

SENATE COMMITTEE ON GOVERNMENTAL ORGANIZATION

Hearing on: *Indian Gaming in the Central Valley*

May 19, 2005

**Madera County Government Center
Madera, California**

Senator Dean Florez, Chair

SENATOR DEAN FLOREZ: Good afternoon. Thank you for coming to the informational hearing. This is the Senate Governmental Organization Committee. I'm the chairman, Senator Dean Florez. I know my vice-chairman, Jeff Denham, will be here rather shortly. I'd like to thank you all for coming. And, first, let me thank Gary Gilbert, Madera County Board Chairman, for allowing us to utilize the facility; Ronn Dominici, Madera County Supervisor; Zack Zacara, County Security Chief, particularly, thank you very much for allowing us to try to keep this an orderly manner; and Bonnie Holiday, Madera County Chief Clerk, thank you so much for sitting with us this afternoon.

In advance of the testimony, again, let me thank the witnesses for being here today, and for most of you who believe this is an important enough hearing to take the time out of your afternoon to be here.

The subject of today's hearing obviously is, *Tribal Gaming in the Central Valley*. As most of you are aware, over the past four years the California Legislature has ratified quite a number of tribal state gaming compacts, as well as amended compacts, with tribes in the state of California. Indian gaming obviously is business, and in many cases big business, in the state of California.

The committee you are sitting in with today obviously has some say in the ratification of those particular compacts. We want to thank you for sitting with us this afternoon, dealing particularly with the issue of tribal gaming in the Central Valley.

Several tribal gaming facilities in the Central Valley, Chuckchansi and Table Mountain, are located in this area, as most of you know, along with the tribe that is currently presently negotiating a compact with the state of California in hopes of establishing a casino near or along Highway 99 (North Fork), in the area that we are now currently sitting.

Although there's been many misconceptions regarding Indian gaming, it is my goal in this particular hearing, for each of us to have a clear understanding of the impact of Indian gaming in this area, both from the standpoint of established tribes, and tribes in the process of achieving permission to commence gaming activities.

This is a public hearing, as I've mentioned. Anyone wishing to speak on the matter should sign up with the sergeants. We're going to try to place that as you are being checked in for all sorts of devices coming into the building. They did a very good job of security for the hearing also, and I appreciate that from the Board. I feel safer. And also, in terms of today's agenda, let me say, that really, we'd like to hear from all of you if possible, but let's try to make sure that we're not repeating comments. Let's try to make sure that we have an opportunity to hear various viewpoints.

Lastly, let me say, this hearing comes at an interesting time, given the Governor's proclamation yesterday on his policy position on urban gaming. And I think it's very interesting that we are able to talk about gaming in the Central Valley as the Governor now has put out a, if you will, proposition to the Legislature.

I can tell you we do plan to, hopefully, hold a hearing on that particular proclamation. We're very interested in what it means to be urban. I'm not sure what urban means, in many cases, to the Governor, but in many cases you can be a very small city that might not have appeared on the Governor's list. Let me use one—the city of Gorman, on the way to Los Angeles, where most people going to San Francisco and Los Angeles travel, not just through the Central Valley, but right before I-5. That's a pretty small place, but, indeed, if it were

indeed deemed to have a similar site, one might say that might have more traffic than Bakersfield, itself.

And so, we're very interested in trying to look at the ramifications of that type of policy—what does urban mean; and is urban in the context of what the Governor was trying to achieve with yesterday's proclamation? It will be very interesting to talk about that. It comes on the eve of this hearing which I think is quite interesting, as well. Obviously the amount of traffic on 99, and I'm very interested in listening to Caltrans, law enforcement, and others, talk about what it means, as well.

With that, let's go ahead, if we could, and start the hearing. I'd like to thank Elaine Fink, the Tribal Chair, North Fork Rancheria of Mono Indians. Please come up and give us some testimony.

I do have some questions. If you have some testimony, that's fine, but I do have some questions I'd like to ask you, and also have written questions I'd like to read to you and get your reaction to, to get them on the record. But let me state at the start of this, that this is an official hearing noticed in the Senate. It is on the record. If you're interested in receiving a transcript of this particular hearing, give us a couple of weeks. We'll make sure that's available. But more importantly, we want to make sure this is on the record, and we very much appreciate your testimony and everyone else's testimony later today. So why don't we go ahead and start.

ELAINE FINK: Mun a hoo e bosu. Mun a hoo e num. Mun a hoo to ehun noh pa teh'. What I've just said is, "Hello to my friends; hello to the Mono people; hello to the people from all over," in the native language of the Mono—the people who have lived, worked and played throughout this region for centuries.

My name is Elaine Bethel-Fink. I am the Tribal Chairperson for the North Fork Rancheria, which is one of the largest tribes in California with 1,356 tribal citizens.

This is my council, Pat Bean, Vice-chair; Sharon Kelly-Carter, Tribal Council; MaryAnn McGovern, she's our treasurer; and Jackie Davis-Van Hess is our secretary.

Thank you Council.

I would like to thank Senator Florez and the Governmental Organization Committee members for this opportunity to discuss the exciting vision that our tribe and citizens and representatives of this community has developed together. We also would like to thank the members of the Madera County Board of Supervisors, community representatives, and the tribal citizens for their presence here today, and for their continuing support. We have a positive message.

We welcome this opportunity to set the record straight about our project. It is within our historical lands. It is located in a rural area of Madera County. And, it is a location that provides the necessary infrastructure to support the economic growth the development will stimulate.

Why are these things important? In simple terms, our ability to put land into trust for gaming requires us, among other things, to satisfy one of the two criteria under Section 20 of the Indian Gaming Regulatory Act, namely, to qualify the trust acquisition under the restored lands exception or with the concurrence of the governor. We are confident that we have the ability to satisfy both.

Let me start with the location of the site within our historical lands. I'm sure you've heard and seen at least one of the many paid advertisements funded by competitive interests that claim that we do not have a historical connection to these lands, and let me explain why that isn't the case.

To begin, there's no way that we can walk through the centuries of migration patterns of the Mono people today. We do know, however, that the tragic history of the California Indians over the past two hundred years and more makes it extremely difficult for researchers to accurately determine the ancestral or aboriginal boundaries of ours, and most important, other tribes' territories in California. Instead, the best that the researchers can hope to

establish with some accuracy is, whether our tribe has a historical connection to a particular area. They do this by determining where our tribal ancestors lived when settlers first came to the Central Valley, and then documenting subsequent residency patterns from that time forward.

The North Fork Mono is one of at least six tribal groups of the Monache—from where we get our name, Mono. The early Mono were hunters and gatherers and we traveled, traded, and inter-married with the Chuckchansi, the Yokuts, Paiutes, Southern Miwoks, and other tribal people throughout the Central Valley, sharing what is now Madera County, with these neighboring tribes for hundreds of years.

When the Gold Rush began in 1849, the influx of miners followed by loggers and herders, not to mention the bounty hunters who were paid \$50 a head for an Indian—that's a lot of money back then—and this resulted in the loss of thousands of Indians' lives. Also lost, were all of our historic lands.

These lands were to be partially compensated with the establishment of reservations agreed to in a series of treaties entered into in 1851. And among these treaties were three that set aside a reservation for the Mono and other neighboring tribes. Although the U.S. Senate ultimately refused to ratify the treaties, more than 1,500 Indians were moved, either in good faith or by force, onto these lands where they resided until 1859, when the reservation was abandoned by the government.

Nonetheless, our people have continued to use and occupy lands in the Valley. The Mono people who remained in the Valley maintained family and cultural ties with their relatives in the foothills of the Sierras.

In 1916, almost 16 years later, 80 acres in North Fork were purchased by the federal government and placed in trust as the North Fork Rancheria, and with that came federal recognition.

Then, like many California tribes, the North Fork Mono were terminated in the early 1960's by the federal government, and its people were no longer eligible for federal services available to American Indians. Under this policy,

the tribe's land was taken out of trust and transferred to the individual ownership.

In 1983, the tribe's federal recognized status was restored. Four years later, the federal government also agreed to recognize the old North Fork Rancheria as Indian country. This means that the Rancheria lands are eligible for gaming under the Indian Gaming Regulatory Act. However, the Rancheria lands are not owned or held in trust for the tribe. Instead, they are held in individual trust for just six tribal citizens. More importantly, the tribe believes it would not be appropriate to develop these lands because of their environmental sensitivity, and the Rancheria can only be accessed from a dirt road off of a national scenic byway, and it sits on a rocky hillside adjacent to Sierra National Forest. Even if the tribe could regain ownership of the Rancheria lands, the tribe believes it is not an appropriate place for commercial development and any such development would do little to advance the needs of either the tribe or the larger community.

Through the years and economic necessity, there has been back and forth migration between the foothills and the valley. Today, 62% of our tribal citizens in Central California live within 25 miles of the proposed site. One of those who has lived and worked on farms situated near the city of Madera her entire life is with us today. I'd like to take a moment to acknowledge one of our elders, Helen Pisano. (applause)

Now, let's talk about the proposed project's location in rural Madera County. Simply put, it is not an urban area. The project site sits in between rural and an unincorporated rural area between Madera and Chowchilla, and these are the only two cities in Madera County where the impact on surrounding communities and environment can be minimized and where there would be minimal adverse impact on casinos already in operation. Throughout the process of identifying an appropriate site, we consulted with county officials and staff and with others to ensure that our development would be consistent with the land use priorities of the city and county of Madera.

While competitive interests would have you believe that being near a primary road is a bad thing, we can't believe many people would want a resort like ours on a secondary road that lacks the capacity and infrastructure needed. Instead, ours is a location that is environmentally suitable with an existing infrastructure that can support the economic growth the development will stimulate. We are doing everything necessary to ensure transparency and mitigate any negative impact before it happens, including an Environmental Impact Statement, the most rigorous level of review under federal law, being prepared by the Bureau of Indian Affairs under the National Environmental Policy Act.

Location aside, let's not forget why the project enjoys the level of support that will be demonstrated here today. The project will provide a significant economic boost to the county, an area with an unemployment rate consistently more than double the state average, and with an agriculture-based economy in need of diversification.

This project will directly generate an estimated 1,500 permanent living wage jobs with benefits, and 750 construction jobs. This investment will in turn generate an additional 2,000 jobs in the area, for a total of some 4,250 new jobs. These are significant numbers for any county, but particularly for the 140,000 residents of Madera County.

In addition to these thousands of full and part-time well-paying jobs, anticipated economic benefits of the project include an annual payroll and benefits of \$50- to \$60 million and \$45- to \$50 million dollars each year in goods and services, and much of it will come from local vendors.

The project will benefit the local economy in many ways. First, and most importantly, the Memorandum of Understanding (MOU) negotiated between the tribe and the county will compensate the latter for any lost tax revenues so that the county will actually receive more revenue from the project than from a comparable non-Indian enterprise. The MOU contributes approximately \$87 million to the county over 20 years to fund public safety projects and mitigate potential impacts. That amount results in more than \$4.3 million annually

that will benefit the county as well as the cities of Madera and Chowchilla. The MOU also establishes new tribal/community foundations to invest in local charitable causes, education, and economic development.

Secondly, recent gaming studies indicate that communities will benefit from casinos if the facility is a destination resort drawing from a wide geographical area. Our project is being developed as a world-class, multi-function destination resort. It will include a spa, restaurants, hotel, and entertainment—so much more than just a casino. Leveraging nearby world-renown national parks and scenery, we will attract new customers from regional (especially Bay Area and L.A. Basin), national and international markets. Indeed, the addition of this new resort will expand the existing entertainment marketplace and spark a regional synergy that will benefit other local hotels, businesses, and other tribal casinos.

This multiplier effect is supported by a 2005 survey conducted for the American Gaming Association, where 79% of elected officials in gaming jurisdictions felt casinos have had a positive impact on their communities.

Thirdly, this project will further diversify the region's industrial base beyond agriculture, manufacturing, and construction by offering an environmentally clean industry not vulnerable to seasonal or weather fluctuations, as well as providing a career ladder of economic opportunity for enterprising individuals with benefits.

And fourthly, because the operation will be locally owned, the best interests of the community and the region will be protected. This is our home—yesterday, today, and tomorrow.

What truly distinguishes the North Fork Mono Rancheria economic development project is its local support, emphasis on collaboration, adherence to the spirit and letter of the law, and its goal of improving the lives of all Madera County residents.

The tribe has worked hard to inform our neighbors about the project's features and benefits, and to learn and address any questions that they might have. We have engaged civic and business leaders in open, frank, one-on-one

discussions, and delivered to citizens and businesses in the county, an objective and informative piece explaining the project and providing a forum for feedback. You will hear from some of these people today, both in support and opposition. By the way, we have included the mailer in the brochures we provided for you.

In August 2004, two well publicized and well attended meetings were conducted by the Madera County Board of Supervisors concerning the proposed MOU. Following extensive and decidedly favorable public comments, the Board voted unanimously to approve the MOU.

The tribe has also met with the city of Madera and Caltrans, and looks forward to reaching agreements with these entities, once more information becomes available from the Environmental Impact Statement, which I mentioned earlier.

Indeed, among recent Indian gaming projects in this region, or even the state, or the nation, for that matter, our project stands out as a model of responsible development. Responsible development because we work closely with the county from the outset to identify an economically and environmentally viable location within our historic land that would boost the struggling economy and bring significant benefits to the broader community.

So in the end, who is against the proposed North Fork Mono Rancheria Resort project? Primarily those with a reasonable difference of opinion about the value of gaming as a form of entertainment and those, not surprisingly, with a competitive interest at stake.

Our tribe fully supports and respects every tribe's right to pursue self-determination and economic development. We can't accept anything less for ourselves. We are above all, a caring, adaptive, responsible and enterprising people.

In the decade since the tribal office was opened, we have met our sovereign responsibilities, drawing upon the few financial resources that have been available to us. Among other things, we established an Indian Housing Authority to build approximately 50 homes on a 61 ½ acre site, and right now,

a community building is being built and should be finished in June. We've also created a Tribal Temporary Assistance for Needy Families Program, which is our TANF program, which serves Indian people across three counties—Madera, Mariposa, and Merced. The other recognized tribe in Madera County, Picayune Rancheria, supports our Tribal TANF program, and a member of their tribal council sits on the TANF board. It's a wonderful program. These and other tribal programs are housed in a local historic building that we recently purchased and rehabilitated with non-gaming revenues. I think a lot of the community will remember Spaghetti's in the old hotel saloon in the corner of North Fork, and that's the building we're in.

And just yesterday we celebrated the 9th anniversary of the adoption of the Constitution of the North Fork Rancheria that has, among other things, consistently allowed us to open enrollment to all descendants of the North Fork people.

Our approach has always emphasized the community-based values of transparency and collaboration to achieve our shared visions. This common vision is part of a shared destiny and promise that has linked the tribe and community through good times and bad times, for hundreds of years.

In conclusion, we pledge as citizens, neighbors, and business partners of the community to continue to take stands to ensure transparency, to mitigate negative impacts, to respect the California State Association of Counties principles relating to Indian gaming, and to work in cooperation with local, state, federal, and tribal governments toward the common good.

Thank you for this opportunity to talk to you today about our project. In the Mono language we have no word for "good-bye." We say, "a wee a noh," which means, "be on your way." Or, we say, "a kut tha tig," which means, "just stay down or stay seated." So I will say, "a bee tha uh puni quat," which means, "we'll see you later." Thank you. (applause)

SENATOR FLOREZ: Not to say that clapping isn't suggested, but this is a hearing and we appreciate the comments very much. Let me ask you a

couple of questions—John Maier, attorney representing, and Ed Manning, any statements from you, or are you for questions?

ED MANNING: No, Mr. Chair. We're just here to assist and answer any questions.

SENATOR FLOREZ: Okay. I just wanted to know. I want to make sure. You're on the agenda; I wanted to make sure we didn't skip over that.

Thank you very much for the testimony. Let me ask you a couple of questions, if I could. And let me start with the hardest questions first.

The Governor mentioned yesterday as a side note to his urban gaming policy an advisory vote, and you mentioned the fact that this project has quite a bit of support within Madera—are you opposed; do you support an advisory vote for this project?

MS. FINK: No, we're not.

SENATOR FLOREZ: And when I say advisory vote, what does that mean to you?

MS. FINK: I'm not sure. I'm not sure what happened yesterday.

SENATOR FLOREZ: Well don't agree to something if you're not sure, okay. We might have different visions of it. When I say the word, advisory vote of the people, and you mentioned earlier that, in essence, there's support within Madera, when I ask you that, I ask you within the context of what the Governor has written, not what I'm proposing. The governor himself has said...

JOHN MAIER: Senator, the tribe...

SENATOR FLOREZ: Identify yourself for the record.

MR. MAIER: John Maier, with California Indian Legal Services who represents the tribe. The tribe is prepared to engage in whatever activities that the Governor requests to show that the community supports the project.

SENATOR FLOREZ: Okay, that's helpful. And the reason in Sacramento on this new issue that would be more of a policy hearing, is, we're not sure what the Governor means by advisory vote. I mean, it's nice to write, but you know, I kind of want to get it from the ground here, at this hearing,

what you might think is an advisory vote. What do you think is an advisory vote?

MR. MANNING: Mr. Chairman, I might add, having had as little time as you to read the policy, it appears, at least reading it completely, that it seems to refer that an advisory vote is one of the ways you could demonstrate community support, but not the only way.

SENATOR FLOREZ: Okay.

MR. MANNING: So I think like you, we are interested in understanding better what the Governor's intentions are. But, I think you'll see from today, that we have overwhelming community support. So whatever path it takes us down.

SENATOR FLOREZ: Okay. I may be just speaking, Ms. Fink, from a perspective of a committee that would have to consider the ratification of a compact, and I assume that's the way it would proceed. And so, I'm starting at the end, and maybe we can get clarification from the governor's office what that means. Because, if, indeed, the Governor is saying the exception to the rules are advisory votes from communities in which they'd be housed, that's really an important thing, I think, not only for your project, but for every project in the state of California.

MS. FINK: And the reason I said yes is, because we've had to go through a bunch of hoops and jumps and whatever, to do what we need for this project. So anything that comes our way, we're going to do what we have to do.

SENATOR FLOREZ: The other question I had, is you mentioned the word "transparency." It kind of stood out in your close. And I'm trying to understand what you mean by transparency. What does that mean?

MS. FINK: We're not behind closed doors doing anything that we....it's all been at the table. There has been some confidential matters that we've had to deal with, that we can't tell our General Council. But anything that comes our way that we can, it's all there. It's available to anybody.

SENATOR FLOREZ: Okay. And given that statement, one thing you didn't mention here in your opening comments was, in essence, who's running

this particular site when, if indeed, it is successful. Who is running that? Is that going to be yourselves, or are you having a contractor come in? Who's running it? I didn't hear that in your opening statement.

MS. FINK: Our General Council—the North Fork General Council has elected the tribal council to make the decisions. We are the ultimate decision makers on any of the projects.

SENATOR FLOREZ: The everyday running of the casino, who would be doing that?

MS. FINK: The management company is Station Casino.

SENATOR FLOREZ: Okay. Where are they located?

MS. FINK: They're located in Las Vegas.

SENATOR FLOREZ: And was that a competitive process for management, or is that something that you picked prior to this particular site or MOU with the County Board of Supervisors?

MS. FINK: After an extensive search, we selected Station Casinos based upon their experience, based upon their financial strength, the reputation, their experience in development and management. And one of the things that really attracted us about Station Casinos was, it's a "mom and pop" business that was established in 1976 with the Fertitta Family, and from there they purchased a small casino and it was like 5,000 square feet. And then from there, they've gone to fourteen casinos. And that was attractive to us, that it was a "mom and pop" business, and that was one of the reasons why the tribe...

SENATOR FLOREZ: Did you also consider the amount of violations that Station Casinos might have?

MR. MAIER: Senator, I'll answer that. We did some investigations to that. Station Casinos doesn't have any more violations than any other large facility. These are heavily regulated industries. And I think you're referring to the article that showed up in the *San Francisco Chronicle* a couple of months ago.

SENATOR FLOREZ: Yes. I just read what I read, like everybody else.

MR. MAIER: And there's nothing exceptional. I've dealt with Station for a couple of years and have found them very above board and very good people to work with. They were actually voted....*Fortune Magazine* just selected them as one of the top 100 companies to work for in the country.

SENATOR FLOREZ: But be careful. Enron was once on the top of that list, so be careful where you go.

MR. MAIER: Good point, Senator.

SENATOR FLOREZ: In fact, it was number one. Let me ask a couple of other questions, if I could to you, about the tribe itself. The economy of North Fork, what's the economy like today in North Fork?

MS. FINK: It was a lumber town at one point, and then when the lumber industry died, a lot of the businesses had to close down. A lot of our guys had to look for different types of work. Right now the community sees what North Fork Rancheria is doing with our limited resources to the town, and there is a vitality back in the town; there's people starting to buy places in town; and it's starting to pick up, but for years it's been suppressed.

SENATOR FLOREZ: Okay. The reason I mentioned that is that, in some of your testimony you started out with....you talked about the economic viability of not doing a casino in your current location because of environmental concerns. And I'm wondering, your housing facilities, the things you've mentioned earlier, the residential, the open space, light industrial, is that going to be occurring in that pristine environmental site?

MS. FINK: No, it's not.

SENATOR FLOREZ: Where is that?

MS. FINK: We bought 61 ½ acres with the HUD program, which is the housing development, and that property is used specifically for housing. We've got three phases of approximately 50 houses going in there, and that's where the community building is being built.

SENATOR FLOREZ: Okay, I'm confused. Where is that located?

MS. FINK: It's right across from the historical building that we purchased for our administration building right in, I want to say, north of North Fork, but maybe in the middle of North Fork, right in town.

SENATOR FLOREZ: Okay. You're going to have to walk me through this. I'm confused. You have a site which you're proposing a resort casino and some other items. That's one site. And then the housing is going where?

MS. FINK: It's a 61 ½ acre parcel in North Fork.

SENATOR FLOREZ: And that is how far from this site?

MS. FINK: Approximately 40 miles.

MR. MAIER: Thirty-four, I think.

SENATOR FLOREZ: Thirty-four miles. Okay. So that's 34 miles away from the proposed site. And then the current site where....you have federal recognition, or working towards that, correct?

MR. MAIER: The tribe is a federally recognized tribe. And you're asking about the old rancheria, which is about three miles outside of North Fork up against the Sierra National Forest.

SENATOR FLOREZ: Okay. So that's the three miles. And so you have the current site that's under discussion today.

MR. MAIER: The proposed site, yes.

SENATOR FLOREZ: You have a site that's 34 miles away that is proposed for residential open space and light industrial.

MR. MAIER: No. Not light industrial. There are...

SENATOR FLOREZ: I'm looking at your master plan here and it says residential, open space, and light industrial. Am I looking at the wrong map?

MR. MANNING: Yes.

MR. MAIER: Yes.

SENATOR FLOREZ: Okay. Is this on your website? Why don't you take a look at it, so I make sure I'm, understanding. I'm looking, particularly, as you look at that map on Lot 12, site of former Mills building, Lot 13, Old Kiln building, Lot 14...

MS. FINK: That's the CDC site that Madera County owns. It's the Community Development Center. That's not North Fork Rancheria.

SENATOR FLOREZ: So that's not yours.

MS. FINK: No.

SENATOR FLOREZ: So your site is just above that then, correct; for the housing?

MS. FINK: This is more in South Fork, so about a mile away is North Fork, and that's where our housing site is.

SENATOR FLOREZ: Okay. And in terms of the....you mentioned 62% of folks within the tribe live 25 miles within the current site for the proposed site?

MS. FINK: Right.

MR. MAIER: Sixty-two percent of those living in the Central Valley live within 25 miles of this site. That's correct.

SENATOR FLOREZ: Okay. I'm sorry. That was real tricky, the way you said that. Sixty-two percent of the people living in the Central Valley, live within 25 miles of this site, right?

MR. MAIER: Um hmm.

SENATOR FLOREZ: So in other words, the tribe, 62% of the folks live....we're all in the Central Valley, so I guess that's what confused me.

MR. MAIER: The tribe, most of the members live in Madera and Fresno Counties.

SENATOR FLOREZ: Live in Madera and Fresno Counties, okay. And you mentioned that when I asked you about the advisory vote....so when you think about the communities affected by this particular site, the community you most think of is Madera? Or do you think of the city of Fresno, or other larger urban sites that may have appeared on the governor's list yesterday? I mean, how do you view what is, in essence, the city affected most by this casino?

MR. MAIER: I think that the site is between the cities of Madera and Chowchilla, quite near the boundaries of the city of Madera. So I would say

the city that's most affected is the city of Madera, and it's in the unincorporated of the areas, so within the county. The reason we negotiated with the county directly is they would be the lead agency but for the fact this land would be going into trust.

SENATOR FLOREZ: Okay.

MR. MANNING: I was just going to say, if you look at the Environmental Impact Statement, as well, which is always a good way to judge where the impacts are, they are focused in Madera County, which is where you would be doing your mitigations. So, that's really the area of impact.

SENATOR FLOREZ: Okay. And how did we come to this location?

MR. MAIER: We engaged in a, and when I say, we, the tribe, myself, we were involved in a pretty extensive search for a location within the tribe's historic territory that would not....we met with Gary Gilbert, who is the local district supervisor in North Fork, and the individual that the tribe would naturally go to speak to about this, about the possibility of an economic development site. The tribe has 1,356 members. It was in desperate need of some kind of economic development. And we asked Gary, where would be an appropriate place to put such a development?

And we worked with the county and the staff, and met with other community officials to figure out what made sense for the county of Madera? There were better locations, frankly, but there were some criteria that we were trying to....we did not want to have a significant impact on the gaming operations of other tribes. If you look at the county of Madera, most of the development plans are along the 99 Corridor. There is some development going on in Avenue 12 up in the city, and up in Avenue 16, there's been some recent development. So the Avenue 17 location was one that made sense from a development perspective. One of the complaints of Indian gaming in the past has been, why do you have this big monstrosity out in the middle of nowhere, that brings in traffic on small secondary roads? Huge impacts on infrastructure...

SENATOR FLOREZ: Is the answer, most of the time it's on the reservation?

MR. MAIER: And the answer is, it's on the reservation.

SENATOR FLOREZ: Okay. All right.

MR. MAIER: But that has also generated a lot of controversy. This is a county that I'll let Gary talk a little more about why the county wanted this project.

SENATOR FLOREZ: Okay. Did you approach any other local governments before selecting this location?

MR. MAIER: No.

SENATOR FLOREZ: You didn't.

MR. MAIER: No. We worked with the local representative of the County Board of Supervisors.

SENATOR FLOREZ: Okay. So no other local governments were asked about this particular project?

MR. MAIER: No. I think there were some conversations between I'll let Gary answer that. But I think there were conversations with the city of Madera because of the ...

SENATOR FLOREZ: Well you're only four miles out of the city of Madera, right?

MR. MAIER: No, it's actually much closer, yes.

SENATOR FLOREZ: Okay. So how did you chose between the city of Madera and the county of Madera?

MR. MAIER: Because as we said, we went to the County Board of Supervisors; we looked at different locations; this was the most appropriate location for the development.

SENATOR FLOREZ: Okay. Ms. Fink, let me ask you a question about aboriginal territory. And I'm referring to a *Fresno Bee* article where you're quoted as saying that the land was in the tribe's aboriginal territory, that was your statement, correct?

