

Record of Decision

Secretarial Determination Pursuant to the Indian Gaming Regulatory Act and Trust Acquisition of 40 Acres in the City of Porterville, California, for the Tule River Indian Tribe of the Tule River Reservation, California

**U.S. Department of the Interior
Bureau of Indian Affairs
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U.S. Department of the Interior

Agency: Bureau of Indian Affairs

Action: Issuance of a Record of Decision (ROD) for a Secretarial Determination pursuant to the Indian Gaming Regulatory Act (IGRA) for the 40-acre Airpark Site in the City of Porterville, Tulare County, California, for the Tule River Indian Tribe of the Tule River Reservation, California (Tribe).

Summary: In September of 2016, the Tribe submitted a fee-to-trust application to the Bureau of Indian Affairs (BIA), requesting that the Department of the Interior (Department) accept trust title to land totaling approximately 40 acres in the City of Porterville, Tulare County, California (the Airpark Site) for gaming and other purposes. Additionally, in September 2018, the Tribe submitted an application requesting that the Department issue a Secretarial Determination pursuant to IGRA, determining whether the Airpark Site is eligible for gaming. The Tribe proposes to develop the Airpark Site with a class III casino-resort and relocate the Eagle Mountain Casino to the Airpark Site (Proposed Project).

The proposed fee-to-trust acquisition and Secretarial Determination (Proposed Action) were analyzed in an Environmental Impact Statement (EIS) prepared pursuant to the National Environmental Policy Act under the direction and supervision of the BIA Pacific Regional Office. The BIA issued the Draft EIS for public review and comment on September 21, 2018. After a comment period, public hearing, and consideration and incorporation of comments received on the Draft EIS, the BIA issued the Final EIS on May 31, 2019. The Draft and Final EIS evaluated a reasonable range of alternatives that would meet the purpose and need for the Proposed Action, analyzed the potential effects of those alternatives, and identified feasible mitigation measures.

With this ROD, the Department announces that Alternative A, which includes the issuance of a Secretarial Determination and the fee-to-trust transfer of the 40-acre Airpark Site and subsequent development of a casino-hotel complex, is the Preferred Alternative to be implemented. The Department has considered potential effects to the environment, including potential impacts to local governments and other tribes. The Department has adopted all practicable means to avoid or minimize environmental harm, and has determined that potentially significant effects will be adequately addressed by these mitigation measures, as described in this ROD.

This decision is based on the thorough review and consideration of the Tribe's fee-to-trust application, request for a Secretarial Determination, and materials submitted pursuant to IGRA; the applicable statutory and regulatory authorities governing acquisition of trust title to land and eligibility of land for gaming; the Draft EIS; the Final EIS; the administrative record; and comments received

from the public, federal, state, and local governmental agencies; and potentially affected Indian tribes.

This ROD announces the Secretary's Determination that a gaming establishment at the Airpark Site would 1) be in the best interest of the Tribe and its members, and, 2) would not be detrimental to the surrounding community. *See* 25 U.S.C. § 2719 (b)(1)(A). A decision whether to accept the 40-acre Airpark Site in trust pursuant to the Indian Reorganization Act, 25 U.S.C. § 5108, and its implementing regulations at 25 C.F.R. Part 151 will be made at a later date.

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ATTACHMENTS

- Attachment I Final EIS Notices
- Attachment II Comments and Response to Comments on the Final EIS
- Attachment III Mitigation Monitoring and Enforcement Plan
- Attachment IV Secretarial Determination

1.0 INTRODUCTION

1.1 SUMMARY

In September of 2016, the Tule River Indian Tribe of the Tule River Reservation, California (Tribe), submitted a fee-to-trust application to the Bureau of Indian Affairs (BIA), requesting that the Department of the Interior (Department) accept trust title to land totaling approximately 40 acres in Tulare County, California (the Airpark Site) for gaming and other purposes. Additionally, in September 2018, the Tribe submitted an application requesting that the Secretary of the Interior (Secretary) make a two-part determination of gaming eligibility (Secretarial Determination) pursuant to the Indian Gaming Regulatory Act (IGRA).

The BIA analyzed the potential environmental impacts of the proposed fee-to-trust acquisition of the Airpark Site and Secretarial Determination (Proposed Action) in an Environmental Impact Statement (EIS). The Draft EIS, issued for public review on September 21, 2018, and the Final EIS, issued May 31, 2019, considered various alternatives to meet the stated purpose and need, and analyzed in detail potential effects of a reasonable range of alternatives. As stated in the Final EIS, the Department has identified Alternative A as the Preferred Alternative to be implemented, which consists of the construction of an approximately 104,637 square foot (sf) casino, a 250-room hotel, ancillary infrastructure, and mitigation measures presented in **Section 6.0** of this Record of Decision (ROD). With the issuance of this ROD, the Department announces that it intends to implement the Proposed Action, including the Secretarial Determination and the fee-to-trust acquisition of the Airpark Site as proposed under the Preferred Alternative. The Secretarial Determination is included as Attachment IV of this ROD. *See* 25 U.S.C. § 2719 (b)(1)(A); 25 C.F.R. § 292.22. A decision whether to accept the 40-acre Airpark Site in trust pursuant to the Indian Reorganization Act, 25 U.S.C. § 5108, and its implementing regulations at 25 C.F.R. Part 151 will be made at a later date.

The Department has determined that the Preferred Alternative would best meet the purpose and need for the Proposed Action. The Department's decision is based on the thorough review and consideration of the Tribe's fee-to-trust application, request for a Secretarial Determination, and materials submitted pursuant to IGRA; the applicable statutory and regulatory authorities governing acquisition of trust title to land and eligibility of land for gaming; the Draft EIS; the Final EIS; the administrative record; and comments received from the public, federal, state, and local governmental agencies; and potentially affected Indian tribes. A decision whether to accept the 40-acre Airpark Site in trust pursuant to the Indian Reorganization Act, 25 U.S.C. § 5108, and its implementing regulations at 25 C.F.R. Part 151 will be made at a later date.

