



Agenda Item

DATE: March 22, 2011

TO: Board of Supervisors

FROM: Alan Weaver, Director *Alan Weaver*
 Department of Public Works and Planning

SUBJECT: Big Sandy Rancheria Band of Western Mono Indians Casino and Resort Draft Environmental Impact Study

RECOMMENDED ACTION:

Consider comments to be provided to the Bureau of Indian Affairs (BIA) concerning the Draft Environmental Impact Statement (DEIS) prepared for the Big Sandy Rancheria Casino and Resort Project, located north of Millerton Road and east of the Table Mountain Rancheria in Fresno County.

The BIA has prepared and released for review its DEIS prepared for the Big Sandy Rancheria Casino. To clarify, the proposed federal action necessitating preparation of the DEIS is the approval by the BIA of a lease agreement between the Tribe and the individual Indian allottee for whom BIA holds the subject land in trust. Approval of the lease agreement would allow for the development of a casino and other associated related facilities. The proposed comment letter conveys to the BIA (as Lead Agency) and the Big Sandy Rancheria Band of Western Mono Indians (as Cooperating Agency) the County's concerns relating to potential impacts that the proposed project may have on County facilities and natural resources. The comment letter also identifies the need to obtain land use and California Environmental Quality Act (CEQA) approval for the pumping station proposed to provide potable water for the casino.

ALTERNATE ACTION:

The Board may provide additional comments and direct staff to incorporate them in the proposed comment letter to the BIA.

ADMINISTRATIVE OFFICE REVIEW *Brandi Orth* Page 1 of 7

BOARD ACTION: DATE _____ APPROVED AS RECOMMENDED _____ OTHER _____

UNANIMOUS _____ ANDERSON _____ CASE _____ LARSON _____ PEREA _____ POOCHIGIAN _____

FISCAL IMPACT:

Preparation of this Agenda Item and staff time associated with review of the DEIS and preparing comments represents a net County cost that is anticipated in the Department budget in Org. 43600200 as part of staff's regular course of assigned duties.

IMPACTS ON JOB CREATION:

This project would provide jobs for Tribal members and other members of the community. The proposed project would result in a temporary increase in construction-related employment during the 24-month construction phase, and would generate approximately 1,510 new full time-equivalent positions during project operations.

BACKGROUND:

This project was originally initiated in 2005 as a Management Agreement Project under the National Indian Gaming Commission. That project was withdrawn from the Commission and was reinstated through the BIA. The County adopted Resolution No. 07-639 on December 4, 2007 opposing both the expansion of existing casinos and the development of new casinos in Fresno County. On October 21, 2008, your Board submitted a letter to the BIA providing comments to be addressed in the DEIS and requested preparation of a concurrent National Environmental Protection Agency-California Environmental Quality Act (NEPA-CEQA) document.

DISCUSSION:

On January 14, 2011, the County received notification from the BIA of its intent to file a DEIS with the U.S. Environmental Protection Agency for the Tribe's proposed lease agreement with an individual Indian trust land allottee and subsequent construction of a casino/resort project. The notification provides initiation of a 75-day public comment period. The comment period will end on March 28, 2011.

The proposed project is located in Fresno County, east of the unincorporated community of Friant and the Millerton Specific Plan, on undeveloped foothill property encompassing approximately 48 acres of allotted Indian land currently held by the United States in trust for the beneficial interest of a member of the Big Sandy Band of Western Mono Indians (Tribe). The Tribe and the individual Indian allottee have executed and submitted for BIA approval a lease agreement granting possession of the property to the Tribe for gaming purposes. The 48-acre parcel, hereafter referred to as the "trust/allotment land", is shown in Figure 1-2 attached.

The Tribe is proposing to construct a gaming and entertainment facility that would include a gaming floor, restaurant and lounge facilities, an entertainment hall, a hotel and conference center, a multilevel parking garage, a water and wastewater treatment plant, and a water supply system. The proposed buildings, excluding the parking garage, pool, water storage, and wastewater treatment facilities, would total approximately 532,000 square feet of floor space. This facility would operate 24 hours a day, seven days a week and the anticipated number of gamers is 2.2 million.