MS. FINK: Um hmm.

SENATOR FLOREZ: Okay. How far does that extend?

MS. FINK: Actually, in the 1800s, the Mono Tribe is a large tribe. A very large tribe. And because the federal government said that we had to be recognized to be tribes, that's when we broke into groups. And I said in my statement here at the beginning, we were one of many tribes that had this whole area, but those treaties were never ratified. And that includes Picayune and probably Yokuts, Southern Miwoks, all of them. So as far as that question, it's like, how far back do we want to go? I mean the whole United States was our aboriginal lands at one point.

MR. MANNING: One frame of reference, Senator, is the treaty that the United States government entered into and then the Senate never ratified, which is a pretty good indicator of where the federal government, before it broke yet another promise, thought that this tribe and others should be, and that's in the area where the casino will be located.

SENATOR FLOREZ: Okay. The reason I asked that, in the Central Valley particularly, and we're not talking about San Pablo or anywhere else, but let me just talk about the area in which we all make our home. Aboriginal territory in many cases may cross another tribe, is that correct?

MS. FINK: Yes.

SENATOR FLOREZ: And so it's very important for this committee, as we start to think about compacts and things that come before it for ratification, exactly who defines that is really important. I mean, you're giving me a definition. The federal government may, or should, have a definition. The state obviously doesn't have a definition. So, how does one decide aboriginal territory in terms of a policy--a real policy decision? This is not, you know, in essence, how far do you want to go back, but we are, in essence, looking at the Central Valley as a place where many cross paths, and how is the committee to look at that from your vantage point?

MS. FINK: I really encourage, I would think that the tribes maybe forming some kind of subcommittee or something that could advise, because when you go back into history, somebody drew lines somewhere. We have

tribes down in Southern California that crossover to the Mexican area, and it's like, who drew the lines here? I mean, you have your people that went out....and the historians, and they're just talking to the people that said, well we were right here. Well did they draw the line there, or did you step over maybe 10 miles more? It is a question, no doubt.

MR. MANNING: Senator, the federal government has a process where they engage, when they're looking at a restored lands determination where they consider that question. And what they have determined to do, is look at the historical basis of the claim, as we set out to do and Elaine mentioned earlier.

SENATOR FLOREZ: Okay. Well let me ask you a question, maybe giving this committee a little bit of guidance, so maybe I'll some of the folks coming up a little later, as well. And that is, as the committee starts to look at these types of endeavors, and the Governor has tried to define it an urban area, so I guess he's out of that policy discussion, but for the rural areas, one might call the rural areas, where you have territories that cross each other and you try to figure out, in essence, how to place, if you will, casino resorts and others, what happens when more than one tribe claim, if you will, land as aboriginal territory? I mean, how is the committee to look at compacts coming before us when there might be a crossover, or a plot, or a piece of land, that one might....you said another tribe was supportive of you, who was that?

MS. FINK: We have the Chowchilla Tribe.

SENATOR FLOREZ: Okay. The Chowchilla Tribe; six years from now we're sitting in Chowchilla City Hall and we're trying to figure out, you know, you guys did it, and now we want to do it, and yet there is a crossover there. How is the committee to look at that type of boundary, or issue, in terms of aboriginal territories crossing at a static point in time, which is 2005?

MR. MAIER: Senator, I think the only way the committee is going to be able to handle this is on a case by case basis, just as the federal government does. The fear that there is going to be...

SENATOR FLOREZ: But it isn't a fear. Before you go there, it's not a fear; it's a reality for a committee that has to ratify compacts in which we have

to make, in many cases, choices. No one is writing a rule, this is my policy on rural casinos in the state of California. The Governor has conveniently written, these are the cities I don't have to worry about until the time I'm in office. Okay, but for the rest of us who will be sitting here for six years trying to figure out how to divide the pie in rural areas, if that's going to be the case, no one is giving us any guidance. So this hearing is actually very instructive, to try to get an idea of what people do, when territories do cross. So I want to make sure before you go, make an assumption that the committee is saying, well, you know, if your fear is there's going to be a proliferation of casinos, I think it goes beyond that. The issue is, how do we define better, from a policy perspective, territories that truly do cross in the future for these types of endeavors where the Governor has given us no guidance? That's really the question.

MR. MANNING: And I think the answer is, the federal government, what they're doing is probably the most appropriate way. It's the only way you can really discern. That's looking at historical territory. The aboriginal territory concept, I think is often much broader than historical territory, and is much harder to specifically define.

SENATOR FLOREZ: Okay, while you're at the mike, I have to ask you this because you kind of stepped into it a little bit and I...you mentioned historical context is important for us to look at federal government, state, etc., and you know when I asked you a moment ago why this location, you said, well, it's kind of where development made sense. Now, is there historical connotation to this site, or is this where the development made sense?

MR. MANNING: Absolutely, Senator. As I prefaced my statement by saying that within the tribe's historical territory. That was the criteria initially.

SENATOR FLOREZ: Okay. All right.

MR. MAIER: And then, Senator, if I might.

SENATOR FLOREZ: Oh, wait. Could you answer my question before you go on? Is it historical? Is the site, because of the historical context, this

current location, or is this site because it makes sense from a development point of view? Which one is it?

MR. MANNING: Both, Senator. Both.

MR. MAIER: Both. I'd say both.

SENATOR FLOREZ: All right. I think it's fair.

MR. MANNING: I actually think the questions you're asking are fair, and you're narrowing it down, which is good. Because there are obviously....it's very difficult for you as a decision maker to sort of sort through all the different factors. I think in this case you have a unique aligning of factors, which is helpful to the committee. Which is, you have a tribe which has a historical presence in this area; still has the majority of the members in the area; you have an 1851 treaty to look at; and you have support from the local community. So hopefully those are all factors that the committee could consider, and would.

SENATOR FLOREZ: Okay. That's good for guidance for us. I appreciate that very much.

MR. MAIER: And I would just add the size of the tribe, I think that's important. This is 1,356 members. The equities should play some role in this, as well.

SENATOR FLOREZ: Okay. We're not going to mention Lytton, then, given that statement.

MS. FINK: I'd like to add to that too.

SENATOR FLOREZ: Sure.

MS. FINK: The federal register identifies Madera and Chowchilla as being in the North Fork Rancheria service area.

SENATOR FLOREZ: Okay. Let me ask you some questions about the sensitivity of the land you mentioned earlier in your statement. And beyond the historical context, if you will, you mentioned the preservation of land. One of the guiding factors of that decision, correct, you're not going to be doing it on the land there because there are some environmentally sensitive issues that preclude you from putting it on "the reservation," correct?

MS. FINK: Correct.

SENATOR FLOREZ: Okay. And you mentioned that the decision between, I believe you said, Avenue 17, the current site, and looking at the county Madera and also city of Madera, are we preserving land by putting it outside of the city of Madera, or would we be preserving land by putting it inside the city of Madera? Your comments on that.

MR. MAIER: It's actually within the....I believe this site is actually within the urban growth boundary of the city of Madera, so as I said earlier, it was consistent with the land use patterns.

SENATOR FLOREZ: There was a comment by somebody to the *Fresno Bee* as we began the conversations in Sacramento....and I should say, for those of you, and thank goodness hopefully most of you aren't in Sacramento very often very much these days, we had a hearing on the Lytton pact. And so our job as a committee is to probably, thank goodness to Senator Perata, is to allow the committee to be more proactive than we currently have been. Normally we wait to ratify and then we take a vote and then that's it. Our job is to kind of get out there and sift through the issues early so that if, indeed, you're successful, or as this process moves forward as your compact comes to this committee, it won't be the first time that we see you, and it won't be in the last two hours of session.

And so, the job of this committee is to try to figure out the issues early, to figure out the policy implications for the decisions, and as you said, if we took every particular case as a case by case basis, we may end up with the Governor having to issue a policy that says, this is my policy so we don't have to do the case by case process.

So, reservation shopping and responsible selection I think was the quote by one of the members of your tribe. This isn't reservation shopping; this is responsible selection. What leads to that comment, so we can understand it for the record?

MS. FINK: Reservation shopping has a twofold definition. One, is that an investor comes and tries to find a tribe and then secure business like the

casino. Also, a tribe moving off of a reservation and locating a more profitable location for a casino. We selected Station Casinos, so reservation shopping does not apply to them. And as far as the property, the Rancheria does not belong to the tribe. Individuals own it, like I said. We have the environmental issue. And then if we should try to do something with that 80 acres, we wouldn't have the support of the community or the county. So we feel that we are doing responsible development and not reservation shopping.

SENATOR FLOREZ: Okay. And that's the difference to you?

MS. FINK: Yes.

SENATOR FLOREZ: In terms of the issue of, again, the Governor's newest, and of course, we're just going through it, deciding of casinos in general, do you believe that there should be some standards other than the ad hoc look at these types of casinos in the Central Valley, or is this something that we should have a policy on in the future?

I'm sorry to ask you so many policy questions, but actually, that's what we're here for.

MR. MANNING: Senator, I'll take a stab at that. I think it's a fair question, and I know, and I've seen you ask these questions of others. I think the best that we can say is, the federal law, the way it's set up, gives the governor, obviously, the ability to negotiate. And you and the Legislature have the responsibility to either ratify it or not, which puts all of us in a bit of a difficult position.

But, I think in terms of the policy issues, I think the things that North Fork has done, and the way they've gone about it, is actually a pretty good model for rural gaming and how it should be done. Which is, they looked at the site where they knew they would have neither local support and they would have overwhelming environmental problems that couldn't be dealt with and then set about a cooperative process pursuant to the CSAC (California State Association of Counties) principles to find a site that was appropriate, a site that was consistent with their historic lands that the community supported. And beyond that, we think that's the way it should be done. And it is unlike

some of the other more recent experiences where you don't have local support; you didn't go through the Section 20 process, which we are doing. Those are all things that we think distinguish this process and are naturally a pretty good model for how it should be done.

SENATOR FLOREZ: Okay. Let me, given what you just said, you know, obviously the question in today's environment for these particular types of projects or proposed projects, is something I hear all the time as chairman of this committee and that is, do you think that casinos or proposals to build these types of resorts and these types of things, are within the spirit of 1A and Prop. 5 when the voters passed it. And it's a question I get constantly. You know, do the voters ever think, when they passed Prop. 5 and 1A, that we'd be building, if you will, off site? And maybe you're response to that in the context of this particular project. What should I tell them? You tell me what I should tell them.

MS. FINK: Okay. As far as....I worked in Indian gaming almost eight years, and Proposition 5 and the Initiative 1A was an issue at that time. And what I saw from the community were, they thought they were voting for Proposition 5 and the initiative 1A and all Indians were going to benefit. And what happened was, a few Indians benefited. Yes, there is the revenue sharing money. Yes, that does just go to non-gaming tribes. But, you've got tribes that are making a lot of money, and you have other individuals and Indians in urban areas that don't have any access to any of this. So the Proposition 5 and the Initiative 1A, I feel like we have the right to gain. We should be able to help the people, just as the other tribes have.

SENATOR FLOREZ: But even if it's off site?

MS. FINK: Even off site. And our Tribal Council, I can confidently say, supports all tribes in whatever they want to pursue as far as economic development. Whether they can do it or not, that's one question.

MR. MAIER: And Senator, there's only a certain number of tribes in California that have....very few tribes that have a situation like North Fork.

SENATOR FLOREZ: That's what Lytton told us, as well. Everybody has a special circumstance that says, therefore, we need to build 50 miles away. So how am I to surmise...

MR. MANNING: I think that's a fair question, Senator. And one of the things....I mean, I just responded in part to that in the last response. But the other part of it too is, a word that we haven't heard today that, boy, was used an awful lot when the voters passed those initiatives, which is sovereignty. Which is, each tribe is a sovereign nation. They have to make their own determination for what's best.

And the fact is, that this tribe does have some unique circumstances, but they are going through the federal process in the law that was set out when those initiatives passed. And, in addition, they have local support and tremendous support, and they've done it the right way. And I think this is a good thing to hold out to your constituents to say that this is the way it should be done. And if it's always done this way, you're going to have a proper EIR done, and EIS; you're going to have mitigation; you're going to have the sheriff and the DA and the Board of Supervisors in support; and that, I think helps all of us.

SENATOR FLOREZ: Okay. That kind of sounds like the Governor's litmus test for current compacts. But you know, the environmental, the waving of sovereignty, at least, on the law enforcement issue, you didn't mention the labor piece of it, which seems to be one of the tests that the governor is utilizing for, at least, was utilizing for the Lytton Compact and it seems the compact is going forward. What is that? You mentioned earlier in your testimony the payroll—1,500 jobs, 750 jobs in construction—what types of jobs are those and what do you think about the Governor's request that they be, in essence jobs that are inclusive of labor agreements? That's the Governor's requirement; that's not the Democrat sitting in front of you, that's your Republican governor's requirement. Just for those of you sitting out there. I just kind of wonder what you think about those.

MR. MAIER: Well, I'll begin by saying that the disclosing the tribe is entering into a project labor agreement with the Building Trades Council for the construction of the project. With the other piece, which is the ongoing operation of the facility, the tribe's prepared to do what's best for the community, and we'll talk to....in negotiations with the Governor we'll do what's appropriate.

SENATOR FLOREZ: Okay. Is that something the Tribal Council comes up with in discussions, or is that something that you look at in the current amount of compacts coming from the governor's office as almost a litmus test? I'm kind of interested, as you're now going through this. Is this something you're willing to look the Governor in the eye and say, "We're doing most of it, but not on this one?"

MR. MAIER: Negotiations between the governor and the tribe are confidential, as you know. I can't answer that because that would be...

SENATOR FLOREZ: Okay. That's fair. If you want to answer it, you can. But you won't, in other words. I'm kidding. All right.

Let me ask a couple of questions and then we're going to be through with this portion of it. I'm sorry to go so lengthy through this, but as I said, we may not see you for a while as your project and other types of projects proceed. And even with policy issues with the Governor on advisory votes and others. Who knows what the environment will be like. So this is kind of our opportunity on the record, and for the committee members who aren't here, to read actually what we're talking about today.

Let's talk about the MOU, and I know that we're going to have the Board of Supervisors up in a moment, but let me get your perspective on that. You had an MOU. You entered into that MOU. But was the land in trust at that time, or did you enter into the MOU even before the land was in trust?

MS. FINK: Before.

SENATOR FLOREZ: Okay. How do you do that, and why do you do that?

MS. FINK: We wanted to talk to the people that were involved, and especially Madera County supervisors and the city—everybody that was involved with the project, and set the stage before....well, we were in the process to do that also.

SENATOR FLOREZ: Okay. And the board would have said, no way. Then what would have happened? Would you be to the next city and then try to figure out land in trust? I mean, give us a policy answer for this committee that, you know part of this issue of selective....I'm going to use your words so I don't say it wrong. I'm not going to say, reservation shopping. It's reservation responsible...

MS. FINK: Development.

SENATOR FLOREZ: Yes. Okay. On that matter, should tribes have land in trust and then do their deal, or should they do their deal and then figure out where the land in trust goes?

MR. MAIER: Following these things for some time, I think that I don't know if this is specifically in the CSAC principle, and I apologize for that, but I think that's one of the ideas of CSAC, is the tribe and the local governments work together to establish agreements. And rather than....I think it would be a mistake for a tribe to push ahead without discussions with the local agreements, without agreements. I think you generate a lot of mistrust and opposition unnecessarily by pursuing it that way.

SENATOR FLOREZ: Okay.

MR. MAIER: As we talked about, there's certain agreements that the tribe has been unable to enter into because we need more information on the analysis. But, with the county agreement we felt comfortable that we could come up with the impacts and we were going to do more than what we were expected to do in the EIS.

SENATOR FLOREZ: Okay. I'm going to ask the county this, but let me get your perspective. The CSAC principles that you mentioned, anything in those CSAC principles reflect some sort of sharing with the state of California

on roads or anything that the state of California should participate in itself, given the impacts on, let's say, 99 or any of those types of things?

MR. MAIER: I don't know. I would think that would be up to, in compact negotiations, that there would be some way for the Governor to adjust those concerns.

SENATOR FLOREZ: Okay. Any significant problems negotiating the MOU at the county?

MR. MAIER: No.

SENATOR FLOREZ: The tribe has been...

MR. MAIER: We had too many lawyers involved.

SENATOR FLOREZ: Are you an attorney?

MR. MAIER: I am. Yes, sir.

SENATOR FLOREZ: Okay. All right.

MR. MAIER: That's why I can say that.

SENATOR FLOREZ: You mentioned earlier in your testimony, Ms. Fink, about the \$85 million or so plus--\$87 million or something of that sort, going to the county services over the next 20 years. An average of \$4 million plus annually. What is that money going to cover, from your perspective? What is that offering the county? I'm going to ask the county that, but from your perspective, what is that covering?

MS. FINK: I don't have the MOU in front of me, but it's covering everything that we feel that...I don't know. Let me have John...

MR. MAIER: There's an annual contribution of approximately \$4 million a year, including separate contributions broken out for the city of Chowchilla and the city of Madera. There are one-time impact fees. We didn't know exactly what the traffic impacts, so we put in a number from \$4 million to \$15 million. There was a concern in that area of the county that there is not enough fire service, so for instance, the tribe pledged to....provided money for the county to build a new fire station. There's also, and we'll talk about this a little more, but there's charitable contributions that are....and I think one of the most exciting parts of this, is that there are annual charitable contributions

that will be provided to for designated purposes. And those charitable contributions are controlled jointly by a tribal community foundation. And so what that does, is it encourages the tribe and the community to continue to work together on a regular basis to identify needs in the community and then to provide non-profits and other entities with monies to address those needs.

SENATOR FLOREZ: Let me ask the tribe a question on charitable contributions, at least from a community and tribal perspective. So let me get this right—there will be a joint meeting of the minds, if you will, where these types of contributions will go, is that right?

MR. MAIER: For a portion of it. There's other portions that are designated....that will go to the county or to the city of Madera or Chowchilla.

SENATOR FLOREZ: Does the Tribal Council talk about the special fund? I mean, the monies that go to those tribes that currently don't have any sort of gaming?

MS. FINK: That's pretty preliminary. No, we do not.

SENATOR FLOREZ: What's your overall feeling about that? I'll probably ask the Tribal Council. If I could. I don't mean to interrupt the attorney, that's more of, probably, a tribe to tribe decision. Your thoughts on that fund. You mentioned you support all tribes that, in essence, are seeking to do this, and yet, in the Governor's current compacts there doesn't seem, at least in my reading, to be given any more contribution to those special funds for those tribes actually who don't have gaming facilities, actually benefit. And I'm just kind of wondering, I'm not sure why the governor left those out, but at least from the vantage point of those other types of tribes who aren't as fortunate, or maybe in the process of—what's your thoughts, or maybe the Tribal Council's thoughts on that type of contribution?

MS. FINK: I think that affects the compact. And right now, like I said, it's a confidential matter. Before we let anything out, our General Council must know, and if General Council doesn't know about anything, we really can't discuss it.

SENATOR FLOREZ: Okay.

MS. FINK: Thanks.

SENATOR FLOREZ: No problem. When you talk to the Governor about your compacts in negotiation, tell him that maybe there's a chair in the Senate that doesn't feel that good about what he's currently negotiating, because we think it's unfair to the tribes that don't have, and for many of the poor out there who are really suffering out there. Many of the tribes that...just a kind of cold-hearted way to shut the door on a few of them. So, make sure you let him know that.

In terms of the MOU and the environmental mitigation, Air Quality, Water Quality, let's talk to the county a little bit about that. But from your perspective, you are all working towards the full CEQA, and think that's what I heard you say, is that correct?

MR. MAIER: An Environmental Impact Statement, and the Bureau of Indian Affairs under NEPA.

SENATOR FLOREZ: Okay. Just a couple of questions, the last questions, if I could, on the issue of government focus. You've answered actually most of it through your testimony, but as the committee looks at rural gaming, if you will, or Indian gaming within the Central Valley or some of the other outskirts. Now I guess we'll call it, things that aren't on the Governor's list that he put out yesterday. What, again, guidance would you give the committee in terms of viewing these policies? I think I've heard today, view it on a case by case basis; look at it, if you will, from a perspective of aboriginal territory at some point in time, trying to figure out where that line is. What else would you suggest that we look at?

MR. MANNING: There were a couple of other things that we raised which were, number one, the tribe has a significant number of its members living in the area where the casino would be built. There's a historic connection to the location, not based on aboriginal lands only, but based on more concrete things, like the 1851 treaty. So there's a history to the people here. It's relatively recent history, as well as an ongoing presence of members of the tribe. And reasons why it's in the interest, we think, Senator....and I

think this is a policy issue which is, we think it's in the interest of the state and the local government that this be built here, on 99, a major road, with the improvements necessary, rather than in a relatively pristine area in an extremely rural setting near Yosemite where you would have significant and, perhaps, unmitigatable environmental impacts that really would not be a good outcome for anyone, because the state probably wouldn't support it. The local community wouldn't support it. And this is a much better, we think, alternative from a policy standpoint for everyone, so we hope.

SENATOR FLOREZ: You know, and the reason I ask that is obviously I think most of this is location, and I'm not sure five years from now when someone is in a similar situation and they want to build on 99 outside of Goshen, that people aren't as upset here, saying, well that really is far away from where they're currently at, and by the way, that's just down the road from our 99 facility. That's what we're concerned about today. Because it isn't just necessarily the precedent setting nature of it, and so we have to kind of figure out what it is long-term as a policy, particularly in the Central Valley, that we have to look at. And I think that's just a real honest reason why we're here. We have to understand this. And every project is a first, and unfortunately the first are always the toughest. But you know, it's something that we are very much interested in. And I do want to thank you, Chairwoman and the Counsel, for being here.

We're going to get some more testimony today. And, of course, we have open period if there's something that you would like to say after that, or you've heard. There will be that opportunity, as well. We want to thank you very much for being here.

MS. FINK: Thank you.

SENATOR FLOREZ: Okay. Let's move onto the county portion of the hearing, if you will, with Gary Gilbert, Chairperson Madera County Board of Supervisors, and then we'll hear from Mr. Dominici, Supervisor, and then David Prentice, Madera County Council. If there are people here on the agenda that aren't testifying, that's fine, and of course we have our sheriff

here, Mr. Anderson, I just talked to him a moment ago, and Gary Marshall, Madera County Fire Chief. And of course, we have our district attorney, as well. So let's go ahead and start with Mr. Gilbert, and then we'll proceed through this. Thank you very much.

GARY GILBERT: Thank you, Senator Florez. First off, I'd like to introduce Ron Dominici and myself. We are appointed by the Board of Supervisors as a subcommittee of our Board, and we are a liaison committee for Native American Affairs in Madera County. With that, our Board of Supervisors would like to take this opportunity to thank you, thank the Governor, and all of our state legislators for your strong support of local government during this past year and for recognizing the need for local government to maintain our ability to manage issues affecting local land use and infrastructure needs.

The Madera County Board of Supervisors is also proud to have a government to government relationship with the Picayune Rancheria of the Chuckchansi Indians and the North Fork Rancheria of the Mono Indians. Both of these tribes are federally recognized. They are sovereign, and they have called this area home for thousands of years, long before there was a state of California or a county called Madera.

I'd like to give you and your committee a snapshot in time of this place called Madera County.

Currently Madera County is a rural county. We have a rural economy. And according to the 2000 census, we have a total population of approximately 123,000 people; 43,000 of those live in the city of Madera; 13,996 live in the city of Chowchilla. And I must stress, about the city of Chowchilla, 7,000 are female inmates living in state prison. Our unincorporated area is approximately 66,000 people. Our total population, according again to the 2000 census, was 123,000, but we grow at about 3 percent per year.

Our unemployment in Madera County historically has a rate of about 12%. It was just recently reported that has dropped to an all time low for Madera County as under 10%.

The city of Madera has a historical average of 18 to 20% unemployment. That is one in five of our citizens in Madera City are unemployed. If that was in another city in this state, somebody would declare that a local emergency.

In comparison, the state of California, you're average unemployment is about 6.3%.

We can talk about substandard housing. In our unincorporated area we have approximately 40,387 housing units—9,723, or 24.1%, are listed as substandard, that need to be rehabilitated, or are dilapidated.

Our per capita income, which is really a measure of our standard of living, our housing issues, our education, our recreation and health care; Madera County's per capita income, \$18,500. The statewide average is \$32,989.

And when I look at the numbers and I look at the economic and social condition, I'd have to look at our Native Americans, who are both recognized tribal members and non-tribal members. It is estimated that 55% of them are unemployed or under employed. 65% of them live in substandard housing.

I could characterize this data, or indicators, that Madera County has an economy that is based upon agriculture and tourism, both of which result in high unemployment, low wages, per capita income that is among the lowest in the country, and housing that is becoming less affordable every day.

Addressing these critical challenges will require major investment. The *Fresno Bee*, on January 23rd, 2005, printed an editorial stating jobs are the key. That a better valley begins with employment opportunities. It went on to state we all share responsibility for creating a better community, and a better community will start with a job.

It's been said that the quality of life begins with a job, jobs that provide living wages, basic health care, and benefits. Therefore, this Board has said we'll do everything within our power to diversify our economy. That's why the

Board of Supervisors on August 28th, 2001, after community meetings, and two public hearings, signed a Memorandum of Understanding with the Picayune Rancheria of the Chuckchansi Indians. That project provided 1,400 jobs—62% are Madera County residents. Over 400 of those people commute from the cities of Madera and Chowchilla every day to work. And as you are aware, there are also other issues between the Chuckchansi Tribe and the county regarding this project that are currently being litigated.

But again on August 16, 2004, the Board of Supervisors, after over a year of discussions with county staff, our cities, our elected officials, public, that included the schools, Madera Chamber of Commerce, the Hispanic Chamber of Commerce, this Board held two public hearings, and we signed a Memorandum of Understanding with the North Fork Rancheria of the Mono Indians. That project will create 1,400 jobs, with a commitment that 50%, the same commitment that the Chuckchansi Tribe has, will be Madera County residents. This project will serve as a catalyst for economic development, a project that will assist many in fulfilling their dream of having affordable housing in a project that will assist in revitalizing many of our communities.

Senator Florez, today the *Fresno Bee* quotes you as saying, “We need a bigger share of affordable housing programs.” And you go on to note, “Such programs are often unpopular.” You’re also quoted as saying, “The best way to produce housing is to create jobs that pay enough for families to buy a house.” We agree wholeheartedly with your comments, and that is exactly what this project is about.

In closing, on February 6, 2003, the California State Association of Counties adopted policies regarding the 1999 tribal state compacts were negotiated then by Governor Davis. Those adopted policies were used by Madera County in our negotiations with the North Fork Mono Tribe, and we’re proud to say, all those policies are incorporated into our North Fork MOU. Thank you.

SENATOR FLOREZ: Thank you. Mr. Dominici.

RONN DOMINICI: Thank you, Senator. Thank you for saying my name correctly, because I want people to know it's the right person speaking. I just wanted to thank you for that.

I'm not going to belabor on what Supervisor Gilbert has just stated, but I am on the Native American Liaison Committee and I have dealt with both the Chuckchansi and the Mono Tribes. I've been a lifetime Maderan. In July it will be 60 years. I'm a former CHP officer for 33 ½ years prior to coming onto the Board of Supervisors after retiring. I have been a resident officer in the Mono area of North Fork for a-year-and-a-half, and I can assure you, that what Chairperson Fink has said about the reality of life up there is very true.

