate cover on the water and waste water issues facing the project⁸. A copy of those comments is included with this document as Appendix 7 and incorporated herein.

Additionally, the County has retained the services of a water consultant, Larry Walker Associates, to provide comments regarding water and groundwater resources. Its letter dated March 8, 2007, is attached as Appendix 8 hereto and incorporated herein.

Finally, Appendix 9 hereto is a June 24, 2005, letter from the State Water Resources Control Board to the Tribe regarding its 2005 TEIR, which identifies concerns with that document that are applicable to the current DTEIR. The County incorporates herein the comments in the June 24, 2005, letter. The author of that letter suggested the County attach it because the Appendices to the current DTEIR continue to refer to the topics covered by the 2005 letter.

Further Comments On Adequacy of Project Alternatives

The DTEIR's discussion of alternatives is deficient and should be revised. As discussed above, the discussion and assumptions underlying the No Project Alternative # 1 set forth in the DTEIR is legally defective. Similarly, the Reconfigured Driveway Alternative # 4 is deficient because it proposes an extension of the Project beyond the boundaries of the reservation which would be in conflict with authority set forth in the Amended Compact and indisputably trigger CEQA and state and local land use laws which are not analyzed in any way in the DTEIR. Thus, the DTEIR in reality only considers two alternatives: the huge proposed project and a 75% project. In this regard it is defective for failing to seriously address other options. It appears to justify this position by asserting without any supporting details that the needs or goals of the Tribe cannot be met by a lesser project. However, this summary assertion is not sufficient and additional explanation is needed. It is well-known and indisputable that the Tribe consists of one adult woman and her young children. Why would not a smaller sized project, say 350 or 500 slot machines and 20 gaming tables, be sufficient to provide for all the needs of the Tribe (as opposed to its institutional investors) now and for the indefinite future? Such a smaller project alternative should be considered, and rejected only if sufficient reasons are stated.

Additionally, a No Alcohol alternative should be considered. The DTEIR states the Project will serve alcohol in all facilities except the gambling floor. However, it is well known that driving while under the influence of alcohol is a main cause of traffic accidents, and that risk will be compounded due to the narrow rural roads that the great majority of patrons of the casino will traverse to and from. The DTEIR ignores this.

⁸ The County incorporates the letter from the Amador Water Agency into these comments by this reference.

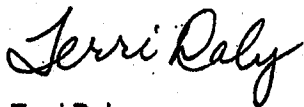
Buena Vista Rancheria of Me-Wuk Indians of California
Attn: Comments on Draft TEIR
March 12, 2007
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Conclusion

The County has devoted a good deal of time reviewing the DTIER, and offers these comments and appendices in order to enable the Tribe/Project to supplement the DTEIR and make it a meaningful document, as the Amended Compact intended it to be. The County urges the Tribe to revise the DTEIR to address the errors, omissions and inaccuracies that the County has noted, issue a new DTEIR and schedule a new public comment period. Should the Tribe refuse, the County urges it to prepare the final TEIR in accordance with the comments in this letter. This letter is submitted without prejudice to the County's right to object to the Project in its entirety including without limit (a) to assert the Tribe cannot undertake the Project at the site proposed and (b) to assert the Tribe's processing of the DTEIR violates the provisions and requirements of the Amended Compact.

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

Sincerely,



Terri Daly
County Administrative Officer

cc: Members, Amador County Board of Supervisors
Legal Affairs Secretary to the Governor of California
George Lambert, City of Ione
Jim Abercrombie, Amador Water Agency
Jake Herfel, Chairman of the Board, Jackson Valley Fire Protection District
Tom Hoover, Jackson Valley Irrigation District
Mike Carey, Amador County Unified School District
Rob Duke, Amador Regional Sanitation Agency
Jim McCart, Amador Fire Protection District
Mike Kirkley, California Department of Forestry and Fire Protection
Charles Field, Amador County Transportation Commission
Cathy Christian of Nielsen, Merksamer, Parrinello, Mueller & Naylor, LLP
James Parrinello of Nielsen, Merksamer, Parrinello, Mueller & Naylor, LLP
East Bay Municipal Utilities District
California State Clearinghouse
Martha J. Shaver, County Counsel

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- APPENDIX 4 Comments of the Amador Superior Court
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- APPENDIX 7 Comments of the Amador Water Agency
- APPENDIX 8 Comments of Larry Walker Associates
- APPENDIX 9 Comments of State Water Resources Control Board
(6/24/05)

APPENDIX 1

**Comments of the Jackson Valley Fire Protection
District**



Jackson Valley Fire Protection District

February 27, 2007

To: State Clearinghouse, Office of Planning and Research
P.O. Box 3044
1400 Tenth Street, Room 222
Sacramento, California 95812-3044

To: Buena Vista Rancheria of Me-Wuk Indians of California
Attention: Comments on Draft Tribal Environmental Impact Report
P. O. Box 162283
Sacramento, California 95816

To: Amador County Board of Supervisors
Attention: Patrick Blacklock
810 Court Street
Jackson, California 95642

From: Jackson Valley Fire Protection District
P.O. Box 1309
Ione, California 95640

Subject: Response to the Draft Tribal Environmental Impact Report (DTEIR) for
the Buena Vista Rancheria of Me-Wuk Indians, Gaming and
Entertainment Facility

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AMADOR COUNTY, CA.

This document is intended to address the scope and content of environmental impacts and mitigation measures, for the above titled project, as they relate to Jackson Valley Fire Protection District's statutory responsibility for fire protection, rescue services, medical care, and hazardous materials responses.

In reviewing the Draft Tribal Environmental Impact Report for this project the following impacts and mitigation measures require further detail and/or clarification:

Is it the intent of the Tribe that the Fire Department described in the Draft Tribal Environmental Impact Report will respond to emergencies on Tribal/project lands?

Is it the intent of the Tribe to enter into Automatic Aid and Mutual Aid agreements with surrounding fire departments and districts to ensure reciprocal responses for the benefit of the Tribe and the other Fire Departments/Districts?

In the event of a serious Hazardous Materials incident, that is beyond the capability of first responders to effectively mitigate, has a Hazardous Materials Team been identified that will respond and fully mitigate the incident?

In the event of a serious structural collapse or other confined space rescue incident, that is beyond the capability of first responders to effectively mitigate, has a Confined Space Rescue Team been identified that will respond and fully mitigate the incident?

In the previous Draft Tribal Environmental Impact Report the Tribe requested that a new Fire Station be built within one (1) mile of the project but not on Tribal property. Is this still the desire of the Tribe?

In the event a new fully equipped Fire Station is to be built off Tribal property has a site and a funding mechanism been identified for acquisition of that site and construction of that facility?

In the Draft Tribal Environmental Impact Report the plan proposes constructing the complete project and then opening gaming areas as a three-phase project. Mitigation funding for fire protection is then calculated utilizing those same "open gaming area" percentages. In our view once the entire project is constructed the entire project will be susceptible to the risks of fire and mitigation funding should be provided based on the completed project, not the percentage of "open gaming areas" formula.

In the Draft Tribal Environmental Impact Report the square footages included in calculating fire protection mitigation funding does not include all the improvements being constructed in the project. The Draft Tribal Impact Report does mention a total square footage in excess of 1.3 million square feet. Why are all these areas not included in the fire mitigation calculations?

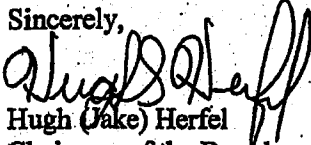
Because of the remoteness of this project from other fire departments and fire districts the ranks/classifications of the fire department personnel, proposed in the Draft Tribal Environmental Report should be adjusted to include Chief Officer and advanced life support (ALS) coverage seven days per week. Based on training and experience the Chief Officer would act as the Incident Commander on most major incidents.

Because of the remoteness of this project from other fire departments and fire districts paid (ALS) fire department staffing should be provided during the estimated fourteen month "construction" phase for this project. Full Fire Department staffing must be in place by the opening day of operations.

The Draft Tribal Environmental Impact Report is silent on the initial acquisition of fully operational fire apparatus which may be required to respond to the multi-level gaming, entertainment, and parking facilities.

If you have any questions regarding this response please address those questions to myself or to Thom Reed, Chief of the Jackson Valley Fire Protection District at (209) 763-5848.

Sincerely,



Hugh (Jake) Herfel
Chairman of the Board
Jackson Valley Fire Protection District

APPENDIX 2

Comments of the Amador Fire Protection District

AMADOR FIRE PROTECTION DISTRICT

810 Court Street, Jackson, CA 95642-2132 (209) 223-6391



February 15, 2007

Subject: Comments on DTEIR for the Buena Vista Rancheria of Me-Wuk Indians of California Gaming and Entertainment Facility, January 2007.

The DTEIR shows the proposed project total area as 328,521 square feet (Table 2-1). This does not include the parking garage and valet parking in the basement. Parking structures present a significant exposure to fire departments. The square footage of these parking structures should be included in the proposed project total area and are to be protected with an approved automatic fire suppression system (sprinklers).

The DTEIR states in 3K2, *Existing Conditions/Environmental Setting*, that "SRA's are areas where CDF has responsibility for emergency services". This statement is not correct. CDF has responsibility for the suppression and prevention of forest fires in SRA's (California Public Resources Code 4111-4125). The responsibility of all other emergency calls for fire resources is with local government agencies (the authority having jurisdiction).

The DTEIR does not address the following onsite and offsite impacts to Amador Fire Protection District (AFPD):

Impact on ability to provide services caused by the increase in motor vehicle accidents (MVA) attributable to the Project;

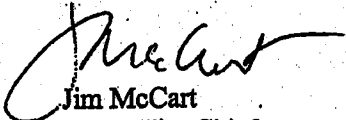
AFPD is the fire agency having jurisdiction for the following roadways within Amador County.

