

***Stand Up For California!***  
**“Citizens making a difference”**  
[www.standupca.org](http://www.standupca.org)

P. O. Box 355  
Penryn, CA. 95663

April 25, 2018

The Honorable Ryan Zinke  
Secretary  
U.S. Department of the Interior  
Mail Stop 7378  
1849 C Street, NW  
Washington, DC 20240

**RE: Timbisha Shoshone Tribe (“Tribe”) – Request for Clarification on NEPA Review**

Dear Secretary Zinke,

On April 4<sup>th</sup> Mr. Ron Strand, City Manager of Ridgecrest, California and representatives of the Timbisha Shoshone Tribe met with Mr. James Cason and staff to discuss the Tribe’s proposed casino and associated fee-to-trust transaction. On Mr. Strand’s return to the City, he issued a summary of his meeting to the local press. He is quoted as stating the following:

*“Strand reported that Cason was aware of local concerns and was in favor of a NEPA review and that the Office of Indian Gaming said it would be required to establish an Indian gaming management contract.”<sup>1</sup>*

Technically, NEPA evaluations must occur for every significant federal decision, including management contracts. *Stand Up for California*<sup>2</sup> (“Stand Up”) writes today asking for a clarification as to which federal process the NEPA review will be required.

If NEPA is reviewed under the jurisdiction of the National Indian Gaming Commission (“NIGC”) (25 CFR 531.1(b) (16)) it is possible that no Environment Impact Statement (“EIS”) will ever be issued absent identification of an “extraordinary circumstance”. In almost all cases, NIGC decisions have been to proceed with a categorical exclusion. Please consider that a NEPA review conducted by the NIGC would not answer the legitimate issues expressed in citizens’ letters or concerns the City of Ridgecrest has raised in its letters of May 3, 2017 or January 23, 2018.

A NEPA review governed under 25 C.F.R. 151.11 would require a full EIS and address the concerns raised by many citizens as well as in the City letters. Please consider the following in your decision making process:

The Tribe’s proposal as currently described is now a much larger grander project than first described in City meetings and the initial Municipal Service Agreement (“MSA”) negotiations as well as in representations

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<sup>1</sup> Brian Cosner, Ridgecrest News, *Casino required to undergo NEPA*, April 13, 2018.

<sup>2</sup> *Stand Up For California* is a not for profit public corporation registered as a 501(c)(4) organization. Our focus is on gambling policies that are protective of the public and consistent with state and federal statutes and regulations.

to the BIA. The initial proposal identified 25,000 square feet gaming area with 349 slot machines and 10,000 square feet for 6 table games.<sup>3</sup> The local press has reported:

*“The project as planned would consist of two phases with a total of approximately 35,000 to 50,000 square feet of building space plus, ultimately, a 52,000 square foot convention center and 100 room hotel. The first phase would include the casino, players club and retail shop, coffee shop and buffet, entertainment lounge and bar, cocktail lounge and meeting space for a total of approximately 25,000 to 30,000 square feet with additional back-of-house space and parking. Phase two would include a casino expansion and steakhouse, totaling approximately 10,000 to 20,000 square feet, with the additional 52,000 square foot convention center and the 100 room hotel with a swimming pool and outdoor deck area.”<sup>4</sup>*

A project of the size and scope described in the news story will significantly affect the quality of the human environment.

At the public meeting in which the Tribe, its Developer and AES presented its hybrid Tribal Environmental Impact Report, the County of Kern commented. Ms. Lorelei H. Oviatt commented that the Tribe would have to present its proposal to the County of Kern Board of Supervisors as the County provides fire service to the City of Ridgecrest. Any local agreement negotiated would have to be presented in a public meeting by the Board of Supervisors. Additionally, Ms. Oviatt advised the Tribe that they did not seek the permission of the County to use the County logo on its environmental document and the County logo does not imply County authorization of the project.<sup>5</sup>

Additionally law enforcement issues need to be resolved with Kern County. The City of Ridgecrest does not have a Jail. Any arrestee will have to be transported to the County Jail, in Bakersfield. Google maps indicate that it would take approximately 1 hour and 47 minutes to travel from the City of Ridgecrest to the County Jail via route CA 58, approximately 112.1 miles. It will take longer if traveled on CA 178 or US 395. If a person is arrested for a DUI, the Officer must transport the arrestee first to the Bakersfield Hospital and remain with arrestee until there is a medical clearance before continuing to the Jail and proceeding through the booking process. In the meantime, residents of the City of Ridgecrest are minus an Officer protecting the public. This process will strain City law enforcement duties and finances. Further, arrestee’s will fall under the jurisdiction of the County Court and Probation systems.