When the logging industry was in that community, that community was thriving; it was going forward; and there was a lot of money. It has gone down to where it was destitute.

The Mono Tribe has attempted to bring back North Fork, and they have done it in such a way to show respect for not only their tribe and other tribes, but also for the County of Madera.

When they came forward and expressed their wants in regards to a casino at 99 and Avenue 17, I being a person from Madera County all my life wanted to know, well, now, is this your tribal land; is this your territory? And I am very convinced that it is—very convinced that this is a portion of the Mono Indians.

I want to speak a little somewhat about the community.

The county of Madera, along with the city of Madera and the city of Chowchilla, we have many people who voice their comments very openly, such as yourself, Senator. They're not afraid to say how they feel, and they're not afraid to put forth sometimes the things that are not popular. But I will tell you this, that I belong to many service clubs. I belong to many organizations. And in that time since we have been dealing with the North Fork Rancheria of the Mono Indians, I've had only two people personally tell me that they were opposed to this—that they were opposed to this facility. I also was very informative about our Memorandum of Understanding to them. They have

their opinions, and I respect their opinions. But the majority of the opinions I have spoken with, they have some reservation, but the majority are all in favor of this. And what they are in favor of is what it's going to do for our economy—1,400 jobs; 50% have to come from the county of Madera. And the fact that many people that are making minimum wage, if not less than minimum wage, are going to be having steady jobs in which they will be working year-round in a job in which they are making a good wage; in a job in which they are going to have health benefits; some life insurance benefits; and also, in a job in which they will be able to provide for their families and provide a home for their families—their wife, their husbands, their children. This is what was very important to me when I was on the Liaison Committee.

When we brought it up to the total Board of Supervisors, it was unbelievable the questions that were asked by the other three members. We were put almost to the stake, I would say. They asked us every poignant question you could ask, and we responded, and we were honest. And I cannot emphasize more that when we went into any kind of negotiations with the Mono Indians, it was all above board, we did not hide anything from the public, we encouraged people from the public to give input. This was a very important opportunity for Madera County to save Madera County, which had gone down in monies.

I would like to read something and then I will conclude. I have a letter that was given to me by former past mayor, councilmember, and also Madera County Workforce Investment Board, and also the executive director of the Workforce Development, Mr. Herman Perez. And he asked me and requested that I read this into the record so that you would hear it.

Dear Chairman Gilbert and members of the Madera County Board of Supervisors:

I respectfully request that you please read the following into the public record: It is with great enthusiasm that I wholeheartedly endorse the North Fork Rancheria of the Mono Indians casino project and their right to pursue such an undertaking. It is for the following reasons I have come to my conclusions:

Economic stimulation and vitality—The project will stimulate additional economic development and investment in our community, such as hotels, restaurants, and retail and commercial shopping. It will revitalize and cause growth in our existing businesses. It will eventually, through this stimulation, increase the funds necessary to provide the infrastructure which our community needs and deserves.

Diversification of job creation—The project will cause for the growth of new jobs in our community, reducing the dependency on manufacturing, production, and agriculture for local job options.

A key strength in our community comes from the ability of our citizens to have good year-round paying jobs by creating new jobs which are not tied to our existing labor market we can cause a great stimulation in our community.

Regional diversification—The project, along with other exiting casinos in the valley, will create a dynamic drawing force to the valley by which all industries will benefit. For too long we have watched our dollars flow north and south. This is a great opportunity for us to capture our own dollars and draw in additional revenue to meet our infrastructure needs.

Career opportunities in emerging industry—The project will greatly address the double-digit unemployment which plaques our valley. It will create employment opportunities in a new industry which provides good paying jobs with much needed medical benefits.

Mutual respect and understanding—The project has created a strong mutual understanding of impacts to Madera County. It has been a pleasure to see two governmental bodies sit down and work out an agreement that serves the needs of both parties and their respective communities.

It is my belief that only good will come from this project and we continue to learn and grow together, To continue to further impede this project will only cause harm to Madera County and the North Fork Rancheria of Mono Indians.

Thank you for allowing me to provide a brief summary of my points. This is respectfully submitted by Herman Perez, past mayor, councilmember of the city of Madera, past executive director, Madera County Workforce Investment

Board, Board of Directors member of Madera District Chamber of Commerce, past Board of Directors member and interim executive director of Madera County Economic Development Commission.

With that, Senator, I will close by saying, that what Mr. Perez has said, I will second very openly. Madera County needs this project. Madera County has gone as far as we possibly can in knowing what the rules are. And we will continue to work with anyone who wishes to bring in a project such as this for the benefit of all to Madera County.

Thank you, Senator Florez, for taking the time to come to Madera and hear all the people.

SENATOR FLOREZ: Great. Thank you very much. I want to welcome the vice-chair of the Governmental Organization Committee, Senator Jeff Denham. Thank you for joining us.

I went to his hearing in Bakersfield last week, so thank you for allowing us to do another hearing. This is great.

Let's go ahead and ask David Prentice, Madera County Counsel, any comments?

DAVID PRENTICE: Thank you, Senator Florez, Senator Denham. I wanted to address the Memorandum of Understanding, specifically, and the specific provisions within it.

First, I'd like to answer the Senator's question that you asked. The tribe regarding problems in negotiating the Memorandum of Understanding. I, and the two supervisors, as well as the county administrative officer, as the supervisor indicated, sit on the committee that negotiates these agreements with both tribes in the county, and therefore, I participated intimately in the preparation of this agreement.

There is one thing that occurred during this agreement which is probably different than almost any other agreement I negotiated during my years of practicing law. And that is, that the Mono Tribe came to the table not with the expectation of negotiating agreement at the minimum that needed in order to get the county's support of their project, but came to the table with the idea of

placing the maximum they could on the table for the benefit of the county of Madera and the community of the city of Madera, the city of Chowchilla, and the tribe itself, including, the Chuckchansis.

This is a different style of negotiation and creates an agreement which I think is unprecedented in the state of California, not only in the amount of dollars that it redistributes within the community, but also in the length of the agreement, which is almost perpetual as long as the state compact exists.

The Senator also asked the tribe regarding the order of events regarding the negotiation of the Memorandum of Understanding in light of not having sought an application for trust. Let me indicate that the recital section of the agreement very clearly states, and this is one of the first things discussed between the tribe and the county, that nothing would happen anywhere within the county of Madera on this site before the land was moved into trust—nothing. That's part of the agreement. It's part of the recital section. It is the underlying facts of this agreement.

I just want to highlight, and I won't take a lot of time. I did provide the agreement within a binder presented to the committee. It's under tab-2. And under tab-1 is a recap of the economic contributions that the tribe is making to the county. The non-recurring contributions span between \$7 million and nearly \$18 million, depending on how the EIS comes out in the mitigation investigation. But more importantly than those non-recurring contributions are the recurring contributions, which, as I indicated, will continue for a minimum of 20 years and as long as there is a state compact and a gambling operation at the site, and that could be for many more years than 20. There will be the establishment of a charitable foundation with a recurring contribution of \$200,000 annually over 20 plus years, but that \$200,000 will be seed money which can be leveraged to create new monies within the Madera County for charitable purposes that doesn't exist now. In addition, the economic development foundation recurring contribution of \$250,000 per annum.

And the other salient points about these charitable organizations is, tribal members sit on a committee which will distribute this money and take applications for grants, but so do county members and members of the community at large, not defined as either tribal members of any particular community, but simply citizens of Madera County, whether they reside in the cities or in the unincorporated areas. Also, the North Fork Rancheria educational foundation will be created, with a recurring contribution at \$400,000 a year for the next 20 plus years. This committee will be in cooperation with Madera Unified School District and other school districts within Madera County who will participate annually in the distribution of these funds to the schools of Madera County. These funds also can be leveraged to bring in other community resources so that those funds can be multiplied and add a new source of income into our schools and for the benefit of our children which do not currently exist, and will not exist in the absence of this project.

Continuing on the North Fork Rancheria unincorporated area Foundation-- \$250,000 a year within that area specific to help the area of North Fork itself, which has been testified to extensively, has some economic challenges due to the loss of the lumber industry.

The county expenses, if you look at page-10 of the MOU, begin with the recurring contributions \$250,000 to neighborhood and housing and workforce programs; \$415,000 a year for salary and benefits for the Sheriff's Department; \$1,200,000, the cost of salary and benefits for fire; \$500,000 for behavioral health services; \$50,000 redistributed to County Department of Behavioral Health Services; \$70,000 to the maintenance and operation of county parks; \$100,000 to offset any additional public safety supportive administrative positions, including those within the district attorney's office.

Contributions annually to the county and city governments; \$500,000 to the county; \$250,000 to the city of Madera; and \$100,000 to the city of Chowchilla. These are annual 20 plus year contributions.

The employment was discussed at page-17 of the agreement. The tribe agrees to employ no less than 50 percent of its employment staff to come from the county of Madera.

And another important issue with this memorandum is, not only the tribe's generosity, but the tribe's recognition in this government to government relationship. That if there are problems, that they need to come to the table with those affected and the parties within this MOU and be able to resolve those in a way which is within the mainstream. And in that sense, have agreed to binding arbitration's provisions. And you'll find those provisions beginning at page-23 in a very specific description of how disputes will be resolved.

And also, and more importantly, there is a section for expedited public safety dispute resolution. And that is, that the tribe was willing to wave sovereign immunity to go immediately into the court if the county ever believes that anything is occurring within this project that raises a public safety concern so that we can seek immediate judicial relief, and the tribe is willing to pursue that. And that, I believe, is an unprecedented....that I have not seen in another MOU.

With all that said, and I know the time is short, it's a long document. I ask that the committee read it and ask any questions that they would like to. But again, I think this is an unprecedented agreement. It's a generous agreement. It was truly a government to government negotiation. And I enjoyed the process, frankly, and I don't usually enjoy those processes. With that, I'll submit it.

SENATOR FLOREZ: Great. Thank you very much. Let me ask you a couple of questions. When you say it was an unprecedented agreement, what are you comparing it to?

MR. PRENTICE: I think what I mean by that, Senator, is, it really is an attitudinal issue.

SENATOR FLOREZ: Okay. So you guys like it, so it's unprecedented, or what?

MR. PRENTICE: No, it's not that I like it. I don't even live in Madera County. It has no affect on my life at all. I like it as a lawyer, because I can enforce it. I like it as a lawyer, because representing my client, I know that the tribe has waved sovereign immunity to the point where I know that this is an enforceable agreement.

SENATOR FLOREZ: Okay. Let me ask you some questions on that then. I'm going through your book, and I am comparing it to other MOUs that I have seen, so let me first and foremost ask you some questions based on law enforcement.

You have in Subsection (b), law enforcement costs, \$415,000. In Public Safety, Subsection (d), public safety support, \$100,000. A total of \$515,000 for additional law enforcement. Is that enough?

MR. PRENTICE: If I could answer that by saying I would defer to my district attorney and the sheriff can answer those questions.

SENATOR FLOREZ: Okay. I'll ask that in a minute. But I'm wondering how you....if I'm going to defer to those folks, then obviously....did they negotiate this number, or did you negotiate this number?

MR. PRENTICE: They were involved in negotiating the numbers.

SENATOR FLOREZ: Okay. And given that their involvement in negotiating the numbers, is this what they requested, or is this less than they requested?

MR. PRENTICE: I believe this is what they requested, and they were pleased with the numbers.

SENATOR FLOREZ: Okay. Let me ask the tribe, if I could, or the representatives—What's the average traffic in this casino going to look like on a weekly or daily basis?

MR. PRENTICE: The Bureau of Indian Affairs is now preparing the EIS we talked about, and part of that is a traffic analysis. We don't have any numbers back from that traffic analysis yet, which is why we haven't negotiated the agreement with the city of Madera.

Roughly, is that what you're looking for?

SENATOR FLOREZ: I'm just comparing it to some MOUs I've looked at, which actually knows the amount of traffic that's coming into the casino. And then I look at the law enforcement number and divide it how much law enforcement per person that is in the casino and have a ratio. And I'm wondering if you think this ratio is even close to what is needed? So how am I to know if this is sufficient? How do I know this number is sufficient for law enforcement? How do I know that with any assurity? If I looked at Litton, I can tell you it's absolutely insufficient.

MR. MAIER: Well, as you know, Senator, every tribe is different and circumstance is different. Lytton is in a different location, as well.

SENATOR FLOREZ: But you do know, I assume, what your average traffic flow must be, given you picked this site for a reason, and therefore, based on a certain amount of traffic club flow and how much per area you're going to make, this has got be a deal that works financially. So given that, I'm just kind of wondering what that number is so I can actually see if this unprecedented MOU, is somehow sufficient in law enforcement on a per capita basis, based on customers? That's all I'm asking. It's a very simple policy question that any committee would ask.

MR. MAIER: It's a simple question, Senator, except that I don't think right now we know the calculation. But I think when you hear from the law enforcement folks, they'll tell you how they got to their number. And once we have the traffic calculation, and we're happy the other MOUs and talk about it.

SENATOR FLOREZ: That would be great. If you could get back to us, and I'm going to ask law enforcement that. But I'm asking the attorney that utilized this, or came to these numbers, kind of what that was. Let me ask you a question also on Section 2(a)(3), road contributions, \$600,000 that's a non-reoccurring mitigation contribution. Where is that road contribution money going? Road contribution, who gets that?

MR. MANNING: Senator, that's an existing county ordinance on our impact fees for county roads, and the tribe has agreed to pay those impact fees one time for mitigation on county roads.

SENATOR FLOREZ: Okay. That's the county road. That would be Avenue 17, correct?

MR. MANNING: Whatever in their document...

SENATOR FLOREZ: Whatever gets you there on a county road. How about a state road called 99, what's that, that will get you to 17? What's the contribution there?

MR. GILBERT: Right now the tribe is negotiating with Caltrans, and that's a state highway.

SENATOR FLOREZ: Okay. So that amount will be outside of this particular MOU. So the \$4- to \$15 million estimated transportation resources does not include 99 or it precludes 99?

MR. MAIER: It does not include 99 or anything within the jurisdiction of Caltrans. It also does not include anything within the jurisdiction of the city of Madera, as specified in the county MOU. And we will be entering in agreements with both those jurisdictions.

SENATOR FLOREZ: Okay. Thank you. So that is something that comes about under these discussions of a compact, correct?

MR. MAIER: Those negotiations will occur separate from the compact. But as we discussed a little earlier, I think the Governor will be very interested and has a stake in what portion goes to Caltrans and the state because those roads are within the state's jurisdiction.

SENATOR FLOREZ: Okay. All right. I got you. In terms of, let me go back to the council, Section 3(a)(v)(d), Alcohol and Gaming Disorders, \$50,000. Does that seem like enough for alcohol gaming disorders in terms of an amount as compared to maybe other MOUs that might have a certain amount of population served--\$50,000?

MR. GILBERT: Well, Senator, there's also money that the state of California is collecting out of special distribution funds that are going to statewide gaming problems and alcohol problems. This is in addition to what the state is already negotiating, and this is more than we negotiated out of another compact or MOU within this county. And again, in Indian country,

each one is separated. This money is tied to our Department of Health Services, and then they will work to administer that money.

SENATOR FLOREZ: And how did you reach that number?

MR. GILBERT: That was a number that when we worked with our people, how many programs we could put on and identify a number within the document.

SENATOR FLOREZ: Okay. And then on the neighborhood housing workforce, \$250,000, again, where do those dollars go? I'm sorry. That's section (a)(v)(a).

MR. GILBERT: Okay. (a), this is money that we know within our county and our Board of Supervisors, we have absolutely no money to assist our citizens in updating their housing, their needs in their community. So we identified a need because we're going to have additional workforce coming in, is how do we work with our citizens to assist them in improving their neighborhoods, and this was a number that we identified that the tribe agreed to.

SENATOR FLOREZ: All right.

MR. GILBERT: Let me add to that. We see this because we don't have all these rules. We see this, that we can give many grants to many people who just need maybe handicapped access to their house; they may need a sidewalk in a community area; they may need infrastructure for a sewer or water; they may need....we can go in and just paint houses to improve our neighborhoods; to work with parks in small communities.

SENATOR FLOREZ: Okay. And all of that for \$250,000?

MR. GILBERT: \$250,000 per year for the life of this compact.

SENATOR FLOREZ: Right. As long as there's a compact. Right. Okay. Senator Denham, do you have any questions?

SENATOR JEFF DENHAM: Sure. More of a statement than a question. I think the supervisors who have already testified, and members of Madera County, when they've talked about unprecedented, I believe what they're trying to talk about is unprecedented is we've seen it in a number of different

compacts—the Lytton Compact, on the other side of my district in San Bernardino County, some of the challenges we have seen there with negotiations or lack thereof, that government to government negotiations we’ve seen North Fork come to the table early, work with local government and come up with mitigating some of the challenges that we see here in the valley, everything from unemployment to some of the need for transportation funding and for the law enforcement funding. So I believe this is unprecedented. And I think this is a good-faith attempt to work government to government in some of these negotiations.

The big question I have, and I think that you and I have together is working on a statewide gaming policy. What does that mean? And working with the administration to help define some of the other variables that are associated with this. But as far as negotiations from government to government working with local government, I’m satisfied that the Board of Supervisors have operated in the best interest of local government and of the county in coming up with these numbers.

SENATOR FLOREZ: Thank you, Senator Denham. Let’s go ahead and go to the district attorney, the sheriff, and the Madera County Fire Department, if we could.

JOHN ANDERSON: I am the sheriff for Madera County, and I could begin.

SENATOR FLOREZ: Yes, that’s fine. Anything that works for you.

MR. ANDERSON: Good afternoon, Mr. Chairman. I’m John Anderson, sheriff for Madera County. Mr. Licalsi, our district attorney, is out of town and I did speak with him and he gave me, I guess, the qualified right to speak a little bit about how it impacts the district attorney’s office.

You know, Supervisor Gilbert mentioned back in 2001 when the Chuckchansi’s were interested in building their casino, that we had a couple hearings, public hearings. Well what he failed to mention is we also had several town hall meetings up in the Coarsegold area. And I’ll tell you, there

was a lot of concern about what's this going to do relative to crime, relative to traffic.

And I'll share with you, that I had the same concerns. Like Supervisor Dominici, I had a previous job also where I dealt with the Palace; I dealt with the casino in Porterville; I dealt with the casino in Fresno; and, also the one in Sonora. And, there was crime and there was traffic problems. And that's why once negotiations started with regards to the MOU and law enforcement, that I insisted we be included as part of that agreement.

What we negotiated, and this current MOU is very similar, is for five fulltime deputy sheriffs and equipment and vehicle and mileage to patrol the casino area 24/7 365 days a year.

Now, when I say the casino area, that doesn't mean they sit in the parking lot or at the doorway or anything like that. They're in an approximate 15-mile circumference area. They also patrol the town of Coarsegold, of Indian Lakes, the community of Yosemite Lakes Park, Raymond, and O'Neals, and they respond to calls at the casino.

When I say, five fulltime deputy sheriffs, when you are deploying 24-hours a day, 7-days a week, 365 days a year, it takes five positions to provide one on-duty position during that period. This is brought by vacations, sick leave, injury time, plus all the mandated training from the state. So you have to have five positions in order to have one fulltime deputy on duty.

We've now been in business with the casino, Chuckchansi Gold, for just short of two years. And I've got to say, that all of my thoughts and things about the horrors, the crime that were going to happen, did not materialize. They have a very good professional and competent security staff that works there at the casino. I venture to say, there are a lot of incidences that happen where they never contact us.

We are averaging 70 to 80 calls a year—that's six to ten a month at the Chuckchansi Casino. If you compare that to any other place where there's a number of people, and the people don't have to be drinking or gambling. That's still a low crime rate.

We have two hospitals in our county. One's a private one just south of town here. We got 90 calls for service at that hospital, and they provide nothing to us.

SENATOR FLOREZ: Where's that located again?

MR. ANDERSON: Just south of town on Highway 99

SENATOR FLOREZ: On 99. And how many?

MR. ANDERSON: We had 90 calls for service there last year. We took 90 reports there; we took 74 reports at the Chuckchansi Casino.

SENATOR FLOREZ: And how many at the Chuckchansi?

MR. ANDERSON: Seventy-four.

SENATOR FLOREZ: Seventy-four. Okay.

MR. ANDERSON: Again, the types of crimes—I think we've had three or four that came to my attention, where violence was involved. Most are thefts—purses from people who are so involved in the slot machines; they set their purse down and it's stolen. Drunk in public—we are arresting the same people that we used to arrest in the bar in Oakhurst and the bar in Bass Lake. We're arresting them now out of the casino. The major crimes up there, someone has figured out that when they're computer system goes down (they have a little ticket reward system apparently) they can falsify these jackpot tickets, and they've lost several thousands and thousands of dollars in white collar crime type things. But once again, they do a very good job of providing reports. They provide us with videotapes of the crimes taking part. And I'm just going to say for the record, that the thoughts, the fears that we had relative to a crime problem brought about by Chuckchansi, have not materialized. Since we have a very similar Memorandum of Understanding with the Mono Tribe that I anticipate the results will be the same.

SENATOR FLOREZ: Let me ask you a question. You say anticipate the results will be the same, yet one is located in a very remote area, and one is located on 99. And so given the amount of traffic on 99, how would you make that comparison, given the hospital you mentioned itself on 99 gets 90 alone?

MR. ANDERSON: You asked the question too, what will the traffic be? And I don't know. Every time...

SENATOR FLOREZ: Well, Caltrans tells me it's somewhere between 55,000 passings of cars and 60,000 a day. That's quite substantial. I'm not quite sure what the traffic is at Chuckchansi, but I don't know if it's 50- to 60,000 travels.

MR. ANDERSON: It's much less on Highway 41, I can tell you that.

SENATOR FLOREZ: So given that, I mean, I'm kind of wondering how you say that you don't expect anything to be any different?

MR. ANDERSON: I think that on Highway 99 your traffic is mainly people going to Sacramento or to the Bay Area. They're not all coming to the casino. The same as on 41; many are going to Yosemite and not going to the casino. But the clientele that go there are tour buses (that's probably a large percentage), and that has really no impact on the traffic. They're going to be going there and to Table Mountain on their tour bus, and they're going to be going there and to Chuckchansi on their tour bus.

The way we arrived at this memorandum is, we already had a year's experience at Chuckchansi relative to our experience, our crime experience there at the very first time that we sat down with negotiations of this tribe. And I might also say that we have an opener at the end of five years with the Chuckchansi if we need more or less involvement from the Sheriff's Department.

SENATOR FLOREZ: So the numbers that the council laid out were based on the experience at Chuckchansi?

MR. ANDERSON: Yes.

SENATOR FLOREZ: And yet that lies in a more remote area. Let me ask the tribe, you're locating on 99, do you expect to capture any of those folks, those 50- to 60,000 that are traveling through, or are you just going to let them by? Maybe you guys can answer that for the record?

MR. MANNING: It depends on if they want to commit a crime, Senator. Now, obviously the location is helpful. And I think the question, though, that

you're asking is, whether the experience will be significantly different than Chuckchansi.

SENATOR FLOREZ: Well, it's very similar to the Governor's proclamation on urban gaming in that there's difference between an urban gaming facility and facility out in Temecula because of the amount of traffic that, in essence, comes to that particular casino. Now, some of it has to do with the amount of folks living within a walking and bus ride vicinity, I get that. But I think, as I mentioned earlier, and not facetiously, the issue of Gorman or something of the place where you have a captured....an area that most people have to pass through going north and south, but unless you're going over the Tehachapi's. It isn't how much a matter of the size of the town, but the amount of traffic available in order of which to pull from. And I'll just use Chuckchansi, and that's a drive out, I assume, and that is a destination point. I assume people aren't just going out to pass by it, look at it, and turn around and come back.

This particular site, given its location on 99, I assume, given the choice of the location, I'm not knocking it, I think it's all marketing and all trying to be successful, but for the purposes of asking the sheriff the question, I mean, are you assuming you're going to get a good portion of that 55- to 60,000 cars and trucks passing by a day pulled into the casino? It's just a very honest policy question. Just how much do you think, and are you going to?

MR. MAIER: Senator, we relied on....it's in the preliminary analysis of the project. Station has a lot of experience building facilities and figuring out what the parking lot ratio, how big of a parking lot you should have for the number of expected visitors based on their market experience.

I think the projected number of parking spaces for this facility is 5,000. The ratio that that was calculated on was considerably higher than most casinos. And by that I mean, there will be more parking spaces for the number of patrons than in many facilities, because Station has a philosophy that a patron should always be able to have easy access to the casino.

If we take 5,000, and let's say 4,000 are filled, the experience with casinos is that it's a steady traffic throughout the day. The peak periods are between 7:00 and 8:00 at night. The fears of traffic bottlenecks and things have not played out in a number of situations where you might think that are more challenging perhaps. One example is in Placer County, the Thunder Valley Casino, which is one of the most...third or fourth most successful casinos in the country. It attracts a lot of people. And since the opening day, which was an exception, where everybody tried to rush in at the same time, they have not, as I understand it, have had any traffic problems, according to the sheriff of Placer County and some others. I think we would expect the same experience here. This is not going to be Thunder Valley by any means. But we do not expect to have that kind of issue. But again, those will be studied in the traffic studies. If that identifies problems, then we will work with Caltrans to mitigate those impacts and pay our fair share and more.

SENATOR FLOREZ: Okay. How about the sheriff? How about the local law enforcement people? How about, if indeed, the 5,000 or so become a much more enormous number than envisioned? And the number the sheriff mentioned, given his comparison with Chuckchansi? Given that's the comparison and this is a different type of venue with a different type of destination on a very highly traveled road as compared to Chuckchansi (I'm just using the analogy because the sheriff did), are you willing to go back and talk about those types of amendments to the MOU that would capture those types of costs for the county?

MR. MAIER: Yes, I I'd say that would be fair.

SENATOR DENHAM: I have questions, too.

SENATOR FLOREZ: Okay. Before Senator Denham asks, let me ask a couple of more questions. Since you're experienced in this, what type of gambler would stop by this particular facility on 99? Is this the occasional; is this the truck driver; the stop off person; the person who's having the beer? I mean, what's your market in this, given that you're looking at traffic flows of

these type things, and given the amount of traffic going by, what type of facility is this really? And maybe you can tell us.

MR. MAIER: As I think the chairwoman mentioned earlier, this is proposed as a destination resort. The market is a broad market. We'd like to attract people from the South Bay, from further north. It's going to be a very high-end 200-room hotel facility with a spa and a pool and a number of nice restaurants. And that's the type of market we're looking at.

SENATOR FLOREZ: Okay. So your goal isn't to let all this traffic pass by. Your goal is to kind of hold them for a little bit?

MR. MAIER: I think that's...

SENATOR FLOREZ: Right? I'm just trying to figure it out. I mean, you're going to either let them go by, or it's going to be an end result, or it's going to be destination point. Which one is it?

MR. MAIER: It's a fair question. I think, first of all, the number of vehicle trips now, those are people traveling on 99 with or without the casino, and they're going to be traveling on that with or without the casino. So the real question is, are you going to be able to attract additional folks for the purpose of going to the casino? And the answer is, we hope so, and it's really going to be a destination.

I think it was talked about earlier that there are obviously organized bus trips, those types of things where you're bringing in busloads of people, senior organizations, those types of things. That's one audience. And certainly, if you're trying to market it as a destination, as John said, you're really going to be marketing also to the Bay Area, where you have people of means who will want to get away. So, I think it's a combination of things.