- All of SR16
- All of Carbondale Road
- All of Willow Creek Road
- Most of SR124
- All of Ione Road (a.k.a. Ione/Michigan Bar Rd.)
- SR 49, except for those portions within the incorporated borders of Amador City, Jackson, and Sutter Creek.
- SR 88 from approximately 104 (Ione) to Jackson City
- SR 88 from Jackson City to Kirkwood
- All of Latrobe Rd.
- All of Ridge Rd., excepting a small segment through Sutter Hill.

MVAs accounted for 18% of all fire calls in AFPD's response area in 2006. MVAs require many personnel hours and resources from the fire department and are therefore a significant impact on fire service. Due to the number of patrons and employees that will visit and work at the proposed Casino each week, traffic to and from the Casino, both

from inside and outside of Amador County, will significantly impact AFPD resources. To mitigate this impact the project should share in the cost of these services.

Impact on the cost of emergency fire dispatching and emergency response services currently provided by the California Department of Forestry and Fire Protection (CDF) under a contract with AFPD. AFPD is billed quarterly for these services. To mitigate this impact the project should proportionately share in the cost of these contracted services based on incident call volume.



Jim McCart
AFPD Fire Chief

APPENDIX 3

**Comments of the California State Department of
Forestry and Fire Protection**

DEPARTMENT OF FORESTRY AND FIRE PROTECTION

2840 Mt. Danaer Road
Camino, California 95709
Website: www.fire@ca.gov
(530) 844-2345

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February 22, 2007

The Buena Vista Rancheria of Me-Wuk Indians of California
Attention: Comments on Draft TEIR
P.O. Box 162283
Sacramento, California 95816

Re: Response to Draft Tribal Environmental Impact Report for the Buena Vista Rancheria of Me-Wuk Indians Gaming and Entertainment Facility.

To Whom It May Concern:

As addressed in our previous letters, the California Department of Forestry and Fire Protection (CAL FIRE) has the responsibility to provide fire protection for wildland fires within the State Responsibility Area (SRA). The proposed Buena Vista Rancheria casino project in the Jackson Valley area is currently within the SRA and we would respond to all wildland fires within the SRA. In addition, CAL FIRE responds, through the local mutual aid system, to any emergency incidents requiring a fire response. The Amador-El Dorado Unit also has a contract to provide fire protection services in Amador County during the non-declared fire season consisting of the staffing of three CAL FIRE stations with one engine per station.

Amador County has seven fire districts that serve the County, all of which are volunteer departments. The proposed project is located in a rural area within the Jackson Valley Fire Protection District, which is a volunteer fire department. Under a countywide mutual aid agreement, the closest resource is dispatched to an incident that requires a fire response.

The Draft TEIR assumes (Appendix G, pg. 2) that CAL FIRE will be the lead agency for contractual agreement for fire protection services. CAL FIRE has the ability to contract for fire protection services if there is mutual benefit to the requesting agency and CAL FIRE. A request for services would be considered by CAL FIRE, but would only be executed if staffing levels are adequate to provide the desired service to the contracting agency without jeopardizing the state mission.

The Draft TEIR uses three types of methodology to develop fair share mitigation to public services. These methodologies appears to be inaccurate and do not completely mitigate the impacts associated with this proposed project.

Comparable Casino Impact Methodology

- The Jackson Rancheria has had a significant impact on fire protection services in Amador County and they are currently developing fire service facilities, equipment and staffing to help mitigate their impact to the County. The final TEIR should reflect

this change in their status. The Jackson Rancheria casino was developed without a compact and was not required to mitigate impacts to the county.

- The Thunder Valley Casino staffing levels are higher than are reflected in the Draft TEIR and should be corrected in the final TEIR. Currently Thunder Valley Casino station has 3 person staffing and are anticipating the need to add an additional truck company with 4 person staffing with planned casino expansion. In addition, the Thunder Valley facility is located in an urban area with four paid fire departments in close proximity to the casino. The Thunder Valley Casino fire station is one of five Placer County fire stations under contract for fire protection services with CAL FIRE. The Thunder Valley Casino fire station responds to incidents at the casino and a small response area within the Sunset Industrial Park, which is adjacent to the casino. The Thunder Valley fire station does not provide a mutual aid response to the adjoining fire departments. The Thunder Valley Casino was also developed without a compact and was not required to prepare a TEIR and mitigate all impacts associated with the project.
- The Cache Creek Casino appears to be the most similar in location and better reflects staffing and facilities infrastructure that mitigates the impact to fire protection services for the proposed Buena Vista Casino. The Cache Creek Casino is in a remote area with no paid fire departments to assist in fire protection services. Personnel from the Cache Creek Casino respond to calls within a large response area to mitigate off site impacts to the surrounding communities while providing for on site fire protection services.

Mitigation Fee in Lieu of Tax Methodology

As defined in the Draft TEIR, this approach estimates tax revenue generated from a high-volume retail project in place of the proposed project. The location of the proposed casino is in an area of inadequate infrastructure to support a high-volume retail project. The demographics of clientele that visit a casino versus a high-volume retail facility should be taken in consideration. With the increased traffic to the proposed project site, which consists of an inadequate road system, we anticipate a significant increase in motor vehicle accidents. This issue is not addressed in the Draft TEIR. In addition, the calculations utilized in this methodology only include a portion of the total square footage of improvements. Cost for fire protection services should include the square footage of all on site improvements to include warehouse/storage and parking structures.

The current fee structure for fire protection services in Amador County was established to support volunteer fire departments and has been determined to be inadequate to support paid fire protection services. Local districts have been working towards establishing additional fees and assessments to pay for paid fire protection personnel. The Draft TEIR should address the true cost to pay for adequate fire protection services to adequately mitigate the impacts the casino would have on county wide fire protection services.

Comparative of Trip Generation Rates Methodology

As defined in the Draft TEIR: "This methodology is applicable when adding staff to an existing core group of police or fire services, therefore utilizing existing economies." There are no existing core fire protection services in Amador County; therefore, to determine fair share utilizing the methodology under estimates the cost to mitigate fire impacts created by the Buena Vista Casino project. As in the case of the Thunder Valley Casino, which was constructed within an urban area with surrounding fire

protection service providers, there was some savings in mitigating the impacts of the casino. This is not the case with this project.

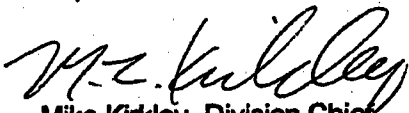
The Draft TEIR assumes that the impacts to fire protection services will be proportional to the amount of gaming area available to the potential visitors to the casino. The Draft TEIR provides for tiered fire protection staffing levels based on a three phased project. We contend that this assumption is not supportable and that the impacts to the fire protection system will be immediate at the start of operations. All fire protection facilities, equipment, and staffing should be in place prior to the start of operations of the proposed casino project.

We anticipate additional vehicle accidents and wildland fire responses associated with this project. If a new station is constructed at or near the new casino we would request the opportunity to move a CAL FIRE engine to the new station during the declared fire season to help mitigate these anticipated impacts. To fully mitigate the impacts of this project on the fire protection services in Amador County, we would recommend that an adequately staffed and equipped fire station be required to serve the proposed facility, mitigate off site impacts and to participate in the mutual aid system. We would welcome the opportunity to meet with your staff to discuss our concerns.

Sincerely,

Bill Holmes, Unit Chief

By:



Mike Kirkley, Division Chief
Amador- El Dorado Unit
Pine Grove Camp
P.O. Box 405
Pine Grove, CA 95665
(209) 296-7591

cc:

Thom Reed – Jackson Valley Fire Protection District
Patrick Blacklock – Amador County CAO
Amador County Board of Supervisors
State Clearinghouse, Office of Planning and Research

APPENDIX 4

Comments of the Amador Superior Court

February 14, 2007

**Ms. Rhonda L. Morningstar-Pope
Tribal Chairperson
Buena Vista Rancheria of Me-Wuk Indians of California
Attention: Comments on Notice of Preparation
P.O. Box 162283
Sacramento, CA 95816**

**Project Title: Buena Vista Rancheria Flying Cloud Gaming and Entertainment Facility
Project Applicant: Buena Vista Rancheria of Me-Wuk Indians of California**

Dear Madam Chair:

The Amador Superior Court (Court) received the Draft Tribal Environmental Impact Report (DTEIR) for the above-referenced project. Set forth below are the Court's comments to DTEIR.

In my March 13, 2006 letter to you, the Court requested that the DTEIR address the impacts that project would have on court operations. Impact PS-4 states that there will be significant impacts from the project on the justice system, including the Court.

The Court agrees that the impacts of the casino project on the Court will be significant. As recognized in the DTEIR, there will be an increase in criminal activity as a result of the project. This will certainly lead to an increase in arrests and prosecutions. In turn, the operations of the Court will be adversely impacted. Increased filings will place additional burdens on the Court's processing and courtroom staff.

Increased filings will also mean longer lines and waits to obtain assistance from Court staff. Because criminal matters generally have priority on the Court's calendar, there will be a corresponding increase in the time needed to process and adjudicate civil and family law matters.

Ms. Rhonda Morningstar Pope
February 14, 2007
Page 2

The DTEIR proposes mitigation measures that address the impacts on other criminal justice partners. The DTEIR suggests that the impacts can be mitigated by providing funding for additional staff for the Amador County Sheriff's Department, Public Defender, District Attorney, Probation Department and Drug and Alcohol Agency. (Appendix G.) However, there does not appear to be any additional funding for Court support staff included in the mitigation measures.

It is the Court's understanding that an environmental impact report should address mitigation of all significant impacts identified in the report or include a determination that the impact is unavoidable. It appears that the DTEIR is not complete to the extent that it does not address the significant impact the casino project will have on the Court

As noted in my last letter to you, the DTEIR should outline the mitigation measures you propose to minimize the impacts identified. The citizens of the County of Amador deserve reasonable access to a Court system that is able to provide justice in a fair and efficient manner.

Thank you for the opportunity to provide input regarding this important issue. If you have any questions or comments, please do not hesitate to contact me.