1.2 DESCRIPTION OF THE PROPOSED ACTION

The federal Proposed Action is the fee-to-trust acquisition of the 40-acre Airpark Site for the Tribe pursuant to the Secretary's authority under the Indian Reorganization Act, 25 USC § 5108 and issuing a two-part Secretarial Determination under the Indian Gaming Regulatory Act (IGRA), 25 U.S.C. § 2719 (b)(1)(A). The Tribe subsequently proposes to develop a casino, hotel, conference center, food and beverage facilities, administrative space, multipurpose events center, and associated parking and infrastructure. The Airpark Site is

located in the City of Porterville (City), approximately 15 miles west of the Tribe's Reservation and 17 miles west of the Tribe's existing Eagle Mountain Casino.

1.3 PURPOSE AND NEED

The purpose of the Proposed Action is to facilitate tribal self-sufficiency, self-determination, and economic development, thus, satisfying both the Department's land acquisition policy as articulated in the Department's trust land regulations at 25 C.F.R. Part 151, and the principle goal of IGRA as articulated in 25 U.S.C. § 2701. The need for the Department to act on the Tribe's application is established by the Department's regulations at 25 C.F.R. §§ 151.12 and 292.22.

1.3.1 Background

The Tribe's needs related to facilitation of tribal self-sufficiency, self-determination, and economic development are as follows:

The Tule River tribal government is responsible for providing a full range of services to its membership, including education, health and recreation, public safety and law enforcement, tribal court, public utilities, natural resources management, economic development, and community assistance. The Tribe's Reservation was established via two Executive Orders in 1873 and 1878 and currently totals 55,396 acres in the foothills of the Sierra-Nevada mountain range.

The Tule River Tribe provided a report that summarizes information regarding the Tribe's vision, goals, present economic situation, and basic needs associated with providing governmental programs for its members, including health care, education, social services, elder services, housing, public utilities, transportation facilities, cultural planning and preservation, and environmental protection. The Tribe wishes to improve its short-term and long-term economic condition and promote self-sufficiency, both with respect to its government operations and its members. The existing Eagle Mountain Casino is located within the Tribe's Reservation and has been owned and operated by the Tribe since its construction in 1996. Due to a growing tribal population, increased demand for support service, and the general inflation of support costs, revenues from the Casino are no longer able to keep pace with the needs of the Tribe.

Several factors limit the economic potential of the existing Casino. The location of the Casino within the Tribe's reservation is a safety issue. Patrons must drive over 12 miles from State Route (SR) 190 along a steep, winding two-lane road that is devoid of many safety features. The existing Casino site has a limited developable area. And, there is a limited supply of water on the Reservation. These factors limit the Tribe's ability to expand the existing Casino.

The Tribe, like much of the rest of the State of California, is facing a drought and water availability issues that limit further development. The Casino is the single largest user of water on the Tribe's Reservation. Many members of the Tribe living on the Reservation do not have access to a reliable supply of water. Due to lack of water, the Tribe has placed a building moratorium on new structures within the Reservation, including tribal housing. The

Tribe has a housing waiting list of over 200 members, and expects this number to grow as the tribal population increases.

1.4 PROCEDURAL BACKGROUND

The requested federal Proposed Action requires compliance with the National Environmental Policy Act (NEPA). Accordingly, the BIA published a Notice of Intent (NOI) in the *Federal Register* on December 30, 2016 (Volume 81 page 96477) describing the Proposed Action, announcing the BIA's intent to prepare an EIS for the Proposed Action, and inviting public and agency comments. The comment period was open until January 30, 2017, and the BIA held a scoping meeting in the City of Porterville on January 23, 2017. The BIA issued a report outlining the results of scoping in April 2017. The scoping report summarized the major issues and concerns from the comments received during the scoping process. The BIA considered scoping comments in developing the project alternatives and analytical methodologies presented in the EIS. During the NEPA process, the BIA invited five Cooperating Agencies: (1) Tribe, (2) City of Porterville, (3) Federal Aviation Administration (FAA), (4) California Department of Transportation (Caltrans), and (5) U.S. Environmental Protection Agency (USEPA). The USEPA, Tribe, Caltrans, and City of Porterville accepted the invitation, while the FAA declined. Additionally, Tulare County requested to participate as a cooperating agency; the BIA granted the request.

The BIA circulated an administrative version of the Draft EIS to cooperating agencies in July 2017 for review and comment. The BIA considered comments and revised the Draft EIS as appropriate prior to public release. In September 2018, the BIA made the Draft EIS available to federal, tribal, state, and local agencies and other interested parties for review and comment. The Notice of Availability (NOA) for the Draft EIS was published in the *Federal Register* on September 21, 2018 (Volume 83, page 47935), initiating a 45-day public review period. The BIA also published the NOA in *The Porterville Recorder*, which circulated in Tulare County and surrounding area on September 21, 2018. The NOA provided information concerning the Proposed Action, public comment period, and the time and location of the public hearing to receive comments from the public concerning the Draft EIS. The BIA held a public hearing at the Porterville Veterans Memorial Building in Porterville, California on October 15, 2018. The comment period on the Draft EIS ran through November 5, 2018.