SENATOR FLOREZ: Okay. I'm sorry to digress. Now, Sheriff, given all this conversation of, it's not really Chuckchansi, does that change the number in the MOU to you?

MR. ANDERSON: Again, as you pointed out, Senator, I would hope that right now it does not, no. We get along very well with the one deputy in the area. He's handling more calls outside of the casino at the other little

communities than he is at the casino. So he's not working fulltime for the casino. You know, publicly, I probably shouldn't say it, but they may not be getting their money's worth because he's done a lot of things just in the general population up there. However...

SENATOR FLOREZ: I did say this was on the record, Sheriff. You should _____ at the beginning of this thing. I got you.

MR. ANDERSON: As the counselor points out here, I'd certainly want to open and renegotiate should we not be able to handle the problem up in the casino.

MR. MAIER: And given that statement, Senator, we hope the renegotiation goes both ways.

SENATOR FLOREZ: Senator Denham, go ahead.

SENATOR DENHAM: Sheriff Anderson, prior to getting elected as county sheriff, did you work for Caltrans or any type of road construction company?

MR. ANDERSON: Prior to getting elected sheriff, I was with the California Highway Patrol for 35 years.

SENATOR DENHAM: Thirty -five years. Okay. So you wouldn't consider yourself an expert on road construction, per se?

MR. ANDERSON: No.

SENATOR DENHAM: So you probably wouldn't be the best person to ask about the transportation resources, the road construction contribution? You would probably be an expert, with your 35 years of experience and all of your time as sheriff of this county, you'd probably be the best person to answer questions on law enforcement costs, correct?

MR. ANDERSON: Correct.

SENATOR DENHAM: The \$415,000 that you have in here for law enforcement costs, I'm sure that you were involved in not only the negotiations with the Board of Supervisors, but it's in your estimation that that is more than sufficient to cover any new law enforcement cost prevention, as well as

crimes that are committed in this community, any new crimes that would be attributed to having this new type of development?

MR. ANDERSON: As I stated, that will cover the hiring, personnel costs for five deputy sheriffs and the operations and their equipment for a one-year period. Yes, that should cover. And in my estimation, that will cover any additional law enforcement resources needed by the casino.

SENATOR DENHAM: And I realize that you've been in this area for quite some time. We've seen many different compacts under the 99 compacts that Gray Davis had negotiated. This is the first time that you've been this intimately involved with negotiations for your own public safety needs?

MR. ANDERSON: No. As I said, I was very involved with the compact under the agreement with the Chuckchansi Tribe. And that came in under the compact. Again, the major concern where there was different from the other casinos that I've been involved with, this one would serve alcohol, and that's why I did involve myself.

SENATOR DENHAM: But in your estimation, the \$415,000 is more than adequate under the current scope of this project?

MR. ANDERSON: Yes.

SENATOR DENHAM: Thank you.

SENATOR FLOREZ: Thank you. Sheriff, thank you very much for the testimony. And I think you heard him say, they will renegotiate if you need more law enforcement. (laughter) Just in case, you know.

MR. ANDERSON: Thank you, Mr. Chairman.

SENATOR FLOREZ: Okay. Let's hear, if we could, from either our district attorney, or our county fire department. And then after that, I'm going to have some questions for the board supervisors and then we'll go onto the next panel.

GARY MARSHALL: Good afternoon, Senator Florez, Senator Denham. Gary Marshall. Not only am I the county fire chief, I'm also the city of Madera fire chief. It's a joint operation.

SENATOR FLOREZ: Okay.

MR. MARSHALL: Having said that, from my perspective, the dollars that the tribe is providing to us will give us the highest staffing that we have anywhere in either the county or the city was three persons on duty 24/7. And it's location _____ there allows for mutual aid responsible at the county areas, not only the casino, but the surrounding communities and into the city of Madera and covering their industrial park, which is now underserved by the city of Madera. And having said that, I'm open to questions.

SENATOR FLOREZ: Okay. Well, then maybe I'll ask the same question that I asked of the law enforcement folks. In terms of the section in the binder that was provided to the committee, on your particular area, is that enough dollars? It's section 2(a)(1) and 3(a)(c), which is fire protection costs, which is a reoccurring \$1.2 million. Number one, let me ask you, is that okay; is that good for you?

MR. MARSHALL: Under our current costs of staffing, yes it is.

SENATOR FLOREZ: And then on then on the section 2(a)(1), which is a one-time, non-reoccurring allocation of \$1.9 or \$2 million, what is that going for?

MR. MARSHALL: That's going to build a fire station, and actual public safety, because the sheriff will also co-locate there. And then also apparatus, probably a truck company.

SENATOR FLOREZ: Okay. So you're going to put a station there and then you're going to staff that with the \$1.2 million of annual that you're getting, or is that going to go to other things in the department?

MR. MARSHALL: No, that will go to the staffing at that station.

SENATOR FLOREZ: Okay. All right. I'm going to follow Senator Denham's lead. You're the expert, that's good enough for me. Senator Denham, any other questions?

SENATOR DENHAM: The new fire station and the \$1.2 million annual cost to man that fire station, are you just going to be....is that fire station and personnel at that fire station only going to protect that new development here,

or do you have sufficient resources there to provide other public safety, as well, as it pertains to fire?

MR. MARSHALL: The long-term plan for this is that that staffing will cover a truck company there, and then the plan is to have the city of Madera also, because that's in the north end of their area, we'd co-locate and then they'd also put an engine company there. So we'd have a two-piece company there. And it would survive not only the casino, the north end of Madera City, but also that development on the county of Madera on both sides of Highway 99 up towards Chowchilla.

SENATOR DENHAM: So, in your estimation, this new fire station, along with the new equipment, along with the personnel to man that fire station, if there were a call, you'd be able to expedite that call from that fire station, as well for North Madera, as well?

MR. ANDERSON: That is correct. And this is an additional fire station and staff. It's not taking anything from anything else we currently have. We're not closing anything down in order to relocate at this location. It's going to be additional to both the city of Madera and the county of Madera.

SENATOR DENHAM: It sounds to me that it will supplement everything else you have here. I believe there is already a need in North Madera for further fire service. You're going to be able to help out in that capacity, as well as be able to mitigate any new fire protection need associated with this new development.

MR. ANDERSON: That's correct. Because the casino itself is going to be of fire resistive construction with the sprinklers and that kind of stuff. They agreed to the new Building Code standards. So most of our responses there would not be as a fire response. Most of our responses there would be medical aid type responses and/or potential vehicle fires in the outside area and stuff that. Currently at the Chuckchansi, which was used earlier, we've only had one serious fire there and that was in the kitchen area which is typical of the hotel restaurant operations. They handled it with their in-house staff. We got there and took the report and everything was secure. We checked it out and

there was no extension or anything like that. Most of our responses in that area have been for medical aid support and/or a couple of vehicles on fire in the parking lot.

SENATOR DENHAM: Thank you.

SENATOR FLOREZ: Okay. Thank you very much. We appreciate it.

Let me ask, if I could, the Board of Supervisors either/or the question of the day for me. And I think the question of the day, as I think it started with the tribes, as well, the Governor put out a policy statement on urban casinos yesterday, and one of the defining aspects of that particular decision was an advisory vote. That the Governor is going to consider and look upon favorably compacts that have this component. Let me just kind of....I think I know why the Governor went that way. You know, card rooms need a vote, I assume to actually operate. Tribes asked for a vote in Prop. 1A. The Lottery needed a vote in order to go to the ballot in terms of gaming. So, let me ask you the question—here in Madera County, do the voters need an opportunity to vote to see actually if the local support is there? And that's the question for you, the board. I hear yeses and noes from the audience. You're the folks that can make that happen, yes or no. But the real question of this hearing, given the Governor's policy statement yesterday, is an advisory vote needed? And I asked the tribal folks a moment ago, what does it mean to you as an advisory vote? What is an advisory vote? How is it ultimately defined? So maybe the question from the Board of Supervisors perspective.

MR. GILBERT: Senator Florez, I think we too, have as many questions as you have, because I too read the Governor's proclamation and his definitions. Again, advisory vote is one way. Now, I have had communications with the governor's office, what is an advisory vote? They have not been able to define that to our satisfaction. But as a Board of Supervisor, we hold public meetings and the public is always invited to be here. And if one of the options that we have considered, and only considered if we had to go to an advisory vote, is have information meetings within the community—whoever shows up fill out the information cards. Once they have real information to make

decisions from, not advertisements and newspapers, and not mailings, but real information that you make you information because you're vote needs to be an informed vote; hold public hearings; pass our some kind of ballot; turn it back in, in a public hearing; then let the Board of Supervisors, as our legal responsibility, is make those decisions, and it would be an advisory vote. So whatever the Governor, whatever we work out with whatever your committee comes up with, we're more than ready.

SENATOR FLOREZ: Okay. Let me try to discern that comment, if I could. I think what I heard you say, is that you wouldn't mind the voters voting on the ability to give you, the Board of Supervisors, the ability to go forward with this project?

MR. GILBERT: We currently have the legal responsibility of land use in this county.

SENATOR FLOREZ: I guess my question would be, are you willing to give the voters of Madera the ability to vote on whether they want this casino here or not?

MR. GILBERT: We're willing to, as the Governor said, to give an advisory vote as "said," but what we need to know is, what is a voter? Is that person within three miles; is it the person who receives the water bill from the city of Madera; is it all residents of the region?

SENATOR FLOREZ: Yes. As I said earlier, Senator Denham, as we started this, I said, the Governor's proclamation gives us a policy reason, in Sacramento, to try and discern what it is the Governor means by an advisory vote? And I think I asked the Tribal Chair that, really, what do you think it is? Because I think it's important for us to try to understand what that is. So I think what I heard from the Tribal Chair is, they wouldn't mind that. And I heard from councils and representatives that there are other options. And I hear from you that maybe one viewpoint of it is that the voters could vote to give you, the Board, the ability to say yes or no to a gaming facility. And I guess what I'm saying is, it seems to me, in just simple layman's terms, that advisory vote is, the voters get to say yes or no, up or down on the casino.

And so there's four different standards of which we could have a policy discussion on in Sacramento, and I think it's a really good hearing because it gives us that opportunity to, in essence, try to decipher the various views without taking a side on either/or.

MR. DOMINICI: Mr. Florez, if I could chime in here.

SENATOR FLOREZ: Yes.

MR. DOMINICI: Something Supervisor Gilbert says is very important. What type of advisory vote, what area is going to vote on this advisory vote? Is it going to be three miles; is it going to be 15 miles; is it going to be 20 miles? Because, that's a big decision for the city of Madera residents, I can tell you that. And the city of Chowchilla. Okay, now I would think that you would get a tremendous turnout. Now that's an advisory vote, as far as I'm looking at it. I'm just using my point. I'm just one of all the rest of the supervisors—one of five. And so what I'm saying is that I think that is a very important thing that your committee would have to tell the Governor—what is an advisory vote? What is it? How many miles?

SENATOR FLOREZ: Yes, I think Chairman Gilbert hit it right on the head. And that is, what is the breadth and scope of an advisory vote, particularly now. I knew what an advisory vote is in the city of Oakland. Or I know what the city advisory vote is within the county of Los Angeles. But you know, it becomes a little bit more difficult in areas such as the 99 Corridor when you have Madera; you have Chowchilla right down the way; 18 miles away is the city of Fresno, the city I represent, and Senator Denham represents the adjoining areas, as well. So it's one of those where, where do you draw the boundaries for an advisory vote, given the location of this particular casino site? And it's on an artery, and it is, in an essence, the end, if you will, the 10 Freeway and ends in Santa Monica and runs into Highway 1. I mean, this is one of those that transcends the valley. So that's one of those important points.

Supervisor.

MR. GILBERT: One addition to there too, Senator, is what the Governor did say in his policy is, the tribe and the local jurisdiction, in this case, the Board of Supervisors, demonstrate that the affected local community, whoever the local community is, supports the project such as by a local advisory vote. And one thing that our Board has always done is hold public hearings. In this case here, before we ratified this MOU, we had two well publicized public hearings in this room and the public was invited. They had input. And that's our normal process.

SENATOR FLOREZ: Thank you very much. I don't have anymore questions unless Senator Denham does. But I want to definitely want to thank you all for answering some pretty tough questions. I very much appreciate it.

MR. GILBERT: Thank you.

MR. ANDERSON: Thank you.

SENATOR DENHAM: Just one brief statement—as far as an advisory vote goes—in my discussions with the Governor and the administration, is that the people would be represented by a vote and have a say so in whether or not they support it a new compact. So he would definitely keep that in mind in his discussions on ratifying a compact. I think it will be incumbent on us, in this development of a statewide policy, to define what exactly is an advisory vote.

SENATOR FLOREZ: Okay. Let's go ahead and end there. And I do want to thank you very much. And let's go to the next portion of the agenda where we have the Deputy District Director, Maintenance and Operations of Caltrans, and the Area Commander, California Highway Patrol. Thank you for joining us.

I should say the time is 3:30, and we're scheduled to finish at 4:00, so multiply that times 2, and on that schedule we're still on schedule. So we'll try to proceed through this as much as possible

Thank you very much. And your name for the record? You're with Caltrans, correct?

BRIAN EVERSON: Yes. My name is Brian Emerson. I'm the Deputy District Director of Maintenance Operations for Caltrans. Good afternoon, Senator Florez, Senator Denham.

Caltrans' interest in this project is to make sure that any and all impacts to the state highway facilities are identified and mitigated....we're treating this proposal just as we do any other public or private development that would impact the operation of the state highway.

Caltrans has been working with the North Fork Mono Rancheria representatives for the proposed casino since August of last year, with initial scoping meetings prior to the project actually being officially announced. We have officially commented to the Bureau of Indian Affairs in Sacramento on the application for transfer the land to Indian trust. Caltrans is currently working with the consultant of the project through the environmental process to review the scope of the traffic impact study to ensure that all potential impact of state facilities are addressed in the study and mitigated to our requirements.

The consultant has agreed and is following Caltrans and guidance for preparation of traffic impact studies at this point. Upon completion of the traffic study, Caltrans could require opening day mitigation measures, as well as mitigation measures for the 2025 or 2030 build out horizon year. And as the permitting agency, since mitigation work would be on our facility and would require an encroachment permit, we would have approval process for those mitigation measures.

This same process was followed with the Chuckchansi Casino on State Route 41 near Coarsegold, and it was actually, from our perspective, it was very successful.

SENATOR FLOREZ: Just a couple of questions. Now, you're the state of California, right?

MR. EVERSON: Yes, I am.

SENATOR FLOREZ: So we're on the same side at least for right now. Okay. So, in terms of the cost of the, if you will, the mitigation aspects of this, what do you estimate, given your comments, to the feds?

MR. EVERSON: I think Caltrans would hesitate to even estimate what the costs would be at this point until the completion of the traffic impact studies.

SENATOR FLOREZ: All right. And do you estimate that those types of discussions, in terms of the state making sure that we get some dollars for this type of project, when does that discussion occur?

MR. EVERSON: That discussion I assume would occur once the traffic impact study is completed. Those results, and the mitigation required, would go into the Environmental Impact Report that's being prepared.

SENATOR FLOREZ: So the traffic mitigation study is being completed, that's what you said, right?

MR. EVERSON: Yes.

SENATOR FLOREZ: And that hasn't been done?

MR. EVERSON: No. It's under way right now, but it is not complete.

SENATOR FLOREZ: And what is Caltrans initial position with this particular project?

MR. EVERSON: I think with this project, as with any other project that impacts the state highway system, if all the impacts are adequately mitigated, then we'll be okay with the project.

SENATOR FLOREZ: Okay. So you don't have a position right now?

MR. EVERSON: No. No position.

SENATOR FLOREZ: Okay. And the traffic mitigation study, when is that going to be completed?

MR. EVERSON: I don't have the date for that. I don't.

SENATOR FLOREZ: Okay. Tribe?

MR. MAIER: The traffic consultants just provided them the amended methodology scoping report about a week ago....a few months. I don't know.

A couple of months, I would think. There's been considerable analysis already, but there's considerably more to do.

SENATOR FLOREZ: Okay. I guess...

MR. MAIER: I'm not really qualified, but you're looking for an answer and I'd say a couple of months.

SENATOR FLOREZ: Okay. So, in a couple of months a traffic mitigation study will be completed. So, Caltrans, you can't take a position on it?

MR. EVERSON: No, not at this time.

SENATOR FLOREZ: And I'm wondering then, from a policy point of view, the Board of Supervisors can take a position without all of this work being done?

MR. EVERSON: I would hope so, otherwise no projects would get done in this state.

SENATOR FLOREZ: No, I'm just wondering. I mean, how do you do that?

MR. GILBERT: Because our impacts that we've identified are in our MOU.

SENATOR FLOREZ: Your county roads. Okay.

MR. GILBERT: Caltrans is a separate entity.

SENATOR FLOREZ: All right. So in other words, the \$4 million and others that you have, one time and they're ongoing are all based on the county road's usage, Avenue 17, etc.

MR. GILBERT: Yes.

SENATOR FLOREZ: Okay. And so our side is, we don't have a position until we first get that, and obviously that...

MR. EVERSON: Yes. Exactly.

SENATOR FLOREZ: And in terms of the assistance in accelerating any type of improvements, Caltrans, and let's just use, you used Chuckchansi for an example, let's use that. Is that a fluid type of arrangement where as things

change we're able to, in essence, change the arrangement with that particular tribe, or is this a one-time set in stone type of MOU?

MR. MAIER: The environmental document should address both the opening day mitigation needed and future build-out. We have the same basic information provided with Chuckchansi. So while they've already provided opening day mitigation, there's still some additional mitigation that they're going to be doing on State Route 41.

SENATOR FLOREZ: Okay. There's the opening day and then there's the ongoing.

MR. MAIER: Correct.

SENATOR FLOREZ: So you would expect that for the state we would have something similar to what the county has negotiated—an opening day and an ongoing?

MR. MAIER: Correct.

SENATOR FLOREZ: Senator Denham, do you have any questions?

SENATOR DENHAM: No.

SENATOR FLOREZ: Okay. Just ____state, doesn't mean I'm easier on you, but I just want....since there's nothing to really talk about until the study is done, we look forward to talking to you about that a little more.

MR. EVERSON: Sure.

SENATOR FLOREZ: Thanks.

MR. MAIER: Senator, may I add one thing please?

SENATOR FLOREZ: Sure, absolutely.

MR. MAIER: The tribe has every incentive to mitigate all the traffic impacts.

SENATOR FLOREZ: Oh, I'm not suggesting it's not. I'm just asking the State, ultimately, when can we expect to see the study that gives us the ability to, 1) get traffic count, 2) make sure that 5,000 slots are enough to actually hold parking spaces.

MR. MAIER: Two thousand slots. Five thousand parking spaces is what we talked about.

SENATOR FLOREZ: Yes. Parking spaces. Those cars pull off the freeway and do something right?

MR. MAIER: Right.

SENATOR FLOREZ: Okay great. Let's go onto the next person. Dave Paris, Area Commander of CHP. Thank you for joining us.

DAVE PARIS: Senator Florez, Senator Denham, Dave Paris, Area Commander for the Field Office of Madera, California Highway Patrol.

SENATOR FLOREZ: Okay.

MR. PARIS: The only thing I can testify today is, I'll tell you that, yes, a casino redestination resort will impact the state highway. At what level, at what degree, I cannot respond until we do an evaluation of the traffic analysis, which we will do a thorough review and we will communicate with Caltrans, as we normally do, with our impact reviews.

SENATOR FLOREZ: Okay. County Board of Supervisors, see why you do things quicker than the state? As Senator Denham says, you guys start doing and we're waiting for all the studies to get done and things. Of course, I'm not knocking the CHP. But let me ask you a couple of questions from a CHP viewpoint though.

The issue of traffic mitigation and this study, you look at that, do you participate in it, and ultimately how do you comment in on this type of arrangement once you see that report?

MR. PARIS: We thoroughly review the analysis prepared by the contract company they deal with. We look at traffic safety. There's engineering issues that have to be addressed with Caltrans that only Caltrans can address. We are concerned with traffic management; the movement of traffic; the safe efficient flow without causing any disruption to the highway system; being able to access, and be able to exit the freeway system safely.

I think it was noted earlier, I think currently there is roughly 60,000 vehicles that commute on State Route 99 today. Twenty-five percent of that is commercial traffic that is transporting commodity and product, which I'm sure a lot of that will be moving into the destination resort also.

We do respond. How it will impact our operation; how it will impact the community as far as the traffic flow?

SENATOR FLOREZ: Okay. So you do have input. You are waiting for, and you will participate in all of these.

MR. PARIS: Yes.

SENATOR FLOREZ: How would you compare it to what you've mentioned earlier to Chuckchansi on Route 41?

MR. PARIS: The only comparison, we had great concern because State Route 41 which is a two-lane rural mountain highway in northeastern Madera County, which is mainly used for what local people that reside in the Coarsegold and Oakhurst area, it's a major artery into the southern portion of Yosemite National Park. It is traveled. The majority of traffic is tourism. We had a strong concern about the additional amount of traffic that would be utilizing the casino. The fact that alcohol would be served at the casino. We have been a little, I guess, culture shocked. We have had very little impact. We've had three significant traffic accidents, and all three of them are not related to the casino. The parties at fault were other people involved that were locals in the community.

We have communicated with the casino. They, right now, have a very strict policy on their sales and issuance of alcohol beverage. That's our biggest concern, is the alcohol being consumed and then those folks getting into the automobile and trying to drive back home. They have a very strict policy. And we have worked, and we partnered with them with DUI enforcement and education in that area. And today, we have been very fortunate in being successful with that operation.

SENATOR FLOREZ: Any questions, Senator Denham? Thank you very much.

MR. DOMINICI: Senator, you can be assured that the CHP will be looking at it, because their office is only within a mile of casino, so they're going to be really watching.

SENATOR FLOREZ: Okay. Now, you used to work for the CHP, right?

MR. DOMINICI: That's right.

MR. GILBERT: Senator, if I could make one comment also.

SENATOR FLOREZ: Okay.

MR. GILBERT: The county and the tribe, especially the Chuckchansi Tribe, under SB 621, we had a special distribution funds, and we have worked very closely with the tribe. They identified last year how that money that goes for offsite impacts, they identified money to assist CHP for additional enforcement when CHP needed on Highway 41, and I would see the same arrangement with this tribe as we do our special distribution offsite mitigation. This is a partnership, and that's what that fund is about.

SENATOR FLOREZ: Great. Thank you very much. Okay, let's go onto, if you will, Special Counsel to Madera County, Madera County Assessor, and Special Counsel Madera County Board of Supervisors. Dennis, go ahead and start and then we'll go to Dennis Cota, Special Counsel to Madera County Board of Supervisors.

DENNIS WHITLESEY: Thank you, Senator Florez. I am Dennis Whitlesey. I'm a lawyer, practicing law in Washington, D.C. I work on Indian gaming projects coast to coast and border to border. You mentioned that you have been looking at agreements, other agreements in California. I was special counsel to Placer County for Thunder Valley, special counsel to Madera.

SENATOR FLOREZ: Okay. I look at them. You get paid for them, right?

MR. WHITLESEY: Yes. Somebody is making money on this. Special counsel to Madera for both agreements; special counsel to Tuolumne for the Black Oak, as well as the city of Barstow for Los Coyotes, so I suspect some of the agreements you're looking at are agreements that I had a pretty heavy hand in, or at least a fine hand.

In addition, you mentioned reservation shopping. I speak and write on this subject. I was a member of a panel a couple of months ago in Las Vegas—the Annual Gaming Conference sponsored by the American Bar, so I think I can answer questions if you have questions of me on those subjects.

But let me just start out with this: My topic is Section 20 and the careful adherence to Section 20, which we've seen in this case. And I would echo the chairwoman's comments earlier about reservation shopping. That is sort of a dirty term. It's nasty. It's ugly. It wasn't created by somebody who liked off-reservation gaming. But it's important to remember, and this goes back to when IGRA, the Indian Gaming Regulatory Act, was written in 1988, and I'm one of many, many people who worked on the outskirts of the congress and the development of that law. I did work extensively on Section 20.

IGRA envisioned in Section 20, that there would be tribes seeking land subsequent to 1988 for gaming purposes. That's where Section 20 came from. IGRA set out a very clear, we think, clean statutory scheme for the development of off-reservation gaming. Some people can say reservation shopping, but the fact is, just because a developer finds a tribe and they find a site, doesn't mean under Section 20, there's going to be compliance, particularly with regard to the gubernatorial concurrence provision.

I think it's important to remember that Section 20, and I believe that this is the provision to which this tribe is proceeding, requires before the land can be taken into trust for gaming, three specific things. The first two are the two-part determination by the Secretary of the Interior that the land acquisition would be in the best interest of the tribe. I think that would be manifest in this case, at least, economically, and would not be detrimental to the surrounding community. But then, in addition to that, and the governor has total control and total discretion, the governor must concur. So that the Section 20 process is in the statute. Oh by the way, concurrence, Senator Florez, is purely at the governor's discretion, and that has been litigated.

So that in this case, we're looking at the governor, who is undertaking a process, or perhaps trying to establish guidelines for the application of the Section 20 process to the state of California. I wasn't surprised by anything I saw in the notice yesterday. Because as you know, last December with regard to Rhonert Park, the Governor's legal affairs advisor, Peter Siggins, wrote a letter. And in that letter, Peter Siggins said exactly what they said yesterday.

Which was, that we're going to, and I'll use his language, "We will allow off-reservation gaming in certain cases. For example, a tribe with gaming eligible land in an environmentally sensitive area may, with the agreement and support of a local government, move the proposed casino to another location that does not present the same environmental concerns." And what the governor's office has told me in a number of projects, and told the people in a number of projects that I've worked on, is, here's what we want. We're not going to be in an urbanized area, and that's been said repeatedly. We want a local agreement. Bring it to the table. A local agreement. We want local support. We will then ask you to give us tribe, compact concessions, financial. And we want then the secretary to give us the two-part determination, and we want to see a public policy rationale for the off-reservation games. So there was no secret as to what they want. And I would say, when you're asking why did they do the agreement first before they took the land into trust, well the two-part determination is only going to follow in the state of California all of those other steps. So before there is a compact, there has to be a local agreement. This was done in the right order. So that following the Section 20 process, and following the Governor's prescribed procedures, this tribe has done everything exactly right. I would say that, I would emphasize that, to read the Siggins letter and to read the Governor's resolution yesterday.

I think you've already heard, and you will see documented, there are legitimate environmental concerns that make the old rancheria land a bad site, and that's apart from the fact the tribe doesn't even own that land. It's in trust for individual tribal members, not for the tribe.

I would say with this, though, the tribe is proceeding to satisfy the interlocking requirements not only of IGRA itself, but of NEPA (the National Environmental Policy Act). They're preparing a full blown environmental impact statement under NEPA. Which, by the way, is consistent with an unwritten federal policy now, that land acquisition for gaming shall require a full environmental impact statement. So that before that policy was even articulated privately within the corridors of Washington, D.C to people like me,

this tribe and Station Casinos, had already decided to do just that. If there's a management contract, then they will prepare appropriate NEPA documents for the management contract. And all of the relevant materials will go the NIGC for approval.