Sincerely yours,

Hugh K. Swift
Court Executive Officer

cc: Honorable David S. Richmond, Presiding Judge
Honorable Susan C. Harlan
Patrick Blacklock, CAO, County of Amador

APPENDIX 5

Comments of Dowling Associates, Inc.



February 12, 2007

Mr. Patrick Blacklock
County Administrative Officer
810 Court Street
Jackson, CA 95642-9534

SUBJECT: Comments on the Buena Vista Rancheria Casino DTEIR, Jan 2007

Dear Mr. Blacklock:

I submit the following comments on the subject Tribal EIR on behalf of ACTC, as their consulting transportation planner. Please add these to the comments set you are compiling.

The following comments are all on Appendix F of the DTEIR, which contains the traffic analysis prepared by Linscott, Law & Greenspan Engineers, dated December 28, 2006. Page numbers referenced are from that appendix. For comments about the report's analysis of the project's impacts and mitigations, these comments are focused on the *Proposed Project* only, but could also apply in most cases to the report's analysis of the other project alternatives. To the extent that these comments affect how the results of the traffic analysis have been presented in the DTEIR, they should be applied to that document as well.

	<i>Page</i>	<i>Location</i>	<i>Comment</i>
1.	ii	1 st para	The Chukchansi Casino is in Madera County not Coarsegold County. Also applies to other similar references in Appendix F.
2.	xv	Table of Contents	Eight appendices (A – H) are listed on this page but are not included in the DTEIR. These appendices include essential data needed by reviewers of the DTEIR to assess its adequacy. The DTEIR should be re-circulated with these documents included.
3.	16	Table 3-1	Three notable intersections are missing from the list of intersections in this table: SR16/Latrobe Rd, SR16/SR124, and SR16/SR49. These intersections should be included because Figure 7-1 shows that the project will add traffic to these intersections and they are likely to have unacceptable LOS conditions in the 2025 analysis case. The project's share of future improvements at these locations should be determined by the analysis.



	Page	Location	Comment
4.	Fig 3-1 after pg 18	SR88 / SR104 / Jackson Valley Rd	This intersection is shown with existing all-way stop control and is analyzed later as such, but it only has stop controls on the SR104 approach and the Jackson Valley approach. If analyzed correctly as a two-way stop controlled intersection, the SR104 approach will show unacceptable LOS conditions in both peak hours.
5.	Fig 3-2 after pg 18	Notes legend	AM/PM is used to distinguish the pairs of counts at each location, but the counts on this figure are for Weekday PM/Weekend PM, so the legend should be corrected. Also applies to other similar Figures in Appendix F.
6.	23	Table 4-1	The source of these data should be referenced in footnotes 1 and 2 as the <i>2004 Amador County Regional Transportation Plan Update</i> .
7.	23	Table 4-1	The source of these data should be referenced as <i>San Joaquin County Department of Public Works</i>
8.	25	Last para	Significance Criteria: It is possible that in the 2025 analysis case, the LOS for a given facility could be projected to be in the acceptable range without the project and when the project's traffic is added the LOS could change to the unacceptable range. See comment 27 for examples of this for the project's 2025 impacts. Therefore, there should be a <i>significant direct</i> impact category for 2025, in addition to the <i>significant cumulative</i> impact category. Mitigation of 2025 <i>significant direct</i> impacts should be the sole responsibility of the project.
9.	25	3 rd para	It should also be stated here that SR 16 and SR 49 in Amador County Interregional Road System (IRRS) routes.
10.	28	Table 6-1	Intersection #9 SR88/SR104/Jackson Valley should be analyzed as a two-way stop intersection, not a four-way stop. See comment 4 above. It should show worse than LOS C on the southbound approach for the existing conditions. It should also show the need for signalization at the existing traffic volume levels.
11.	31	Table 6-2	SR104 is shown as a Class II Arterial with LOS D capacity of 15,300; however, this facility is shown in the RTP as a Class II Collector, which would have a LOS D capacity of 12,600. This also needs to be corrected in subsequent tables of the report and new LOS and mitigation determinations need to be made for all scenarios. Also see comment 22 below.
12.	34	1 st para	When were the traffic counts taken at each of the three casinos studied? This should be stated here, and the need for seasonal adjustments to reflect each casino's peak activity month should be discussed and applied. Studies



	Page	Location	Comment
			published in ITE Journal show that the difference between the lowest and the highest gaming activity months can show a 30% increase from lowest to highest.
13.	34	2 nd para	The statement that <i>"Based on trip generation studies for other casinos it has been determined that the gaming area is a better predictor of vehicular traffic"</i> should be substantiated with data and references. Did the authors examine total gaming positions (slots + 7 x tables) as a predictor of trip generation? This would seem to be a better predictor, since the ratio of gaming positions to gaming floor space can and does vary widely from casino to casino, as the data in Table 7-1 on the same page indicates.
14.	35	Last para	Appendix C (to the traffic study) is referenced here but is not included in the DTEIR. The traffic study appendices should be provided to reviewers along with the traffic analysis. Without these supporting documents, reviewers cannot assess the validity of the results presented in the traffic analysis and relied upon for the information presented in the DTEIR.
15.	36-37	Charts 1 - 4	Since the gaming area of the proposed Buena Vista Casino is larger in size than that of any of the three other casinos studied, the use of the equations derived from these data is questionable, because it requires an extrapolation beyond the limits of the data, rather than an interpolation within the data ranges studied. The trip generation measurements at other casinos should have included some casinos of the same or larger size as the Buena Vista Casino, in addition to the ones chosen.
16.	38	Table 7-2	This table shows the Weekend trip generation data as <i>"Average of Saturday and Sunday"</i> . If this is truly what these data are, they are misleading and different from the statement on page 19 that <i>"the weekend peak tends to be around the noon hour on Saturdays"</i> . There should be consistency between a) the hours of the report's existing traffic counts, b) the traffic counts at the other casinos (shown in Charts 1-4 on pgs 36 & 37), c) the trip generation volumes shown in Table 7-2, and d) the data used to develop the equations used to estimate the Buena Vista Casino's trip generation. It is not clear from the information presented in the report whether this consistency exists or not. If the average of Saturday and Sunday has been used and not the peak hour on Saturday, then the traffic projections of the analysis are too low for the weekend peak hour conditions.



	<i>Page</i>	<i>Location</i>	<i>Comment</i>
17.	46 & 47	Table 8-1	<i>Existing</i> is misspelled on multiple places in the headings on both pages of this table.
18.	46 & 47	Table 8-1	Footnote e. says that the delay and LOS results shown for intersections #10 SR88/Jackson Valley Rd and # 14 SR88/Camache/Liberty assume that a signal will be installed at these locations in Phase I /Phase II of the Project. Does this mean that the project proposes to pay for and construct these signals as part of the project description, or have the analysts simply assumed that they will be in place by then? In either case this should be made explicit, and if the project is <u>not</u> proposing to pay for and construct them, then these locations should be analyzed as unsignalized for this case.
19.	46 & 47	Table 8-1	For intersections #10 and #14, the footnotes say that the delay and LOS shown are with mitigation (signalization); however, the LOS shown for each is LOS F with the project (LOS C without the project). Therefore, this mitigation does not "mitigate" the adverse impacts of the project. This either needs to be clarified, corrected, or the mitigation measures need to be expanded to produce mitigation to LOS D or better
20.	47	Table 8-1	Intersection #15 SR88/SR12 is already signalized
21.	52	Table 8-3 (also Table 9-9 pg 83 & Table 10-5 pg 109)	<i>Coal Mine Road - Buena Vista Rd to Project Access:</i> This Table does not show that the project's impacts are mitigated by the proposed improvements. To the contrary it shows that LOS D conditions will still exist, exceeding this segment's LOS C goal. This is also shown in Table 12-3 (LOS with mitigation) on page 137. Footnote g. seems to suggest that there are other factors due to improvements at other locations that will add mitigation, but there are no analyses or LOS results to substantiate that suggestion. Lacking such substantiation, the project's impacts must be considered unmitigated based on the analysis and data provided in the report. This comment also applies to Tables 9-9 and 10-5. This needs to be reflected in Table ES-1 of the DTEIR.
22.	53	Table 8-3	SR104 -- if analyzed correctly as a Class II Collector, portions of this facility will show LOS E conditions on weekends with the project, which should be shown as <i>significant direct impacts</i> and will require mitigation measures. (See comment 11 above.) Needs to be corrected for all scenarios and Table ES-1 of the DTEIR needs to include near-term mitigation of this impact by the project. The mitigation identified on page 128 for the project's 2025 impacts on these segments is construction of the lone



	Page	Location	Comment
			Bypass.
23.	76	first line	This is part of Section 9.0 and the heading on this page says Alternative 2 – Project Phases I, II & III (Entire Project) . Is this analysis case the same as the Existing + Project case analyzed in Section 8.0 of the report? The description of the Phased Project Alternative on page 6 seems to indicate that these would be the same analysis scenario; however, comparison of Tables 8-2/8-3 and Tables 9-8/9-9 reveals differences in some of the LOS results between these two analysis cases. The following comments detail these differences, which should be explained or corrected
24.	80	Table 9-8	Explain or correct differences from Table 8-2 for: Buena Vista Rd – Jackson Valley Rd to Coal Mine Rd Jackson Valley Rd – SR88(west) to Buena Vista Rd
25.	88	Table 9-9	Explain or correct differences from Table 8-3 for: Buena Vista Rd – Jackson Valley Rd to Coal Mine Rd Jackson Valley Rd – SR88(west) to Buena Vista Rd
26.	98	Table 10-1	The STIP 9 project (SR88 Improvements from San Joaquin County Line to SR104) is shown in the RTP as an unfunded project, which means there are no identified funds for implementing this improvement in the time frame of the RTP (by 2025). There should be a note to this effect in this table to avoid giving the impression that this is a funded improvement. All of the other improvements shown in this table do have identified funding sources in the RTP.
27.	102 110 111	Table 10-3 Table 10-5 Table 10-5	These are examples of where the project's impacts should be identified as significant direct in the 2025 analysis case (see comment 8): #5 Main/Church – Weekend (from LOS C to LOS F) SR 16–Murieta Pkwy to Ione Rd (from LOS D to LOS F) Liberty Rd – Elliott to SR 88 (from LOS C to LOS D) The project should be solely responsible for mitigation of these future impacts.
28.	106	Table 10-4	The segment of SR88 from Buena Vista Rd to SR104 does not appear to be shown correctly. The Existing and Existing+Project results show this segment with LOS D, but it is shown with LOS C for both 2025 scenarios in this table.
29.	108	Table 10-4	The Liberty Road segments are shown in this table as being impacted by the project and they are identified at the top of page 133 as impacted segments with mitigation measures, but these don't show up in Table ES-1 of the



