

July 23, 2019

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**VIA ELECTRONIC MAIL**

David Couch  
Chairman  
Kern County Board of Supervisors  
1115 Truxtun Avenue  
Bakersfield, CA 93301

**Re: Proposed Intergovernmental Agreement with Tejon Indian Tribe**

Dear Chairman Couch:

These comments are submitted on behalf of Stand Up for California! Approval of the proposed Intergovernmental Agreement (IGA) with the Tejon Indian Tribe (Tribe) is premature before the Bureau of Indian Affairs (BIA) has issued the Draft Environmental Impact Statement (EIS) for the Tribe's proposed trust land acquisition and casino gaming development (Project). The purpose of the Draft EIS is to describe the impacts of the Project. Accordingly, the County is not in a position to understand the full scope of the Project's impacts, or to negotiate an IGA that provides for the mitigation of all such impacts, before the Draft EIS is issued.

The County staff report is wrong to suggest that BIA's process requires the local government to "[r]esolve with the Tribe the allocation of appropriate costs for services provided by the county resulting from impacts of the project" or that the proposed IGA must be provided to BIA for use in the Draft EIS. There is no such requirement under the National Environmental Policy Act. To the contrary, the proper sequence necessary to fully account for the interests of all parties—the County, the Tribe, and BIA—is for BIA first to issue the Draft EIS, which in turn will inform the negotiation of an IGA that provides for the mitigation of all impacts identified in the Draft EIS, and finally for the mitigation of impacts provided for in the resulting IGA to be considered by BIA in its Final EIS and Record of Decision.

The proposed IGA also assumes that mitigation measures identified in the EIS and included in BIA's Record of Decision will be enforceable. This is incorrect. The BIA takes the position that the subsequent use of trust lands cannot be conditioned or otherwise limited through the trust acquisition process.

Finally, the County must undertake a more thorough analysis of the potential fiscal impacts of the proposed IGA. We note that many of the provision in the proposed IGA are in reference to the "Gaming Facility", which is defined only as "any building on the Property in which class III gaming authorized under the Tribal-State Compact occurs." Thus, for example, the General Fund

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and Capital Maintenance Fund Payments would not be based on the value of separate commercial buildings, including potentially the hotel and event center, if such facilities are in separate buildings. The examples in the IGA and the estimated payments in the County staff report are based on the announced \$600M value of the project as a whole, and may therefore be inaccurate. The County must consider that the IGA provides that the County is not entitled to retain any payments in the event that the Tribal-State Compact terminates for any reason. Such compacts are often terminated for fairly routine reasons, including renegotiation by the State and tribe.

Please do not hesitate to contact me if you have any questions regarding these comments.

Very truly yours,

*/s/ Jennifer A. MacLean*

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