

The County of Yuba

OFFICE OF THE BOARD OF SUPERVISORS



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March 12, 2009

Dale Morris, Regional Director
Bureau of Indian Affairs
Pacific Regional Office
2800 Cottage Way
Sacramento, CA 95825

Dear Mr. Morris:

The County of Yuba is pleased to respond to your letter dated January 16, 2009, requesting input as to whether a proposed gaming project consisting of a casino, hotel and parking structure "...would not be detrimental to the surrounding community".

Chronology

The following conveys a chronology of significant actions concerning the application by the Enterprise Rancheria to obtain the land "in trust" located on 40 Mile Road.

1. The voters of Yuba County approved **Measure R on January 27, 1998**. The title of the ballot measure was the "Yuba County Raceway Measure." The measure established the development of a sports center, entertainment facility and related uses that served the public interest, and the health, safety and welfare of Yuba County. Among the uses contemplated were as follows:
 - A major motor vehicle racing facility capable of accommodating premier racing events such as Indy car races, NASCAR races, road races and drag races.
 - Development of an amphitheatre for concerts and other events.
 - Development of a commercial area accompanying the racing facility, to allow for related industrial and service uses.
 - Development of a golf course
 - The measure achieved these purposes by amending the Yuba County General Plan and the Yuba County Zoning Ordinance in the following ways; Established a "Sports and Entertainment" designation to allow a motor vehicle raceway, amphitheatre, golf course, together with a range of commercial and light industrial uses on properties within that classification.

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- The intent of the Measure was to encourage an appropriate mix of uses compatible with a raceway, golf course, and amphitheatre as primary land uses. Examples of permitted uses which were considered appropriate included but were not limited to a motor vehicle raceway; a golf course; an amphitheatre; vehicle repair services; gasoline services stations; public buildings; hotels and motels; offices; light manufacturing uses; and research and development uses related to the raceway.

Measure R can be amended or repealed only by a majority of the voters, except as provided below:

- A. The Board of Supervisors may adopt refinements and minor adjustments that substantially comply with the purpose of developing a sports and entertainment center at the Yuba County Raceway Site.
 - B. The Board of Supervisors may amend the General Plan or the Zoning Ordinance to change or delete the permitted uses set forth in the Measure, if the Board makes the following findings and those findings are supported by substantial evidence:
 - (1) At least five years have elapsed following the effective date of this measure; and construction work for the raceway or amphitheatre has not yet commenced. Or, at least eight years elapsed following the effective date of this measure and the operation of the raceway or amphitheatre has not yet begun.
2. The Amphitheatre was constructed and opened in 2000, well within the five and eight year construction and operation periods identified in Measure R, thereby apparently disallowing the Board to amend or repeal without voter approval. A Raceway has never been constructed, and there are no current plans that staff is aware of to build a Raceway at the site.
 3. During 2002, Gerald Forsythe, President of Forsythe Racing Inc. and the primary developer of the site for a Raceway entered into an agreement with the Enterprise Rancheria to construct a casino and hotel on a 40 acre site within the Sports and Entertainment Zone. The change was examined by the Community Development Director and County Counsel, who both opined that a gaming facility and hotel were allowable and compatible uses within the Sports and Entertainment Zone and the Board concurred.
 4. The Board approved a Memorandum of Understanding (**MOU**) with the Estom Yumeka Maidu Tribe, Enterprise Rancheria on December 17, 2002. Among the key provisions (see attachment) of the MOU were the following:
 - Tribe agreed to waive certain sovereignty rights allowing for any unresolved disputes, within 30 days to go to the American Arbitration Association in accordance with its Commercial Arbitration Rules.
 - A one-time impact fee of \$697,120.
 - Payment in-lieu of taxes beginning at \$800,000 for the first year of operation up to \$5,000,000 during the sixth year of operation, and then annually adjusted by the Consumer Price Index of a maximum of 4 percent.
 - At least \$565,000 of "in-lieu tax" payments beginning in the first year of operation would be allocated for law enforcement and \$60,000 a year to fund gambling disorders to a charitable organization dedicated to the treatment and prevention of gambling disorders.
 - Agreement by Tribe to adhere to all local, state and federal laws pertaining to workplace safety, health and fair employment practices.
 - Agreement by Tribe to pay prevailing wages for all jobs associated with the construction of the facility.

- The County of Yuba agreed to provide a letter of support to the federal government allowing the tribe to put 40 acres of land in trust within the Sports and Entertainment Zone.
 - Subsequent to approval of the MOU the Bureau of Indian Affairs prepared an Environmental Assessment and based on the comments received by the County of Yuba, prepared a full Environmental Impact Statement (EIS). The County has reviewed and commented on the EIS Drafts that have been circulated for comments by the Bureau of Indian Affairs. The County of Yuba's comments on that document indicate that the majority of items previously commented on had been addressed (see attachment).
 - As you are aware, the EIS identified that over 3,500 jobs will be created by the project. Of this total, it has been estimated that the casino will create 1,933 permanent jobs, 1,300 temporary jobs (construction, etc.) and additional spin off jobs. It is further projected that the permanent jobs will provide approximately \$32 million a year in payroll and benefits. \$150 million is projected to be spent on construction of the project and would generate one-time wages of approximately \$35 million.
5. **In November of 2005, Measure G** (advisory measure) asked Yuba County voters "Should a destination / resort hotel and an American Indian gaming casino be located within the sports / entertainment zone on Forty Mile Road in the County of Yuba." 52.1% of the voters said no and 47.9% of the voters said yes.
6. The Department of the Interior, Bureau of Indian Affairs requested final comments from Yuba County and several other local and State of California agencies, in a letter dated January 16, 2009 concerning the placement of a gaming facility within the Sports and Entertainment Zone.