	Page	Location	Comment
			DTEIR
30.	124 ff	Mitigation measures	<p>Many of the mitigation measures described in this section are simply "<i>contribute a fair share</i>" towards making an intersection or road segment improvement. The DTEIR needs to address how unfunded improvements would be built with only a partial financial contribution by the project and the fact that partial payments toward such improvements cannot be considered full mitigation of the project's impacts. Where funds are not available for recommended mitigation measures, the project's traffic impacts would not be adequately mitigated by the payment of a fair share of the projected cost of the improvements. The traffic analysis shows that with the project's traffic added to the existing traffic levels, unacceptable levels of service will exist. Unacceptable levels of service mean unacceptable levels of delay and congestion and increased potential for degradation of traffic safety. Therefore, on the day the project opens and its traffic is added to the existing traffic levels at these intersections and roadway segments, increased traffic delays and congestion and reduced traffic safety will occur. Payment of a fair share toward improvements that may occur some time in the future will not mitigate those conditions. The identified mitigation improvements need to be implemented in time to accommodate the identified impacts. How this can be done financially needs to be determined, and might include full funding by the project proponents, with a reimbursement agreement with the County for mitigation fee credits (if applicable) and later repayment of the costs over and above the project's fair share if sources can be identified.</p>
31.	124 ff	Mitigation measures	<p>Cost estimates need to be provided for the mitigation measures identified, and the project's share of those costs need to be calculated. It is likely that the total cost of the mitigation measures identified will amount to much more than a hundred million dollars.</p>

Very truly yours,

Joseph R. Holland

Joseph R. Holland, P.E.
 Principal

cc: Larry Peterson, Public Works Director, Amador County

APPENDIX 6

Comments of RBF Consulting



MEMORANDUM

To: Larry Peterson, County of Amador JN 10-105096
From: Paul Martin, PE, TE, RBF Consulting
Date: February 23, 2007
Subject: Review of *Traffic Impact Analysis Buena Vista Rancheria of Me-Wuk Indians Gaming and Entertainment Facility (LLG, Engineers, December 28, 2006)*

As you requested, we have reviewed the *Traffic Impact Analysis Buena Vista Rancheria of Me-Wuk Indians Gaming and Entertainment Facility (LLG, Engineers, December 28, 2006)*. Our comments on the subject traffic impact analysis have been arranged into the following categories:

- Revision of traffic analysis;
- Format changes; and
- Typographical edits and changes.

We offer the following comments regarding revision of the traffic analysis based on analysis parameters and assumptions:

1. The traffic analysis should be revised to ensure compliance with the *Amador County Traffic Impact Study Guidelines (July 5, 2006)*. Revise analysis report accordingly.
2. The traffic analysis should be revised to ensure compliance with the *Caltrans Guide for the Preparation of Traffic Impact Studies (State of California Department of Transportation, December 2002)*. Revise analysis report accordingly.
3. The traffic impact analysis does not study impacts at the Latrobe Road/SR-16, Willow Creek Road/SR-16, and SR-124/SR-16 intersections. Since the proposed project assigns traffic to these intersections, they should be analyzed for potential impacts. It should be noted the intersection study area should not be limited by jurisdictional boundaries and should encompass key intersections where 10 peak hour trips or more are forecast to be added by the proposed project as identified in the *Amador County*

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Traffic Impact Study Guidelines (County of Amador, July 5, 2006). Revise analysis report accordingly.

4. The traffic impact analysis should analyze traffic impacts at additional intersections in San Joaquin County. The traffic analysis reviews traffic impacts on roadway segments along both Liberty Road and SR-88 to SR-99, but does not include key intersections west of the SR-88/SR-12 intersection or the SR-88/Liberty Road intersection. As shown in Figure 7-6, since the proposed project assigns approximately 89 peak hour project-related trips to and from the west on Liberty Road, review with agency staff additional intersections for review. As shown in Figure 7-6, since the proposed project assigns approximately 295 peak hour project-related trips west on SR-88, review with agency staff additional intersections for review. Revise analysis report accordingly.
5. The traffic impact analysis should analyze traffic impacts at additional intersections in Sacramento County. The traffic analysis reviews traffic impacts on roadway segments along SR-16 to Latrobe Road (in Sacramento County), but does not include key intersections west of the SR-16/lone Road intersection. As shown in Figure 7-6, since the proposed project assigns approximately 69 peak hour project-related trips to and from the west on SR-16, review with agency staff additional intersections for review.
6. On Figure 3-1, the SR-104-Jackson Valley Road/SR-88 intersection geometry shown does not match recent field visits. The SR-104-Jackson Valley Road/SR-88 intersection is two-way stop-controlled, with stop-control assigned to SR-104-Jackson Valley Road, and a westbound free-right turn-lane is provided on SR-88. Revise analysis report accordingly.
7. On Figure 3-1, the SR-104/Michigan Bar Road intersection geometry does not match recent field visits. A westbound free-right-turn lane is provided on SR-104 at the SR-104/Michigan Bar Road intersection. Revise analysis report accordingly.
8. While the SR-88/SR-12 intersection may have been stop-controlled when intersection movement count data was collected, the SR-88/SR-12 intersection is currently signalized, and should be analyzed with signal control for all future conditions scenarios. Revise analysis report accordingly.
9. On Figure 3-2, it is unclear why a large imbalance in peak hour traffic volumes is shown between the Preston Avenue/Main Street and Church Street/Main Street intersections since the two intersections are only approximately 250 feet apart. Verify traffic volumes are representative of typical operations and explain/account for the large imbalance. Revise analysis report accordingly.
10. On Page 19, as identified in the *Amador County Traffic Impact Study Guidelines (July 6, 2006)* the traffic analysis should include an existing plus approved projects scenario to account for trips added by approved/pending projects between the date of traffic count collection and the project opening year, identified as October 2008 on Page 5. Trips generated by the Castle Oaks/Edgebrook (728 dwelling units), Wildflower (277

dwelling units), and Camanche 3B (250 dwelling units) approved/pending projects should be added to existing traffic volumes to derive an existing plus approved projects scenario. Contact agency staff to determine if additional approved/pending projects should be included in the analysis report. Proposed project-generated trips would then be added to the new scenario to derive an existing plus approved projects plus proposed project scenario. Revise analysis report accordingly.

11. On Page 19, second paragraph, which 'Casinos' were observed to determine "there is minimal traffic during the Weekday AM peak hour and a higher amount of traffic during the Weekday PM peak hour and the weekends?" Provide explanation why the weekday mid-day peak hour and Saturday p.m. peak hour were not analyzed. Revise analysis report accordingly.
12. While paragraph three on Page 6 states "The no-project alternative is included in this analysis in order to provide a baseline of impacts and potential impacts to compare with other alternatives and with the proposed project," no level of service (LOS) calculations are provided on Page 55 in section 9.1. Revise analysis to include LOS calculations for the near-term without project scenario assuming trips associated with approved projects. Revise analysis report accordingly.
13. On Page 25, the last paragraph states "In the long-term (Year 2025), significant impacts are considered to be cumulative since poor levels of service are caused by not only project traffic but also by other background traffic." Based on our understanding, the proposed project is not assumed in the Regional Transportation Plan (RTP), therefore, impacts where addition of project-generated trips causes a facility to operate at a deficient level of service should be considered direct project traffic impacts in both the near and long-term scenarios. Table 5-2 on page 26 should be revised to reflect this comment, and the corresponding analysis should be revised to identify direct long-range project traffic impacts. Revise analysis report accordingly.
14. On Page 27, it is unclear why the SR-104-Jackson Valley Road/SR-88 intersection is identified as operating deficiently (LOS E) during the weekday p.m. peak hour, while Table 6-1 (Page 28) and the appendix show the intersection operating acceptably at LOS C. Revise analysis report accordingly.
15. On Page 27, it is unclear why the segment of SR-88 from Buena Vista Road to SR-104 is not identified as operating deficiently (LOS D) in the bullet list for existing weekday conditions, while Table 6-2 shows it operating deficiently at LOS D for existing weekday conditions. Revise analysis report accordingly.
16. On Page 29, it is unclear why the segment of SR-88 from Buena Vista Road to SR-104 is not identified as operating deficiently (LOS D) in the bullet list for existing weekend conditions, while Table 6-2 shows it operating deficiently at LOS D for existing weekend conditions. Revise analysis report accordingly.