Public and agency comments on the Draft EIS received during the comment period, including those submitted or recorded at the public hearing, were considered in the preparation of the Final EIS. Volume I of the Final EIS contains responses to the comments received and relevant information was revised in Volume II of the Final EIS as appropriate to address those comments. The BIA circulated an administrative version of the Final EIS to cooperating agencies on March 29, 2019 for review. All comments received from cooperating agencies were considered, and changes to the Final EIS were made as appropriate. The BIA published a NOA for the Final EIS in the *Federal Register* on May 31, 2019 (Volume 84, page 25303). Consistent with the BIA NEPA Handbook, the NOA for the Final EIS was also published in the local newspaper, the *Porterville Recorder* on May 31, 2019. A copy of the Final EIS NOA is included as **Attachment I** of this ROD. The 30-day waiting period ended on July 1, 2019. The comments received during this period, and BIA's responses to issues that were not previously raised and responded to in the EIS process are included in the Supplemental Response to Comments document, **Attachment II** of this ROD.

The Tribe entered into a Memorandum of Understanding with the City, to facilitate the development of the Proposed Project and ongoing cooperation between the Tribe and the City.¹ The Memorandum of Understanding articulates the services that the City will provide to the Proposed Project and the compensation the Tribe will provide for those services. The Memorandum of Understanding also articulates the Tribe's responsibility to mitigate project related traffic impacts.

2.0 ANALYSIS OF ALTERNATIVES

2.1 ALTERNATIVE SCREENING PROCESS

A range of possible alternatives to meet the purpose and need for the Proposed Action were considered in the EIS, including non-casino alternatives, alternative water/wastewater infrastructure arrangements, reduced development configurations, alternative sites, and expansion of the existing casino. Alternatives, other than the No Action/No Development Alternative, were screened based on four criteria: 1) extent to which they meet the purpose and need for the Proposed Action, 2) feasibility, 3) ability to reduce environmental impacts, and 4) ability to contribute to a reasonable range of alternatives. Alternatives considered but rejected from detailed analysis are described in the Final EIS, Section 2.9, and included: alternative sites owned by the Tribe; an expanded site alternative; alternative scenarios for wastewater treatment and recycled water use; and an alternative involving widening and improvements to the 12-mile long roadway that provides access to the Tribe's existing casino.

2.2 REASONABLE ALTERNATIVES CONSIDERED IN DETAIL

The Draft EIS and Final EIS evaluated the following reasonable alternatives and the mandatory No Action Alternative in detail. Additional details on these alternatives are located in the Final EIS, Section 2.0.

2.2.1 Alternative A – Proposed Project on Airpark Site

Alternative A, which is the Tribe's Proposed Project and has been identified as the BIA's Preferred Alternative (see Final EIS, Section 2.11), consists of the following components: (1) the transfer of the 40-acre Airpark Site from fee to trust status on behalf of the Tribe; (2) the issuance of a two-part determination by the Secretary under the IGRA that the Proposed Action is in the best interest of the Tribe and not detrimental to the surrounding community, thus making the site eligible for gaming; (3) the subsequent development of the Airpark Site with a casino-resort and the Off-site Improvement Areas with supporting infrastructure; and (4) the closure of the existing Casino and conversion of the facility into tribal administrative offices and service uses. Components of Alternative A are described below.

¹ Memorandum of Understanding between the Tule River Indian Tribe, the Tule River Tribe Gaming Authority, and the City of Porterville, Aug. 5, 2019 (hereinafter MOU).

Casino Resort: Alternative A would result in the development of a casino-resort within the Airpark Site, consisting of an approximately 104,637 sf casino, 250-room hotel, food and beverage facilities, administrative space, multi-purpose events center, conference center, fire station, and associated parking and infrastructure. The proposed hotel would be an approximately 100-foot tall, 7-story building with a gross footprint of approximately 151,836 sf. The hotel would also feature a fitness center and outdoor pool. A total of 2,100 parking spaces would be available for guests and employees, including 1,260 surface spaces as well as an additional 840 spaces within a 48-foot-tall, 5-level parking garage. The garage would occupy approximately 303,500 sf.

Water Supply: Under Alternative A, the Airpark Site would continue to receive water from the City's municipal water system. The Memorandum of Understanding specifies that the City will supply water and the Tribe will pay the expenses associated with providing service to the Airpark Site. In order to ensure sufficient potable water service for Alternative A without added burden on the City's system, Alternative A includes the development of a water reclamation facility (WRF) and associated recycled water infrastructure to offset project demands. The WRF would be constructed on an Off-site Improvement Area; either (1) a 40-acre City-owned property just southwest of the Airpark Site (40-acre site), or (2) an 8-acre City-owned property just east of the Airpark Site (8-acre-site). This proposed WRF would treat secondary effluent produced from the City's WWTP and provide recycled water to the Proposed Project and for irrigation of the Porterville Sports Complex, located just north of the Airpark Site, which is currently irrigated with potable, well-drawn City water. This use of recycled water at the City's Sports Complex would fully offset the use of potable water under Alternative A, resulting in a reduction of City-wide water demands by approximately 73,800 gallons per day relative to the existing baseline.

Wastewater Treatment and Disposal: The Memorandum of Understanding specifies that the City will provide wastewater treatment services and the Tribe will pay the expenses associated with providing service to the Airpark Site. Alternative A would connect to the City's wastewater treatment plant via existing sewer lines located on and in the immediate vicinity of the Airpark Site. Wastewater service is currently provided to the Airpark Site via a network of 8-inch municipal sewer lines. The sewer pipelines discharge wastewater generated at the Airpark Site into Lift Station No. 12, from which the flows are pumped through four subsequent lift station and approximately 5.0 miles of sewer pipeline to the City's WWTP. While the City's WWTP has the capacity to handle flows generated under Alternative A, some components of the City's conveyance system are either currently deficient or would not be adequate to accommodate wastewater flows generated by Alternative A. As described in detail in Section 2.3.3 of the Final EIS, various improvements would be made to several city wastewater components as part of Alternative A.