Summary

The response requested by the County of Yuba as to whether or not a proposed gaming project consisting of a casino, hotel and parking structure "...would not be detrimental to the surrounding community" is stated in this letter to the best of our ability, recognizing it is a future potential project in Yuba County. The County is confident that the Bureau of Indian Affairs has adequate supplemental documentation relative to the above stated question (public comments, project EIS) as well as an awareness and depth of knowledge of impacts associated with gaming casinos located in California.

Regarding the potential detriment to the surrounding community in Yuba County, the County, as previously stated, entered into an MOU with the Tribe that mitigates potential impacts associated with the proposed casino and identified structures. That MOU specifically mitigates for several aspects (among others as mentioned previously):

- Individuals suffering from gambling addiction can seek help from a program funded by a \$60,000 per year payment from the Tribe.
- The Tribe provides for a limited waiver of Sovereign Immunity with Yuba County. This item was proposed and agreed to regarding potential sovereignty issues associated with the land taken into trust by the Department of the Interior for the Tribe.

- The proposed casino is located in an agricultural area. Rural roads will be impacted by the increased traffic going to, and leaving the proposed casino. The MOU partially mitigates this impact by the payment of \$697,120 for road improvements. It is not anticipated this payment will fully mitigate the traffic impact to rural roads regularly used by the agricultural industry in Yuba County and we strongly encourage the BIA to require mitigations consistent with County comments submitted as part of the EIS.

The MOU between the applicant and Yuba County, as well as requirements contained in the EIS will mitigate identified impacts so that the placement of the 40 acres into trust and development of the casino will not have a detrimental impact on Yuba County (see attached letter from the Board of Supervisors from December 2002). However, if agreed upon mitigation measures identified in the MOU or in the EIS are not implemented, locating a gaming establishment on newly acquired land will have a detrimental impact on Yuba County.

In summary, the Yuba County Board of Supervisors over the last several years has received comments both in support and opposition to the casino from community members. Also, comments were provided to the BIA during the environmental review process. In addition to comments received from Yuba County residents and those persons from surrounding communities the County held a special election in 2005 in which an advisory measure, "Measure G", as described above, was presented to Yuba County voters and overall, voters did not support the casino project.

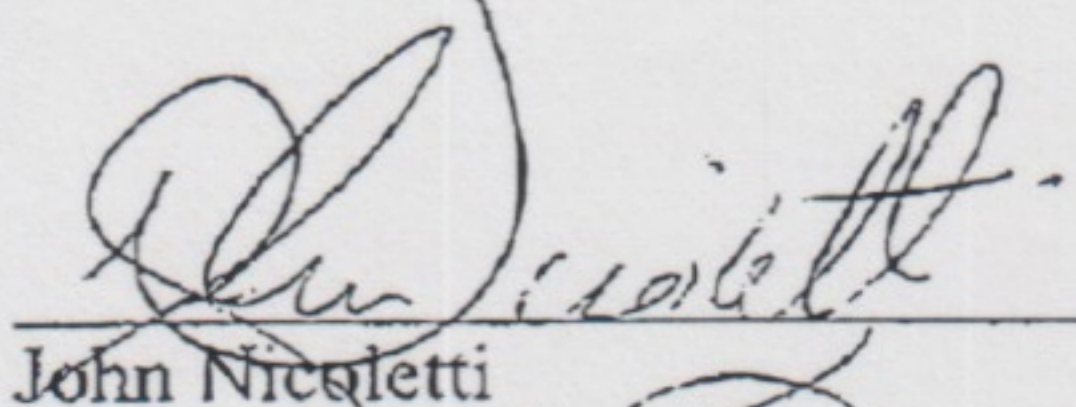
Community concern is still evident regarding the casino project while at the same time the project maintains a level of support. Concerns over socio-economic impacts have been presented while supportive comments are also provided regarding the need to create jobs and economic development.

Legitimate concerns exist regarding the social and economic impacts as a result of a gaming facility being located in Yuba County. In fact, Yuba County has commented to that point during the environmental review period. Concerns exist for families that are negatively impacted as a consequence of individuals suffering from a gambling addiction, or who spend more than they can afford to lose. Yuba County has unfortunately experienced historical trends of people suffering from chronic addictive behaviors (i.e. alcoholism, drug use, and tobacco). Yuba County is working hard to reverse those trends. Placement of a gaming facility in close proximity to our population centers may add to or further complicate addictive behaviors, thus the potential to be a detrimental impact on a portion of our population. It should also be noted that the Board of Supervisors may elect to allocate a portion of the additional revenues provided for in the MOU to the County to address the impacts that may arise.

Yuba County has a signed MOU in place with the Tribe, approved by the Board of Supervisors, and it is our intention to honor that agreement and the provisions contained therein.

The County is hopeful that the comments provided in this letter sufficiently addresses the questions posed to us in your January 16, 2009 letter.

Sincerely,



John Nicoletti

Chairman, Yuba County Board of Supervisors