In an email dated March 1, 2017 from John Rydzik of the BIA to David Zweig P.E. at AES, Mr. Rydzik requests information regarding an apparent manufactured stormwater detention basin in the northern portion of the proposed land acquisition area. *“Looks like surface drainage flows in from the cul-de-sac at the northern end of McLean Street and from the China Lake Naval Weapons Center”*. Dry detention systems are normally dry and are designed to collect and temporarily hold storm water before a gradual release of the storm water. In this desert area when it rains it also floods, thus water will travel distances. While the BIA has completed a Phase 1 Survey; Contaminant Survey Checklist, it remains unclear if the ground was tested in the area of the detention basin. BIA states that the property was surveyed by car and on foot. Nevertheless, this raises concerns requiring the need for 602 DM 2, Land Acquisitions: Hazardous Substances Determinations. This land was once Navy Base property.

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<sup>3</sup> Email dated July 5, 2016 from John Rydzik, Chief, Division of Environmental, Cultural Resources Management & Safety, Pacific Regional Office BIA to Paula Hart, Office Indian Gaming DC.

<sup>4</sup> Jessica Weston, Ridgecrest Daily Independent, *Public meeting on casino environmental impact Jan. 11, January 6, 2018.*

<sup>5</sup> Jessica Weston, Ridgecrest Daily Independent, Public feedback collected in brief casino meeting, January 13, 2018

Citizens have raised a significant and reasonable argument over the groundwater issues in the City. To my knowledge, City Council has not discussed ground water issues related to the casino proposal. While it has been generally stated that infrastructure exists for the delivery of water and sewage disposal it has not been discussed if this infrastructure is adequate for the size and scope of the new project and would still provide for additional development of the surrounding properties.

On September 16, 2014, Governor Jerry Brown signed into law a three bill legislative package. These bills are collectively known as the Sustainable Groundwater Management Act (SGMA), recognizing that “groundwater management in California is best accomplished locally”, but also containing an exception for California Tribes. This exception has the potential to disrupt or unfairly share this precious natural resource of the water supply, particularly in the arid environment of the desert. The Municipal Service Agreement negotiated with the City was completed without an assessment of the groundwater issues for the smaller project the Tribe first identified. There has been no discussion of the cumulative impacts of a two-phase project of the size and scope recently announced by the Tribe.

California Groundwater Bulletin #118<sup>6</sup> states that “...since 1945 groundwater levels in the Indian Wells Valley basin have been declining and projected increased groundwater use will continue to cause water levels to decline in the basin. As a result of pumping, a regional cone of depression has formed approximately three miles northwest of the City of Ridgecrest. Further changes in the shallow aquifer due to effluent recharge have caused leaking into the deep aquifer and migrate towards the cone of depression affecting water quality.” *The point is, if the city, the county and the state lose control of the ground water supply it will have a significant economic impact reaching beyond the City of Ridgecrest into the regional area of Kern County. **This impact would likely affect the China Lake Naval Weapons Center.***

Clearly, an evaluation of all reasonably foreseeable direct and indirect impacts of past, present and reasonably foreseeable future actions applies to the water supply.

Citizens have expressed concerns about gaming addiction and its impact on China Lake Base Security clearances. A base employee does not necessarily have to become a problem or compulsive gambler, but a family member could fall prey to addiction and negatively affect a financial background check of base employees.

Recently, the business community has expressed support for the casino based upon the “*belief*” that the casino will act as a catalyst for economic development and tourism. To date, the City has not provided an economic report that supports this business model, nor has the Tribe.

