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**PLANNING AND NATURAL
RESOURCES DEPARTMENT**

Planning
Community Development
Administrative Operations

January 30, 2018

Timbisha Shoshone Tribe
Attn: Draft TEIR Comments
P.O Box 1799
Bishop, California 93515
Email: teir@timbisha.com

File; TEIR Comments
Timbisha Shoshone Casino Project

RE: Kern County Comments – Draft Tribal EIR - Timbisha Shoshone Casino Project

Dear Timbisha Shoshone Tribe Representative,

Thank you for the opportunity to provide comments on the Draft Tribal Environmental Impact Report for the Timbisha Shoshone Casino Project in the incorporated City of Ridgecrest in eastern Kern County.

The Kern County Planning and Natural Resources Department has been designated by the Kern County Board of Supervisors as the CEQA expert for the county and coordinates comments from County agencies. The following comments are provided for the record.

GUIDANCE FOR TRIBAL ENVIRONMENTAL IMPACT REPORT

As noted at the January 11, 2018 public meeting, the Tribe has not completed the required Compact with the State of California. Those Compacts includes a section that describes the requirements for the tribal environmental impact report (TEIR), including the guidance for what such an EIR needs to include. Staff has reviewed the adopted Compacts and notes that all include the requirement that the tribal EIR analyze the potentially significant off-reservation environmental effects of the Project and proposed mitigation measures. Further the TEIR is to evaluate if the mitigation measures are sufficient to reduce the potential Significant Effects. Further the information shall also contain a statement indicating the reasons for determining that various effects of the Project on the off-reservation environment are significant and consequently have not been discussed in detail in the TEIR.

The County takes exception to the preparation of this TEIR without a completed Compact which would include the specific requirements for the TEIR. Without such guidance the sufficiency and adequacy of the document is difficult to evaluate. The California Gambling Control Commission Ratified Tribal –State Gaming Compacts (New and Amended) are hereby provided for the public record. <http://www.cgcc.ca.gov/?pageID=compacts>

WATER

The draft TEIR provides a cursory overview of the Sustainable Groundwater Management Act (SGMA) and states “The sustainability agency for the area has not yet been finalized.” This statement is untrue.

The Indian Wells Valley Groundwater Authority has been legally formed among the water and land use agencies in the Valley as required by law. The General voting members are the City of Ridgecrest, Kern County, San Bernardino County, Inyo County and the Indian Wells Valley Water District. Associate members include the United States Department of the interior- Bureau of Land Management and the United States Navy Naval Air Weapons Station China Lake. Native American Tribes were contacted during formulation and invited to participate but at the time of creation, no tribe had in trust land in the basin. Other portions of the TEIR reference the previous Indian Wells Valley Cooperative Groundwater Group which has no legal authority over groundwater.

As required by general direction given in all Compacts, a full description of the authority which now has regulatory power over all groundwater extractions needs to be provided for full disclosure in the TEIR.

Further the environmental setting fails to convey the serious and critical overdraft conditions present in the basin for groundwater. Simply asserting that water will be provided by the Indian Wells Valley Water District fails to comply with CEQA as significant cut backs in water availability may and possibly will result from the Sustainability Plans required by California law. The Kern County Indian Wells Valley Land Management Plan and Final EIR is provided here and asked to be incorporated by reference. <http://pcd.kerndsa.com/planning/environmental-documents/390-indian-wells-valley-land-use-management-plan>. That Final EIR determined that the groundwater basin and any development in that basin, even after mitigation, is significant and unavoidable. The project has the potential to impact off-reservation development basin –wide and has not been discussed or any mitigation proposed to reduce that impact.