Grading, Drainage, and Excavation: Construction would involve grading and excavation for building pads and parking lots. In addition to the existing 5.7 acres of impervious surfaces on the Airpark Site, approximately 22.0 acres of impervious surfaces would be created during construction, for a total of 27.7 acres of impervious surfaces within the 40-acre Airpark Site.

If the 40-acre site is selected as the location of the WRF, approximately 38,720 cubic yards of surface soils that primarily consist of biosolids would need to be removed from the site and replaced; if the 8-acre site is selected as the location of the WRF, approximately 19,360 cubic

yards of surface soils that likely contain lead deposits from the site's former use as a shooting range would need to be removed.

Drainage and Stormwater: Under Alternative A, the existing storm drain facilities within the Airpark Site, including existing pipes and minor structures adjacent to West Street that extend into the project boundaries, will be reconfigured as necessary to accommodate the project design. Stormwater infrastructure developed under Alternative A would retain differential runoff for a 1-day/10-year storm event by means of chamber cistern units located throughout the Airpark Site. Alternative A also includes the construction of a 200 acre-foot (AF) regional retention basin in the northern portion of the 40-acre site and the connection of the existing 60-inch storm drain running beneath West Street to this basin. Excess runoff beyond a 1-day/10-year storm event would be directed to this retention basin system.

Fire Protection/Emergency Response. Alternative A includes building a tribally operated fire station at the Airpark Site. It is also anticipated that the Tribe will enter into mutual aid agreements with the Porterville Fire Department and the Tulare County Fire Department for the provision of supplementary fire and emergency response services to the Airpark Site and vicinity as needed. Additionally, the Memorandum of Understanding provides that the Tribe will make annual payments to the City, part of which will fund project related fire protection training for the City and Tribal fire personnel.

Security/Law Enforcement. The Memorandum of Understanding specifies that Tribe will seek a law enforcement services agreement with the Tulare County Sheriff's Department and if the Tribe is unable to the City will negotiate law enforcement services agreement. The Porterville Police Department and/or the Tulare County Sheriff's Department would have the authority to enforce all non-gaming state criminal laws on the proposed trust lands pursuant to Public Law 23-280. Additionally, the Memorandum of Understanding provides that the Tribe will make annual payments to the City to mitigate project related increased law enforcement costs.

Energy: Electrical service to the Airpark Site is currently provided by Southern California Edison (SCE). No existing natural gas service lines connect to the Airpark Site. Southern California Gas Company currently supplies natural gas services to customers in the vicinity of the Airpark Site, and service may be extended to the site. Southern California Edison serves the project vicinity out of its Poplar Substation, located 4.3 miles southwest of the Airpark Site, and improvements may be needed to extend service to the site.

Renovation of Existing Casino: Under Alternative A, the Tribe's existing Eagle Mountain Casino would be converted to tribal governmental uses. It is anticipated that the re-purposed space would be used to accommodate existing tribal departments, including healthcare and educational facilities within the Reservation that are currently undersized. Thus, while the location of tribal governmental and service facilities may shift within the Reservation, no new uses would be created. Therefore, traffic, water demands, and wastewater flows would be expected to decrease on the Reservation as a result of relocating the Eagle Mountain Casino.

Best Management Practices: Construction and operation of Alternative A would incorporate a variety of industry standard best management practices (BMPs) that would avoid or minimize

potential adverse effects resulting from the development of Alternative A. These are listed in **Section 6.0** of the ROD.

2.2.2 Alternative B – Proposed Project with On-Site Water & Wastewater Systems

Alternative B is identical to Alternative A with one key difference. Alternative B would not incorporate any connections of the Airpark Site to the municipal water and wastewater systems. Instead, the Tribe would drill two groundwater wells on the Airpark Site to meet the water demand for all non-irrigation needs, including domestic use, emergency supply, and fire protection. Additionally, under Alternative B, the Airpark Site would not be connected to the municipal wastewater system, and thus none of the improvements to the wastewater infrastructure surrounding the Airpark Site that are necessary under Alternative A would be required under Alternative B, including the WRF. The Tribe would construct an on-site package extended aeration activated sludge plant and package tertiary filter system to treat effluent generated at the Airpark Site, as well as a leach field complex beneath the proposed parking lot.

Construction would involve grading and excavation for building pads and parking lots. Approximately 25.8 acres of impervious surfaces would be created on-site, for a total of 31.5 acres of impervious surfaces within the Airpark Site. It is anticipated that approximately 11,100 cubic yards of fill would be necessary to construct the on-site components of Alternative B (Appendix D of the Final EIS). On-site and off-site stormwater infrastructure development under Alternative B would be the same as under Alternative A, however, the total volume of the on-site cistern chamber units would be approximately 2.1 AF larger (for a total volume of 5.7 AF) as a result of the small increase in impervious surfaces and post-development runoff compared to Alternative A.

2.2.3 Alternative C – Reduced Intensity Hotel and Casino on Airpark Site

Alternative C includes the same development components as Alternative A, but on a reduced scale. Alternative C would result in the development of a casino-resort within the Airpark Site, consisting of an approximately 76,024 sf casino, 250-room hotel, food and beverage facilities, administrative space, conference center, and associated parking and infrastructure. The proposed hotel would be identical to the hotel proposed under Alternative A, with the same gross footprint and room scheme. Dining facilities would be similar to those proposed under Alternative A, but on a reduced scale. The convention space would be slightly reduced, with a gross footprint of approximately 19,900 sf. Alternative C does not include a multi-purpose event center. Alternative C does not include the construction of a parking garage. A total of 1,360 surface parking spaces would be available for guests and employees.