*City Manager Ron Strand, fresh from his trip to Washington, D.C. where he discussed the project, spoke to the Daily Independent Wednesday morning. Economic projections obtained from developer Nigel White and the tribe estimate the casino will bring in some \$30 million in revenue to the city of Ridgecrest over the next 20 years. **Strand said the city has not done its own full economic impact analysis, but he estimates that at full build-out the casino project could bring the city \$1 million a year between the MSA agreement and transient occupancy tax from the project’s planned hotel.***<sup>7</sup>

Citizens in Ridgecrest continue to express legitimate concerns about the development of a casino less than a mile from the high school and middle school and across the street from a Christian School K-12. Additionally, the proposed casino is located at the entrance gate of the China Lake Naval Base and less than

<sup>6</sup> South Lahontan Hydrologic Region, Indian Wells Valley Groundwater Basin.

<sup>7</sup> Jessica Weston, Daily Independent, Follow the money: Casino looked to as economic driver for City, April 12, 2018.

3000 unobstructed feet from the high security clearance Research and Development Laboratories. Development and growth of the properties surrounding the base were premised toward private sector industry supporting and enhancing the military mission of national security. However, the City leaders appear to have turned a deaf ear to these concerns and citizens are now labeled as anti-Indian should they dare to express these concerns.

A full EIS appears necessary to identify the significant environmental and social justice impacts that the proposed casino will bring to the human environment, changing the human environment and the quality of life of the residents of the City of Ridgecrest. Stand Up asks for your consideration of these issues as you continue to process the Tribe's Gaming Application and reach a determination on which federal regulatory process should require the NEPA process.

Sincerely,



Cheryl Schmit, Director  
Stand Up For California  
P. O. Box 355  
Penryn, CA. 95663  
916 663 3207  
cherylschmit@att.net

cc: The Honorable David Bernhardt, Deputy Secretary  
James Cason, Associate Deputy Secretary  
John Tashuda, Principal Deputy Assistant Secretary – Indian Affairs

Attachments: Emails between BIA Officials obtained by FOIA



Broussard, Chad &lt;chad.broussard@bia.gov&gt;

**RE: Timbisha FTT for Gaming in Ridgecrest**

1 message

John Rydzik <john.rydzik@bia.gov>  
To: "Broussard, Chad" <chad.broussard@bia.gov>

Tue, Feb 14, 2017 at 7:14 AM

Thanks

Sent via the Samsung GALAXY S® 5, an AT&amp;T 4G LTE smartphone

----- Original message -----

From: "Broussard, Chad" <chad.broussard@bia.gov>  
Date: 2/14/2017 7:13 AM (GMT-08:00)  
To: John Rydzik <john.rydzik@bia.gov>  
Subject: Fwd: Timbisha FTT for Gaming in Ridgecrest

John,

Ridgecrest site maps are attached to this email.

Chad A. Broussard  
Environmental Protection Specialist  
U.S. Department of Interior, Bureau of Indian Affairs, Pacific Region  
Division of Environmental and Cultural Resources Management, and Safety  
Office Phone: (916) 978-6165  
Cell Phone: (916) 261-6160

----- Forwarded message -----

From: **Rydzik, John** <john.rydzik@bia.gov>  
Date: Tue, Jul 5, 2016 at 10:23 AM  
Subject: Timbisha FTT for Gaming in Ridgecrest  
To: Paula Hart <paula.hart@bia.gov>, Maria Wiseman <Maria.Wiseman@bia.gov>  
Cc: Amy Dutschke <amy.dutschke@bia.gov>, Kevin Bearquiver <Kevin.Bearquiver@bia.gov>, Mervel Harris <mervel.harris@bia.gov>, Arvada Wolfen <arvada.wolfen@bia.gov>, Lorrae Russell <Lorrae.Russell@bia.gov>, Chad Broussard <chad.broussard@bia.gov>

Hello Paula and Maria,

Amy chaired a meeting on June 29, 2016 at the Pacific Region with the Timbisha Chairman, tribal council members, AES and the Tribe's financial consultant to discuss the Tribe's pursuit of a FTT land acquisition for gaming in Ridgecrest. Attached is a copy of the documents presented to us.

As you will see, the proposed land acquisition is within the City of Ridgecrest and the City endorses the acquisition and gaming proposal. The City and Tribe entered into a Municipal Services Agreement.