The site is approximately five miles east of the town of Friant in Fresno County. The proposed project footprint occupies an area approximately 697 feet east-west by 1,199 feet north-south on the 48-acre parcel approximately 0.75-mile north of Auberry Road and approximately 0.5-mile east of Millerton Road. The subject trust/allotment property is bounded on the northwest and

east by fee land owned by the Table Mountain Reservation and on the south by fee land owned by the Big Sandy Rancheria. The proposed access road is located primarily on fee land owned by the Big Sandy Rancheria; however, approximately 200 feet of the road would be constructed on trust/allotment property. The road and the water storage tank would occupy approximately 2.5 acres of fee land.

There are likely to be project implementation activities that will require County permits that will be subject to CEQA such as improvements at the intersection of Millerton Road, the site driveway, and the use of a private property for the water supply pump station. The attached letter (see Exhibit "A") conveys the County's concerns regarding traffic, wastewater and water and requests that the environmental review process not be bifurcated for activities requiring a County permit and requests that a combined NEPA-CEQA document be prepared. Below is a summary of the issues addressed in the attached letter.

TRAFFIC: The DEIS does not adequately address or properly disclose impacts to County roadways and intersections. Without properly addressing those impacts, subsequent Mitigation Measures can not and do not reduce impacts to a Less than Significant level. If the EIS does not include the assumptions listed in our comment letter (Exhibit "A"), the EIS would not properly disclose impacts to County roadways and intersections and any subsequent Mitigation Measures would be invalid.

WASTEWATER: The EIS does not adequately address wastewater impacts to the local ephemeral stream. The DEIS states that after disposal for the approved uses are satisfied, any remaining surplus effluent would be discharged to the unnamed stream on the property. Discharge of excess effluent into the local ephemeral stream would then flow south from the site. The unnamed stream enters Little Dry Creek about two miles south of the site; from the confluence, Little Dry Creek flows about seven miles west to the San Joaquin River.

WATER: The EIS does not adequately address or properly disclose impacts to hydrology. The DEIS states that because no groundwater sources have been identified in the project area, sources were sought at an off-site location. Potable water would have to be supplied to the project site by tank trucks transporting water (60 trucks a day/150,000 gallons of water per day) from a private property water source located on the Flyin' J Ranch approximately eight miles northeast of the trust/allotment property. To allow a water pump station on the Flyin' J Ranch in the RE Zone District requires approval of a Director Review and Approval (DRA) Application per Section 848.2.G. A hydrogeologic examination, consistent with the County of Fresno II-H Standard, shall be required through the processing of the DRA for the proposed water pump station. A scope of work must be developed by the County and the Applicant's consultant prior to the onset of any testing.

REFERENCE MATERIAL:

BBR 1-23-08
BAI #12 12-4-2007 (w/Resolution No. 07-639)



EXHIBIT "A"

County of Fresno

DEPARTMENT OF PUBLIC WORKS AND PLANNING
ALAN WEAVER, DIRECTOR

March 25, 2011

John Rydzik
c/o Amy Dutschke, Regional Director
U.S. Department of the Interior
Bureau of Indian Affairs, Pacific Region
2800 Cottage Way, Room W-2820
Sacramento, CA 95825-1846

Subject: Big Sandy Rancheria Band of Western Mono Indians Casino and Resort Project – Draft Environmental Impact Statement

Dear Mr. Rydzik:

The County of Fresno would like to offer comments on the Draft Environmental Impact Statement (DEIS) for the proposed Big Sandy Rancheria Band of Western Mono Indians Casino and Resort Project.

The EIS does not adequately address or properly disclose impacts to County roadways and intersections. Without properly addressing those impacts, subsequent Mitigation Measures do not reduce impacts to a Less than Significant level.

