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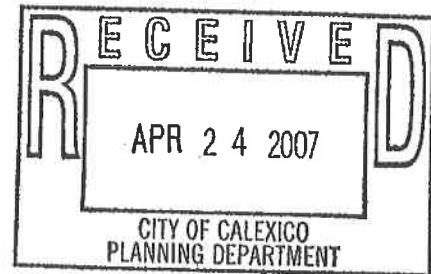
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April 16, 2007



Mr. Armando G. Villa
Director of Development Services
City of Calexico
608 Heber Avenue
Calexico, CA 92231

Re: Comments of Quechan Indian Tribe in Opposition to 111 Calexico Place Project

Dear Mr. Villa:

On behalf of the Quechan Indian Tribe we submit the following comments on the 111 Calexico Place Project and the March 2007 Initial Environmental Study. The Tribe strongly opposes the proposed casino development, as it will have a significant negative impact on the Quechan Tribe and its members. For the reasons described below, the Tribe requests that the City defer environmental review and all further action on the development applications to a later date, until the feasibility of the Calexico Place project becomes more certain.

Preparation of an Environmental Impact Report (EIR) for the Calexico Place Project is premature because it is unclear whether the project developers can obtain the state and federal approvals required for Class III off-reservation gaming. The casino project can not go forward until the United States agrees to acquire the underlying land in trust for the Manzanita Band.¹ Current federal and state policy disfavors off-reservation gaming and it is speculative, at best, that the United States or the State of California will approve this casino proposal. Even if the United States accepts the land into trust for the Manzanita Band, there are additional significant hurdles associated with negotiation of a new gaming compact with the State of California. Without the casino, it is unclear whether the Calexico Place project would go forward. Even if the casino and new gaming compact are approved, such approvals would likely take years and the developers' plans may change significantly during that time period.

¹ Although the applicant is identified as Hallwood Calexico Investments, LLC, the casino development depends upon approval of the Manzanita Band's land-into-trust application filed with the Department of the Interior on or around April 16, 2006.

The City should delay preparation of the EIR and defer any action on the development applications until the United States approves the Manzanita Band's land-into-trust application. If the City does go forward with an EIR at this premature stage, the City must consider and evaluate the negative socioeconomic impacts on the Quechan Tribe.

A. The Calexico Place Project Will Result In Significant Negative Economic Consequences for the Quechan Indian Tribe.

The Quechan Indian Tribe is the only federally recognized Indian tribe with a reservation and Indian trust lands in Imperial County, California. The Tribe's Fort Yuma Indian Reservation is located approximately 50 miles east of Calexico. The Tribe has operated the Paradise Casino on the Arizona portion of the Fort Yuma Indian Reservation since 2003 under a compact negotiated in 2002. The Tribe has operated the Paradise Casino on the California portion of the Fort Yuma Indian Reservation since 2003 pursuant to a gaming compact negotiated in 1999 and amended in 2006.

The Tribe is currently in the process of building a larger casino and hotel facility in a new location on its reservation near an existing Interstate 8 interchange. At significant expense and literally years of effort, the Tribe negotiated a new gaming compact with the State of California, which was finalized in September 2006. The Tribe is investing millions of dollars in its new resort facility, which will provide employment and training opportunities for tribal members and funds for essential tribal governmental services, including a new Indian Health Services hospital, new Senior Nutritional Center, new Education Complex for various educational programs such as Head Start, Vocational Training Center, water and sewer treatment plant, and housing. These services are essential to increase the standard of living of tribal members, who have a median household income of \$23,750.00, approximately one-half of the national median income.

Imperial County, and particularly central and eastern Imperial County, are within the Quechan Tribe's zone of economic interest and within the Tribe's historical and traditional areas. The proposed Calexico Place project will attract patrons primarily from a 50-mile marketing zone extending to El Centro, Calexico, and the Mexican border, which is parallel to the Quechan Tribe's existing market. Market studies show that as much as 30% of the Quechan Tribe's new casino's patrons will come from the Calexico-Mexicali area. The Quechan Tribe strongly opposes the Calexico Place casino project due to the economic harm it will cause the Tribe and its members.

B. The City Should Defer Action on the EIR and Development Applications Until Initial Federal and State Approvals Are Obtained For The Casino.

A primary component of the Calexico Place project is development of an off-reservation Class III Indian Gaming Casino and entertainment center. However, at this time, it is pure speculation that the developers will be able to obtain the federal and state approvals necessary for development of the casino. If the casino can not obtain the required approvals, it is unclear whether the remainder of the Calexico Place Project would go forward in its present form, or at

all. The City should defer action on such a speculative project. Before committing funds and time to evaluate the environmental impacts, the City should wait until, at the earliest, the United States agrees to take land into trust for the Manzanita Band's off-reservation casino project. Until the United States agrees to take the land into trust, the casino project remains purely speculative.²

Obtaining federal permission for off-reservation gaming is a rigorous process that has no guarantee of success. *See* 25 U.S.C. Part 151, 25 U.S.C. § 2719. Federal law prohibits trust acquisitions for off-reservation gaming purposes unless the Secretary of the Interior determines that the gaming establishment will be in the best interest of the Indian tribe and its members and that the establishment will not be detrimental to the surrounding community, including nearby Indian tribes like the Quechan Tribe. 25 U.S.C. § 2719(b)(1)(A). In addition, the Secretary must obtain the concurrence of the Governor. *Id.*

Current federal policy disfavors off-reservation gaming. This is especially true where such gaming interferes with an existing on-reservation gaming operation. The further away from the gaming proponent's reservation that the gaming occurs, the less likely it is that the United States will approve the project. *See Checklist for Gaming Acquisitions, Gaming-Related Acquisitions, and IGRA Section 20 Determinations*, Office of Indian Gaming Management, March 2005, page 5 ("The greater the distance the acquired land is from the tribe's reservation will require that the Regional Director's analysis more fully justify the anticipated benefits to the tribe"). Here, the proposed Calexico casino is a significant distance from the Manzanita Band's reservation; thus, Manzanita faces a heavy burden in obtaining federal approval.

