

# DRAFT LETTER

March 10, 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".

The following conveys a chronology of significant actions concerning the application by the Enterprise Rancheria to obtain the land "in trust" located on Forty 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.
  - 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Measure R can be amended or repealed only by a majority of the voters, except as provided below: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 forty (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 four (4) percent.
    - At least \$565,000 of payments in-lieu of taxes beginning in the first year of operation would be allocated for law enforcement.

- \$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.
  - 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.
5. 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).
  6. In November 2005, an advisory vote in Yuba County occurred regarding the casino (Measure G). Casino opponents received 52 percent of the vote compared to 48 percent for casino supporters.
  7. Bureau of Indian Affairs requested final comments in a letter date January 16, 2009, from the County of Yuba and other local agencies concerning the placement of a gaming facility within the Sports & Entertainment Zone.

In summary based upon the EIS addressing the County's concerns provided in previous correspondence and that the elements agreed to within the MOU would be fully enforceable, the County of Yuba does not believe the gaming project would be detrimental to the surrounding community. It would be preferable if certain financial aspects of the MOU could be updated from 2002 to reflect 2009 costs, such as law enforcement expenses, and infrastructure fees.

Also of note, is that the City of Marysville is due to receive remuneration of over \$4.8 million over a 15-year period from a gaming facility at this location under a separate agreement between the tribe and the city.

Your letter also requested "...any other information that may assist the Secretary in determining whether gaming is or is not detrimental to the surrounding community". To that end, please be advised of Item Six (6) noted above regarding the results of the advisory vote in Yuba County back in November 2005.

In addition, staff recently conducted a brief survey of surrounding casinos to estimate potential financial benefits from a casino locating in Yuba County. The results of that survey are attached and represent the information we received from the various casinos. Staff did not independently verify the information contained in the survey.

As you are aware, the EIS identified that over 3,500 jobs will be created by the project, including permanent, temporary construction, and spin-off jobs. Of this total, it is estimated the casino will create 1,933 permanent jobs, 1,300 temporary jobs, and additional spin off jobs. It is further projected that the permanent jobs will provide approximately \$32 million a year in payroll and benefits. Moreover, \$150 million is projected to be spent on construction of the gaming project, and would generate one-time wages of approximately \$35 million.

Sincerely yours,

John Nicoletti  
Chairman of the Board of Supervisors  
County of Yuba