I would say, I think part of what stimulates this hearing, and your concerns, is there have been some bad actors. There are some cases where some bad projects have been proposed, where tribes have in fact not complied with the law. It's a fact that there are tribes that have lands that are a part of their casino complexes now not in trust, in direct violation of Sections 2.8 and 4.2 of the compact that Gray Davis signed. The parking lots have to be in trust before they can be used under the compact in IGRA. So, there are some sins out there, but the North Fork Mono are not committing them. Indeed, they're cross the "t's" and dotting the "i's." That's Section 20.

SENATOR FLOREZ: Okay. Thank you. Are you completed.

MR. WHITLESEY: Yes.

SENATOR FLOREZ: Okay. First and foremost, what's driving this hearing isn't any bad actors or in any way, the Mono Tribe acting as a bad actor. What's driving this is, is what's the policy for the future, as Senator Denham said? And I said to him prior to coming to the hearing, and how we're going to look at this in the Central Valley in the long-term? I mean, what's the policy when lands cross each other? What's the policy with aboriginal territories? The Governor has given us an outline on urban, but yet we're rural, and I think it's an opportunity for us to try to figure out what it all means, particularly as this tribe is looking at land on an artery. So, that's kind of what's driving the hearing.

Let me ask you a couple of questions on, you mentioned it wasn't done in the right order, and I think I'm going to try to tie these two together. And you are a legal expert, so let me get your opinion on it. You mentioned it was done in the right order, but you also mentioned at the very first point that, you know, we can do this if it is, indeed, in the best interest of Indian tribe or its members. And then you said, and it would not be detrimental to the

surrounding community. And I think that's the first step. So the question here is, is this detrimental to the surrounding community? And if it is detrimental to the surrounding community, then how do they get to voice their opposition or support for this type of project? And you mentioned Peter Siggins' letter outlining some opportunities to do that. And I would just ask you then, should, in essence, the folks in the MOU area, let's just use that are for now—the people who are with the county of Madera—have the opportunity to vote, as the Governor has asked for on an advisory basis to, in essence, get to that first question which is, is this detrimental to the community?

MR. WHITLESEY: Well I will say first, before this advisory vote issue came up (I first heard of it when we were working Barstow last summer), I'd never heard of an advisory vote.

SENATOR FLOREZ: Neither have we. The Governor gave us that yesterday, so we're trying to figure it out. Maybe you, given your vast experience with a lot of other folks, can give us what that means.

MR. WHITLESEY: The detriment to the surrounding community is part of the Secretary of the Interior's two-part determination. There have been, I believe as of this date, only three off-reservation casinos approved in this country. So it's not an easy bar to clear.

If after all has been said and done, and I was here with a broken leg for both of those public hearings in Madera on the North Fork agreement, there was a full and lengthy and fair opportunity for people to be heard. If people felt they were not heard, if people felt there are detriments that the Board of Supervisors, and let's even say, in turn the Governor have ignored, there is a forum, and that is, comment the Secretary of Interior during the Feet of Trust application process.

SENATOR FLOREZ: But you know the person coming home from work in Madera isn't going to be thinking about writing an email to the Department of Interior, right?

MR. WHITLESEY: It's pretty hard to do right now because the Kabell(?) litigation. I think their emails are all pretty shutdown anyway.

SENATOR FLOREZ: Yes. One out of five people working in Madera aren't going to be able to do that.

MR. WHITLESEY: That's correct. But it is a Secretary's determination, and it's a factual determination the Secretary is required by the statute to make. So I would say that what the Governor is trying to do, and I've seen it in other states in different formats, is he's trying to establish a foundation to justify the off-reservation project if it leaves the state and goes back to the Secretary for approval. Now, the government operations committee clearly has a role in what the governor wants to do, or certainly will make a role for itself. But I would say this advisory vote, or whatever it is, just as Chairman Gilbert, I've heard a number of suggestions, even a show of hands at a public meeting as an advisory vote, and these are suggestions coming out of Sacramento, not coming from the city of Barstow or Amador County, whom I represent, or Butte County, whom I represent. It's coming back out of Sacramento. So I think the Governor doesn't really know what an advisory vote is, or what a demonstration of public support is. And you'll notice advisory vote was such as.

SENATOR FLOREZ: Do you know how many times the Governor has gone out to the people, right, with initiatives? So I think he knows what a vote is, and he's pretty successful at it. So why would you say that the Governor doesn't know what an advisory vote is?

MR. WHITLESEY: Well he didn't say....he may know what it is, but he didn't say advisory vote is what we are going to have, nor have they said it to us in these various projects. They've said, we want to find some way to demonstrate local support, such as an advisory vote. That's been mentioned. But there may be other ways to do that.

SENATOR FLOREZ: Okay. That's fair. Got it. Senator Denham.

SENATOR DENHAM: You referenced the land that's in trust right now, is that gaming eligible?

MR. WHITLESEY: The land that's in trust right now is gaming eligible only if the tribal government exercises governmental control over that land,

because it's not in trust with a tribe. And actually, I may want to qualify that. Well, no, I'll stay with that. If the tribe exercises governmental control over that land, then it would be gaming eligible. But then remember, it is in trust for individuals. It's not tribal land to control as such unless they want to dezone these individual allotments and move the people out for the sake of zoning, even though the land is in trust for those people. I think it would be a very complicated process. And I'm very experienced in tribes doing that in other places.

SENATOR DENHAM: A complicated process. But if they so chose, they could rezone this. It is gaming eligible, so they could rezone.

MR. WHITLESEY: If they exercise government control over the property now. I don't know that the tribe does. And I might add too, Senator, you probably would have....well, I think if they wanted to rezone, that would be a lengthy process and it would be a bitter process and not necessarily successful. There have been successful challenges to tribes trying to zone people off of allotted land.

SENATOR DENHAM: I understand that, but a question that I commonly get from members of my caucus is, is the land gaming eligible and could they rezone it to actually put a casino on that land? I think that question will continue to come up as other nongaming tribes look to put more land into trust, or look to do offsite reservation gaming. So it pertains more to a statewide gaming policy, but this question is definitely coming up in this case.

MR. WHITLESEY: And I understand that. And I think, though, if you go back to the Siggins letter, where Siggins said, if there is an environmentally sensitive area that qualifies for gaming, then that's circumstance where an off-reservation development is appropriate. And I understand from what we have heard here today, that there are legitimate environmental reasons why that's an unacceptable site for development.

SENATOR DENHAM: There have been concerns brought up that it could be environmentally sensitive, but that has not been substantiated to this point to your knowledge, correct?

MR. WHITLESEY: I think they said pretty strongly here today, that it's a synch probably unmitigatable. The environmental concerns they have couldn't be mitigated. I think that was said earlier today.

MR. MANNING: Senator, there is no formal EIS. I'm doing a project there because it wasn't pursued, but given that it's on a scenic byway near the south location of Yosemite, adjacent to a national forest, in an area with wetlands and probably ESA, endangered species issues, etc., while we didn't pursue the project there and do the environmental documentation, we have a pretty good fair belief that there would be overwhelming constraints at the site. And as to your previous question, yes, it is eligible for gaming. But for the variety of reasons we discussed earlier, working cooperatively with the county and the state from a public policy perspective, we thought, and the county thought, that it would be preferable in, and the state, we think, thinks it's preferable, to do the site at a place where the community supports it and to do it in a place where you wouldn't have those environmental challenges. So that's how we got to where we are now.

SENATOR DENHAM: Are there any other proposed developments in that area?

MR. MANNING: Not on the 80 acres where the tribal members live, no. In other parts of North Fork, which are not as sensitive, there is a housing project that the tribe is doing now. But that does not have the same constraints as the land occupied by the tribal members.

MR. WHITLESEY: I would add too, and it goes to one of the, I say, poster children for bad behavior, there is a case of where a tribe, a rancheria, built a casino on a site that was environmentally unacceptable location with no water, and that's the Dry Creek Rancheria in Sonoma County, with which you may be familiar. The hill started falling down while they were building the slab, and they had to spend tens of millions of dollars in putting steel girders into the side of the hill to hold the hill from falling down. They put in a waste container system that was ill-advised for the soils that were there that totally failed. They have to truck water. I mean, there's a case where there were

legitimate environmental concerns. The tribe ignored them; forged ahead; and for the entire time that facility has been open, it's been one environmental problem after another. And by the way, included among the environmental problems there is an access road that is totally....it was a residential access road. They moved the people off of that facility. It's totally inadequate. There have been countless problems and traffic problems and accidents there, and now the tribe is proposing to acquire an adjacent parcel and avoid the Feet of Trust for Gaming Purposes to build an access road up that parcel to get to the Rancheria. So there's a good case study which can show you what happens when the tribe ignores legitimate environment concerns. And this tribe has responded to that by developing a project at a site that is at an environmentally acceptable site.

SENATOR DENAHAM: Thank you.

MS. FINK: May I add to that please?

SENATOR DENHAM: Sure.

MS. FINK: That 80 acres was given to North Fork Rancheria in 1916 to Suzy Johnson. The descendents now are six families. This tribe would never rezone and get these people off the property.

SENATOR DENHAM: Thank you. Our next witness is Tom Kidwell, Madera County Assessor.

TOM KIDWELL: Senator Denham, ladies and gentlemen, I'm Tom Kidwell, the Madera County Assessor. As county assessor I am elected to ensure that the laws regarding property taxes are implemented fairly and efficiently on behalf of the people of Madera County and California. That means that I must determine what property of Madera County is taxable, and then assess a value to the property for property tax purposes.

Properties owned by Indians require particular attention. Simply stated, if land is held in trust by the United States government on behalf of an individual Indian or tribe of Indians, that I have no jurisdiction to assess that land, as I have no jurisdiction over the federal government who technically owns that land. On the other hand, if the land is not held in trust by the

United States government, then I do have jurisdiction over it and I must assess it as I would any other property within the county.

The North Fork Mono Tribe's project falls under these same laws, and, to my knowledge, they have consistently abided by the law in this regard. Additionally, their MOU with the county of Madera calls for payments in excess of \$4 million per year for 20 years and was agreed to by the Mono Tribe despite the fact that they expect to have the land put into trust status prior to development, making additional property tax questions moot. From my perspective, this is a generous offer and would more than compensate for any property tax revenue lost as a result of this property taken into trust and developed as a casino.

Mr. Chairman, I have no authority to grant approval of this project, but I wish them well.

SENATOR FLOREZ: Great. Thank you. How long does the property stay on the tax rules, prior to formally be taken into trust by a tribe?

MR. KIDWELL: I'm sorry, I don't understand the question. Until it is taken into trust, it's taxable.

SENATOR FLOREZ: Okay. So right now the property on Avenue 17 is taxable?

MR. KIDWELL: Yes, sir.

SENATOR FLOREZ: Okay. When does it cease to be taxable?

MR. KIDWELL: The day a deed is recorded with acceptance by the United States of America as being held in trust for the benefit of the Indian or tribe.

SENATOR FLOREZ: And can a casino being constructed on a land held, as you mentioned. Those types of construction, they start construction once that land is actually in trust, right? Correct?

MR. KIDWELL: I'm not sure what....they have, yes.

SENATOR FLOREZ: The ability to do that.

MR. KIDWELL: Yes.

SENATOR FLOREZ: So once it's off the rolls, it's off the rolls. So once it's in trust, no matter what happens, it's okay.

MR. KIDWELL: Unless the property is transferred outside to a person outside of the tribe, at which time it becomes taxable again.

SENATOR FLOREZ: Okay. And in terms of the monies lost as compared to the money gained, what could you tell us in terms of that particular property site?

MR. KIDWELL: Well as we're speaking now, it's agricultural property. We're talking in the neighborhood of 300 some acres--let's round it off to 400 acres. If you had \$10,000 an acre, which is extremely high for that area, the total value would be \$4 million. The tax on that would be \$40,000. And I think every item that was listed in the Memorandum of Understanding is far in excess of that amount.

SENATOR FLOREZ: Okay. Senator Denham, do you have any questions?

SENATOR DENHAM: No.

SENATOR FLOREZ: Great. Thank you very much. Okay, Dennis Cota, special counsel, Madera County Board of Supervisors.

DENNIS COTA: Senator Florez, Senator Denham, as special counsel for Madera County Assessor, and an attorney who does a fair amount of legal work associated with Indian gaming both here in the Central Valley and around the state, I appreciate the opportunity to be involved in this process. Obviously Indian gaming has become a significant issue, and will continue to be so. And we've talked today about a number of issues. Your question, Senator, to Mr. Kidwell, highlights some of the issues associated with the Fee of Trust component of this in local government taxation of Indian held lands, and that's the focus of my comments today. The issue of local government taxation is perhaps clearest with regard to ad valorem property taxes.

Senators, as you are aware, the constitutional duty of the assessor is to assess all real property that's subject to taxation for its full value pursuant to the California Tax Codes. However, land held in Fee Title is subject to ad

valorem property taxes unless there's a specific exception. If the land is freely alienable or subject to sale or transfer in the manner that you or I might own our homes and not otherwise accepted for taxation, then ad valorem property taxes apply. It applies whether or not that property owned in fee is held by an Indian tribe. And, of course, that's been the subject of considerable litigation and the recent decision by the United States Supreme Court in the "City of Sherrill" case (and I've provided you a copy of that decision in the white binder that's before you at tab-11).

As you are also aware, the land owned by an Indian tribe but placed in trust with the United States government qualifies for this tax exempt status. And as you are noting in your questions, until the property is accepted into trust by the United States, those ad valorem property taxes will continue to accrue and accordingly, if not paid, tax liens, fines, etc. can occur.

Now, in securing property for the development of the Mono Tribe's proposed Indian gaming facilities near the 99 Freeway, the tribe has acknowledged that these laws relating to local government taxation would apply. And earlier today you were asking about the proper order, for example, of entering into a MOU or placing property into trust. And this is an example of that, that appropriate ordering. The tribe has advised with regard to this proposed project, that in advance of pursuing the project for gaming facilities near the 99 Freeway, that they would place, apply, and receive acceptance of the property into trust. And in so doing, it would avoid any issues of ad valorem property taxes. Thus, the need for the MOU and the appropriate procedure that was followed there.

It should also be noted, that the Mono Tribe has acknowledged that the ad valorem property taxes, which would otherwise be assessed on the property, would, in part, be contributing to some of those local government services that we've heard testimony about the law enforcement, fire protection, that sort of thing.

The Mono Tribe has recognized that acceptance of the property into trust would eliminate the revenue from such property taxes, but nonetheless that

they would be receiving the benefit of these county services. And they further recognize that the future project, if it came to fruition, would have impacts on the county, such as those that we've heard testimony about today.

In light of these facts, the Mono Tribe entered into the Memorandum of Understanding that we heard about this morning. And by the terms of that agreement, at such time as it goes forward, they will make those series of contributions which have been negotiated with the county.

It's our understanding that the county and the tribe participated actively in those negotiations. They crafted what everyone felt was a fair and effective memorandum of understanding and that the Mono Tribe has taken the steps to affirm the tax exempt status.

By contrast, we've heard some testimony today about the contrasting circumstances with the Picayune Rancheria. There was a Memorandum of Understanding entered into there as well. However, that property, even to date, has not been placed in trust and the local taxes continue to accrue. The issue of whether that property is subject to ad valorem property taxes, as you senators may know, is the subject of litigation. I believe Supervisor Gilbert referenced this earlier, the Chuckchansi Tribe did not apply to the United States government to have their property accepted into trust until after their casino and resort operations were developed and the substantial tax exposure had accrued. And that's really that issue of the proper order of these steps that we just talked about.

The trust application, to date, has not been accepted for the Chuckchansi Tribe. And while they have taken the steps to place their property in trust, apparently acknowledging that that step is necessary, with regard to the Chuckchansi Tribe, they continue to protest the ad valorem property taxes.

While the county remains hopeful that that issue will be resolved by a negotiated resolution, the scope of that dispute and the fact that it has resulted in litigation, really underscores this issue of local government

taxation and the importance of the government to government relations that would avoid that sort of dispute.

Now, with regard to the Mono Tribe—that dispute has been avoided. And it is our hope that with the assistance of the State Legislature and the continuing efforts, of course, of the County Board of Supervisors and the Tribal Councils, that these problems can be avoided in the future. They are among the important issues that we believe the Legislature should be considering. And hopefully, the example of the Mono's Tribe handling of these issues suggests a model for the future that will benefit this tribe and future tribes.

SENATOR FLOREZ: Thank you very much. Senator Denham, questions? Let me just ask one. In terms of the MOU, maybe it's to any of the Board or to yourself or the assessor, there are issues that are addressing the MOUs as we were going through item by item, but are there any types of captures for some of the water districts to capture some of these dollars in the MOU, particularly for the Madera Irrigation District—rechargers that are addressed in the MOU or any sort of taxes or water types of items that would be forthcoming to that district?

MR. COTA: Are you referring to the MOU with the Mono Tribe?

SENATOR FLOREZ: Yes.

MR. COTA: I'll refer that to either county counsel or Mr. Gilbert.

MR. GILBERT: Senator, there is no mitigation identified for water recharge, but that would be one of the issues that the tribe will have to address as they go forward. They will have to make a choice based upon the MOU, is, do they hook up to the infrastructure provided by the city of Madera, or do they drill wells on their property? But those are also the water issues that would be identified in their full Environmental Impact Report that they'll be doing.

SENATOR FLOREZ: Okay. But how do we capture that, if it's not the MOU, for actual payment either one-time or ongoing?

MR. GILBERT: In our MOU, there is no capture money for MID. But if it's identified in the Environmental Impact Statement that the tribe is required to do, then that will have to be identified in there and show an appropriate mitigation.

SENATOR FLOREZ: Okay. And then the MOU would then be reopened and added?

MR. GILBERT: No. That would be a separate document that would, in my opinion, be identified within the environmental documents done by NEPA...

SENATOR FLOREZ: I understand the environmental document, but I'm saying, are you, the Board of Supervisors, then going to hold them to that agreement? Because that would be a side agreement not captured by your current MOU that would have a real impact on the rate payers in many cases.

MR. PRENTICE: If I could, Senator Florez, the reason that the MOU doesn't come into play in that is, is that Madera Irrigation District is a separate legal entity. If the EIS identifies some impact on Madera Irrigation District, the tribe would have to negotiate directly with the district.

SENATOR FLOREZ: Okay. So that leaves a separate side issue to be negotiated, is that correct?

MR. PRENTICE: Yes, Senator.

SENATOR FLOREZ: Okay. Thank you very much. Let's move onto Bobby Kahn, Executive Director of Madera County Economic Development Commission and Elaine Craig, the Director of Madera County Workforce Investment Board. And then we're going to move onto the bottom half of our agenda. Thank you for joining us.

BOBBY KAHN: Thank you, Senator Florez and Senator Denham. My name is Bobby Kahn. I'm the executive director for the Madera County Economic Development Commission.

The Madera County Economic Development Commission is a joint powers agreement agreed upon between the two cities of Madera and Chowchilla and the county of Madera, and we represent all jurisdictions. Our

board of directors is made up of representatives from both cities and the County Board of Supervisors, as well as the Madera Chamber of Commerce, Hispanic Chamber of Commerce, the North Fork Chamber of Commerce, the Bass Lake Chamber of Commerce, and the chambers of commerce throughout the county.

The Madera County Economic Development Commission board of directors has unanimously voted to support the North Fork Mono Indian Tribe Casino Resort project to be located at the Avenue 17 site. During the discussions not only did the Madera County Economic Development Commission Board recognize the benefit of living wage jobs this project will create, but the overall positive economic impact a project of this magnitude will create for this region. The economic stimulation created by a project of this nature will be a great benefit not only to the county of Madera, but to both the cities of Madera and Chowchilla and their citizens.

If you have any questions, I will be happy to answer them.

SENATOR FLOREZ: Okay. Senator Denham, do you have any questions?

SENATOR DENHAM: No questions.

SENATOR FLOREZ: Let's hear from Elaine Craig.

ELAINE CRAIG: Good afternoon, Senator Florez and Senator Denham. My name is Elaine Craig. I'm the executive director of the Madera County Workforce Investment Board. The Board is comprised of a mandatory majority of business and private sector members and has representation from public and community-based organizations. Among the board's several purposes is oversight responsibility for the one-stop workforce delivery and development system. The One-Stop in Madera County is known as the Madera County Workforce Assistance Center, and on behalf of the Board, it is operated by the Madera County Workforce Development Office. It is a collaboration of numerous partners sharing and working toward common goals.

Among the Board's many goals is to enhance the community life for Madera County residents through the One-Stop workforce system by providing

services and resources for both job seekers and employers related to employment and training. Woven within this goal is to decrease unemployment and to raise self-sufficiency and the standard of living, thereby enhancing the community's overall economic vitality. These goals are achieved by providing all allowable services and resources, such as on the job trainings, customized in individual sector skill training, career assessment, job development and placement, career exploration, labor market information, recruitment and screening, interview and resume assistance, supportive services, to name just a few.

The One-Stop System is mandated by the Workforce Investment Act of 1998, and is a significant change from previous employment and training programs, such as JTPA and CETA, in that it's customer base became employers and businesses within communities as much, if not more, as the job seekers. This is predicated on the fact that we need, obviously, employers and businesses in order to mitigate and successfully address unemployment and the impact unemployment and underemployment has on our communities.

We look forward to providing all necessary services and resources to the North Fork Mono Indian Tribe and the casino project as an employer and business customer, and assisting the jobseeker customers who will significantly benefit from this project, thus enhancing the community of Madera, and thus achieving one very important goal of the Madera County Workforce Investment Board.

SENATOR FLOREZ: Great. Thank you very much. Any questions?

MS. CRAIG: Thank you.

SENATOR FLOREZ: Okay. Let's go onto our elected officials—Gordon Skeels, Mayor of the city of Madera; we have the Mayor Pro Tem, city of Madera, Robert Poythress; and then we'll hear from....well, let's do those two first and then we'll get to the next three after that.

GORDON SKEELS: Thank you, Senator Florez, Senator Denham.

SENATOR FLOREZ: Thank you for joining us.

MAYOR SKEELS: Thank you for coming to our community and talking about this issue. Just as a matter of background information, I come from a law enforcement background, as well. I spent 29 years in law enforcement. The last 19, I was here as a police chief in the city of Madera and then I went to the dark side and became a politician.

But when I found out that there was going to be a casino around the northern boundary of the city, just outside our city limits, I guess like Sheriff Anderson mentioned, a lot of little red flags went up and I got thinking, “Boy, I don’t know if we really want that in this area or not.” But then I was asked to sit on the committee with Chairman Gilbert and Supervisor Dominici and we met with these folks over here. And I told them up front, I don’t believe in gambling. I don’t do it. It’s not something that I do. If it’s up to me personally, there wouldn’t be casinos in the state of California at all. I simply don’t believe in that as a moral issue. But I wasn’t allowed to impose my moral values on people, I was elected to serve the citizens and attempt to do those things that are best for the community. And with that in mind, we met and we started talking about this thing.

And I found a lot of questions when I first went into this thing. They knew I was probably kind of a pain in the neck because I asked many questions about problems that might come up. And I found out that they’re more than willing to mitigate the problems.

As a city actually, we have a much smaller role in this than the county does. We’re sort of on the periphery of it, but nevertheless, there’s going to be some spillover when you have that much activity just on your city limits. There’s going to be some spillover here.

But anyway, I was very pleased with the fact that they were more than willing to discuss mitigation measures. They answered the majority of my questions. And I don’t want to carry on too long because a lot of this stuff has already been said. But, you know, many cities are having problems now, counties as well, because quite frankly, the state of California is taking a lot of

money away from us in the last few years, and we're forced to look for alternate sources of revenue or ways to enhance the revenue sources we already have.

We mentioned double-digit unemployment. A lot of the people that are unemployed here do not have college educations; some barely have high school educations. But this is the kind of job they can go to where they don't have to be well educated in book terms. They can get a job and they can make a living wage. They can get benefits. They can send their kids to school. They can buy a house. They can buy a car. They can do all these kinds of things. And they're bringing this multi-million dollar payroll into our community which hopefully, a good bit of it will come back into the city of Madera.

There's some downsides, obviously, to a project this big, and there's going to be some repercussions; there's going to be some traffic issues, and all those kinds of things that come up. But, let me just be a little bit cynical about this just for a moment.

There's been a lot of TV advertisement going on opposing this. I got a mailer a couple of days ago; expensive, nice looking thing. And there's been newspaper adds, full-page adds—somebody spent a lot of money to stop this project. And when you strip this all away, this is a matter of money; that's what it comes down to. You've got people that have got a casino that are making a lot of money. You've got people who want to have a casino and make some money. And the ones that already got it, don't want them to do it. Now, I understand that. I mean, but competition is part of the American system. But that's what it really comes down to in many ways.

I've learned a lot about this business, a lot more than I need to know, I guess. But the bottom line, when you get right down to it, the issue of whether this casino should be here or not, is largely based, I believe, on money. That's it. And we can use it in our community, quite frankly. And as a city, I support that program.

SENATOR FLOREZ: Okay. Senator Denham.

SENATOR DENHAM: What is the growth pattern of the city of Madera?

MAYOR SKEELS: Right now we're out to the west we're as far as we're going to go. We have a greenbelt out there, and farmland trust has picked up some land out there. Our growth pattern will be the northeast and the southeast. We have a college that's in our sphere of influence, the new city college on Avenue 12. That will be developed. When the casino moves in, I believe this is going to open up the Road 26 area. We're going to talk about opening up the Ellis Overpass, which probably doesn't mean anything to you. It's in the northern part of the city at Avenue 16, but it will open up that whole northern northeastern part of the city to not only residential, but commercial development. And commercial development, of course, is what we live on. We live on sales tax revenues.

SENATOR DENHAM: And Mayor, the current population of this city?

MAYOR SKEELS: The city right now is just a little over 50,000. The figures that Supervisor Gilbert...

MR. GILBERT: I know these are not right. They're obsolete.

MAYOR SKEELS: That was 2000. They just went over 50,000. And then that doesn't count the outlying areas where they're not actually in the city, but people come in and they shop and steal and do all kinds of things that people do in the cities that we have to take care of, as well. So probably we're servicing a population that may be closer to 60,000.

SENATOR DENHAM: And the current growth rate of the city?

MAYOR SKEELS: Is probably running right now three and five percent—between three and five percent a year.

SENATOR DENHAM: One of the concerns that I have and have continued to have in the past in working with the administration, you've heard Peter Siggins, who is the governor's attorney, referenced here a few times today, is the definition of urban gaming. And I know in his announcement yesterday he references the CEQA code that defines what urban gaming is. So my concern is, first of all, I don't know if CEQA is the best gauge of what urban gaming is with the lot of variations that we've talked about today with the 99 Corridor and other areas. But specifically in CEQA it talks about the definition

of central city and surrounding territory that together have a population of 50,000 or more people and a population density of more than 1,000 people per square mile. These are incorporated cities with a population of at least 100,000 people. So I think that we're getting into that gray area, and it's one of the concerns that I still have, is we define urban gaming whether or not this fits into that urban gaming definition.

MAYOR SKEELS: I don't know. I don't know what an advisory vote means yet. I've listened to that all afternoon. I thought when you advise somebody, you take the advice or leave it. I'm not sure.

SENATOR DENHAM: We're working to define that one too.

MAYOR SKEELS: Thank you.

SENATOR DENHAM: Thank you.

SENATOR FLOREZ: Thank you. Just maybe a question on the issue of advisory vote—would you want to be included in that if indeed the county did move to advisory vote, being that you're the mayor of the city of Madera?

