



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION IX

75 Hawthorne Street  
San Francisco, CA 94105-3901

DEC 1 2009

OFFICE OF THE  
REGIONAL ADMINISTRATOR

DEC 03 2009

The Honorable Mike Thompson  
U.S. House of Representatives  
**Attn: Ms. Liz Murgia**  
Eureka District Office  
317 Third Street, Suite 1  
Eureka, California 95501

Dear Congressman Thompson:

Thank you for your letter requesting that EPA review the proposed Bear River Casino and Hotel Addition and Expansion Environmental Evaluation (EE) and review the Tribe's proposed Tish Non Village project. The EE was prepared pursuant to the Tribal-State Gaming Compact between the Tribe and the State of California, and the Tribe's own Code Ordinance (No. 02-04) enacted pursuant to the Compact. EPA reviews environmental documents prepared pursuant to the National Environmental Policy Act, particularly for large or complex projects, but does not customarily review environmental documents or projects such as the two in question. However, EPA Region 9 staff have researched some of the concerns you raised and I hope the following information is useful as you respond to concerns expressed by Humboldt County and neighbors of the project.

The EPA has a role in issuing permits and/or certifications under the Clean Water Act (CWA) and Safe Drinking Water Act (SDWA) for both projects. Based on the project information currently available to us, we have summarized the status of these regulatory processes below.

Tish Non Village Project

Our understanding is that the Tish Non Village project is currently on hold, but that the Tribe expects the property to be signed into federal trust status before resuming construction activities. If that occurs, Bear River will need to obtain a CWA 401 water quality certification from the EPA to go along with the CWA 404 permit that was issued by the Army Corps of Engineers (Corps). If the property is not placed into federal trust

status, the 401 certification authority remains with the State of California. The Corps' 404 permit allows Bear River to place fill in a wetland after obtaining a 401 water quality certification and meeting other permit requirements. Since Bear River started grading and filling the wetland before obtaining a 401 certification, the Corps and Humboldt County issued the Cease and Desist, and Stop-Work orders you referenced. EPA is not involved in either of these compliance actions. We will process the Tribe's request for 401 certification if and when the Tribe decides to continue pursuing the project and the project area is placed into trust status.

EPA will also need to issue a National Pollutant Discharge Elimination System (NPDES) stormwater permit if the housing project disturbs more than one acre of land. At this time, we have not received a request for a stormwater permit for the project. In addition, the project may require EPA authorization under the SDWA to discharge wastewater underground. Once the project resumes, we will coordinate with Bear River to discuss authorization.

### Casino and Hotel Expansion Project

It is our understanding the Casino Hotel project is on hold due to the economic downturn. As with the Tish Non Village project, Bear River will need to obtain CWA authorizations before filling wetlands for the parking expansion. The Tribe submitted a request to the EPA for a 401 water quality certification and submitted a 404 permit request to the Corps. We began evaluating Bear River's 401 certification request, but are holding the certification in abeyance until such time as the project resumes.

The Rancheria may need an NPDES permit to discharge stormwater from the project site. We anticipate working with the Rancheria to determine their options for obtaining a stormwater permit and updating an associated source water protection plan.

In addition, the Hotel project will require SDWA authorization to discharge wastewater underground from the leach fields that were referenced in your letter. The authorization process would include an assessment of potential impacts to neighboring wells.

Although the EPA has Clean Air Act (CAA) authority in Indian Country, EPA regulatory processes are not triggered by the potential impacts to air quality or greenhouse gas emissions associated with these projects. Likewise, traffic impacts, aesthetics and lighting issues did not trigger our regulatory processes. The Corps is the lead for 404 permits at Bear River. It is our understanding HUD reviewed and approved plans for Tish Non Village and the BIA reviewed and approved plans for roads and traffic control associated with both projects.

We included an attachment which identifies contacts from HUD, BIA, Corps, and the Rancheria for these projects. If we can be of further assistance, please call me at (415) 947-8702 or have your staff call my Congressional Liaison, Brent Maier, at (415) 947-4256.

Sincerely,



Laura Yoshii  
Acting Regional Administrator

cc: Ms. Carolyn O'Neil, HUD  
Mr. Kanu Patel, BIA  
Mr. David Ammerman, COE

Attach: Federal Agency Contacts

## **Federal Agency Contacts**

### **Bear River Projects**

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Mr. Leonard Bowman, Chair  
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