17. On Page 29, it is unclear why the segment of Jackson Valley Road from SR-88 to Buena Road is identified as operating deficiently (LOS D) for existing weekend conditions, while Table 6-2 shows the segment operating acceptably at LOS B. Revise analysis report accordingly.
18. On Page 29, it is unclear why the segment of Coal Mine Road from Buena Vista Road to Project Access is identified as operating deficiently (LOS D) for existing weekend conditions, while Table 6-2 shows the segment operating acceptably at LOS A. Revise analysis report accordingly.
19. On Pages 30-32, Table 6-2, revise stated LOS D/C Capacity for roadway segments to correct errors. For example, Jackson Valley Road from SR-88 (west) to Buena Vista Road reports a LOS D/C capacity of 3,500 not 1,400. Revise analysis report accordingly.
20. On Page 30-32, Table 6-2, the reported LOS for multiple roadway segments is incorrect. For example, SR-16 from Latrobe Road to Murieta Parkway is reported as having a weekday LOS A but is actually at LOS C. Revise analysis report accordingly.
21. On Page 30, Table 6-2, SR-49 north of SR-16 LOS goal should be LOS C since it is a Caltrans-designated Interregional Road System (IRRS) facility. Revise analysis report accordingly.
22. On Page 31, Table 6-2, SR-16 in Sacramento County LOS goal should be LOS C since it is a Caltrans-designated IRRS facility. Revise analysis report accordingly.
23. On Page 31, Table 6-2, SR-104 is shown as a Class II Arterial with a LOS D capacity of 15,300 vehicles. In the County of Amador RTP, SR-104 is identified as a Class II Collector with an LOS D capacity of 12,600 vehicles. Revise capacity utilized in LOS tables and determine if significant impacts are forecast. Revise analysis report accordingly.
24. On Page 32, Table 6-2, Lone Road is identified as a Rural 2-Lane Highway with a capacity of 13,500 vehicles at LOS D. Based on recent field visits it appears Lone Road should be classified as a Rural 2-Lane Highway, No Shoulders with an LOS D capacity of 10,100 vehicles. Revise capacity utilized in LOS tables and determine if significant impacts are forecast. Revise analysis report accordingly.
25. On Page 34, provide further explanation of statement that "gaming area is a better predictor of vehicular traffic..." Explain why the trip generation analysis does not utilize gaming positions, which is based on slot machines and assumes 6-7 gaming positions per table. Revise analysis report accordingly.
26. On Page 34, the derivation of trip generation rates does not state when traffic counts at the three sample casinos were collected. Due to seasonal variation in casino gaming activity, the dates of the counts should be documented, and corresponding data should be seasonally adjusted as applicable. Peak month adjustment factors for casino traffic

- can be found in the article *Gaming Casino Traffic (ITE Journal, March 1998)*. Revise analysis report accordingly.
27. On page 35, the study states "Traffic counts were conducted for a period of seven days at three existing casinos." However, Chart 1 and Chart 2 on Page 36 include only 13 data points instead of 15, and Tuesday and Wednesday data for the Chukchansi Casino is not included in Appendix C. It is unclear why the Tuesday and Wednesday data at the Chukchansi Casino is not included in the appendix or in Charts 1 or 2 to derive trip generation rates. It appears some of the sample casino traffic count data collected at the Chukchansi Casino was originally collected and included in the *Revised Traffic Impact Analysis for Buena Vista Casino Development (kdAnderson Transportation Engineers, September 12, 2005)*. Explain the omission in data and provide existing casino traffic count data in the appendix to the study. Revise analysis report accordingly.
 28. On Page 34, two of the three casinos surveyed for the trip generation analysis have onsite hotels, which could result in a different trip generation scenario versus a casino without any onsite lodging. In Appendix C of the traffic analysis, total casino generation at Chukchansi Casino and Harrah's Rincon Casino has been split into hotel generation and casino only generation. The casino only generation was then used to determine the fitted curve trip generation. It is unclear what methodology was used to determine which and how many trips were associated with the hotel only at the sample sites. Revise analysis report to derive trip generation using similar facilities that do not include lodging.
 29. On Page 35, last paragraph, it is unclear why the Tuolumne Black Oak Casino traffic count data is increased by ten percent for the 'auditorium' component of the facility. Based on the comparison of casinos shown in Table 7-1 on Page 34, there is no indication why a ten percent increase is applied to one but not all sample casinos. Additionally, clarify why a percentage increase was applied to Black Oak Casino traffic data to account for 'auditorium' while the deduction for hotel applied to Chukchansi Casino and Harrah's Rincon Casino was a fixed reduction such as 137 p.m. peak hour trips. Revise analysis report accordingly.
 30. On Page 35, last paragraph, based on analysis of the unadjusted sample casino traffic count data, the additions and reductions to the unadjusted data in the traffic analysis appear to flatten the curves used to derive trip generation of the proposed project. Fitted curve equations based on unadjusted traffic count data show an improved correlation between casino gaming square footage and casino trip generation than the equations based on adjusted data. Using the unadjusted data, our review of the sample data shows the proposed project would generate approximately 8,774 weekday daily trips and 638 weekday p.m. peak hour trips and approximately 11,956 weekend

- daily trips and 726 weekend peak hour trips based on fitted curve equations. Revise analysis report accordingly.
31. On Page 35, last paragraph, it is unclear why Appendix C only provides tables with the sample casino traffic count data and does not provide raw count data. Clarify how traffic count data was collected at the sample sites and provide the data in the analysis report.
 32. On Page 35, the fitted curve equations for weekend peak hour and weekday daily trip generation were derived by using both the Saturday and the Sunday counts at the sample casinos. The counts used for existing conditions in the analysis were taken on a Saturday and the analysis states on page 19 that "the weekend peak tends to be around the noon hour on Saturdays." It is unclear why the weekend trip generation rate derivations include Sunday trip generation data, since doing so reduces the trip generation rates and therefore understates potential traffic impacts. Revise analysis report to derive weekend trip generation rates based only on Saturday count data at sample facilities.
 33. On Page 39, the trip generation for the proposed project shown in Section 7.2.1. are based on the fitted curve equations shown in Charts 1 through 4. Since the proposed project is larger than any of the sample facilities, the traffic analysis is extrapolating outside of the range of data when determining trip generation of the proposed project. Provide justification for using the fitted curve equations to forecast trip generation of the proposed project. Consider collecting trip generation data at sample facilities in similar size to the proposed project and revising trip generation of the proposed project. Revise analysis report accordingly.
 34. On Page 40, the peak hour volumes shown in Table 7-3 do not equal the peak hour volumes identified at the project entrance in Figures 7-2, 7-4, and 7-6. The daily volumes shown in Table 7-3 on Page 40 do not equal the daily volumes identified on Coal Mine Road on either side of the project entrance in Figures 7-3, 7-5, and 7-7. Revise analysis report to provide consistent trip assignment between the Figures and the forecast trip generation shown in Table 7-3.
 35. On Figure 7-1, the forecast project trip distribution includes 15 percent of traffic accessing the Casino via North Camanche Parkway to the south. Given the rolling terrain and lack of shoulders on North Camanche Parkway it is unclear if 15 percent of Casino patrons will prefer this route to Buena Vista Road to Jackson Valley Road to SR-88. Revise analysis report assuming 5 percent of Casino patrons utilize North Camanche Parkway.
 36. On Page 50, Table 8-2, it appears based on the LOS D capacity of SR-104 discussed in Comment 23, significant direct impacts are forecast to occur at SR-104 and thus requires mitigation. Revise analysis report accordingly.

37. Sections 8 and 9 should include mitigation measures for cumulative impacts. Revise analysis report accordingly.
38. On Page 52, Table 8-3, provide a row showing the LOS of SR-88 from SR-12 east to Liberty Road "with mitigation," consistent with the format for other direct impacts in the table. Revise analysis report to provide mitigation to reduce the impact to a level considered less than significant.
39. On Page 52, Table 8-3, it appears the mitigation measure identified to reduce/eliminate the significant impact at Coal Mine Road between Buena Vista Road and the project access does not achieve the LOS goal identified in column three of Table 8-3. Revise analysis report to provide mitigation to reduce the impact to a level considered less than significant.
40. On Figure 8-1, it appears traffic volumes do not match the sum of existing traffic volumes shown in Figure 3-2 and Proposed Project Traffic Assignment shown in Figure 7-6 at the Buena Vista Road/SR-124 intersection. Explain this discrepancy and revise analysis report as necessary. All intersections and figures should be rechecked for accuracy.
41. On Page 58, it is unclear why the segment of Jackson Valley Road from SR-88 to Buena Road is identified as operating deficiently (LOS D) for weekend conditions, while Table 9-3 shows the segment operating acceptably at LOS C. Revise analysis report accordingly.
42. On Page 64, footnote 'f' states "This is not a significant impact since with the recommended mitigations for Phase I at the SR 88/Liberty Road intersection, this segment is expected to operate at an acceptable level of service. Clarify how mitigation at the SR 88/Liberty Road intersection will mitigate an impact at the segment of SR-88 between SR-12 and Liberty Road. Revise analysis report to provide mitigation to reduce the impact to a level considered less than significant.
43. On Page 69, Table 9-5, it appears the mitigation measure identified to reduce/eliminate the significant impact at Coal Mine Road between Buena Vista Road and the project access does not achieve the LOS goal identified in column three of Table 9-5. Revise analysis report to provide mitigation to reduce the impact to a level considered less than significant.
44. On Page 73, Table 9-6, provide a row showing the LOS of SR-88 from SR-12 east to Liberty Road "with mitigation," consistent with the format for other direct impacts in the table. Revise analysis report to provide mitigation to reduce the impact to a level considered less than significant.
45. On Page 73, Table 9-6, it appears the mitigation measure identified to reduce/eliminate the significant impact at Coal Mine Road between Buena Vista Road and the project access does not achieve the LOS goal identified in column three of Table 9-6. Revise

- analysis report to provide mitigation to reduce the impact to a level considered less than significant.
46. On Page 83, Table 9-9, provide a row showing the LOS of SR-88 from SR-12 east to Liberty Road "with mitigation," consistent with the format for other direct impacts in the table. Revise analysis report to provide mitigation to reduce the impact to a level considered less than significant.
 47. On Page 83, Table 9-9, it appears the mitigation measure identified to reduce/eliminate the significant impact at Coal Mine Road between Buena Vista Road and the project access does not achieve the LOS goal identified in column three of Table 9-9. Revise analysis report to provide mitigation to reduce the impact to a level considered less than significant.
 48. On Page 90, Table 9-11, it appears the mitigation measure identified to reduce/eliminate the significant impact at Coal Mine Road between Buena Vista Road and the project access does not achieve the LOS goal identified in column three of Table 9-11. Revise analysis report to provide mitigation to reduce the impact to a level considered less than significant.
 49. On Page 93, Table 9-12, provide a row showing the LOS of SR-88 from SR-12 east to Liberty Road "with mitigation," consistent with the format for other direct impacts in the table. Revise analysis report to provide mitigation to reduce the impact to a level considered less than significant.
 50. On Page 93, Table 9-12, it appears the mitigation measure identified to reduce/eliminate the significant impact at Coal Mine Road between Buena Vista Road and the project access does not achieve the LOS goal identified in column three of Table 9-12. Revise analysis report to provide mitigation to reduce the impact to a level considered less than significant.
 51. On Figure 9-6, it is unclear how the alternate access aligns with the rest of the proposed project site plan. Revise Figure 9-6 to show more of the project site plan for ease in reviewing access and circulation with the reconfigured access driveway.
 52. On Page 98, it is unclear if mitigation measures identified for existing plus project conditions are assumed for forecast year 2025 conditions intersection geometry. Revise analysis report accordingly.
 53. On Page 102, Table 10-3, it is unclear why the weekend impact at the Main Street/Church Street intersection is not listed as a direct impact. Revise analysis report accordingly.
 54. On Page 107, Table 10-4, it is unclear why the impact at SR-12 between Bruella Road and SR-88 is not listed as a direct impact. Revise analysis report accordingly.