MAYOR SKEELS: I think if they went that way the city would almost have to be involved in it because it's right at our northern city limit. In fact, I think it's in our sphere of influence.

SENATOR FLOREZ: Thank you very much. Okay, the mayor pro tem.

ROBERT POYTHRESS: Good afternoon, Senators Florez and Denham. Robert Poythress, the Mayor pro Tem of the city of Madera. And I am a new member, twice I was former president of the Chamber of Commerce. I am a banker (that's my day job), and also a small business owner.

This afternoon I'm not representing the city council with my viewpoint, as I was not a member of the city council during the period of time that there were discussions going on. I was elected in November of '04. I am representing, however, my viewpoint, as well as a number of other Maderans that have expressed their concern and opposition to the casino. I formally am opposed to the casino, especially at the location where it is adjacent to the Madera city limits. The following three factors represent what my opposition is all about:

First of all, the poor image that I believe the casino portrays in our community. If the casino arrives in Madera, it's here forever. It's not something that we can decide that comes here and if we don't like it in a couple of years, then we can tell it to go bye. It's here; it's not going away. The whole community will change with it. We'll be known as a casino town with the influence of the casino seen everywhere with signage, endorsements, and government officials looking at the casino and not a diversified economic base as a solution to money problems.

We know what the image of casino towns are in other locations and issues associated with them. I'd rather see Madera portrayed as a family friendly community that does not have the major industry in the area that consists of slot machine and card tables. There's nothing glamorous or worthy seeing people plugged into their machines with blank looks losing money, as opposed to what the commercials on TV show—some guy with a marching band celebrating that he hits three sevens on the slot machine.

Number two, I don't think we need the casino here. We've heard all afternoon about jobs and money and all these sorts of things, and I think that we don't need them to solve our government money problems, as well as provide jobs. The proposed casino, people have also described our economy as declining and the casino is necessary to improve the conditions. In fact, the unemployment rate, I guess I look at things as being half full rather than half empty, the good news is, it has declined under ten percent in Madera County based on recent reports.

Sectors such as anything to do with real estate, are flying off the charts. The agricultural economy has vastly improved. Major commercial companies that have located in Madera are stunned at the over budget success of their franchises and are looking for other locations within our city. Madera's demographic base has shown improvement with higher incomes.

It's no secret that major developers have spotted Madera on their radar screen with plans for large commercial development that will bring jobs. Also, I'm aware of industrial companies through my banking contacts, that are

moving to Madera that have the potential to bring well over 2- to 300 jobs within the next two years. In addition, Cedar Creek adult living community will add 80 jobs when it opens this fall. It's supposed to open in October. Does that sound like an economy that is declining and needs a casino to save us?

The Madera City Council is beginning a visioning process that will form a strategic plan, as well as a general plan, that will find ways to improve the quality of life for Maderans, as well as fund local government so that we can support future growth. I foresee master planned communities, streets that can handle traffic flows, commercial and school development, that is planned years ahead so that people are not caught in a guessing game. The visioning will also include redevelopment of existing parts of Madera that are subject to crumbling infrastructure. These are things that can be accomplished with proper planning without the help of a casino.

The last thing I'd like to mention is the human factor. Today we are here because the Mono Tribe wants to make money. And I have to say, that if you get that location, congratulations. It will be a grand slam for you. You ought to make a lot of money out there. It's right there on Highway 99. It's a brilliant move.

The Chuckchansi Tribe is here because they don't want to lose money. And the government people are supporting the casino because some money may be available to fill some holes.

Unfortunately, we seem to forget about the most important issue, in my estimation, and that's the human factor. From my vantage point as a banker in Madera, I have seen issues and problems created from casino gambling, and it's really from the existing casinos. I've seen business people that have cash flow problems. I've looked at their accounts. I've seen numerous withdrawals from Table Mountain or Chuckchansi ATM machines. I've seen people that have inherited small fortunes that have gone and lost their money through gambling in relatively short periods of time.

This casino will provide many opportunities for people in Madera who don't have problems now, that will be created and for problem gamblers to

continue them. The victims are families of the addicted, especially children. I have been told that the casino will be a place for the whole family. Really? I suppose child activities will provide a good way to assure the future of casino earnings.

I believe that the jury is still out on the whole casino movement in the state of California. The long-term ramifications of the increasing of casinos is unknown at this time from a social standpoint. We need to be careful.

I heard John, here, say that the tribe will do what's best for the community. If that's true, please consider placing the casino elsewhere than on our city limits.

Gentlemen, I'd like to thank you for your time and effort in organizing the hearing today, and the opportunity to present this information. Thank you.

SENATOR FLOREZ: Thank you very much. Okay. Let me ask you a couple of questions, if I could. Now you're the mayor pro tem of the city of Madera?

MR. POYTHRESS: Correct.

SENATOR FLOREZ: What do you take on this advisory vote issue? And I think you heard the mayor mention earlier he couldn't see an opportunity if there was a vote on this concept, that the city of Madera wouldn't be not included. Would you agree with that?

MR. POYTHRESS: We must be included in on an advisory vote, absolutely.

SENATOR FLOREZ: And how do you view an advisory vote? Is that an advisory vote that allows the Board of Supervisors to make a decision, or is it a vote, an up or down on the casino itself?

MR. POYTHRESS: I think it should be an up or down on the casino.

SENATOR FLOREZ: Okay. And then the other is, you mentioned you were the past president of the Madera City Chamber of Commerce; where is the chamber of commerce on this project today?

MR. POYTHRESS: We haven't made a decision as a board. We had a presentation some time in the past. We were asked to take a position, but as of this date we have not taken a position as a board.

SENATOR FLOREZ: Okay. And then also, looking at the, I heard us detail the MOU and the amount of cash flow available for each of the entities on an ongoing basis, not a one time, and my view of it in just looking at the ongoing versus the nonrecurring, do you foresee yourselves participating in the nonrecurring aspect of it? Because at the end of the day I see reoccurring for the city of Madera of \$250,000 a year. Is \$250,000 a year enough from your vantage point, given its location to make you feel comfortable in recommending this to the people that you represent?

MR. POYTHRESS: Well, first of all, I would never recommend the casino, but if even at....\$250,000 is nothing. Our budget next year is probably going to be about \$18 million and \$250,000 is a drop in a bucket. I believe that we're going to need to....that would be needed to mitigate these issues. I mean, it would have to be an amount much higher.

SENATOR FLOREZ: Okay. And then how do you portend to get it higher if indeed this comes in, given that the MOU states that you will be receiving \$250,000? Do you plan to do a side MOU with the tribe or how is that money going happen if, indeed, it's not enough?

MR. POYTHRESS: That's a good question. All I can do is speculate at this time, that when they do come to the table to take a look at tying into our sewer system and our water system and talking about roads and so forth. I suppose at that time we could talk about some more dollars. But, at this point, with that MOU there's no further negotiation.

SENATOR FLOREZ: Okay. Any other questions? Senator.

SENATOR DENHAM: Yes. In your estimation, what would be a fair advisory vote, the whole county? I mean, I'm assuming it's going to be a vote of the people right?

MR. POYTHRESS: Right.

SENATOR DENHAM: We need to define that. But what would you consider a sphere of influence as far as a total advisory vote?

MR. POYTHRESS: I know it would be difficult to draw a line, but for instance, with the Chuckchansi Tribe, you know, any type of vote that would have happened there, I would have felt that we're not really too much of an issue up there just because you have to travel 41 and so forth to have an issue there. So I would say at least the cities of Madera, Chowchilla, and I guess what you'd call flat land residents. But I don't know how you draw a line on that—maybe by supervisor's districts that would be impacted.

SENATOR DENHAM: Thank you.

MR. POYTHRESS: Thank you.

SENATOR DENHAM: Our next witness, former mayor, Gary Svanda.

GARY SVANDA: Senator Denham, Senator Florez, as you announced me, I'm a former mayor of the city of Madera, serving in the year 2002, and a former resident of the Madera Chamber of Commerce. So, I'm just an old retread, like the mayor calls me, but with influence with the people that started this process. I was at one of the council people's positions when we started the entire process.

I take a little different point of view than my current counterpart, the Mayor pro Tem. We've talked many times in this area about the three things that Madera, along with many valley towns, needing to change if our economic future is going to be bright. And we define those in three different terms. I call them three -tions: We need to change our education programs; our beautification programs; and our diversification programs. Now I think we can do a pretty good job with the first two. But diversifying our economy is going to be much tougher and it's going to require outside help.

We cannot continue to be an economy based on agriculture. It promotes low paying, low skilled, low esteem jobs, and currently our labor force is not capable of producing high tech, manufacturing, or assembly jobs. We have to dance with who brought us. And the kind of service jobs that would be created currently, good jobs with benefits and career advancement opportunities are

being brought to our area not by government money, but by private investment capital.

I agree with what the chairperson of the tribe has said and what Supervisor Gilbert has echoed; that we need to redefine our area. And a potential of that would be an entertainment destination. I think we have wonderful facilities not only local, but regional—the national draw of Yosemite National Park. We could use a casino on 99 to be an anchor development that would bring people to our area for an entertainment destination.

With the tremendous population growth that our region has experienced, and continues to experience, it creates enormous challenges for local governments, providing for public safety, addressing quality of life issues, will continue to dominate their time and their budgets.

Indian gaming facilities and their enhanced revenue potential provide a diversification of our economy that, again, is being offered by private capital to California communities. I would certainly hope that we make every effort to take advantage of that opportunity.

Again, I thank you for the opportunity to come and speak. I would be glad to answer any questions that the committee might have.

SENATOR DENHAM: Thank you. We will now hear from representatives from Chowchilla. Mayor Lucchesi, it's good to see you again.

AL LUCCHESI: Good afternoon, Senator Denham. On behalf of the city council of Chowchilla, I'm happy to report that they voted unanimously to support the casino. And also, this morning I was talking to some my constituents and they asked me, "What are you going to tell the senators when you go down and testify?" I told them that we are supporting them, and they said, "That's the way we want you to tell." That the support is more than just support for money and support for other things. It's also something new for Madera County, and the people seem to want this, at least in my area. Of course, I'm sure there's some descent to that also, although I have not heard it.

I think that the project will benefit Madera County, just as Chairman Gilbert has stated, with jobs and other areas. However, we do know that there

is gaming and then there is gaming. By that I mean that there's the slot machine type of gaming and then there's the Wall Street type of gaming. We have to take into consideration that there are problems in both areas.

And one thing that I do, I also sit on the Madera County Alcohol and Drug Board, and we have looked at this. And the gambling problem throughout the country is increasing, as you know. Part of Proposition 1A allows that a certain amount of money goes to the state for prevention and adhering to this type of a problem. And so far we have not seen much help from the state of California as to gambling addiction, and it's something that is needed.

Right now, most of the behavioral health problems have to be addressed in a private manner. And if you don't have private insurance, you're not going to get that help. And this type of problem exists not only in gaming of roulette wheels, but also, as we've found, that it exists where people have lost money in the stock market; sometimes not by their own fault; sometimes because of lack of proper law enforcement in that area. So it's something that I think in the future we need to look at. And from the state point, giving the counties more help in this area. Our compact provides a certain amount of help in that there's more need from the state, because you do have the money in the state at this time. It's just not being spent. So that's one area that I would implore the state to do some more on.

And with that, I thank you for this time to talk to you.

SENATOR DENHAM: Thank you. And I would concur, that we need to do a better job as a state on spending that money on the right purpose. Right now it's being used for studies, and that doesn't help individuals. Thank you for your testimony.

MR. SVANDA: Thank you.

The next witness today is David Rogers, Past Mayor of Chowchilla.
Thank you.

DAVID ROGERS: Thank you, Senator. I appreciate the opportunity to express our points of view. And I haven't had the opportunity to thank Dean

Florez for his questions, but he did echo many of the questions that I had personally, and I appreciate that.

I'm David Rogers, and I served in Chowchilla for the last two decades. I served nine years on the city council; twice as mayor and twice as mayor pro tem. I've been on the Madera County Economic Development Commission and served in other capacities in my community.

I have a history in this area, as well. I raised my children here. I lived here much of my life. I live and work within ten minutes of the proposed project site. My children will drive to college past that site every day. My church is located less than 2 ½ miles from that location. Our private school and our church is located less than 2 ½ miles from that very site location.

I consider the area to be, as was said earlier, pristine ag land. I enjoy driving through this ag area and seeing the crops growing, and I realize that much of that is disappearing. In fact, I the next many years they say that the 99 Corridor will absolutely lose it's ag views, which distresses me a little bit.

But that aside, those who are pro for this project want this project offsite in my yard instead of in their own yard. I find that a little bit distressing.

The casino industry, unlike other industries, does not utilize materials, produce a product and distribute that product to generate revenue. In order for the casino industry to generate revenues, someone will lose, a problem that you cannot mitigate.

Statistically, those who will lose more, are those people who live in the proximity. They will not be people of means with extra resources. A father will lose, taking groceries off the family table. A mother will lose, she'll deplete her children's college funds. These are not cases that I'm dreaming up as possibilities, these are actual cases. A family will lose their home. We know that's going to occur. Some will lose, in desperation take their own lives. And as I've said, these are not fictional possibilities, they are factual accounts and continued probabilities.

In short, the casino industry legally takes from the community in which it resides, to generate revenue which will be shared in a small part by the

county. We will share in the revenue and you will share in the way it was generated. You will share in the increased problems in the community; you will share in the burden it placed on families that it does destroy in reaping its gains. And I ask you, is that entertainment? Is that entertaining to you? Are you not entertained? You may recognize that line from the movie, "Gladiator," which much more barbarically illustrates an entertainment industry which exploits real people. But nonetheless, it is not pretty. I'm speaking from the human standpoint here, piggybacking on the express views of Robert Poythress.

A friend of mine owns a piece of property contiguous to the proposed site of the casino. He has much to gain financially by the building of this project. He's the owner of Madera Custom Tile. His name is Mark. He told me this morning on the phone, he said, "I stand more to gain probably more than anybody around on this." But you know what he said? And I quote, "I am not in favor of this project because, 1) it is morally wrong. We must make decisions based on integrity, not on financial feasibility."

I would urge you to have the courage to put this to the vote of the citizens of the communities of Chowchilla and Madera. When you talk about a, what was the term, advisory vote, put it to the vote of the people that live in the area. I live in the area. Put it to the vote of the people it's going to affect the most. That would be my urging to you. And give us an opportunity to voice, as a community, how we feel about this project going in.

SENATOR DENHAM: We will now move to panel-8. The first witness is Joyce Burel, Tribal Chairperson of Picayune Rancheria of Chuckchansi Indians.

SENATOR FLOREZ: Thank you, Senator Denham, for manning a good portion of it. Why don't you go ahead and begin. And I think the question is, whether or not we're going to a panel. I think we're going to just do one by one testimony, if that would be okay with you.

JOYCE BUREL: Good afternoon. And thank you for holding this hearing here today. The issues you are discussing are very important to the

future of all Indian gaming in California, and we appreciate the opportunity to testify.

My name is Joyce Burel, and I am the Tribal Chairwoman of the Picayune Rancheria of the Chuckchansi Indians. Our compact, signed by Governor Davis in 1999, allowed us to build two gaming facilities. We have chosen to build one in keeping with the promise that Indian tribes made to the citizens of California in the Proposition 5 and 1A campaigns. Our casino is located entirely upon aboriginal tribal lands.

We believe the proposal of the North Fork Rancheria of Mono Indians and Station Casinos to site their facility in Madera County on Highway 99 goes against the will of the California voters. The casino proposal is clearly proposed on land not indigenous to the North Fork Mono. We certainly understand the desire of Indian tribes to participate in economic development that allows Native Americans to become economically independent, but we also firmly believe that if the promise made to California voters is broken....and I will note that the promise was reaffirmed when the voters rejected Proposition 68 and 70....If those promises are broken, all future Indian gaming could be in jeopardy. That promise was that Indian gaming would be limited to Indian land. That is why we are so very concerned about the proposal to build a mega casino on Highway 99, more than 40 miles from the North Fork Mono tribal land.

As you can see by the map we provided the committee, this site certainly qualifies urban under any definition, and it raises a number of concerns that policymakers, like you, must address.

First and foremost, it is clear that the North Fork Rancheria has no historical or aboriginal ties to the Madera County site. While you may have heard from their experts, you will hear from other experts, that North Fork has no aboriginal ties outside the foothills.

I'd like to show you a map from the handbook of North American Indian Tribes published by the Smithsonian Institute. It is widely accepted as the leading authority on tribal aboriginal boundaries. You can see that the site of

the proposed casino and the tribal land outlined as Mono, are far apart. In fact, the site of the North Fork Rancheria is more than 40 miles from the proposed casino site. And our territory, that of the Foothill Yokuts, is directly in between. In essence, our territory is being leapfrogged by another tribe to gain a major population center.

The precedence set by an out of state gaming entity, essentially shopping for the right tribe in the right county and the right traffic corridor in California solely for the purpose of maximizing profits for its shareholders, should be rejected.

Now, months after the MOU was signed, we are hearing a different story, because off-reservation gaming has become such a difficult topic. We are now hearing that they have historical ties to the site. We don't believe it is true and we have plenty of evidence to support that.

I want to make it clear, we are not here today to speak against gaming, or even against the North Fork Tribe establishing gaming on their land. In fact, we have said repeatedly, if they were proposing to build on their current North Fork site, we would be the first to arrive with hammers and shovels.

What we are asking is that every tribe in California play by the same rules and keep the promise that allowed for Indian gaming in the first place. We have played by those rules, and we think there should be a level playing field for all tribes.

We have, in fact, lived in our foothills south of Yosemite for thousands of years. We are Yokut speaking people who inhabited the San Joaquin Valley from the Tehachapis in the south to the delta in the north, to the coast range in the west and into the Sierra foothills. As Yokuts, we hunted, fished in a part of the state that is beautiful, plentiful, and peaceful. But like other California tribes, the gold rush immigration from the east resulted in genocide, and it is commonly thought that between 1870 and 1900, 90 percent of the population of California tribes disappeared. In the course of a few generations, our aboriginal land was taken from us. We were given 80 acres shortly after the turn of the century for homeless Chuckchansi Indians. We were terminated as

a tribe in the early 50s, 1953, and we were reestablished under the Tilly Hardwick Act in 1983.

Since then, through many more hardships and a lot of hard work and commitment by previous tribal leaders and the action of California voters, we are finally reemerging as a rightful inhabitant of our land, with the economic means to provide for the sustainability of our tribe. We have more than 1,250 tribal members, and we are finally looking to a future with hope.

We are first and foremost committed to the children of our tribe. We have offered programs in literacy, science and math tutoring. We sponsor scholarships for tribal members. We subsidize child care for working parents and parents going to school. We have purchased homes to subsidize low-income rentals for our tribal members. We have rehabilitated homes that were below substandard, and we have built homes for tribal members. We have a new cultural resource department, and we look forward to increasing our cultural activities. We are documenting Chuckchansi lineage and genealogies. We support our language and our basket weavers. And the most recent thing that we have been able to do, is provide a small stipend to our elders over 65, to help with utility assistance payments.

In addition, we have purchased two fire trucks, one ladder truck, that supports the Children's Hospital south of us. And we have put more than \$4.7 million into the county of Madera. We are the largest employer with a monthly payroll of over \$1.5 million, and we employ more than 1,200 employees. And, yes, this is all because we have built and managed the Chuckchansi Gold Resort and Casino on our aboriginal homelands in Coarsegold.

And why shouldn't others have the same chance, you might ask? We say, they should, but only if they keep the promise made to Californians and build their facilities on tribal land.

Others that will follow will discuss other important aspects of this to the environment, air quality, and traffic, but I want to end my testimony with a central theme of our position. Some of our most cherished values in Indian

country are about honoring commitment and keeping one's word. Unfortunately, we have hundreds of years of experience dealing with governments that have broken their word to us. As Californians and tribal members, we have kept the promise of Proposition 5 and 1A. We built our casino on our aboriginal tribal land at great cost and sacrifice, but we kept our word. We only ask that others follow the same rules and keep the playing field level for all, so that all Indian gaming can continue on Indian land away from urban centers. Thank you.

SENATOR FLOREZ: Thank you very much. Let me just ask you a couple of questions. I want to try to ask the questions in reverse of what I asked the tribe earlier on some of the larger policy issues, so I can get your perspective on them.

First and foremost, you said that you had evidence in the opposite, and would that be the light reading you just handed us right here on the dais? These binders?

MS. BUREL: Yes. There's some in the binders.

SENATOR FLOREZ: Our staff thanks you for that, very much. And first, let me say, thank you on behalf of their reading as they start to go through that.

Let me first start off with, I think the questions that I began, and let me go back to my notes that I asked Ms. Fink at the beginning of her testimony, on the issues of, and let me just ask the exact same order—advisory vote. The Governor seems to be saying, and as my vice-chair has mentioned, we're going to figure out what that means as we look through the policy issues....the Governor seems to be saying that advisory vote is something that we would probably look at for, maybe, off-reservation gaming. Because as you mentioned, we've had a vote to allow Indian gaming on the reservation; we've had a vote to approve the lottery, a form of gaming; we've had a vote to approve many other types of things—local jurisdictions, card clubs, etc. What's different about this particular site? It's off-reservation, you've mentioned, but does it follow through, from your perspective, that there should be an advisory

vote for this particular site? And the reason I ask you that, and before you answer it, let me preface it by saying, you've said been approved for two casinos—one on your reservation, and one we don't know yet. So, use your words carefully.

MS. BUREL: Prop. 5 and 1A, we have the option of having two sites. There are over 100 tribes in California; approximately half have casinos. So there is the potential to have a great proliferation of Indian gaming.

We believe that the voters of California gave tribes the right to have Indian gaming on their tribal lands. And if tribes chose to go off site and exploit the loopholes that are available, we're concerned that the voters could take that back. And we don't believe that the community of Madera and the surrounding area is really in favor of this casino.

So, yes, we would like to see a vote. We support a vote.

SENATOR FLOREZ: Let me ask you another follow-up question to that. I think I mentioned the issue of transparency. I think it was right at the beginning of the hearing. And I asked the issue of who's running the day to day? And I think the answer....actually, let me just ask you. I think the reason was, is a management group picked by a selection process that ultimately became Stations, correct? Who runs your day to day?

MS. BUREL: At this point we are self-managing, so we don't have a...

SENATOR FLOREZ: Okay. And what are your thoughts on management companies that are Las Vegas based, Nevada based?

MS. BUREL: I don't think I can comment on that. We had a management company when we first started out. They came to us. We were essentially a green field. That didn't work out so well. We're choosing to self-manage. I see large gaming companies coming from out of state who don't have a stake in California, and tribes who are vulnerable to having to work with them.

SENATOR FLOREZ: Let me ask you—the third question I think I asked was the MOU itself, and then we began lots of discussions on good or bad, the environmental sensitive nature of the land that precludes it being on the

reservation. Not particularly towards this project, but your thoughts on the MOU? You've done an MOU with Madera, correct?

MS. BUREL: Yes.

SENATOR FLOREZ: And the county, not to put words in their mouth, seemed to be saying that with one out of five people unemployed, things are likely to get better because of this particular project. Prior to you doing your MOU, I imagine the unemployment rate was still one out of five. So, in essence, is this the panacea? I mean, you came in. You're supposed to help improve the unemployment rate. What are we supposed to tell the citizens in the area? And it's my area, Fresno, and Senator Denham's as well, in the adjoining areas. I mean, is this really going to provide the types of jobs, the 1,500 jobs that have been mentioned, the 750 construction jobs? I'm sure you've offered all of that, as well, and yet we're still talking about chronic unemployment. What's so good about these facilities—yours and this?

MS. BUREL: Certainly we have lowered the unemployment rate. I don't know what the specific statistics are, and I would assume that if this casino is allowed to go in, more people will be employed, and that will have some affect on the unemployment rate.

SENATOR FLOREZ: Okay. That's just a question. I mean, because we're talking within the context of, this is going to provide more. And I assume when you did your MOU, the argument was still, you're going to provide more.

MS. BUREL: And we have.

SENATOR FLOREZ: And if we come back here three years from now, and there's other folks that want to do a 99 Corridor thing or something even on their reservation, I'm sure the argument will be, we need more because the unemployment rate is still low, correct?

MS. BUREL: I can't speak to that.

SENATOR FLOREZ: Okay. Let me ask you a question that I asked, as well, on the actual issue of aboriginal lands that transcend each other. And you know, if North Fork says Avenue 17, what's to prevent you folks from coming down and saying, what's across the street from Avenue 17, therefore we

would like to be in a prime location, as well? So there actually is this hub, a casino on one side and a casino on the other. So I mean, what prevents that aboriginal land, as we start to, as a policy committee, and I mentioned this very seriously in the beginning. I think you remember. How do we as a committee look at that when we're going to have all these fights? The Governor has done a good job of telling us where we can't build, but Senator Denham and I represent very few of those cities, you know—Los Angeles, Oakland. I mean, we know now, in essence, where you can't expand, but for the valley, for the open markets, for the coastal areas, for our colleagues, Senator Maldonado and others, how are we supposed to look at these aboriginal lands crossing over the ability of people, in essence, to have a casino on their reservation and yet have the option to put another one somewhere else, and where that somewhere else may be? How do we know it's not going to be across the street, and should it be?

MS. BUREL: I have two comments I want to make about that. One is, I think that this is tremendously problematic, and I think you're addressing the issues of the problem. It's easy to say that you have some historical ties because somebody was living there at the time. But I want to say that we have some permeable boundaries with the Miwok people that border us on the north, and we are directly related in language to all of the peoples of the San Joaquin Valley. And this would be, Madera and Chowchilla. Those are Penutian/Yokut speaking people, and they are our relations. The Monos are not related linguistically, and this boundary is a lot harder along that Sierra border. So, I have a hard time believing that somehow that's permeable boundaries. The Foothill Yokuts stand between Mono territory and where they're proposing this casino.

SENATOR FLOREZ: What would you say to the issue that the average person is going to mention tomorrow, when they pick up the newspaper, this is all competition, that's what this is about. It's one tribe having a better location than the other, and very little to do with anything other than that. Is that correct? Incorrect? True? Not true?

MS. BUREL: I think being in gaming is about competition. And when you're looking at 50% of the tribes being in gaming and probably another 50% looking to how they can get into gaming, we're looking at competition one way or another. There are several tribes already in the area. I'm sure that there's going to be more. And it could be right here in Madera. We're prepared for that. We have to deal with that. We hope to have the best casino on our own land that we can have, and that's what we're going to do.

SENATOR FLOREZ: Ms. Burel, thank you very much. Senator Denham, do you have any questions?

SENATOR DENHAM: No questions.

SENATOR FLOREZ: Okay. Morris Reid, Tribal Vice President of Chuckchansi. Thank you for joining us.

MORRIS REID: Good afternoon. My name is Morris Reid. I am the vice-chair of the Picayune Rancheria of the Chuckchansi Indians. We're so glad you're holding these hearings, Senator Florez and Senator Denham, because we believe it is the only real airing of public feelings and concerns that this project has ever had. The county's hearing was neither well attended or well advertised. And the Bureau of Indian Affairs held only one briefly noticed meeting on the entire issue of the site and its impacts. The tribe has asked repeatedly asked BIA to hold an additional hearing on this matter, but the silence is deafening. Even after BIA had to open the project up to comments, again, to correct its original public announcement, another hearing has not been granted. At none of the meetings to discuss this project were the issues of water quality, traffic congestion, noise, air pollution, or other environmental issues ever discussed. In fact, at the first meeting we did not know that there were any alternatives to the North Fork or BIA were considering for this project. The North Fork has 61.5 acres of trust land in its aboriginal homelands. A casino in North Fork should be given serious consideration.