The draft TEIR provides a Project Water demand (Table 3.6-2) for the project. To determine the significance of that demand, the draft EIR compares it to the anticipated buildout of the property as a commercial site. The Draft TEIR then asserts that “The proposed project is anticipated to have a lower water demand compared to developing the entire property as a commercial complex, as designated by current zoning” and refers the reader to Appendix E – Water and Sewer Study. That study, however, provides no further information on the proposed projected alternative use of the project but only restates that “ Based on the above, the proposed casino project is anticipated to have a lower water use than if the entire property were to develop as commercial as currently zoned. Therefore, the regional water supply planning is not changed as a result of the property project. “

This analysis fails to comply on two levels, 1) the property is currently vacate and uses no water, therefore the baseline is no water use. Comparing a proposed use to a fictional use to conclude the impact is less than significant does not provide substantial evidence as any fictional use

could be selected and 2), the assertion that a zoned piece of vacant property has rights to an unlimited amount of groundwater extraction from the Indian Wells Valley Water District is not supported by State law and current water law. Further there is no cumulative analysis of past, present and future projects for water use in the draft TEIR to support the conclusion (page 3.13-8) that water supply is less than significant.

The water analysis fails to comply with full disclosure of impacts for the public, fails to provide facts to support conclusions and is inadequate under general direction given in all Compacts for preparation of a TEIR.

PUBLIC SERVICES

The analysis of Fire Protection fails to distinguish the City of Ridgecrest, with a standing Police Department but no Fire Department from Kern County Services. Further the analysis does not discuss the Jail system which includes the current closure of the County Jail in Ridgecrest and increased use of the Mojave facilities. No provisions for funding has been identified or discussed in the analysis. A comprehensive discussion of impacts on Kern County Sheriff and the Jail are included in the memo attachment.

Kern County is solely responsible for Fire protection in both the incorporated City and the unincorporated County. The assertion that the MOU with the City of Ridgecrest covers the requirements and potential impacts of service increases to the Kern County Fire Department is inaccurate. The amounts of funding in the MOU are not tied to any calculations of anticipated impacts of the Kern County Fire Department and it is unclear how they were developed. No provisions have been made in the Fire contract between the County of Kern and the City of Ridgecrest for this project or any portion of this project. The MOU provides for compliance with Fire codes in the City ordinance which may or may not reflect the most current codes adopted by the State or the Kern County Board of Supervisors. There is no discussion and it is unclear to the reader what authority the Kern County Fire Marshall has on the reservation site or what fire codes will be implemented for the hotel, conference center or any restaurants. The City of Ridgecrest has no independent Fire Marshall or Building Department. No provisions for inspections or consultations with these Kern County departments or Public Health for restaurant or food vendor inspections have been made. Further there is no discussion in the document of how those services will be provided.

Off-reservation impacts could include, but are not limited to, inadequate fire code inspections that threaten the base or adjacent properties, illness and spread of disease into the community from inadequate health code implementation by private inspectors, on-reservation traffic accidents that require County Fire response or hazard materials response. The draft TEIR fails to include the off-reservation impacts on Kern County public services and must be comprehensively updated for further review and is inadequate under general direction given in all Compacts for preparation of a TEIR.

INTERGOVERNMENTAL AGREEMENT

The Draft TEIR contains the following statement on Page 1-5 “The anticipated Compact will require the Tribe to commence negotiations with the City and **County** (emphasis added) regarding an Intergovernmental Agreement (IGA) no later than the issuance of the Final TEIR. The IGA must specifically address the mitigation of potentially significant impacts attributable to the Proposed Project on the off-reservation environment as identified in the Final TEIR. If the Tribe, City and **County** (emphasis added) have not agreed on the terms and conditions of the IGA within 75 days after issuance of the Final EIR, the Tribe, City **or County** (emphasis added) may demand the terms and conditions of the IGA be determined by arbitration. “

No staff of Kern County have been contacted, to date, to discuss this required intergovernmental agreement and the Board of Supervisors have given no direction to staff that such negotiations should begin. This comment letter details the inadequate analysis in the Draft TEIR and provides our initial comments on the analysis required to discuss off-reservation impacts.