55. On Page 107, Table 10-4, it appears based on the LOS D capacity of SR-104 discussed in Comment 23, a significant direct impact is forecast to occur at SR-104 and thus requires mitigation. Revise analysis report accordingly.
56. On Page 109, Table 10-5, it appears the mitigation measure identified to reduce/eliminate the significant impact at Coal Mine Road between Buena Vista Road and the project access does not achieve the LOS goal identified in column three of Table 10-5. Revise analysis report to provide mitigation to reduce the impact to a level considered less than significant.
57. On Page 110, Table 10-5, it is unclear why the impact at SR-12 between Bruella Road and SR-88 is not listed as a direct impact. Revise analysis report accordingly.
58. On Page 110, Table 10-5, it appears based on the LOS D capacity of SR-104 discussed in Comment 23, a significant direct impact is forecast to occur at SR-104 and thus requires mitigation. Revise analysis report accordingly.
59. On Page 111, Table 10-5, it is unclear why the impact at Liberty Road between Elliot Road and SR-88 is not listed as a direct impact. Revise analysis report accordingly.
60. The traffic signal warrants included in the appendix for future year conditions are based on the existing volumes peak hour curve. It is unclear why the MUTCD, Table 4C-103 traffic signal warrant designed for future year conditions is not utilized for forecast future conditions in the analysis. Revise analysis report accordingly.
61. On Page 114, section 11.3.2 states, "The alignment of Coal Mine Road south of the project site is winding and hilly. Even though only a small percentage of the project traffic will use this section of Coal Mine Road to access the project site, development of the project, the unfunded improvements noted in the RTP should be implemented." It is unclear if the text is missing a phrase to complete the sentence. Also, the traffic analysis assigns 15 percent of the project traffic to the southern portion of Coal Mine Road corresponding to 910 weekday daily trips, 1,370 weekend daily trips, more than doubling the 400 existing weekday trips and more than tripling the 400 existing weekend daily trips. While the percentage of project-related traffic forecast to utilize Coal Mine Road may be relatively small, revise text to clarify the statement about use of Coal Mine Road.
62. On Page 115, it is unclear what "unfunded improvements" are noted in the RTP for Coal Mine Road. Clarify the improvements identified for Coal Mine Road in the RTP.
63. On Page 128, section F-i, it is unclear how the mitigation measures identified in the City of Lone will be implemented. The feasibility of roadway widening and construction of a traffic signal at the Main Street/Preston Avenue intersection, the SR-104/SR-124 intersection, and the Main Street/Church Street intersection is uncertain due to physical right-of-way constraints, planning, engineering, and environmental clearance required. To address significant traffic impacts at locations with infeasible mitigation measures,

the analysis should consider payment towards the lone Bypass as discussed in mitigation measure F-i-9. Revise analysis report accordingly.

64. On Page 137, Table 12-3, it appears the mitigation measure identified to reduce/eliminate the significant impact at Coal Mine Road between Buena Vista Road and the project access does not achieve the LOS goal identified in column three of Table 12-3. Revise analysis report to provide mitigation to reduce the impact to a level considered less than significant.

We offer the following comments regarding format of the traffic analysis to present the impacts and mitigation measures for ease of understanding for readers:

65. On Page 45, sections 8.2.1 & 8.2.2, provide a list of study intersections significantly impacted by the addition of project-generated trips. Additionally, discuss in sections 8.2.1 & 8.2.2 the recommended mitigation measures utilized in Table 8-1 to show the mitigation reduces significant impact to a level considered less than significant. Revise Sections 8, 9, and 10 to include a list of deficiently operating study facilities, significantly impact facilities, recommended mitigation measures, and LOS after implementation of the proposed mitigation measure. Revise analysis report accordingly.
66. On Page 45, Table 8-1, footnote (e) assumes a mitigation measure discussed in Section 9 reduces a project-related significant impact. Revise Section 8.0 to provide a standalone section with impacts and mitigation measures without incorporating mitigation measures identified in Section 9.0. Revise analysis report to identify the assumed mitigation measure and LOS assuming implementation of the mitigation measure. Also, see Comment 65. Revise section 10.0 to provide a stand-alone section with impacts and mitigation measures without incorporating mitigation measures identified in section 12.0.

We offer the following comments regarding typographical edits to the traffic analysis:

67. On Page ii, the study states Chukchansi Casino is in Coarsegold County; Chukchansi Casino is in Madera County. Revise analysis report accordingly.
68. On Figure 1-1, the symbol identifying the project site is located in the incorrect location. Revise analysis report accordingly.
69. On Figure 2-1, consider removing contours and shading on figure since these items do not photocopy well. Additionally, revise figure to include street and driveway labels. Revise Figures 9-5 and 9-6 accordingly.

70. On Page 15, Old Stockton Highway is named Five Mile Drive in the vicinity of SR-104. On Figure 3-1, revise Old Stockton Highway label to say Five Mile Road. Revise applicable Figures.
71. On Page 17, Table 3-2, the spelling of "Comanche" should be "Camanche." Revise analysis report accordingly.
72. On Page 18, revise typographical error in the additional note to Table 3-2 from "fated" to "dated."
73. On Figure 3-1, provide intersection geometry at the Coal Mine Road/Buena Vista Road study intersection. Revise analysis report accordingly.
74. On Figure 3-1, revise "Pardee Dam Road" label to "Buena Vista Road." Pardee Dam Road is located between Buena Vista Road and the Pardee Reservoir and is not shown on Figure 3-1. Revise applicable Figures.
75. On Figure 3-1, it is unclear why the speed limit is shown on some roadway segments (Ione Road, Michigan Bar Road, etc) but not others. Revise analysis for consistency.
76. On Figure 3-1, based on our understanding, Marlette Highway is actually called Marlette Street, and appears to terminate on the east at Buena Vista Street without intersecting SR-124. Revise applicable Figures.
77. On Figure 3-2, the note states "AM/PM peak hour volumes shown at the intersections." Revise note to state "Weekday PM/Weekday Mid-day peak hour volumes are shown at the intersections." Revise analysis report accordingly.
78. On Figure 3-2, increase the font size of intersection volumes to provide improved readability of data. Revise analysis report accordingly.
79. On Figure 3-2, increase the darkness of leader lines and insets to provide improved readability. Revise analysis report accordingly.
80. On Page 19, third bullet, provide the square footage amount for each phase of Alternative 2. Revise analysis report accordingly.
81. On Page 20, paragraph 1, delete reference to "freeway segments and freeway ramp meters." Revise analysis report accordingly.
82. On Page 20, paragraph 4, revise text to read "less than or equal to 10.0 seconds per vehicle." Revise analysis report accordingly.
83. On Page 21, paragraph 1, explain the meaning of v/c. Revise analysis report accordingly.
84. On Page 21, it is unclear why "short traffic delays" is underlined in Table 4-2. Revise analysis report accordingly.
85. On Page 22, section 4.4.2 reads "San Joaquin County Department of Public Staff was contacted..." Revise text to read, "Staff were contacted."

86. On Page 23, revise text in the source for Table 4-2 to "San Joaquin County Department of Public Works."
87. On Page 24, it is unclear what the source is for Table 4-3. Revise analysis report accordingly.
88. On Page 25, paragraph 3, revise text to state SR-16 and SR-49 are Caltrans-designated IRRS facilities.
89. On Page 26, revise text to explain the superscript "a" utilized in Tables 5-1 and 5-2.
90. On Page 27, paragraph 1, revise text to state "Weekday PM peak hour and weekday mid-day peak hour analyses..." Provide clarifying text specifying the weekend peak period analyzed throughout the traffic study. Revise analysis report accordingly.
91. On Page 28, below Table 6-1, revise LOS and delay ranges symbol from "<" to "≤" to clarify the LOS when the delay is equal to 10.0.
92. On Page 34, Table 7-1, it appears the gaming area for Chukchansi Casino and Black Oak Casino may be reversed. Revise text to state Chukchansi Casino is 56,000 square feet, and Black Oak Casino is 43,000 square feet.
93. On Page 46, Table 8-1, correct spelling of "Exiting" to read "Existing." Revise analysis report accordingly.
94. On Page 46, the footnotes include "DNA – Does not apply" but DNA is not used in the table. Unused footnotes should be deleted where appropriate. Revise analysis report accordingly.
95. On Figure 8-1, the arrowheads on the northbound and westbound approaches at the Buena Vista Road/SR-124 intersection should be revised to match other traffic volume exhibits. Revise analysis report accordingly.
96. On Page 55, section 9.2, revise typographical error in the text from "Phase II" to "Phase I."
97. On Page 78, Table 9-7, the delay values shown for the Buena Vista Road/Jackson Valley Road intersection do not match delay values shown in Table 8-1 on Page 47 for the existing scenario and the existing with project scenario. Revise analysis report accordingly.
98. On Page 100, Table 10-2, it is unclear what the meaning of the asterisk shown for some 2025 weekday ADT data. Revise analysis report accordingly.
99. On Page 100, Table 10-2, revise second and third column headings to include "ADT" in the heading. Revise analysis report accordingly.
100. On Page 114, section 11.3.1 states "Sight restrictions currently exist on SR 88 at the eastbound approach to Martin Lane. Providing an All-Way-Stop-Control with advance warning beacons on SR 88 may be considered." Revise text discussing sight limitations refer to Jackson Valley Road in place of SR 88.

