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**United States Department of the Interior**OFFICE OF THE SECRETARY
WASHINGTON, D.C. 20240

MAY 12 2008

Memorandum

To: Dale Morris, Regional Director, Pacific Region

From: Carl J. Artman, Assistant Secretary *Indian Affairs*

Subject: North Fork Rancheria Environmental Impact Statement for Proposed Gaming Facility

I understand that a draft environmental impact statement (DEIS) for a proposed gaming facility for the North Fork Rancheria was released to the public for comment on April 9, 2007, and that the comment period is now closed. The DEIS contained several alternatives including a Preferred Alternative and a No Action Alternative.

It has recently come to my attention, however, that an additional site, the Old Mill Site, was not analyzed in the DEIS as a reasonable alternative. The Old Mill Site consists of 135 acres within the boundaries of the North Fork Rancheria, and is currently available for purchase with a price that includes environmental remediation. The location may provide a viable location for a destination resort casino and could help revitalize the North Fork tribal economy and the economy of the Town of North Fork.

The Old Mill Site is a brownfield that has been extensively disturbed. Any potential future environmental impacts on the site would likely be minimal. The 135 acres would adequately contain the 105-acre footprint of the currently proposed facility. The North Fork Community Development Council has indicated that there is ample water on site. There is also room to develop a wastewater treatment plant, and the Town of North Fork is currently upgrading and designing new utility systems that would include the Old Mill Site.

The National Environmental Policy Act, 42 U.S.C. § 4321 *et seq.*, and the Council on Environmental Quality Regulations, 40 C.F.R. Part 1500, require that all reasonable alternative be considered. The Old Mill Site is very likely a reasonable alternative that must be considered in the draft and final EIS. The current scope of the DEIS may be insufficient because it does not include the Old Mill Site for comparison to the other reasonable alternatives already identified in the DEIS.

Please amend the current EIS by taking the appropriate steps to include the Old Mill Site as an additional alternative. It is likely that such steps will include preparing and issuing a revised DEIS for public comment. Please inform me by May 19, 2008, of your proposed plan for making these changes.

memorandum

DATE: MAY 15 2008
REPLY TO
ATTN OF: Regional Director, Pacific Region
SUBJECT: North Fork Rancheria Environmental Impact Statement for a Proposed Fee-To-Trust Land Acquisition for Gaming Purposes
TO: Assistant Secretary – Indian Affairs

Thank you for your memorandum dated May 10, 2008, directing the Pacific Regional Office to amend the Draft Environmental Impact Statement (DEIS) for the proposed fee-to-trust land acquisition and gaming facility on behalf of the North Fork Rancheria by including the Old Mill Site as an additional alternative to be analyzed in the draft and final Environmental Impact Statement (EIS). While we understand, accept and appreciate this direction, we feel compelled to point out several matters for your further consideration.

The Old Mill Site is not within the bounds of the North Fork Rancheria. Therefore, the potential acquisition for gaming purposes of this alternative site would be considered an off-reservation acquisition, similar to the proposed action site in Madera County.

In addition, as a brownfield, the Old Mill Site may present a future cleanup liability to the United States should the land be taken into trust. If unknown contamination is discovered in the future, either on-site or off-site and attributed to the former mill operation, the United States may have to pay for future remediation, contribute to future remediation efforts or commit limited resources to combat liability responsibility.

We would also like to note the Pacific Region very carefully considered reasonable alternatives during the scoping process of the EIS. During scoping, public testimony and written comments strongly suggested that an on-reservation site be analyzed in the EIS. While the on-reservation alternative did not entirely meet the purpose and need, we added it as an alternative and analyzed it in the DEIS. The Old Mill Site was not raised as an alternative during scoping and was therefore not analyzed in the DEIS released for public comment on April 19, 2008. Adding a new alternative, albeit reasonable, after scoping sets a dangerous precedent where opponents of the proposed action could further delay the EIS process by raising yet another alternative after a revised DEIS with the Old Mill Site alternative is recirculated for a new public comment period.

As directed, we will contact the North Fork Rancheria to initiate revision of the DEIS. As you point out, this will require preparing and issuing a revised DEIS for additional public comment. If you have any questions about this matter, please call me at (916) 978-6000.

Dale Morris