NOTIFICATION AND CONSULTATION

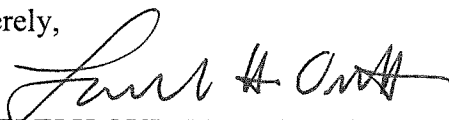
Please provide the Kern County Planning and Natural Resources Department with all informational notices, documents and notices required under CEQA.

The mailing address is Kern County Planning and Natural Resources Department, 2700 M Street, Ste. 100, Bakersfield, California 93301.

Questions about beginning a discussion on any potential Intergovernmental Agreement should be directed to Ryan Alsop, Kern County Administrative Officer at alsopr@kerncounty.com or 661- 868-3198. Mr. Alsop will coordinate discussions with all affected county departments and the Sheriff and seek direction from the Board of Supervisors.

Thank you for the opportunity to participate in the process. I am available to discuss any questions regarding this comment letter at Loreleio@kerncounty.com or 661-862-8866. Thank you for the opportunity to comment.

Sincerely,



LORELEI H OVIATT, AICP, Director
Kern County Planning and Natural Resources Department

Attachment

cc: Kern County Board of Supervisors
CAO
County Counsel
Kern County Public Health

January 30, 2018

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Kern County Sheriff
Kern County Fire Department
City of Ridgecrest
Indian Wells Valley Groundwater Authority
Congressman Kevin McCarthy
California Governor Brown
California Gambling Control Commission
Naval Air Weapons Station China Lake
California Department of Justice



Kern County
SHERIFF
Interoffice Memorandum

To: Commander Morrison
From: Lieutenant Michael DeLeon
Date: January 17, 2018
Re: Timbisha Shoshone Casino Impact

Sir,

I have reviewed the "Draft Tribal Environmental Impact Report for the Timbisha Shoshone Casino Project" as well as all attached documents and schematics. The 26.5 acre project site is located on vacant land at 1404 North China Lake Boulevard within the City of Ridgecrest. China Lake Naval Weapons Base is located immediately northeast of the project site.

The Proposed Project consists of two phases, and would total approximately 35,000 to 50,000 square feet (sf) of building space plus a 52,000 sf convention center and 100-room hotel at full buildout.

Phase 1 includes the construction of a casino, players club, retail shop, coffee shop and buffet, bar and lounge, meeting space, back of house space, and parking, totaling approximately 25,000 to 30,000 sf.

Phase 2 would include a casino expansion and restaurant, totaling approximately 10,000 to 20,000 sf, plus an additional 52,000 sf convention center and 100-room hotel with a swimming pool and outdoor deck area.

The Tribe has entered into a Municipal Services Agreement (MSA) with the City of Ridgecrest (City) to address potential off-Reservation impacts from the development of the Proposed Project. The MSA identifies measures to mitigate the impacts of the removal of trust land from property tax rolls, and mitigates costs the City may incur to provide public services and facilities for the Proposed Project.

The MSA specifies payments to the City of Ridgecrest from the Tribe as mitigation for potential impacts of the Proposed Project on public services. Public services include fire protection, emergency medical services, law enforcement, and schools.

The MSA indicates it will provide a one time payment of \$80,000 to the City of Ridgecrest for a new patrol vehicle. Additionally, there will be an annual fee of \$128,000 paid to the City of Ridgecrest for additional critical municipal services. This amount will be increased to \$260,000 per year, paid in quarterly installments, upon the potential completion of the construction of a hotel and/or arena. This amount will increase to \$388,000 paid per year in quarterly installments, upon the potential completion of the construction of an entertainment complex.

The final casino building space would be between 35,000 to 50,000 square feet (sf) plus an additional 52,000 sf for the convention center. This does not include the 100-room hotel. The total build-out on the facility would be 87,000 to 102,000 sf. To put this in perspective, Bakersfield's Rabobank Arena, Theater and Convention Center

complex boasts approximately 70,000 sf of meeting and event space and 13 breakout rooms. Thus, the casino would be larger than the Rabobank complex in Bakersfield.