101. On Page 133, section R-i, states "SR 16 from Latrobe Road to lone Road – Contribute a fair share towards widening SR 88 to its circulation classification of a Four-Lane Arterial." Revise typographical error from "SR 88" to "SR 16."

APPENDIX 7

Comments of the Amador Water Agency

A Public Agency



12800 RIDGE ROAD, SUTTER CREEK, CA 95685-9630

(209) 223-3018
FAX: (209) 257-5281

February 13, 2007

Buena Vista Rancheria
P.O. Box 162283
Sacramento Ca 95816

Re: Amador Water Agency Comments on Draft Tribal Environmental Impact Report
Respecting the Proposed Flying Cloud Gaming and Entertainment Facility Project

Dear Buena Vista Rancheria:

Thank you for the opportunity to comment on the Draft Tribal Environmental Impact Report (DTEIR) for the proposed Flying Cloud Gaming and Entertainment Facility Project. The Amador Water Agency (AWA) comments are as follows:

1. The DTEIR indicates that tertiary treated wastewater effluent would be released into surface water drainage courses pursuant to an NPDES permit from USEPA. In another section, the DTEIR indicates that an NPDES permit would be required by the Central Valley Water Board. This regulatory oversight needs clarification. Finally, the DTEIR indicates that the influent water quality is unknown and the quality of the tertiary treated effluent is unknown, the impact is potentially significant. The DTEIR then mentions generic mitigation measures by improving the treatment process. The DTEIR should evaluate the influent well water quality to determine if there are high levels of copper and other CTR constituents that could be problematic if effluent is discharged to surface water. DTEIR should then determine the appropriate mitigation. Also, surface discharge of effluent could lead to degradation to ground water and this must be analyzed since ground water is the only water supply to the local vicinity including the lake Camanche Village area consisting of approximately 1000 customers within 3 miles of the potential discharge.
2. The DTEIR indicates that wells on the reservation will supply the gaming facility's water demands. The DTEIR does not provide detailed discussion or evaluation of the environmental effects such wells will have on the groundwater resources or on the wells in the vicinity, such as those of Amador Water Agency that are located within 3 miles of the project. The DTEIR only indicates that several monitoring wells will be installed which will allow adequate assessment of the basin and associated drawdown. The DTEIR must evaluate the potential drawdown and negative impacts to the basin prior to project approval. Also, mitigation measures must be adopted to prevent

negative effects in groundwater wells in the area and certainly in the Lake Camanche area.

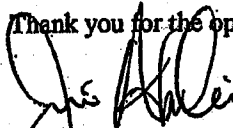
3. The DTEIR also indicates that surface water or groundwater from onsite wells or wells on adjacent properties could serve as potential water supplies for the proposed project. The DTEIR does not indicate where such surface water supply will originate nor what water rights will be used for this project. The DTEIR does not state that a viable water supply has been obtained for the project.

As a mitigation measure if there is an adverse effect of off reservation wells from 90 gpm, 24 hours per day of operation, the DTEIR proposes to secure supplementary sources of surface water either prior to implementation of the project or if in the event that the monitoring group determines that the aquifer can not sustain the proposed levels of pumping.

The DTEIR indicated that the Tribe will apply to JVID to enter into a contract for JVID to supply raw water for project use. It refers to a "will serve" resolution by the JVID Board. In correspondence from JVID to the Buena Vista Rancheria, the Board denied the water service request by the Buena Vista Rancheria. Additionally, JVID has a "run of the river" water right that is used for agricultural uses in most years. JVID does not have storage for this water and it is considered "non firm" supply (re: in some years JVID's supply is reduced and or eliminated in periods of drought).

The DTEIR should identify reasonable sustainable and implement able mitigation alternatives that address water rights and water supply for surface water as mitigation to ground water overdraft potential. Finally, if surface water supply is an option that the Tribe may pursue as a mitigation measure, the DTEIR must analyze the impacts to Amador County and the existing entitlements.

Thank you for the opportunity to comment on the DTEIR,



Jim Abercrombie
General Manager

C.C. Files
JA/ct

APPENDIX 8

Comments of Larry Walker Associates

March 8, 2007

Patrick Blacklock
County Administrative Officer
Amador County Administrative Agency
500 Argonaut Lane
Jackson, CA 95642-9534



Subject: Technical Review Comments on the Draft Tribal Environmental Impact Report for the Buena Vista Rancheria

Dear Mr. Blacklock:

As requested, LWA has performed a technical review of the Water Resources and Groundwater Resources sections of the Administrative Draft Tribal Environmental Impact Report (DTEIR) for the Buena Vista Rancheria and related appendices and has prepared written comments contained herein.

Our review included the following sections and appendices of the Administrative Draft TEIR for the Buena Vista Rancheria of Me-Wuk Indians Gaming and Entertainment Facility:

- Section 3O – Water Resources
- Section 3P – Groundwater Resources
- Appendix D – Drainage Plan
- Appendix H – Draft Water and Wastewater Feasibility Study
- Appendix I – Groundwater Technical Data

We offer the following comments based on our review of the documents:

WASTEWATER TREATMENT AND DISPOSAL

1. The DTEIR states that discharge to surface water would have to comply with Basin Plan water quality objectives and NPDES permit requirements, which would include effluent limitations to comply with CTR requirements. The Draft Water and Wastewater Feasibility Study describes the effluent quality expected from the recommended MBR treatment process, but does not mention the ability of the proposed treatment process to meet CTR requirements. While the treatment process may be capable of producing an effluent quality that complies with CTR requirements, it is not a certainty. There are cases where MBR plants cannot reliably meet effluent limitations for CTR constituents. To the extent possible, the ability of the proposed process to meet CTR effluent limitations should be determined before the treatment plant is designed. The effluent limitations for CTR constituents will depend on the quality of the treated effluent and the quality of the water in the receiving stream. The ability of the process to comply with these limitations will depend on the quality of the influent wastewater and the

effectiveness of the MBR process in removing the CTR constituents in question from the influent. Receiving water monitoring studies will need to be conducted to determine ambient water quality conditions, which are used to develop probable effluent limitations. Because no wastewater is currently produced, probable effluent limits and the ability of the treatment process to meet the limits will have to be estimated based on water supply quality and influent wastewater and performance data from similar casino facilities. If it is not reasonably certain that the proposed MBR plant can meet CTR effluent limitations, then either site specific receiving water quality objectives would have to be developed, or the treatment plant would need to be designed to include an additional level of treatment, such as reverse osmosis, to remove problematic CTR constituents. This additional level of treatment would likely have environmental impacts associated with its operation, such as brine disposal, that should be recognized and addressed in the TEIR.

Mitigation Measure HYD-4 states that wastewater treatment technologies would be "adjusted" if monitoring indicates that the effluent cannot comply with CTR effluent limitations. Adding additional treatment technologies, such as reverse osmosis, would not be a simple "adjustment" of the existing treatment process. The treatment plant would need to be designed and modified to incorporate a complex and sophisticated process. If the treatment plant cannot comply with CTR effluent limitations, then the discharge would be in violation of permit effluent limits until such time as the additional treatment technology retrofit was implemented. The NPDES permit would need to contain a provision that would allow for such a violation to occur without penalty; otherwise the discharger (Tribe) would be subject to substantial fines under the Clean Water Act. The likelihood of the NPDES permit containing such a grace period should be investigated and addressed in the TEIR.

2. Mitigation Measure HYD-4 implies that the NPDES permit for surface water discharge into Jackson Creek will be issued by EPA and that compliance with the permit requirements will protect water quality and beneficial uses of Jackson Creek and downstream tributaries. While EPA would be the issuing agency for the NPDES permit, the California Regional Water Quality Control Board likely would provide comments and may request that an antidegradation analysis be conducted as part of the permit application process to demonstrate that the proposed new discharge is consistent with the State's Antidegradation Policy (State Board Resolution no. 68-16).
3. Jackson Creek is an ephemeral stream that is often dry during the summer months. The DTEIR does not mention or address possible impacts to the creek and riparian habitat or biota that could result from the change to continuous discharge into an ephemeral stream.
4. Section 6.2 of the Water and Wastewater Feasibility Study states that "While it is anticipated that this permit (NPDES permit for surface water discharge) will be issued prior to startup of the WWTP, if it is not issued by then, it is recommended that the Tribe pursue obtaining a permit from the RWQCB that will contain specific WDRs for the spray field disposal as described in Section 5.1.1." Thus, the Study acknowledges that there is some uncertainty regarding the ability of the Tribe to obtain an NPDES Permit from the EPA for surface water discharge and that there may be a need to use spray fields as the method of effluent disposal. The TEIR makes no mention of this possibility and, therefore, does not address the possible environmental impacts associated with effluent

discharge to spray fields instead of surface water. Because the use of spray field is a distinct possibility, the TIER should address the possible impacts. The Study should also recognize that obtaining a WDR from the RWQCB is a time-consuming process, which would take a minimum of six months to complete and could take a year or more.