There are likely to be project implementation activities that will require County permits that will be subject to the California Environmental Quality Act (CEQA) such as improvements at the intersection of Millerton Road, the site driveway, and the use of private property for the water supply pump station. The environmental review process should not be bifurcated for activities requiring a County permit which may initiate compliance with the California Environmental Quality Act (CEQA) and requests that a combined National Environmental Protection Agency-California Environmental Quality Act (NEPA-CEQA) be prepared. Below are specific comments regarding the DEIS and potential impacts affecting County resources that were not adequately addressed in the document.

The following are disclosure flaws with the EIS in regards to traffic:

1. The EIS assumes that the traffic generated by Chukchansi Gold, Harrah's Rincon and Barona Casinos represents the expected traffic generated from the Big Sandy Casino. These Casinos are located a significant distance away from populated areas and would not be representative of traffic expected from the project proponent. The EIS should have included traffic generated by the Table Mountain Casino for a more representative measure of expected traffic from the Big Sandy Casino. Since the EIS assumes a 15% pass-by number from trips otherwise intended for Table Mountain Rancheria, the EIS should also include traffic generated by Table Mountain Rancheria in its sample distribution;

2. The EIS incorrectly assumes a 15-year (2025) planning horizon in its depiction of future traffic and future impacts. The County of Fresno assumes a 20-year planning horizon in determining impacts from future traffic. A 15-year planning horizon would underestimate future traffic impacts to County roadways and intersections;
3. The EIS does not include the cumulative impacts from the Rio Mesa Plan in Madera County, Tract Nos. 4934, 4968, 4976, 5393, 5430, 5594 and 5771; also Conditional Use Permit (CUP) No. 2865 or the Friant Ranch project located in Fresno County. Not including the aforementioned underestimates traffic impacts for County roadways and intersections;
4. The most current adopted and accepted values used in the industry for traffic engineering along with the current state of infrastructure is to be utilized and incorporated into the Study in order to properly assess the impacts of the project on the County's road system. It is obvious the analysis used is outdated and based upon information inadequate for a proper assessment of the deficiencies to service levels and subsequent mitigations that will be needed.

If the EIS does not include the above assumptions, the EIS would not properly disclose impacts to County roadways and intersections and any subsequent Mitigation Measures would be invalid.

The EIS does not adequately address wastewater impacts to the local ephemeral stream. The DEIS states that after the approved uses are satisfied, any remaining surplus effluent would be discharged to the unnamed stream on the property. Discharge of excess effluent into the local ephemeral stream would then flow south from the site. The unnamed stream enters Little Dry Creek about two miles south of the site; from the confluence, Little Dry Creek flows about seven miles west to the San Joaquin River.

The EIS does not adequately address or properly disclose impacts to hydrology. The DEIS states that because no groundwater sources have been identified in the project area, sources were sought at an off-site location. Potable water is proposed to be supplied to the project site by tank trucks transporting water (60 trucks a day/150,000 gallons of water per day) from a private property water source located on the Flyin' J Ranch approximately eight miles northeast of the trust/allotment property. To allow a water pump station on the Flyin' J Ranch property located in the RE Zone District requires approval of a Director Review and Approval Application per Section 848.2.G of the County Zone Ordinance. A hydrogeologic examination, consistent with the County of Fresno II-H Standard, is also required through the processing of the DRA for the proposed water pump station. A scope of work for the II-H Standard must be developed by the County and the Applicant's consultant prior to the on-set of any testing.

Regarding solid waste, per the 2010 Green Building Standards code, a Construction and Demolition Recycling Plan would be required. Big Sandy Rancheria should have a source reduction/green waste/recycling program for the site.

The County has community services districts in the area and requests that the project demonstrate that there would be no impact to the groundwater wells at Community Service Area (CSA) 34B (Ventana Hills).

Big Sandy Rancheria
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If you have any questions, you can e-mail me at aweaver@co.fresno.ca.us or contact me at (559) 600-4500.