The proposed gaming project would be a small facility at 25,000 square feet containing 349 slots, and 6 tables in a gaming area of 10,000 sq ft (see gaming facility components in the attachment)

Ridgecrest is a small community in the Mojave Desert adjacent to the China Lake Naval Weapons Center (CLNWC). The proposed land acquisition site is zoned commercial by the City and is adjacent to the CLNWC on its east boundary. AES's constraints analysis indicated no sensitive environmental conditions.

Our plan for compliance with NEPA is to prepare an environmental assessment for the land acquisition based on the small size of the proposed gaming facility, support of the City and the lack of environmental issues. Let me know if you have any questions or need additional information.



Broussard, Chad &lt;chad.broussard@bia.gov&gt;

**Re: Timbisha Land Acquisition in Ridgecrest**

1 message

Wed, Mar 1, 2017 at 11:27 AM

**Rydzik, John** <john.rydzik@bia.gov>  
To: "David Zweig, P.E." <dzweig@analyticalcorp.com>  
Cc: Chad Broussard <chad.broussard@bia.gov>

ok, thanks

John Rydzik  
Chief, Division of Environmental, Cultural Resources Management & Safety  
Bureau of Indian Affairs  
2800 Cottage Way  
Sacramento, CA 95825  
(916) 978-6051

On Wed, Mar 1, 2017 at 11:24 AM, David Zweig, P.E. &lt;dzweig@analyticalcorp.com&gt; wrote:

I can give you a call after lunch with an update. There has been an interesting development with the project. No EA necessary.

David

**From:** Rydzik, John [mailto:john.rydzik@bia.gov]  
**Sent:** Wednesday, March 01, 2017 9:51 AM  
**To:** David Zweig, P.E. <dzweig@analyticalcorp.com>  
**Cc:** Chad Broussard <chad.broussard@bia.gov>  
**Subject:** Timbisha Land Acquisition in Ridgecrest

Morning David,

Checking in with you regarding the Ridgecrest parcels for Timbisha. Are you drafting the EA now?

At our meeting on June 29, 2016, a Constraints Analysis was prepared by AES. Could you arrange for someone to send me a copy? I'm interested in basic information such as parcel APNs, but also some insight into an apparent retention basin in the northern portion of the proposed land acquisition area. Looks like surface drainage flows in from the cul de sac at the northern end of McLean St and from the China Lake Naval Weapons Center.

thanks

John Rydzik  
*Chief, Division of Environmental, Cultural Resources Management & Safety*  
Bureau of Indian Affairs

NARRATIVE  
TIMBISHA SHOSHONE TRIBE  
RIDGECREST FEE-TO-TRUST LAND ACQUISITION  
26.48 ACRES

On January 19, 2018, Bureau of Indian Affairs (BIA), Pacific Regional Office Environmental Protection Specialist Chad Broussard conducted a Phase I Contaminant Survey for the proposed mandatory fee-to-trust acquisition of the 26.48 acre Ridgecrest property (the subject property).

The subject property is located in the city of Ridgecrest, California at the intersection of North China Lake Boulevard and East Graff Avenue. The subject property is undeveloped desert scrub, with the exception of a stormwater detention basin located along the site's northern boundary. Surrounding land uses are mixed commercial development to the west and south and the China Lake Naval Air Weapons Station military base to the north and east.

The property is largely flat in topography with the exception of a manufactured stormwater detention basin located along the site's northern boundary. Several paved roads provide access to the property. No water features were present on-site with the exception of a drainage on the northwestern corner of the site that provides overflow drainage to the stormwater detention basin (overflow drainage from the paved road system also drains to the detention basin). The subject property was surveyed by vehicle and on foot. All areas of the subject property were accessible during the site visit. Adjacent properties were inspected visually to the extent possible without trespassing on private property.

No evidence of hazardous materials involvement was found in the stormwater detention basin, including at the two stormwater inflow locations. A small amount of non-hazardous solid waste was found scattered throughout the subject property. The property appeared to be clear of hazardous materials contamination at the time of inspection. The attached photographs, maps and supporting documentation are provided in this report to support our finding of no recognized environmental conditions or the potential for environmental conditions to exist.