5. Because the use of spray fields for effluent disposal is recognized as a possible necessary alternative to surface water discharge, the design criteria for spray field disposal presented in the Water and Wastewater Feasibility Study were evaluated as part of this review. Our comments on these criteria are as follows:
 - a. The water balance tables in Appendix D of the Study indicate that hydraulic loading rates for each month of the year are based on application of a uniform irrigation efficiency value of 0.4 for all months and assumed values for percent of time irrigation is used (30 percent for November – March). (Note that an irrigation efficiency value of 0.4 appears to be a very low value for spray irrigation. Typical literature values for spray irrigation are in the range of 0.80). While irrigation efficiency may be an appropriate design approach during the irrigation season, use of this approach during the wet-season coupled with the assumed 30 percent time of irrigation results in an annual hydraulic loading rate of approximately 7.5 ft/yr for the spray field area. This rate is more than double the agronomic water use rate for grassland. Application of effluent during the wet season should be based on the capacity of the soil profile to infiltrate water in excess of consumptive use requirements rather than irrigation efficiency. The capacity of the soil to accept excess water is a function of the depth of soil profile and the permeability of the soil. As stated in the Study, the area is characterized by relatively thin soils underlain by fractured bedrock. Such soils are likely to remain relatively saturated in wet years. WDRs for land application of effluent typically prohibit application of effluent to saturated soils. Thus, it would seem prudent and conservative to determine spray area and storage volume requirements based on the assumption of no application of effluent during the wet season (Nov-March). Preliminary independent water balance calculations using this approach result in an annual hydraulic loading rate of 3 ft/yr and a required spray irrigation area in the range of 54 acres compared to 7.44 ft/yr and 29 acres indicated in the Study. Estimated storage volume requirements are approximately the same (35 MG). Thus, it is possible that substantially more area would be required for spray irrigation than indicated in the Study. Impacts resulting from a larger spray area should be addressed.
 - b. The study indicates that a wheel-move sprinkler system would be used for spray irrigation. There is no discussion in the Study regarding nature of the area identified for spray irrigation and how applicable this method of application would be for this area. If the area is wooded, as it appears to be in the aerial photo maps, any trees or high growing shrubs would have to be removed for wheel-move irrigation to be feasible. The TEIR should discuss impacts to the plant and animal life that would occur in the area as a result of intense irrigation.

WATER SUPPLY

6. All sources of water supply identified in the DTEIR and Draft Water and Wastewater Feasibility Study appear subject to considerable uncertainty and are considered tenuous at best. The recommended water supply source for the proposed project is groundwater wells on reservation land. The DTEIR states that the projected water demands of the proposed project would be met by groundwater drawn from three of the five wells on reservation land with a combined pumping rate of 120 gpm. However, it should be noted that the Draft Water and Wastewater Feasibility Study states in Table 6-1 that the recommended water supply demand would be 140 gpm with wastewater recycling and 210 gpm without wastewater recycling. Thus, more than three wells may be required to firmly meet project water demand. The DTEIR further states that limited individual pump testing of the three wells indicated that pumping at the maximum rates would have potential significant impacts on off-reservation groundwater users. Multi-well aquifer testing further indicated that the drawdown of the water table would increase if all wells were pumped at the maximum rate. The DTEIR acknowledges that the groundwater aquifer testing performed for this analysis represents only a snapshot of local aquifer conditions based relatively fixed data; the introduction of additional pumping over long periods of time will alter the transient flow regime such that recharge and discharge relationships change over time; and long-term verification monitoring will be needed to assess the performance of the groundwater supply well and the accompanying change in water levels that occur as a result of long-term groundwater extraction. Thus, the ability of on-reservation wells to provide sufficient firm flow to meet project water demand without significant impact on off-reservation users is highly uncertain and appears unlikely.

The DTEIR indicates that if groundwater pumping were observed to impact surrounding off-reservation wells, then an alternative source of water would be implemented. However, the alternative sources identified in the Draft Water and Wastewater Feasibility Study are not firm sources. The alternative for raw water supply from Jackson Valley Irrigation District has been denied by the JVID. The potable water supply alternatives would both entail major pipeline construction projects. These projects have only been suggested at this point in time. Thus these sources must be considered speculative at best. The alternative of trucking water from off-site well sources might serve as short-term, stopgap measure, but to rely on trucked water as a firm source of water supply for a major commercial project does not seem prudent or appropriate.

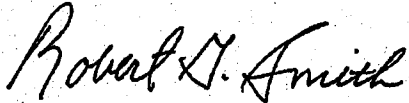
STORMWATER DISCHARGE

7. The Drainage Plan calls for capture and storage of runoff volume in excess of predevelopment runoff volumes for the design 100-year storm. The Plan further describes a "first-flush" water quality unit following the storage unit. It is suggested that the "first-flush" water quality unit be located in parallel with the storage unit and be designed to treat the water quality design flow or volume as defined in the *California Storm Water Best Management Practices Handbook* cited in the DTEIR. Flow or volume in excess of the water quality design flow or volume would be bypassed to the storage units or to receiving water as appropriate. The "first-flush" water quality unit described in the plan appears to be a simple vault with weirs and baffles. Units such as this are subject

resuspension of captured solids during high flows. It is suggested that the water quality unit be a BMP recommended in the *California Storm Water Best Management Practices Handbook* or a manufactured unit that provides filtration of the water or is specifically designed to prevent resuspension.

We trust these comments meet your needs. Please contact me if you have questions or wish to discuss our comments.

Yours truly,

A handwritten signature in cursive script that reads "Robert G. Smith". The signature is written in dark ink and is positioned above the typed name.

Robert G. Smith, Ph.D., P.E.
Associate

APPENDIX 9

**Comments of
State Water Resources Control Board
(6/24/05)**



State Water Resources Control Board



Alan C. Lloyd, Ph.D.
Agency Secretary

Division of Water Rights
1001 I Street, 14th Floor ♦ Sacramento, California 95814 ♦ 916.341.5300
Mailing Address: P.O. Box 2000 ♦ Sacramento, California 95812-2000
FAX: 916.341.5400 ♦ www.waterrights.ca.gov

RECEIVED
JUN 27 2005
BY:

Arnold Schwarzenegger
Governor

JUN 24 2005

In Reply Refer
to: 334:KDM:266.0

Rhonda L. Morningstar Pope
Buena Vista Rancheria
P.O. Box 162283
Sacramento, CA 95816

Dear Ms. Pope:

TRIBAL ENVIRONMENTAL IMPACT REPORT (TEIR) FOR THE FLYING CLOUD GAMING AND ENTERTAINMENT FACILITY IN AMADOR COUNTY (SCH # 2005012029)

The State Water Resources Control Board (State Water Board), Division of Water Rights (Division) staff has reviewed the TEIR identified above. The TEIR was prepared for a proposed gaming and entertainment facility on 15 acres of tribal land located near Ione. The State Water Board is a potential responsible agency, if appropriate water rights are needed for this project or existing appropriate rights require a change in place of use to serve the Rancheria. The document states that water will be obtained from water trucks, or piped in from a purveyor or local landowner, or obtained from groundwater wells. The document does not, however, state that a viable water supply has been obtained for the project. The TEIR is inadequate because it does not identify a water source to serve this facility.

The TEIR, page two, estimates the potable water demands for the facility, which are listed in the table below. The TEIR does not state how demand was estimated. It should do so.

Water Demand in Gallons Per Day (gpd)		
Weekday Day	Weekend Day	Average Day
TEIR Potable Demand		
140,000	220,000	170,000
TEIR Irrigation Demand		
10,000	10,000	10,000
TEIR Potable Demand With Irrigation		
150,000	230,000	180,000
Recycled Water Demand; Includes Landscape Irrigation Demand		(Table 3.3-1)
50,000	80,000	60,000
TEIR Demand After Deducting Recycled Water Use		
90,000	140,000	110,000

California Environmental Protection Agency



Rhonda L. Morningstar Pope

-2-

The TEIR states, on page two, that the recommended water supply is 180,000 gpd, representing the average day plus landscape irrigation. The average day demand is listed as 170,000 gpd in Table 3.3-1. This difference should be reconciled. It is unclear how the Tribe intends to obtain an adequate water supply to serve this project unless it utilizes the weekend water demand in the TEIR for its planning purposes. Accordingly, Division staff recommends that the peak demand be used throughout the TEIR, not the average day requirement. All elements of the project, including wastewater discharge, water supply, water truck trips, and air pollution based on the water truck trips should use the peak numbers because this reflects the probable impact of the project on the environment.

The land does not have an onsite water source sufficient to serve this project. The only onsite well produces 10 gallons per minute (gpm), which is inadequate for this project. The TEIR does not provide any information to document that new wells would yield more than the 10 gpm produced by the existing well. Thus, it appears that onsite wells are not a suitable water source for this project.

Page 50 states that future off-site potable water suppliers could include (1) the Amador Water Agency (via pipeline from the Lone Water Treatment Plant or from the planned Water Treatment Plant at Camanche Reservoir); (2) the Jackson Valley Irrigation District (via a pipeline from the Buena Vista area); or (3) suppliers from adjacent or nearby properties. The TEIR should state whether the water purveyor(s) in this area and/or private individuals have (a) advised the Tribe that they will serve this project, or (b) advised the Tribe that they have inadequate water supplies to serve this project.

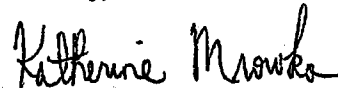
The appropriate water right(s) of any entity that may serve this project should be identified, the diversion season should be listed, the adequacy of the supply to meet the project needs should be evaluated, and the TEIR should state whether the Rancheria is within the authorized place of use of that entity.

The TEIR should identify whether there is an adequate year-round water supply to serve this project. Any water supply estimates should be multi-year, include drought year analysis, and be performed with a minimum of a monthly time step.

The water trucks will obtain water from either a surface water source or a water purveyor. The surface water source(s) and/or water purveyors should be identified. The truck trip length should also be identified. An appropriate water right issued by the State Water Board is required prior to initiating any new diversions of surface water to serve this project. The TEIR should document that public trust resources associated with the water source(s) used by the water trucks are adequately protected. Of particular concern is potential harm to State and Federally listed threatened or endangered species resident in the water sources or associated habitats. The TEIR is inadequate because it does not address this issue whatsoever.

If you require further assistance, I can be contacted at (916) 341-5363.

Sincerely,



Katherine Mrowka, Chief
Watershed Unit # 3

cc: State Clearinghouse
P.O. Box 3044
Sacramento, CA 95812-3044