The Secretary of the Interior is trustee to the Quechan Indian Tribe and is prohibited by its trust obligation from taking discretionary actions that will interfere with the vested interests of the Tribe. The Secretary of the Interior must consult with the Quechan Tribe prior to approving the land-into-trust application and the Quechan Tribe will voice strong opposition due to the resulting economic impact. *See* 25 U.S.C. § 2719(b)(1)(A). The Secretary would likely violate its trust obligation to the Quechan Tribe by approving the Manzanita off-reservation gaming proposal over the Quechan Tribe's objections and showing of economic harm.

The United States' decision on the land-into-trust application is likely years away. The United States must comply with NEPA and prepare an Environmental Impact Statement prior to making its decision. To date, the United States has not even started its NEPA review process on the Manzanita application. As part of the NEPA review process, the United States is obligated to consider socioeconomic impacts associated with the Calexico casino proposal. It is also obligated to consider impacts to Indian trust assets and environmental justice. The United States also must consult directly with the Quechan Tribe and seek its input on this proposal. *See*

² Since this project is subject to both CEQA and NEPA, the generally applicable time limits for completing environmental review and taking final action on a development application may be waived. *See Guidelines for Implementation of the California Environmental Quality Act*, Sections 15110 and 15224.

Department of the Interior Manual, 516 DM 10, § 10.3(2)(a) (“Tribal governments affected by a proposed action shall be consulted during the preparation of environmental documents and, at their option, may cooperate in the review or preparation of such documents”). The Quechan Tribe intends to participate fully in the NEPA process and ensure the record adequately documents the significant impacts that this proposal will have on the Tribe. Once the United States concludes its NEPA review and makes its final decision on the Manzanita application, administrative appeals and judicial challenges could delay the actual acquisition for many more years to come.

Even if the United States recommends approval of the land-into-trust acquisition for gaming purposes, the concurrence of the Governor is also required. On May 18, 2005, Governor Schwarzenegger issued a proclamation stating that he would not approve off-reservation gaming in rural areas unless “the project substantially serves a clear, independent public policy separate and apart from any increased economic benefit or financial contribution to the State, community, or the Indian tribe that may result from gaming.” *See* Governor Schwarzenegger Proclamation on Tribal Gaming Policy, May 18, 2005. Here, the only basis for the casino project is revenue generation for the City and the project proponents. The project does not “substantially serve” any other “clear, independent public policy” and therefore cannot be approved consistent with the Governor’s policy statement.

Assuming that the Manzanita Band can overcome these substantial obstacles and persuade the United States to acquire the land in trust for the casino, Manzanita will still need to negotiate a new gaming compact with the State of California. This process requires approvals by both the Executive and Legislative branches of the State of California, and approval by the Secretary of the Interior. Significantly, the United States will not approve a new gaming compact until the Tribe obtains approval of its land-into-trust application. *See* 25 U.S.C. § 2710(d)(8)(A) (authorizing Secretary to approve gaming compacts “governing gaming *on Indian lands of such Indian tribe*”). Federal law does not permit approval of new gaming compacts until the land-into-trust process is complete.

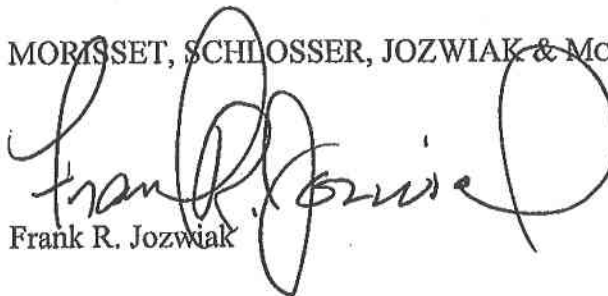
It is unclear why the City would expend resources to evaluate the environmental impacts of this project when it is at such a speculative stage. The casino is an integral part of the development project and it is unclear whether any part of the development would go forward without that revenue-generating component. Disapproval of the casino would likely result in a new configuration of the project and could even result in abandonment of the project. Thus, there is no justification for proceeding with environmental review or taking further action on the development applications at this stage. The City should defer all action on the Calexico Place applications until the United States decides whether to acquire project lands in trust for the Manzanita Band. At that point, the project will be more certain and ripe for environmental review.

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The Quechan Tribe appreciates the opportunity to comment on this project and intends to remain involved throughout the application process. If you have any questions about this comment letter, please do not hesitate to contact me.

Sincerely,

MORISSET, SCHLOSSER, JOZWIAK & MCGAW

A handwritten signature in black ink, appearing to read "Frank R. Jozwiak", written over the printed name below it.

Frank R. Jozwiak

cc: Clayton Gregory, Director, Pacific Regional Office, BIA
George Skibine, Acting Principal Deputy Assistant Secretary, DOI
Honorable Arnold Schwarzenegger, Governor, State of California
President Mike Jackson Sr.
Vice President Keeny Escalanti Sr.
Members of the Quechan Tribal Council