Water supply would be provided through connection to the City's municipal system as described under Alternative A (Water Option 1) or through the development of on-site wells as described under Alternative B (Water Option 2). Wastewater treatment would either be provided through connection to the City's municipal system as described under Alternative A (Wastewater Option 1) or through the development of an on-site WWTP as described under Alternative B (Wastewater Option 2). Construction would involve grading and excavation for building pads and parking lots. Approximately 16.9 acres of impervious surfaces would be created if the off-site water supply and wastewater treatment and disposal options are

selected, while 17.8 acres of impervious surfaces would be created if the on-site options are selected (for total impervious surface acreages of 22.6 and 17.8, respectively).

2.2.4 Alternative D – Non-Gaming Hotel and Conference Center on Airpark Site

Alternative D differs from the other alternatives in that it does not include a casino. Alternative D would still occur on the 40-acre Airpark Site and involve its transfer into federal trust status, but it would not require a two-part determination for the purpose of gaming. Under this alternative, the existing Eagle Mountain Casino would remain operational. Alternative D would result in the development of a hotel, convention space, dining facilities, parking, and associated parking and infrastructure. The proposed hotel would be identical to the hotel proposed under Alternative A, with the same gross footprint and room scheme. Alternative D includes dining and retail facilities, but on a smaller scale than Alternative A. There would be approximately 166 total seats split between several dining options. One small 250 sf retail shop is also proposed. As with Alternative C, Alternative D also includes the construction of 19,900 sf of convention space with a 9,000 sf divisible ballroom; however, Alternative D does not include a multi-purpose event center. Alternative D does not include the construction of a parking garage. A total of 435 surface parking spaces would be available for guests and employees.

As with Alternative B, Alternative D would involve the drilling of two on-site groundwater wells and construction of a pump station and a storage tank for operational use, emergency supply, and fire protection. As with Alternative C, the options for wastewater treatment and disposal are similar to those described under Alternatives A and B. Construction would involve grading and excavation for building pads and parking lots. Approximately 4.0 acres of impervious surfaces would be created if the off-site wastewater treatment and disposal option are selected, while 4.6 acres of impervious surfaces would be created if the on-site option is selected (for total impervious surface acreages of 9.7 and 10.3, respectively).

2.2.5 Alternative E – Expansion of Existing Eagle Mountain Casino

Alternative E consists of expanding the Tribe's existing 54,500 sf Eagle Mountain Casino, located within the Tribe's Reservation on the approximately 12-acre Eagle Mountain Casino Site which is approximately 17 miles east of the Airpark Site. A fee-to-trust acquisition and Secretarial Determination would not be necessary for Alternative E because the existing Casino is on land that is already in federal trust for the Tribe that is eligible for gaming under IGRA. Alternative E would add an additional 16,500 sf of new building space and 350 electronic gaming devices to the Tribe's existing casino and a new 3,500 sf dining venue would be constructed. Alternative E includes the construction of a new parking garage, which would provide 600 parking spaces.

The current average daily water demand at the existing facility is 30,226 gpd. The proposed expansion would add an average daily demand of 5,381 gpd, bringing the new total to 35,607 gpd. Due to the shortage of available water supply on the Reservation, water would need to be trucked to the Eagle Mountain Casino to meet the additional demand under Alternative E. The projected average daily wastewater flow resulting from expansion under Alternative D would be approximately 5,023 gpd, bringing the total average daily flow to 35,249 gpd. Wastewater generated at the Eagle Mountain Casino Site is currently treated at an on-site, 20-

year-old sequencing batch reactor WWTP with a capacity of 80,000 gpd. Following the completion of the expanded facility, the Casino would be connected to the Reservation-wide wastewater treatment system and the use of the on-site sequencing batch reactor (SBR) and leach field complex would be phased out.

The Tribal Police Department (TPD) operating under the Tribe's Department of Public Safety (DPS) would continue to provide primary law enforcement service to the Airpark Site. The Tulare County Sheriff's Department provides law enforcement services throughout the Reservation, including to the existing Eagle Mountain Casino Site, and would continue to do so under Alternative E. Security and emergency medical response staff under the jurisdiction of the Tribe's Gaming Commission would continue to monitor the casino complex for health and safety issues and gaming violations. The California Highway Patrol (CHP) patrols roadways in and around the Reservation, and would continue to do so under Alternative E. Primary fire protection and emergency medical response services would be provided by the Tribe-operated Tule River Fire Department, with secondary service provided by the Tulare County Fire Department via a mutual aid agreement.

2.2.6 Alternative F – No Action

Under the No Action Alternative, none of the five development alternatives (Alternatives A, B, C, D, or E) considered within this EIS would be implemented. The No Action Alternative assumes that the existing uses on the Airpark Site and Eagle Mountain Casino Site would not change.

3.0 PREFERRED ALTERNATIVE

For the reasons discussed herein and in the Final EIS, the Department has determined that Alternative A is the agency's Preferred Alternative because it best meets the purpose and need for the Proposed Action. The BIA's mission is to enhance the quality of life and to promote economic opportunity in balance with meeting the responsibility to protect and improve the trust resources of American Indians, Indian Tribes, and Alaska Natives. This mission is reflected in the policies underlying the statutory authorities governing the Proposed Action, namely, the IRA, which was enacted to promote Indian self-government and economic self-sufficiency, and IGRA, which was enacted to govern Indian gaming as a means of promoting tribal economic development, self-sufficiency, and strong tribal governments. Of the alternatives evaluated within the EIS, Alternative A would best meet the purposes and needs of the BIA, consistent with its statutory mission and responsibilities to promote the long-term economic vitality, self-sufficiency, self-determination, and self-governance of the Tribe.