Sincerely,

Alan Weaver, Director
Department of Public Works and Planning

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c: Stan Nakagawa, Design Division
Bernard Jimenez, Manager, Development Services
Will Kettler, Principal Planner, Development Services
Briza Sholars, Planner, Development Services

DRAFT

Path: K:\Projects_1\Big Sandy Rancheria\01004_07\mapdoc\EIS\Danielle\EIS Figure 1 2 Allotment and Fee Land 8.1.2 x 11 v2.mxd

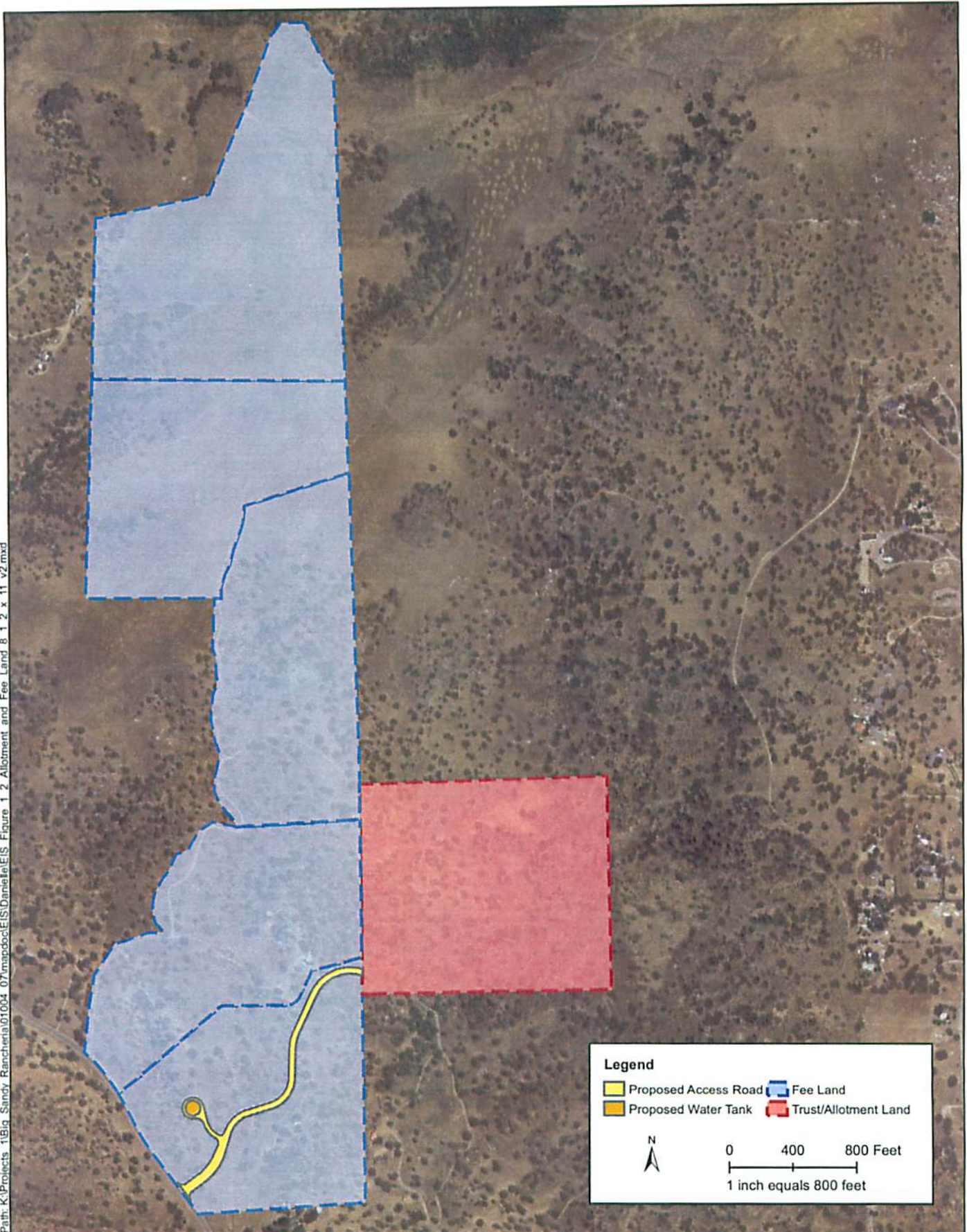


Figure 1-2
Allotment and Fee Land