I know we have a map here, but I'd just like to point out at the map, and have you view the overhead view of the city of Madera and here is a site under consideration. I'm not sure where our map is. This is not always....by any

stretch of the imagination, this is not a rural casino. In fact, it's an urban casino under every definition, and it will be right next to the city of Madera. Again, urban gaming is not what the people of California voted for.

Last year, when Governor Schwarzenegger asked voters to oppose Propositions 68 and 70 his argument in the ballot pamphlet said, "Governor Schwarzenegger has a vision for California that does not include making our state the next pot of gold for commercial gaming interests. Governor Schwarzenegger believes casino gaming should be limited to Indian lands. "

While the supervisor of Madera County voted unanimously to support this project, the people have not been heard, so our tribe paid for a public opinion poll of more than 600 valley voters to explore exactly how the people of the valley felt about this proposal. The results are very interesting.

While voters understand that casinos do bring in economic benefits to our state, and those benefits, including jobs, are not enough to change their minds about urban off-reservation gaming.

More than 63% of the voters in Madera County oppose this new casino. In fact, in every single county supervisor's district, the voters oppose this plan. The voters from Fresno County are even more strongly opposed, with 69% of the public opposing. Traffic concerns and air pollution are among the most serious concerns expressed by the voters, as well as not keeping the promise made to voters when they were allowed Indian gaming in the first place.

And I'd like to continue on with a concern that gaming and tribes have. And I'll start by saying, allowing this acquisition of offsite reservation gaming would be allowing unfair advantage to this tribe, compared to the tribes who are bound to the limitations of IGRA, that prohibits gaming on lands acquired after October 17, 1988.

It seems a venture such as Stations with all their monies entices tribes in non-accessible rural areas to take advantage of exceptions. And even the rules of these exceptions are not followed. An example, we disagree that the site chosen by North Fork is their historical lands.

North Fork Indians are Monos, and also, they are with Minachis(?), originally from the eastern slope of the Sierras. Their territory is bound from the north, to Fine Gold Creek to the south, to Three Rivers, west and east boundaries 3,000 feet to 7,000 elevations. Below that, enshrouding them are Yokuts who have been here for centuries.

If North Fork is allowed to build off of aboriginal tribal lands, a snowball effect by other tribes will occur. Some non-gaming tribes are watching to see what decisions will be made on North Fork's off-reservation acquisition and will follow suit to build off-site gaming in more lucrative sites, whether or not it is their aboriginal or tribal lands.

What is very scary in the Madera casino site is the 5,000 space parking lot. They say it's going to be a small casino, so did Lytton—a thousand machines were asked for. It turned out to be 5,000, and that term, mega-casino appeared with Lytton.

With the cost of the compact, land cost, cost to machines, cost of our fair share, cost of development, management, MOUs, and corporate investor's costs, all of these costs along with availability of uncapped machines are facts that dictate a mega-casino site is being sought in Madera. The investors of North Fork make it seem like Chuckchansi's do not want competition in gaming. That we do not want the best for North Fork. That is not true. If North Fork would play by the rules, follow the regulations and develop on their tribal lands, we would shake their hands and wish them the best.

By not meeting with Chuckchansi when the site was first chosen, or even to discuss decisions, and by secretly planning with Madera supervisors for over a year, then, yes, we question the intent of the off-reservation site. When finally brought out into public, we Chuckchansi's were caught by surprise. There seemed to be no consideration of the impact that would affect existing tribes that follow the rules and the regulations. When we question and oppose for good reason, we then are made to look like the bad people that don't want competition. If we do not step up as tribes to regulate ourselves, it will be done for us, and most likely in way we will not like.

Negativity towards Indian gaming is becoming not only a state concern but is a national concern. Tribes not only want to move off the reservation within a state, but are not wanting to move from state to state.

We have been given limited gaming by the voters of California through Propositions 5 and 1A on tribal lands. We believe the intent of this was to help tribal economics and to also develop better opportunities for education, health, housing, and jobs for our children, the elders, and tribal members. The opportunities are also extended to the local communities surrounding our tribal lands. But the voters did not want urban casinos.

Most tribes are located in rural areas. Off-reservation acquisitions into non-tribal lands nearest to lucrative urban areas is now moving into an area called "expansion of gaming." This is not just breaking, but it also is violating, our promise to the voters of California. Negativity towards Indian gaming and tribes has begun in California. The trust and partnership between the voters and the tribes is starting to deteriorate. If tribes continue in this direction of expansion of gaming, this negativity will continue to grow. Down the road there is a possibility the voters of California will say those tribes do what they want in gaming and go where they want in building casinos. The voters of California will think that there is no difference from Indian gaming and commercialized non-Indian gaming. They will ask, *Why not open up gaming to all, even non-tribal.* That is why we must step up and regulate ourselves as tribes. We must do what is best for all California tribes and not what is good for a few. We must not follow investors whose only concern is for profits and stockholders and could care less about the welfare of the tribes or the laws and regulations of California. In fact, they wait by the sidelines. And if tribes were to lose gaming, they would benefit in a heart beat.

I just thank you very much for having us here and giving us the opportunity to speak before you.

SENATOR FLOREZ: Thank you. Just a couple of questions. You mentioned you thought the forums were....well, how would you term them, again?

MR. REID: Excuse me?

SENATOR FLOREZ: The forums that were held in preparation for the MOU.

MR. REID: I would term them as forums that were pushed through.

SENATOR FLOREZ: Okay. But you said they weren't well advertised. How do you get to that?

MR. REID: They weren't well advertised. They were not advertised well at all.

SENATOR FLOREZ: Okay. So, what is a good advertisement to you? Does that mean it's, like, in the newspaper, in a box colored, or is it in a very small classified section....I mean, give me a judge.....of when you say, it wasn't well advertised, I'm trying to figure out what that means.

MR. REID: When we hear about Indian problems and issues, it's really right up front in the paper. It is in a well located spot for anybody to read. And believe me, when there issues on Indian gaming, people do read. And as that, there should have been more people attending these meetings than there was.

SENATOR FLOREZ: Okay. Mr. Manning, do you have questions?

MR. MANNING: I was just going to comment, Senator, that there are strict requirements, as you are aware, under federal law, and, I believe the Board of Supervisors can speak to the lengthy process in public notice. I know the tribal members went out and met with individuals who were interest....there was a comment made about a year long secret discussion. I wonder if you could ask further about that, because that's new information. And as far as I know, this tribe is well represented by legal counsel who've commented on the environmental documentation, raised a number of issues, so they seem very well represented.. They've done a poll. And I think the public at large, if you ask the county, I think they really did do a very good job outreach.

SENATOR FLOREZ: Okay. All right. I'm not going to have a back and forth, but I did want to allow Mr. Manning an opportunity to ask that question. Would you like to respond to that?

MR. REID: Sure, I would. When we first heard about this, to attend a meeting of the, I guess, sort of like an outcoming of the announcement of the casino, we later....(Senator apologizes and quiets chamber)....When we were first notified, and I think what was sort of like an outcoming of an announcement of their casino, later on at these meetings we heard that this had been going on for some time with the supervisors of Madera—more like a year to a year-and-a-half, as I said at that point.

SENATOR FLOREZ: Okay. And the other question that I would have is that you mentioned a poll, and I guess the question I would have is, why did you do a poll? And what, in essence, is the purpose of the poll, from your vantage point?

MR. REID: Yes. Well, whether or not it showed whether they want it or not, we were concerned because of the fact that we are in Madera. And we just wanted to know what were the yes' or noes in the county of Madera? If they were for this casino.

SENATOR FLOREZ: Okay. Senator Denham, do you have any questions?

SENATOR DENHAM: No.

SENATOR FLOREZ: Thank you very much. Appreciate that. John Peebles, Partner, Monteau and Peebles.

JOHN PEEBLES: Good afternoon. My name is John Peebles. I'm an attorney with the law firm of Monteau and Peebles. We have a nationwide practice that exclusively works in the areas of federal Indian law. We represent tribal clients across the United States, and have done so for a number of years. We specialize and work primarily in the areas of tribal government, tribal finance, economic development, and assisting tribes in day to day operations of their governments and also in furthering economic development. We also do quite a bit of work in the area of Indian gaming. In fact, one of my partners,

Harold Monteau, was the first Native American chairman of the National Indian Gaming Commission, the federal regulatory agency that directly oversees Indian gaming throughout the United States. Also in this process, my partner, Michael Anderson, was a deputy assistant secretary of the Interior who directly oversaw the Fee to Trust process that we discussed extensively today, that I would like to go through and, I think, clarify what this process actually is, as well as where a tribe can actually engage in Indian gaming.

And I'd like to start off with, with regard to Indian lands. There are two primary statutory codifications of Indian country, and unfortunately, they differ. But under the Indian Gaming Regulatory Act, which is the act that regulates gaming by tribes, it limits the location where a tribe can actually engage in gaming to three areas. One, is within a reservation; second is on trust land that is either held by the tribe or an individual; and third, land which is subject to restraints against alienation—something we don't really need to concern ourselves about here today, but the people in New York do.

So the extent that you're being told that a tribe is limited to gambling on trust land, that just is not the law. It's wrong. Go read the statute. The Section is 25 United States Code 2703, subparagraph 3. If you want to go look at it.

So a tribe that operates a gaming facility within a rancheria, there's no federal requirement that property be in trust. What it needs to be, is a reservation and the federal courts in this state have determined that rancherias are, in fact, reservations.

Second of all, I think that there has been some confusion over the Fee to Trust Process. First of all, the Indian Gaming Regulatory Act did not authorize congress or the Secretary of the Interior to take land into trust. In fact, that had happened, in 1934 with the adoption of the Indian Reorganization Act. Again, it's 25 United States Code, Section 465. That section authorizes the Secretary of the Interior to take land in trust. And the Secretary of the Interior can take land in trust for a tribe or for an individual as long as certain showings are made and you follow the code of federal regulations. What the

Indian Gaming Regulatory Act did, it prevented tribes from engaging in gaming activities on land acquired in trust after October 17, 1988, unless you meet one of the exceptions. And that's one of the confusions that's here today. Which exception is this project going to follow?

We hear one is a restored lands exception. And that basically says, a tribe that has been restored to federal status, that is, once was recognized as a tribe, lost that recognition, and then became restored again, can acquire land restored to its land. But then again, you have a number of tests that need to be made, and that restoration process requires that the land that the tribe acquire have some significant historical ties to it in order that you can meet the exception to engage in gaming. You've heard that test today.

Second of all, there's a little bit of confusion and discussion about the two-part determination, which is a separate exception under 2719 for land in trust. And in that exception it allows this—if the Secretary of the Interior makes a determination after consultation with nearby Indian tribes and local communities that the project is not detrimental to the surrounding community, in the best in interest of the tribe, and the governor then concurs in that process, that land can go into trust for gaming purposes. But understand this, there's two processes here—one is the actual acquisition of the land in trust, which is separate and distinct, and the second one is, can you do gaming on that property after you have it in trust? And in that situation, you've been discussing two separate issues today with regard to the process. One is going to require the Governor's concurrence, and the other one doesn't. The other one is, you can simply go back to the Department of Interior and ask them. And we refer to this as an Indian lands opinion. Is this piece of property eligible for gaming? We do it. It's been done. I don't know in this case if it's happened or not. So, recognizing those processes.

The third aspect of this, and I believe Senator....and I'm thankful that you're holding the hearing....is, assuming the land is in trust, assuming that you can do gaming on it, you can't do class-3 gaming on that property unless you have a compact, and that's where I understand you're at.

And in that respect, and I think echoing what Mr. Reid said, is the concerns that I think tribes have across California, given the votes that have taken place here, given the representations we've made to the public with regard to the passage of 1A and then Prop. 5, the rejection of expanding gaming under 68 and 70, and the history of Section 20, leads to the concern that things can change.

Section 20 is the section that allows for....2719, allows for the exceptions to the prohibition against trust land being utilized for gaming. And how it happened was this: Unlike what you may have heard a little bit today, 2719 did not arise in the context of the Indian Gaming Regulatory Act. 2719 arose out of the Omaha Tribe of Nebraska who had an investor come to them and they took \$1,000 and they put it on a down payment for an option of piece of property in South Sioux City, Nebraska. They were going to purchase a 22-acre roller rink. Congressman Bereuter, who still is a congressman from the first district in Nebraska, then introduced a bill that you have in your materials here, and you also have Congressman Bereuter's testimony, and what he did, he introduced a free standing bill that would have prohibited the acquisition by of land in trust for gaming purposes unless the governor and the local units of government agreed. That then, in 1988, became 2719. It existed before Senate Bill 555 was ever introduced in the United States Senate, but was incorporated in there at Congressman Bereuter's request. And quite frankly now, it's been the road map that tribes utilized to acquire land in trust for gaming purposes.

What happened then though, is what we see today, is that given the sensitivity of the residents of a community of 5,000 people asking the congressman to prohibit this type of activity given then public sentiment in California and around the country. There is a great deal of concern that the unregulated acquisition of land into trust for gaming purposes in the long run is going to be bad policy for tribes in the state of California and throughout the country. In fact, we see that. If you just look at what's going on in New York, they have serious problems there.

The only other issue....and I would like to answer any questions that you may have....is that the comments that I make, though, specifically with regard to California, are specific to California in that no other state, that I'm aware of, has gone through the public election process that would authorize gaming by tribes, or amended the constitution, or in certain situations, the statutes of the state, in order to authorize Indian gaming. This is a unique area. But I do believe it's greatly complicated, the process by which tribes in California engage in the process of Indian gaming.

And finally Senators, there are provisions in the Indian Gaming Regulatory Act, and if you look at provisions dealing with the compacting process, it sets forth six different criteria that are legitimate inquiries by the state, by any state, in the negotiations of compacts, and would certainly give you the opportunity and the legal authority to address an act criteria with regard to standards for approval of compacts, irrespective of the Fee to Trust process. But I could provide you that information in greater detail, or if there are any questions, I'd be happy to answer them.

SENATOR FLOREZ: Senator Denham, do you have any questions? I have maybe one. It has nothing to do with any code sections. It has very much to do with your reading of the Governor's proclamation yesterday. Is there precedent in other states for an advisory vote? Let's start there. In other words, are there other states, in essence, that are looking at these types of issues; asking their local municipal county governments to conduct what we still haven't defined as an advisory vote, have you seen that anywhere else?

MR. PEEBLES: I'm unaware of any advisory vote other than the state of California. And in fact, it is the only advisory vote that I am aware of at all in California and is out of the community of Hesperia where there actually was a vote for a Fee to Trust Acquisition.

SENATOR FLOREZ: Okay. And given other arrangements that governors have with their legislators on negotiation and ratification, is the governor empowered to make such a proclamation, or is that something that the Legislature itself needs to, in essence, ratify....is this part of our ratification

process then also? So it's something that we would in statute say, and we won't consider anything sent to us unless it has an advisory vote?

MR. PEEBLES: I think you have that authority. What the Indian Gaming Regulatory Act does, it says the state shall negotiate a compact. It doesn't define who the state is. But if we go a little bit further and we look at who has the authority to negotiate compacts, we find that in every case where a governor has negotiated a compact and has attempted to impose that compact without legislative ratification or prior approval by the Legislature, the courts have struck it down. So I believe the Legislature has a great deal of authority over this issue.

SENATOR FLOREZ: Okay. And when you say the words "prior approval by the Legislature," what does that mean?

MR. PEEBLES: Well certainly in certain states, for example, South Dakota and Nebraska and New York, the legislature is authorized, and California has authorized the governor to negotiate a compact. And that they either need to give it back to the legislature for certain approvals, or in some cases, they don't need to. It just depends on the specific legislation.

SENATOR FLOREZ: And what's your reading of, from your opinion only, on an advisory vote mean that, in essence, the voters will be voting on the ability of the local jurisdiction to, on their behalf, make a decision, or would it be a vote of the people, in essence, say yes or no, up or down on a particular project?

MR. PEEBLES: I think as a policy, you'd want the voters to vote it up or down.

SENATOR FLOREZ: Okay. Maybe one other question in terms of the issue of....and I was trying to follow you and I was trying to follow our assessor as best a layman could on the issue of land development and fee versus land development, if you will. In essence, is what you see in this project, it falls on what category, first and foremost?

MR. PEEBLES: Well, dealing with the assessors, we are in litigation with Madera County over this very issue. And quite frankly, the court decisions

have gone against Madera County so far. We don't think whether a state has the authority to impose any regulation is only limited to trust land. I think that's just not the law. I think the Supreme Court has clearly addressed that case time and time again. It's just wrong.

SENATOR FLOREZ: Okay.

SENATOR DENHAM: Could you repeat that?

MR. PEEBLES: Yes. The statement was this—is that a state or county can tax property that a tribe owns that is not held in trust. Again, I just don't think that is correct. If that were true, I mean, there's a lot of land in the United States that the United States government doesn't own the land for the tribe. In fact, just the 13 colonies, it's owned by the individual states. If you look at the Pueblo in New Mexico, it's not owned by the United States. And then if you go look at the state of Oklahoma, it's very clear there that the land isn't held in trust or it's not a reservation. But the courts look to whether or not this property has been set aside for the use and occupancy of the tribe. That's the test that's out there. And if it is, then the state doesn't have the authority to tax it. Now there are some unique situations given the Tilley Hardwick stipulation in the '87 settlement that impact these arguments, but generally a state has no authority over Indian country. Indian country is just not one concept. It's evolved over the hundreds of years of history the United States has from, first of all, reservations. I mean, initially a reservation was the tribe entered into the treaty with the crown and then reserved some of the existing property for its own use. Later we find that we have treaties that actually removed the tribe and moved them somewhere else, but that land is still referred to as a reservation. It's just not that...

SENATOR DENHAM: Let me clarify to make sure I understand it. If there was a tribe that had a reservation in Senator Florez' district in Fresno and a tribal member wanted to farm in Madera or Merced in my district, would they not be obligated to pay property taxes on their farm?

MR. PEEBLES: If it's not Indian country, you're correct. So for example, a member of a tribe or a tribe buys land outside of a reservation, that's taxable

by the county and regulated by the county or state. Land that has been set aside by the United States either through treaties, executive order, statute or taken into trust, is not then subject to state taxation or county taxation.

SENATOR DENHAM: So in this case, where the tribe is purchasing property or considering purchasing property, it would be taxable up until the point where congress put it into a trust?

MR. PEEBLES: Actually, it's the Secretary of the Interior who will take it into trust. But yes, until the government actually takes the deed and says, *Yes, we accept this into trust*, the state and the county have full authority over that property, as they do any other piece of property.

SENATOR DENHAM: So for the county to gain revenue off the property once it's in trust, it would have to be negotiated up front in an MOU, which is what they've done.

MR. PEEBLES: Yes.

SENATOR DENHAM: Thank you.

SENATOR FLOREZ: Thank you very much. Okay. Senator Denham, when we get back to Sacramento, you're going to have to explain that conversation to me. We'll sit in the Members Lounge and you can tell me what that was about.

Okay. Let's get Dr. Robert Manlove, Professor of Anthropology, Saint Mary's College. Thank you for joining us.

ROBERT MANLOVE: Good afternoon. I'm Dr. Robert Manlove. And as has been indicated, I am an anthropologist working at Saint Mary's College in Moraga. I am also a longtime student of the cultures of North American Indians. I began my career at City College in San Francisco, a community college. And in the 1970s I established an American Indian culture program there, along with a Philippine Studies program, African American program, etc. Subsequently, I taught a course on American Indian culture for many years until elevated to the role of Dean of Instruction. And then in the year 2000, I retired from the administration, but then went to teach at Saint Mary's in

anthropology. And at the same time, currently, I am a visiting scholar at the Department of Anthropology at the University of California Berkeley.

It's perhaps those positions that resulted in me being asked by the Chuckchansi people to look at the anthropological records and to verify the original homeland of the Mono Indians. And in doing so, I found that the boundaries that were indicated on the large map that were stated and described and depicted in Bulletin 78 of the American Anthropological Society are indeed quite accurate. The boundaries are well established in terms of linguistic differences. They are well established in terms of the named villages that Indians have occupied. They are well established in terms of time—they are stable boundaries, and they are stable because of the linguistic differences, but also because there was a certain amount of animosity between the Indians that held them in their position. In some, the position described by the map shows where the Mono homelands are, and they are quite distant from the place that is suggested for the casino. The minimum distance is probably 35 miles, something on that order. They were separated from the current site by both the Miwoks and the Yokuts people, and there is no way that one could say that the Mono Indians had any connection to the site that's being proposed. There's some mention of the treaty of 1851 as being including the Monos. A careful reading of that treaty will suggest that perhaps the Monos were not included at all. That one paragraph of that treaty suggests that the Monos had "not yet come in," and therefore were not included. That they would be included at a later date, but they were not included in that date. So, in any kind of statement that the Monos are entitled to land as somehow extended of their homeland is not sustained by the anthropological records.

Can I answer any questions?

SENATOR FLOREZ: Senator Denham, do you want to have a conversation again?

SENATOR DENHAM: No, no. For the sake of time, in your expertise, your plain testimony is that they've got no claim to this land?

DR. MANLOVE: Exactly.

SENATOR DENHAM: Thank you.

SENATOR FLOREZ: Okay. Thank you very much.

MR. MANNING: Senator Florez?

SENATOR FLOREZ: Yes.

MR. MANNING: We didn't know we would....no, no, we're not going to debate. We did not know that there were going to be expert witnesses here on the issue of the anthropological homelands, nor were we asked. I think, Senator, if I could, we did talk with your consultants and cooperated, and we did not know that. Had we known that, we would have tried to bring someone. But, candidly, this is not a trial. I mean, I've tried cases. This is public policy, and I understand that. We do feel we're at a little bit of disadvantage. But we would like to get the committee some information and get the benefit of that in the future to help you make informed decisions, and we'd be happy to do that. So, we appreciate it.

SENATOR FLOREZ: Okay. Now I think, Mr. Manning, you know, you've been in front of my committees over six years and you know that almost everything is a trial. So, let's say that you can submit that for the record. We will hold the record open until you can submit anything in writing that you'd like. And of course, there is a running transcript of this.

And I think as we debate this issue, let me say that, that is an important aspect of this, and let's not underscore it. Let's make sure that you have that opportunity as well, and that point is well taken.

Thank you, Mr. Manlove.

MS. FINK: May I say something?

SENATOR FLOREZ: Yes.

MS. FINK: I would just like to say, for the benefit with our tribal citizens that we do have, the pronunciation of our tribe is Mono. Thank you.

SENATOR FLOREZ: Okay. Let's have Dan Casas, attorney, Table Mountain Rancheria. And after that, we're going to have Randy Brannon and Sam Alvarado. And then let me give you the rest of the lineup after that. We are then going to, in essence, on the record, ask people who have public

comments to very briefly tell us if you're in support or opposition to the particular project.

DAN CASAS: Thank you. Good afternoon, Senator Florez, Senator Denham, members of the Board of Supervisors of Madera County, Madam Chair, tribal leaders, tribal elders, and other members of the audience. My name is Dan Casas and I'm legal counsel for the Table Mountain Rancheria, which is located approximately 15 minutes outside of Fresno. I'd like to provide a general statement on behalf of Table Mountain Rancheria, to help the committee form its policy. I'd like to thank the committee for coming down to Madera and giving Table Mountain Rancheria the opportunity to discuss Indian gaming in our Central Valley.

I come before this committee to testify in support of Table Mountain Rancheria's opposition to the urbanization of Las Vegas style casinos and the practice of reservation shopping.

At the outset, I would like to state for the record, that Table Mountain Rancheria supports North Fork's right, as well all other tribe's right, to game on their own restored tribal lands. Table Mountain Rancheria also supports the promises and commitments that they made to the voters of Madera County, Merced County, Fresno County, as well as the state of California, when they asked for the voters support of Proposition 1A in which they promised to keep Indian Gaming on their restored lands.

Table Mountain Rancheria objects to the growing trend by non-Indian commercial gaming corporations to persuade tribes to acquire off-reservation land that is not part of their restored land or has no current aboriginal ties to the tribe for the sole purpose of establishing a casino.

Tribes are the ones who lose when non-Indian commercial gaming corporations encourage sovereign tribal nations to move off their protected tribal lands so that the non-tribal commercial gaming corporation can economically prosper at the expense of tribes who maybe lured into action by financial promises that may never materialize. Such conduct not only affects tribal members in the surrounding communities, but also runs the risk of

negatively impacting all gaming tribes in California by turning public opinion against gaming tribes that have kept their promise to keep gaming on their own tribally restored lands. This potential negative impact is very real, as is evidenced by the multitude of opinions, senate hearings, and all other hearings that are being conducted on a daily basis, as well as the overwhelming defeat of Proposition 68 by 83% of the voters in the state of California.

In closing, I'd like to thank the committee, and reiterate Table Mountain's pledge, that it will continue to be a good neighbor to all counties and will keep the promise to keep tribal gaming on its tribally restored land.

I would just like to also point out and make my own personal observation from the comments that have been made through this afternoon, that Table Mountain agrees with this committee, that it's not only Madera County that is affected by the impact of the new proposed gaming facility, it's also Merced County, Fresno County, the counties and cities that lie on the 152 Corridor, as well as all the other cities that rely on the 99 Corridor.

If I may paraphrase what Supervisor Gilbert adequately pointed out, that 50% of the jobs at the new casino will be for non-Madera County residents. And as he said, 50% of the proposed 1,400 jobs will be for Madera County residents. The logic tells us, that 50% of the remaining 1,400 jobs will be for residents of Merced County, Fresno County, and the other cities surrounding 99 and 152.

Again, this is my personal opinion, from the comments that I listened to today. I think an advisory opinion, and advisory vote by all the cities and all the voters that are going to be impacted by any proposed gaming facility, should be undertaken. I say that because the promises that the gaming tribes made to the voters, all voters, those that supported Prop. 1A, as well as those who opposed Prop. 1A, they promised to keep gaming on restored tribal lands. In fact, if you look at the literature and go back to Proposition 1A, the literature and the arguments that were forwarded by the opponents of Prop. 1A, is exactly what is being proposed. And that is, tribes, once you pass Prop. 1A, tribes will be going downtown, going off the reservation, acquiring land to put

into trust for the purposes of gaming. I'm not saying that's illegal, that is actually allowed based on my personal reading of the Section 20 of IGRA. But that's not the promise or the vote, or that's not what we sold to the voters of Madera County, Merced County, and Fresno County, and that's not the promise that we made to Madera County, Merced County, and Fresno County. Thank you.

SENATOR DENHAM: Mr. Casas, an advisory vote in your definition would be a ballot vote of the people of what area? What would be your geographic area?

MR. CASAS: Given Supervisor Gilbert's comment that 50% of the jobs will be coming from non-Madera County residents, and given that not only 99 Corridor that is depended upon by Fresno County, Merced, Tulare County, Kern County, as well as 152, I would leave it to the committee to come up with an area of influence or area of impact which the committee believes will be the impacted area by the new facility.

SENATOR DENHAM: But in your definition you would anticipate that Merced and Fresno Counties would be part of that vote.