The casino-resort complex described under Alternative A would provide the Tribe with the best opportunity for securing a viable means of attracting and maintaining a long-term, sustainable revenue stream for the tribal government. Under such conditions, the tribal government would be stable and better prepared to establish, fund, and maintain governmental programs to meet the unmet needs of the Tribe, as well as help alleviate a portion of the water supply shortage on the Tribe's Reservation, as described in **Section 1.3.1** of this ROD. The development of Alternative A would meet the purpose and need of the Proposed Action better than the other development alternatives due to the greater environmental impacts of Alternatives B and D and the reduced revenues that would be

expected from the operation of Alternatives C, D, and E (described in detail in Section 2.11 of the Final EIS). While Alternative A would have greater environmental impacts than the No Action Alternative, that alternative does not meet the purpose and need for the Proposed Action, and the environmental impacts of the Preferred Alternative are adequately addressed by the mitigation measures adopted in this ROD.

4.0 ENVIRONMENTALLY PREFERRED ALTERNATIVE(S)

Among all of the alternatives, the No Action Alternative (Alternative F) would result in the fewest environmental impacts. Under the No Action Alternative, no parcels within the Airpark Site would be taken into trust and the Tribe would continue to operate its existing Casino as it does presently. The Airpark Site would likely be developed because of its location, existing improvements, and infrastructure. Because it cannot be predicted with certainty the exact type of development that would occur under the No Action Alternative, it is difficult to accurately assess whether the scope of impacts would be comparable to those under the development alternatives. However, the No Action Alternative would not meet the stated purpose and need. Specifically, it would not facilitate tribal self-sufficiency, self-determination, and economic development. The No Action alternative also would likely result in substantially less economic benefits to Tulare County and the City of Porterville than any of the development alternatives.

Among the development alternatives, the expansion of the existing Eagle Mountain Casino (Alternative E) would result in the least environmental impacts. This is because Alternative E has a significantly smaller footprint than the other development alternatives and development would take place on previously graded areas, largely within the existing parking lot. Because less economic development would be feasible due to the remote location of the existing casino, fewer patron vehicle trips and associated traffic, noise and air quality impacts would occur. While Alternative E would necessitate water to be trucked in on a daily basis as sufficient supplies are not currently available on the Reservation, traffic, noise and air quality impacts from the truck trips would be less than the impacts from traffic generated by the larger economic development alternatives on the Airpark Site (i.e., Alternatives A through D).

5.0 ENVIRONMENTAL IMPACTS AND PUBLIC COMMENTS

5.1 ENVIRONMENTAL IMPACTS IDENTIFIED IN FINAL EIS

A number of specific issues were raised during the EIS scoping process and public and agency comments on the Draft EIS. Each of the alternatives considered in the Final EIS was evaluated relative to these and other issues. The categories of the most substantive issues raised include:

- Geology and Soils
- Water Resources
- Air Quality
- Biological Resources
- Cultural and Paleontological Resources
- Socioeconomic Conditions

- Transportation/Circulation
- Land Use
- Public Services
- Noise
- Hazardous Materials
- Aesthetics
- Indirect and Growth-Inducing Effects
- Cumulative Effects

The evaluation of project-related impacts included consultations with entities that have jurisdiction or special expertise to ensure that the impact assessments for the Final EIS were accomplished using accepted industry standard practice, procedures, and the most currently available data and models for each of the issues evaluated in the Final EIS. Alternative courses of action and mitigation measures were developed in response to environmental concerns and issues. Section 4 of the Final EIS describes environmental impacts of Alternatives A through E in detail. The environmental impacts of the Preferred Alternative (Alternative A) are described below.

5.1.1 Geology and Soils

Topography – Alternative A would involve grading the majority of the Airpark Site for building pads and parking lots. The Airpark Site is generally flat and does not contain any distinctive topographical features. On-site grading would facilitate proper drainage. Alternative A, given the proposed design, would result in a minimal impact on topography. With respect to the Off-site Improvements, the import and export of soil associated with the construction of the WRF in the southern portion of the 40-acre site would not significantly alter the site topography. While construction of the regional retention basin under Alternative A would alter the topography of the 40-acre site, the temporary and permanent impacts associated with this alteration would be less than significant, and no mitigation is required. On-site grading of the 8-acre site would maintain the original drainage route; therefore, the impact to topography would be minimal. Therefore, effects to topography under Alternative A would be less than significant, and no mitigation is required.

Soils/Geology – Alternative A could potentially impact soils due to erosion during construction, operation, and maintenance activities, including clearing, grading, trenching, and backfilling. The primary soils on the Airpark Site and Off-site Improvement Areas have a moderate erosion potential based on soil type and slope gradient. Alternative A would be constructed in accordance with the National Pollutant Discharge Elimination System (NPDES) general construction permit, which requires sediment control and erosion prevention into navigable (surface) waters of the U.S. As part of the NPDES permit compliance, a Stormwater Pollution Prevention Plan (SWPPP) would be prepared and implemented. The design and construction of Alternative A would not significantly affect soils or create erosion or sedimentation issues on the Airpark Site.

Seismicity – There are no known active faults in the vicinity of the Airpark Site. Neither the Airpark Site nor the Off-site Improvement Areas fall within an Alquist-Priolo Fault Zone, and

are therefore not subject to any building restrictions. The project facilities would be constructed to standards consistent with the California Building Code (CBC) guidelines, particularly those pertaining to earthquake design, in order to safeguard against major structural failures and loss of life. Alternative A would not have significant effects related to seismic hazards.

Mineral Resources – Given that there are no known or recorded mineral resources within the Airpark Site or Off-site Improvement areas, construction and operation of Alternative A would not adversely affect known or recorded mineral resources. No significant impacts to mineral resources would occur.