I spoke to representatives from Fresno County Sheriff's Office, Tulare County Sheriff's Office and Kings County Sheriff's Office regarding the impact a casino like this would have on the Kern County Sheriff's Office Ridgecrest Substation. All three agencies have Tribal Casino's operating in their counties.

I described the City of Ridgecrest, its population, the jurisdictional response, crime trends, KCSO patrol response, substation staffing, court and jail operations.

The thing I heard across the board from all the agencies I queried was there needs to be a functional 24-hour jail and intake facility nearby. I explained the closest booking facility was the Mojave jail, which is approximately an hour away. I also explained, in some circumstances, it could be 2 hours away to book at the Central Receiving Facility (CRF) in Bakersfield. This could take patrol officers out of service for 3-5 hours (1-2 hour drive each way plus 45-60 min for booking).

The second thing I was told was we would need to increase our patrol staffing to accommodate the increase in population to the overall area. Although the casino will be located in the City of Ridgecrest's jurisdiction, there will be an increase in population and crime to the adjacent unincorporated areas of the county. This will also be the case while the casino is being built.

The other thing I was advised was although our calls for service may increase only slightly as AOD's (Assist Other Department) for Ridgecrest Police Department (RPD) at the actual casino, our overall calls for service in Ridgecrest will significantly increase as a direct result of the casino.

According to a Tulare County Sheriff's Office patrol lieutenant, they have approximately 30-40 calls for service per month at Eagle Mountain Casino, with a minimum 5 arrests per week for various types of crimes.

I was told by a representative with Kings County, that we would see a significant increase in the following types of crimes:

- DUI/Alcohol/Drug Related Crimes
- Sexual Assaults
- Prostitution
- Robberies
- Vehicle Burglaries
- Vandalisms
- Trespassing

Of course, this list is not all-inclusive and there have been instances of homicides taking place in the parking lot areas of some of these establishments.

The information I provided is just a snapshot of the impact the casino will have on the Ridgecrest Substation. Building an attraction of this size, with the increase in population, tourism and crime will require a dramatic increase in patrol, jail and court staffing.

The immediate impact the casino will have on the Kern County Sheriff's Office Ridgecrest Substation will be profound. At minimum it will require an increase in patrol and court staffing (bailiff) and the opening of the Ridgecrest Jail.

One (1) Deputy Sheriff II C-A added to the number of authorized personnel allocated for patrol will have an annual cost of \$165,819.49 between salary and benefits. This will be a necessity because of the increase in calls for service as indicated by Tulare County Sheriff's Office representative. A Tulare County Sheriff's Office representative advised we will be looking at an increase of 30-40 calls per week. In addition, there will be an increase in court cases due to the 5 additional arrests made per week from the casino alone. This does not include the increase in arrests due to tourism in the unincorporated areas within Ridgecrest. As a result, the addition of one Deputy Sheriff II C-A is a necessity.

To open the Ridgecrest Jail it will minimally require one (1) Senior Detention Deputy with an annual cost of \$137,514.75 between salary and benefits. Additionally, four (4) Detention Deputy Sheriffs will be required to staff the jail on a 24-hour basis. Each Detention Deputy Sheriffs will cost \$124,502.92 between salaries and benefits. The four (4) Detention Deputies will cost \$498,011.68 in total on an annual basis.

An annual overtime budget in the amount of \$80,134.59 will also need to be available.

An additional \$56,395.00 will need to be allocated for one (1) patrol vehicle along with \$8,384.00 in equipment costs, for a total of \$64,779.00.

The annual cost for inmate food will be \$3,800.00.

In total the Ridgecrest Substation will require \$950,059.51 annually to be minimally operational.

The services provided by the Kern County Sheriff's Office that are outlined in this document are the minimal necessities to accommodate the casino. These are merely the preliminary findings and other costs may be identified as the Tribe begins discussions with the County. Thank you.