MR. CASAS: I suspect, because I suspect that probably 50% of their customers will be coming from Fresno County. And I know that Fresno County now....in working with Fresno County Board of Supervisors, one of the things that we always encounter is how do we reduce the pollution within the San Joaquin Valley? We work with supervisors on alternatives to transportation, to Light Rail, and any other creative alternatives. And I know one of the issues that comes always to the forefront is that the air pollution and the air quality in the San Joaquin Valley is terrible, and we need to reduce traffic volume on all county roads, freeways, and all the other stuff.

SENATOR DENHAM: Thank you.

SENATOR FLOREZ: Thank you very much, Mr. Casas. Okay, let's go to Randy Brannon, Pastor, Grace Community Church; Sam Alvarado, Pastor Hispanic Ministry, and then we're going to public comment.

RANDY BRANNON: Well, it's almost redundant to say, thank you, but we certainly appreciate you senators, and also the committee, for being here. If you'd like to extend your evening, make it a marathon, we begin a town hall meeting with Assemblyman Villines and Cogdill at our church at 7:00, sponsored by Vern Moss.

SENATOR FLOREZ: Maybe Senator Denham and I will be eating dinner with our families by then.

MR. BRANNON: It's an invitation to anybody.

I have a different perspective to bring to you, as you would expect—twofold. I've been a pastor in Madera for 22 years, and have raised four children, so significant things have happened during that time. I'm also a doctor of pharmacy. I was involved in psychotherapeutic evaluations, alcoholic problems, and all other issues that surround drug and alcohol and other related things. So my perspective comes from those two vantage points.

I speak on behalf of the pastors and people of the churches of the Madera Ministerial Association. I'm the president of the association. There are over 30 churches. We're called, One Church, Many Congregations. We're in agreement. I have petitions from just two churches signed in regard to this. Other churches will be turning those in, as well, some from the Hispanic Association. We stand together to say that Madera is not for sale. It's not for sale to the gambling industry that has wreaked havoc in the lives of thousands of people across our land for promising the pot of gold at the end of the proverbial rainbow, ultimately delivering only the pot to those who would be seduced by the allurements of riches.

Madera is not for sale to an industry that would work under the guise of assisting a small group of our population and bring in a supposed financial boom to our area of which has proved itself to be utterly destructive to so many in a variety of ways. And with unmitigated resolve we will not flinch in the face of adversity or temptation, nor capitulate to irrational and illogical persuasions that have captured the mind of many counties and cities, in concert with this, run some of our businesses. For instance, John Silva and Travis Taylor of TPI

write: We feel that while the casino will positively contribute to short term county cash flow woes, it will not, over the long-term, and this is a large association, or a large business. We plan to be in business in Madera for the long term and have already experienced tax hikes. Should these revenue generating tactics be the standard default action by Madera County, we predict that within five years demand on social services, protective services, and infrastructure, such as roads by the Madera County, will be in need of more revenue.

A comment by the governor of Nevada, in 2003 a man that was raised in Exeter, just 75 miles from here: For years our economy has depended almost exclusively on tourism and gaming (that's gambling) rather than by exporting goods and services. Three out of every four of our tax dollars are collected from sales and gaming taxes, taxes vulnerable to swings in the economy. Implicit in this tax strategy was a belief that the revenues from gaming and tourism could keep pace with our growing and diverse population. Unfortunately, this strategy has failed. I fell on Nevadans the lesson from the last 20 years is clear, our revenue system is broke because of this relied on regressive and unstable taxes from gambling.

Lastly, from TPI Manufacturing Corporation, in concert with what we say: We care for the mental well-being of our employees, and view the closeness of this proposed casino a detriment to that well-being. Although it is not a current problem that arises, this casino would force us to offer services to employees that become addicted to gambling through the American with Disabilities Act and through our disability insurance. We expect our premiums to increase as the claims increase, thus reducing our potential to possibly contribute to Madera County's economic base. We hope that as citizens of this county, you will strive to promote a positive economic environment for business that positively influences the economy, not one that has many negative implications.

As I drove into Madera on Monday from the north on Highway 99, passing first the pilot complex on 18 ½ and then Dry Creek, I looked to the right, envisioning this huge casino—it's square footage, the building, 11 acres on 300 acres, 5,000 parking lots. I envisioned this casino in the likeness of

ancient Babylon with its towering gold statue of Nebuchadnezzar in place of farming or other legitimate industry that is truly productive, instead of questionable.

In my mind's eye I saw a huge sign which welcomed people to the gambling center of California where gold is god and where one could risk their fortunes, lives, and sacred honor for that which is truly perishing.

Entrances to a city are to represent protection for the people and the wise leadership that rules. But I picture this entrance as one depicting our vulnerability in the folly of its leaders. And yet at the same time, with the bright hope of the future, an expectation of our leaders in this wonderful community, I could see the people and the leaders of Madera with a clear conscience rising up in unison to say, *Madera is not for sale*, as the most honorable approach for developing our county and city becomes the alternative of choice.

The citizens who are the true shareholders of Madera say, *Madera is not for sale* to an industry that sees approximately 31% of its patrons become problem or pathological gamblers. They lose control of their inhibitions; see their lives go into a tailspin.

Madera is not for sale to an industry that employs many workers only to see 15% of them develop gambling problems and addictions which cripple them in other areas of their lives.

Madera is not for sale to an industry that leads people into bankruptcy in an unprecedented rate; it disrupts the finances of people and their families; it causes loss of employment; and preys upon the ignorant and poor of society.

Madera is not for sale to an industry that increases the welfare roll and the tax burden of the rest of the people, while supposedly elevating the economic status of the region.

Madera is not for sale to an industry that's associated with increased crime, often propagated by economic loss, stress and ruin that it has stimulated and perpetuated while promising to provide an enlarged peace officer contingent for the general safety of the public.

Madera is not for sale to an industry that has marked increase of prostitution associated with it, or proliferation of such.

Madera is not for sale to an industry that has a history of being associated with organized crime.

Madera is not for sale to an industry which fosters significant burdens upon churches, charities, domestic violence shelters, rescue missions. And by the way, the rescue mission, they have also filled out all of those disciples because many of them have gone through the riggers of gambling addiction, and they're under the ministerial association—they and homeless in shelters.

Madera is not for sale to an industry that has abnormally high suicidal rates associated with it wherever it is established.

Madera is not for sale to an industry that bankrupts the moral and spiritual fiber of a community by learning people to pursue instant gratification and unearned wealth.

Madera is not for sale to an industry that creates compulsive gamblers, whose children are more likely to engage in delinquent behavior such as school absenteeism, smoking, drinking, sex, the use of drugs. It will also have an increased risk of developing problem or pathological gambling addictions themselves.

Madera is not for sale to an industry that creates problems for employers of other businesses who experience losses in the form of lowered productivity, employee theft, tardiness, and time missed from work.

SENATOR FLOREZ: Pastor Brannon, if I could interrupt you. Just in the interest of time constraints and let everyone go, we get that it's not for sale. Is there anything more that you would like to add?

MR. BRANNON: Yes. To our leaders, officials may wring their hands of wrong action just as Pilot did so in reference to the death of the Lord Jesus Christ. But when all is said and done, they will stand with the verdict guilty set upon them just as Pilot was guilty for the violent crucifixion of the Master. And the scripture says, *You cannot serve God and mammon or you will either love the one or hate the other.* Can any of us think that we can pursue the ways

and blessings of God while bestowing approval on an industry that is as corrupting as they come?

Twice Jesus Christ came into the temple and thrashed those who were taking financial advantage of the less fortunate, stating that they were making his father's house a den of thieves. Should we expect a less severe reaction for our involvement, approval of a business that breeds and depends on such activity? I dare say not.

If this casino is approved by our federal and state officials because of the support of our own governing bodies in Madera and then built, coins and character will be lost; money and morals will go down the drain, philanthropy will be undermined, work ethics will be compromised, the weak and the vulnerable will be exploited, irresponsible use of needed income for families will be common, the undisciplined will be pushed into a deeper hole in life, suicides will increase along with crime in an area that is already fraught with gang war and other criminal activity.

Madera is not for sale. Don't prostitute our city, county, and its people for the gold and glitz that quickly fades away. Do not be sucker punched by a bully that truly cares nothing for the integrity, sanctity, and survival of our community but only has money in mind.

We, the clergy of the Madera Ministerial Association, along with the people of the congregations of the Church of Madera, and the majority of people of Madera, urge that all endorsements for this gaming casino be withdrawn and that we move together sacrificially and with honor to make our city and county everything that God almighty intended.

And yes, if an advisory vote is taken, it should include the MOU territory and the registered voters within that. Thank you.

SENATOR FLOREZ: Thank you very much. Sam Alvarado, pastor of the Hispanic Ministry.

SAM ALVARADO: I'll make my speech short and sweet. I come from a small community, La Colona de Shafter, California. I was born there in 1940. And I understand how hard and difficult it is for our Indian brothers, I really

do. I was a migrant farm worker, but I thank God that I had a grandfather that was first generation from Mexico and came in. He encouraged his children to be educated. One of my uncles was the first one to enter Shafter High School and graduate from Shafter High School. He went onto Bakersfield Junior College. He went onto USC and received his masters in 1944. The one thing he taught us, was to work hard, to believe in a living God, to do right for each and everybody, and that's still what I believe. I don't believe that any money that comes from gaming or any type of thing that is not right in God's eyes, is going to help anybody.

We talk about 700 jobs. And then how many people are not going to work because they're going to be unemployed because they become addicted to alcohol, addicted to gambling, and what have you?

Life is hard, but it's only hard if you make it hard. You can succeed if you want to succeed.

We were never on welfare, because that was a curse in my family. We considered it a curse to be on welfare. And I consider it a curse. You know, when I'm going to look up and want money that's coming from gambling or anything like this.

I agree with Pastor Brannon. As 40% of the population here in Madera is Hispanic, and you well know that we work in the fields, but you know, many of our people in our congregations own their own homes. How they do it with \$7 an hour, \$8 an hour, I don't know. But you know what, they do it. They do it.

And one thing that we want to do as the Hispanic pastors of Madera, California, educate our people, look at a judicial system—how it treats our people, and we want to also be aware of the health problems that we have.

So, Senator Dean Florez, Senator Denham, I hope you listen to what we're saying. We don't need gambling in Madera, California. Thank you.

SENATOR FLOREZ: Thank you. Okay, let's go ahead and begin public comment.

RON PISTORES: Thank you, Senator. Ron Pistoresi, Chairman of the Madera Irrigation District. And I had a lot of good things to say about all the

Indian tribes, but due to your time frame, I'm not going to. But I do have to say, I want you to be successful. I want you to have what you want to have—building construction companies, having a clothing store, whatever thing you need, I hope you're successful.

But Senators, both of you, and Senator Denham, thank you for coming here today, you were very perceptive earlier in realizing that the Madera Irrigation District, a body elected by about the same amount of people, just a little bit less than the Board of Supervisors in some areas, our board has a taxing base and a recharge and a percolation base on this property. We tried to make contact through the Board of Supervisors and the chairman, and we were told that it was just too late. If they become a sovereign nation you just won't get any of your taxes. So I want to appreciate your comment of realizing that water is....and we have two senators here. I want for the people out here, two Senators, that are protecting our air and our water, and I want to thank you because without that, your gambling casino and everything else will not be successful. So thank you both for what you've been doing.

And in saying that, one last statement, Senator, is that in the taxing base, to let you know, it is a significant amount of money and water that would be harmed by them not coming to the table. And it's not just about money, it's about our future. Thank you.

SENATOR FLOREZ: Great. Thank you very much.

SARAH RAH: My name is Sarah Rah. I have prepared statements that I'll just pass out. Mostly, I'm a resident of North Fork, but I'm also an economic development consultant, and I am not under pay to anybody related to this event. I do stand in support of the Monos. And I very deeply appreciate the effort that the Senators have made to be here today. It's been an excellent hearing, and this is public process at it's best. And I thank you deeply. And, Senator Florez, I want to thank you for your efforts on behalf of clean air in this Valley, as you've stood up and taken a stand on that. I want you to know that we appreciate it.

One thing that didn't get covered in this hearing that I was a little bit surprised, there's a lot of talk about trust land and non-trust land and paying taxes and not paying taxes. And I didn't hear one of you ask the Chuckchansi Tribe why they're not paying taxes if their attorney made these big points and then they're still not paying taxes. You don't need to answer that now, but I just want to put that in the record that that was an omission, I believe, in the questions. And thank you very much for an excellent hearing today.

SENATOR FLOREZ: Thank you.

BECKY CHAMBERS: My name is Becky Chambers. I am a business owner, a resident, a property owner, a tax payer, and a registered legal voter in the state of California. As such, I put a lot of faith in the due process that allows the electorate to voice their will. The people of California have already voted. They voted to allow Indian gaming only on Indian tribal lands. Sadly, what has been suggested today...

SENATOR FLOREZ: Okay. We're not going to allow reading statements. That statement sounds like you're reading it, and that's fine for the record. If you can just get to the point, and then you can submit exactly what you're reading. We will put that as part of the record. Please.

MS. CHAMBERS: Okay. I just believe that, sadly, some people seem to be disregarding the will of the people.

SENATOR FLOREZ: Okay. And if you could submit that, that would be helpful. Thank you.

TRAVIS TAYLOR: Good evening, Senator Florez and Senator Denham. My name is Travis Taylor. I work for TPI. It's the company that Randy mentioned. In the interest of time I gave him the memorandum that we dealt with. I've got several copies. I can give them to the sergeant-at-arms for the Board of Supervisors and the rest of the folks involved.

TPI is a business. We do business from the Rocky Mountains west. We are an ag-based business.

I'll tell you guys what—I'm from Texas. You talk about ag not being diversified. You drive around in Lubbock, Texas all you see is cotton. This

agricultural economy is diversified. It is the Silicon Valley to computers as what is agriculture. It is diversified.

We are against, formally, and one of the few businesses here today, I think, to say that we are against this proposal. I've managed employees in New Mexico who have been close to gambling casinos. It's not a fun deal. We don't do it again. Again, we're against it. Thank you.

SENATOR FLOREZ: Thank you very much.

DORA JONES: Good evening. My name is Dora Jones. I'm an off-duty probation officer for Fresno County. Mun a hoo my cousins from North Fork Tribe and halee halee to my tribesmen over here. I've got three things really quick.

One, the voice of California, Madera, Fresno County, are not being listened to.

Two, for the, I believe it was the mayor that said that neighboring tribes that are here opposing to this North Fork casino is greedy and don't want competition, he doesn't know the Indian way. We are not greedy. We applaud North Fork for going after a gaming industry that will help them out with their programs and stuff.

Third, it was touched upon very lightly, but to make you more aware, we've got three tribes in Fresno County. Two of those tribes are gaming right now. The third one has, to my knowledge, has not come forward yet. So that means from Sacramento County down to Kern County, there could possibly be, and this is a Pandora's box with this Madera casino, can open up ten mega casinos on Highway 99. Thank you.

SENATOR FLOREZ: Thank you very much. Next.

D.C. OGEN: My name is D.C. Ogen. I'm a 23-year resident of Madera County. I'm a retired police officer. I started out in your hometown, Dean, in Shafter. I went to Orange County, where I was a policeman and I retired as the chief of investigations with the Fresno County District Attorney's office.

I live in this county. I don't care if the sheriff says it, or the retired highway patrolman says it, gambling—there is crime around gambling. And for

us to sugar coat it, is wrong. We acted like the lotto was going to be the answer for the schools. It's been a failure. This is going to be a failure, and the rest of us citizens are going to pay for your failure.

Thank you very much.

SENATOR FLOREZ: Thank you very much.

SANDY SHELTER: My name is Sandy Shelter. I had something prepared to read, but since time is limited I'm going to hand it to him. But I also wanted to say that I am one of the two that talked to Mr. Dominici about opposing this. I live close to this. I live very close to where the proposed casino is going to go in. I'm concerned about my water. I live west of it. The water flow goes from the east to the west. It's going to affect me, whether anybody realizes it or not. And I also do not want to look at this out my window. Thank you.

SENATOR FLOREZ: Thank you very much.

DENISE MARMALEHO: Hello. My name is Denise Marmaleho. I also have a prepared statement and I will submit it via fax. I am a resident of Madera; I have been most of my life. My family has lived here since the late 1800s, so we have roots; we have history in this community. And I choose to raise my family in this community. I, along with almost 86% of my fellow Maderans, 85.8% I believe, to be exact, voted in opposition of Prop. 68. And I stand before you today and oppose this location. It is across the freeway from where I live. It's in my front yard. It's in my backyard. I oppose this site.

I thank you for finally having a public hearing where we, the opposition, can be heard. We can come forward.

Contrary to what my elected officials have told me, I do have a voice. And I'm here today, and I will submit to this committee.

Thank you very much for listening to us. And I would also strongly urge that you put this to a vote in Madera County. Thank you.

SENATOR FLOREZ: Thank you very much. Next.

CECILIA BOCK: My name is Cecelia Bock. I've been a resident of Madera for 60 years. I've worked here for 38 years. I've raised my family here.

And I had written down also that I believe that the current site is going to open a Pandora's box. This is going to set a precedent for the rest of California. I really believe that the residents of this county should have the right to vote for or against this project. I have great concerns for our air, for our water, for our natural resources. My big concern, also, is that the voter might not be heard if we don't get to vote on this project. Thank you very much.

SENATOR FLOREZ: Thank you. Can you submit that also? Thank you.

STEVE PORTER: Good afternoon. My name is Steve Porter. I live within just a few miles of the proposed site on Avenue 17, between Avenue 17 and Avenue 18. I'm adamantly opposed to this. I believe the voice of the people has been heard, but ignored. I supported 1A. I did not support 68. And our elected officials early in the day have said that there has been many, many hearings and town hall get togethers to talk about this. This is the first meeting I've heard of. I've lived here three years and, believe me, I would have been there had I heard about them.

Please, put this to a vote of the people. You are not hearing the voice of the people unless you have a real vote on this. Thank you.

SENATOR FLOREZ: Thank you. Next.

TRAVIS COLEMAN: Good evening. My name is Travis Coleman. I'm the tribal chairman at the Cold Springs Rancheria of Mono Indians, located outside of Fresno. Our tribe supports any local tribe to venture into any economic development. And I would like to say something about the aboriginal lands.

My grandfather told me when he was young they used to travel from the _____ Big Creek down to the Chowchilla River down to Tulare Lake back up to Three Rivers then back up to Kings Canyon and Sequoia Park. That was our area, the Hokama(?) band. And he always said that Indian country is where the Indian is at that moment. Thank you.

SENATOR FLOREZ: Thank you. Next.

DENISE DEERMAN: My name is Denise Deerman. I live in Madera. And I am very opposed to this casino coming here.

A couple of the things that bother me the most—I think I just smell something wrong about the whole thing. To my knowledge, it's going to open up a loophole that other entities will follow right through. We're not talking about benefiting an Indian tribe. We're talking about major gambling industrial sites coming into California. We're not talking about benefiting one tribe. That concerns me very much, that they would follow on the backs of this initiative.

The second thing is, the location. I do believe strongly, as the man who just testified, that if it is contractually by treaty on a map and understood that the Mono location is up near North Fork, then that's where it should be.

SENATOR FLOREZ: Thank you. Next.

JIM DEERMAN: My name is Jim Deerman. I've lived in Madera County for 18 years. I am opposed to this. This, too, was the first notification that I've received of this happening at all. And I'm really concerned about that. I don't know where our supervisors have been advertising this, but it's not in anything that we've been seeing, and that concerns me.

The Madera County supervisors really need to focus on some of the other issues that they've got. And I'm really concerned about turning Madera into a mega Las Vegas.

I have parents in Las Vegas and I'm not interested in moving there. And it's because of the gambling and all that. And I am not interested in that and I don't want to bring it here.

SENATOR FLOREZ: Thank you.

JERRY MAGNUSSEN: My name is Jerry Magnussen. I'm a 23-year resident of Madera. My wife, Kathy, we're raising five boys in this community, and it's been a home and a nice place.

Somehow I see this vision of right and wrong. I see Jimmy Stewart waking up from a life that wasn't lived, and he's in Pottersville. And I just don't want to see that happen. Not that I want Madera to be the quintessential little

country bird, but, you know, it needs to be founded on something other than gambling. And that's all I've got to say.

SENATOR FLOREZ: Thank you. Next.

KATHY MAGNUSSEN: My name is Kathy Magnussen and I am definitely not in support of the casino for the same reasons—raising five boys in this community. It's been really good, and I don't want it to change in that way. Thank you.

KATHY TRAVERS: My name is Kathy Travers. I was a foster parent in Madera for over 15 years, and I've seen the effects of what drugs, alcohol, and gambling can do to children. And I strongly oppose this. This is not a healthy move for us. And I just ask that you at least allow us to do that advisory vote thing and figure that out so we can make a vote on it. Thank you.

BILL PURCELL: My name is Bill Purcell. I live out on Avenue 17. And as our supervisor here said, that they advertised. How did you guys advertise that? Can I ask a question here? I'd like to know how you advertised these meetings. I've never heard of them before. It's why I came in here today. And I was really shocked when I heard these guys. Before this, I'd heard some scuttlebutt around that they said that the only thing they were doing was signing something so they wouldn't lose the tax revenue. They didn't say they were for it. So I was shocked when I came here today. And the supervisor before this, I expected to hear him say, we're against this, but he didn't.

So anyway, I live out there and I'm definitely opposed to it, on a moral issue mostly. And I had gambling in our family. And I had relatives that would spend their paychecks and not feed their family. And I know what happens to perpetual gamblers. I've been employed with people like that.

JULIA JIMENEZ: Hello. My name is Julia Jimenez. And I have a couple of things I'd like to say.

For one, all the advertisements about these meetings—I have a brother who lives up in Oakhurst, and they were telling me about this. I live in Fresno County. So I was not aware of these proceedings, but my brother and sister-in-law, of course, told me about them. And of course the land that they live on

was original Mono land. They live on the lake. And of course the lake now covers an original Mono village. As far as the original lands, as spoken before, first of all, the maps were drawn by white people, like me. And we're not real fond of real cold weather so we're not going to go up in the....we are going to go up into the highlands only during the summer. During the winter time, of course the Monos also, don't like real, real cold weather and it's hard to find food, so they lived down in the valleys, like where we are now. So their land....I was always taught in my elementary school by my school teachers, Mono land goes from the Chowchilla River south to Three Rivers, the valley. They were originally on the eastern slopes of the Sierra Nevada, pushed over by the white man, so it's a big, large area.

SENATOR DENHAM: Ma'am, are you in support or in opposition?

MS. JIMENEZ: I'm sorry.

SENATOR DENHAM: Are you in support or opposition of this?

MS. JIMENEZ: Oh, definitely in support.

SENATOR DENHAM: Thank you.

SENATOR FLOREZ: Okay. Thank you. Thank you, Senator.

DARWIN MELLE: I'm Darwin Melle. I'm a North Fork tribal member. I live on Avenue 17, less than a mile from the proposed location. I think there's more benefit than there's negative. Almost every negative they've got to say is in the society already. It ain't going to create it. I'm for it.

SENATOR FLOREZ: Okay.

ALEX LEWIS: Hi. My name is Alex Lewis, and I support the rancheria.

MICHELE LEWIS: My name is Michele Lewis, and I support the proposed casino.

SENATOR FLOREZ: Thank you.

LEORA BEAN: Hi. My name is Leora Bean. I also support the casino project. I was born in Madera, and lived in Madera County all my life. So I think it's a great thing to do and it shows some great progress on a part of our tribes.

SENATOR FLOREZ: Thank you.

BARBARA BURROUGH: Hi. My name is Barbara Burrough. I'm happy to be here. And I'm in full support of our tribe, as well as all other tribes. I have relatives in all tribes. I'm happy for everyone. And I've been around Madera for many, many years. I come shop in Madera. And it's going to be a big benefit, no doubt. Madera has been so quiet for so long. Let's build it up. And this will help it a lot.

SENATOR FLOREZ: Thank you.

TRUDY HALE: My name is Trudy Hale. I was born in Madera at the Madera Hospital. I've lived here in Madera County for 37 years. And I am in support of this project. And my great-grandma is buried right on the other side of this building by the church.

SENATOR FLOREZ: Thank you.

JENE JIMENEZ: Hi. My name is Jene Jimenez. And I am part of the North Fork Mono Tribe, and I support the casino.

SENATOR FLOREZ: Thank you.

SHAWN BETHEL HATFIELD: Hi. My name is Shawn Bethel Hatfield and I support the casino. And with all due respect to all of you, I have a very big title. I am a mother. And this is a light at the end of the tunnel for my children. And I just hope that all the positive things you heard will just open those doors so we can get there. Thank you.

SENATOR FLOREZ: Thank you very much.

RACHEL HERNANDEZ: Hi. My name is Rachel Hernandez, and I oppose the casino. A real, real close friend, lost his house, his wife, his children, and that's just one of many.

ELIZABETH HERRERA: Hello. My name is Elizabeth Herrera and I am a North Fork citizen. And I think Madera can benefit for the people too. Because I think the people that don't have a job, need a little bit of lift, because I used to live here a long time ago. They need some help.

SENATOR FLOREZ: Thank you.

TOM WHEELER: Hi. I'm Tom Wheeler from North Fork. I was born in Fresno and raised in North Fork. Nobody brought up the thing about the jobs

that Chuckchansi has provided for some of our local Indians in North Fork, and white people too, I should say. And I know at least 50 that I know personally that is working over there that did not have job since we lost our logging. And I'm in total support of it.

SENATOR FLOREZ: Thank you.

LESLIE GIDDINGS: Hi. I'm Leslie Giddings, and I was the only one who opposed it last time, and I'm here again. Sorry, I don't speak well. Nobody has brought up the alcohol on the buses and the schools and the truckers. I'm sorry. I live right there. This is a reality. We have it when there's not a lot of drinking. It happens. The alcohol and the kids in the bus, who's going to be responsible for it? Is it the county? Is it the Indians? And if my kid's on it, I can't imagine. Somebody is going to have to take responsibility because it's going to happen. You can't close your eyes to it. Alcohol is a major factor.

SENATOR FLOREZ: Thank you.

DENNIS SYLVESTER: Dennis Sylvester, from First Assembly of God; its pastor, and also from Madera Christian School. Our property is located, and I will hand this map in, about a half mile from this 300-acre casino. And we're obviously quite set against this, to have a 300-acre casino within half a mile of our church and our Christian School property. We've owned the property for six years. We've had a use permit on it for the last eight or nine months. We have not been notified. I'm not sure if any laws have been broken, but we're certainly against the idea of it. Plus, all the moral reasons that we'd be against.

SENATOR FLOREZ: Thank you. And you can submit that as well. Thank you.

IRENE WALTZ: My name is Irene Waltz, Chuckchansi Indians, there are a few tribes that are mentioned on the treaty. Mono Indians are not signators on the treaty. Also, please take into consideration, air quality and water problems in the San Joaquin Valley.

I oppose this casino. Thank you.

SENATOR FLOREZ: Thank you. Anybody else for public comment? Seeing and hearing none, we're going to adjourn the Governmental Organizational Committee. I'd like to thank vice-chair, Senator Denham, for sitting through this. And I'd like to thank all the witnesses for coming, as well. To the chairman of the Board of Supervisors, thank you for allowing us to utilize this facility. And to Zack, thank you very much for providing so much security. We very much appreciate it on a very tough day.

This hearing is adjourned.

-oOo-