5.1.2 Water Resources

Flooding – The Airpark Site and Off-site Improvement Areas are located entirely outside of both the 1.0 percent (100-year) and 0.2 percent (500-year) annual chance flood plain. No associated structures, utilities, or storage areas are proposed for development within the 100-year or 500-year floodplain. Therefore, no significant impacts associated with flooding would occur as a result of Alternative A.

Construction – Construction activities under Alternative A would include ground-disturbing activities such as clearing and grubbing, mass grading, and excavation, which could lead to erosion of topsoil. Erosion from construction could increase sediment discharge to surface waters during storm events, thereby degrading downstream water quality. Discharges of pollutants to surface waters from construction activities and accidents are a potentially significant impact. Erosion control measures will be employed in compliance with the NPDES General Construction Permit for construction activities. A SWPPP will be developed prior to any ground disturbance at the development sites and will include BMPs to reduce potential surface water contamination during storm events. After implementation of mitigation measures discussed in **Section 6.1** and **6.2** below and Section 5.0 of the Final EIS, construction of Alternative A would not result in a significant adverse effect on surface water quality.

Stormwater Runoff – A drainage and stormwater treatment analysis for the development alternatives has been completed and is included in Appendix D of the Draft EIS. Alternative A would alter the existing drainage pattern of the Airpark Site and would increase stormwater runoff as a result of increased impervious surfaces on the site. Stormwater runoff from the Airpark Site would be held in on-site chamber cistern units or the regional retention basin in the northern portion of the 40-acre site. Therefore, no discharge to Waters of the U.S. would occur, either through non-point source stormwater runoff or through point source discharge of stormwater from a culvert or outfall. Accordingly, there would be no impact to off-site drainages and no pollutants would be discharged to nearby surface waters. If the 40-acre site is selected as the location of the WRF, a 200-AF regional retention basin located immediately to the north of the WRF would retain all runoff and provide sufficient stormwater quality control. If the 8-acre site is selected as the location of the WRF, chamber cistern units with a total volume of approximately 0.1 AF would be constructed at the 8-acre site, which would fully retain all differential runoff resulting from development of the 8-acre site. Combined with the erosion BMPs described in **Section 6.1** below and Section 5.0 of the Final EIS, these

factors ensure that the impacts to regional stormwater runoff and surface water quality would be less than significant.

Wastewater – Alternative A would connect to the City’s WWTP via the existing wastewater infrastructure located on and in the immediate vicinity of the Airpark Site. The existing 8-inch sewer pipelines at the Airpark Site would be sufficient to handle increased flows under Alternative A; however, several features of the municipal wastewater system in the immediate vicinity of the Airpark Site either are deficient under existing conditions or would require renovations to handle Alternative A wastewater flows. Estimated flows from Alternative A are well within the WWTP’s limits and under the 80 percent threshold for expansion. Therefore, no expansion of the WWTP would be necessary and no exceedance of wastewater conveyance or treatment capacities would occur that would result in significant effects to the physical environment, and no mitigation is required.

The 40-acre site is currently used as a dispersal field for biosolid waste generated at the City’s WWTP. The City would no longer be able to use it as a biosolid dispersal field under Alternative A due to the development of the regional retention basin. The loss of the 40-acre site as a disposal field would be accommodated through adjustments in the farming and dispersal practices at the City’s other biosolid application fields. Therefore, development of the 40-acre site would not result in a significant impact on municipal wastewater treatment and disposal services.

Groundwater – Under Alternative A, the Airpark Site would continue to receive water from the City’s municipal water system for domestic use, emergency supply, and fire protection. This system relies almost exclusively on groundwater for supplying municipal water services. The use of groundwater as the water supply for Alternative A could significantly impact groundwater resources if use resulted in a significant reduction in groundwater levels in the Tule Groundwater Sub-basin, which is currently classified as critically overdrafted. However, Alternative A includes the development of a WRF and associated recycled water infrastructure to offset project demands. The WRF and associated storage facilities proposed under Alternative A would have the capacity both to offset 100 percent of the potable water used to irrigate the Porterville Sports Complex and to supply Alternative A’s projected maximum-month recycled water demand. Therefore, implementation of Alternative A would yield a net surplus of water within the City’s potable water supply relative to the existing baseline. Consequently, Alternative A would result in a net decrease in groundwater pumping in the Tule Groundwater Sub-basin, and no adverse impacts to regional groundwater levels would occur. Nonetheless, measures described in **Section 6.2.2** below Section 5.0 of the Final EIS, would reduce the amount of potable water used under Alternative A.

The construction of the WRF would introduce approximately five acres of impermeable surfaces to either the 40-acre or 8-acre site, which has the potential to reduce groundwater discharge in areas where surface percolation accounts for a large percentage of natural recharge. However, the operation of the regional retention basin on the 40-acre site would allow stormwater to percolate into the groundwater table. Development of the regional retention basin and of the lift station and pipeline improvement areas would not introduce significant amounts of new impervious surfaces. Therefore, the introduction of impermeable surfaces to the Off-site Improvement Areas would not have a significant adverse impact on groundwater recharge. No mitigation is warranted.

In the Memorandum of Understanding, the City identifies the WRF as a beneficial impact because it would:

- reduce the City's potable water use at the Sports Complex,
- reduces the City's need to develop additional potable water supply,
- reduces the amount of sewage disposed of by the City by diverting it for reuse, and
- allow the City to treat its own effluent at the water reclamation facility, with an option to expand capacity, and provide treated water for higher value uses.

Alternative A would include the routine use of potentially hazardous construction materials such as concrete washings, solvents, paint, oil, and grease, which may spill onto the ground and enter stormwater. These pollutants may percolate to shallow groundwater from construction activities and cause a potentially significant impact. The mitigation measures in **Section 6.1, 6.2,** and Section 5.0 of the Final EIS, would minimize groundwater pollution during construction and reduce potential impacts to groundwater quality from construction to a less-than-significant level.

5.1.3 Air Quality

Construction Emissions – Alternative A would generate air pollutants through construction although it would not exceed regulatory emissions threshold levels. However, to further reduce project-related construction criteria pollutants and diesel particulate matter (DPM) emissions, the best management practices described in **Section 6.3** below and Section 5.0 of the Final EIS would further reduce impacts from construction emissions.

Operational Emissions – Buildout of Alternative A would result in the generation of mobile emissions from patron, employee, and delivery vehicles, as well as area and energy criteria pollutant emissions. Also, stationary source emissions from combustion of natural gas in boilers, stoves, heating units, and other equipment on the Airpark Site would result from buildout of Alternative A. Emissions of the ozone precursor nitrogen dioxide (NO_x) from operation of Alternative A would exceed the applicable General Conformity *de minimis* threshold. Mitigation provided in **Section 6.3** below and Section 5.0 of the Final EIS would minimize criteria air pollutant emissions through the implementation of measures intended to reduce on-site area emissions, vehicle idling, and mobile emissions. Additionally, mitigation requires the purchase of credits to fully offset NO_x emissions. After mitigation, impacts to the regional air quality environment resulting from operation of Alternative A would be reduced to less than significant.

Operation of the proposed WRF and recycled water pump station would result in operational emissions associated with worker trips and electricity usage from the equipment and pumps. Operation of off-site infrastructure improvements would not cause emissions that would exceed the San Joaquin Valley Air Pollution Control District's thresholds. Operational emissions from off-site infrastructure would be less than significant. The WRF would treat secondary wastewater to tertiary levels and is not expected to result in any perceptible odors at off-site locations. Additionally, the elimination of biosolid dispersal at the 40-acre site would likely reduce the propensity for odors at the site. Impacts associated with odor from development of off-site infrastructure improvements would be less than significant.

5.1.4 Biological Resources

Wildlife and Habitats – Development of Alternative A would impact the entire 40 acres of the Airpark Site, including the disked fallow field and ruderal/developed habitat types. These habitat types are of low value and have no particular significance to wildlife occurring within the project region. Although habitats within the Airpark Site may be suitable for the federal and State special-status species discussed below, they are not, in and of themselves, listed as critical or sensitive under federal designation. Therefore, impacts to wildlife habitat resulting from development of the Airpark Site are less than significant and no mitigation is required.

Although habitats within the Off-site Improvement Areas may be suitable for the federal and State special-status species discussed below, they are not, in and of themselves, listed as critical or sensitive under federal designation. Additionally, no features of the Off-site Improvement Areas have the potential to function as movement corridors for resident and migratory fish and wildlife species. The relatively small project area and nature of the off-site improvements has no potential to intersect wildlife movement corridors and influence regional wildlife movements. Therefore, impacts to wildlife habitat resulting from development of the Off-site Improvement Areas are less than significant, and no mitigation is required.

Special Status Species – Two special-status species have a very low potential to occur on the Airpark Site and the Off-site Improvement Areas (San Joaquin Kit Fox (*Vulpes macrotis mutica*; *SJKF*) and the American Badger (*Taxidea taxus*)). Mitigation listed in **Section 6.4** below and Section 5.0 of the Final EIS would reduce impacts to all species with the potential to occur on the Airpark Site to less than significant levels.

Migratory Birds – Alternative A could adversely affect active migratory bird nests if vegetation removal or loud noise-producing activities associated with construction were to occur during the nesting season (February 15 through September 15). Mitigation listed in **Section 6.4** below and Section 5.0 of the Final EIS would reduce potential impacts to migratory birds to less than significant levels.

Waters of the U.S – No wetlands or Waters of the U.S. were identified within the Airpark Site or the Off-site Improvement Areas. Therefore, Alternative A would not result in adverse effects to wetlands and Waters of the U.S. and no mitigation is required.

5.1.5 Cultural Resources

No known historic properties or paleontological resources have been identified within the Airpark Site or the Off-site Improvement Areas. Under Alternative A, the potential exists for previously unknown archaeological or paleontological resources to be encountered during construction activities. With implementation of mitigation measures described in **Section 6.5** below and Section 5.0 of the Final EIS, impacts to cultural resources would be less than significant.

5.1.6 Socioeconomic Conditions and Environmental Justice

Socioeconomics Conditions – The construction and operation of Alternative A would result in economic output to Tulare County and the State of California in the form of jobs, purchases of goods and services, and through positive fiscal effects. The construction of Alternative A would result in indirect and induced economic activity among a variety of different industries and businesses throughout the County. Output received by Tulare County businesses would in turn increase their spending and labor demand, thereby further stimulating the local economy. This would be considered a beneficial impact.

The operation of Alternative A may have substitution or competitive effects on competing gaming venues, including tribal casinos and local cardrooms. The substitution effects would be greater for those gaming facilities that are closest to the proposed gaming project and most similar in terms of the types of customers that would visit the venue. Estimated substitution effects are anticipated to diminish after the first year of operation of Alternative A. The substitution effects resulting from Alternative A to competing tribal gaming facility revenues are not anticipated to significantly impact these casinos, or to cause their closure, or to significantly impact the ability of the tribal governments that own the facilities to provide essential services to their respective memberships.

Alternative A would result in decreased property taxes from those land parcels taken into trust. In addition, similar to commercial developments of comparable scale, operation of Alternative A would likely increase costs to local agencies for the provision of governmental services, including police, fire and emergency services due to increased service calls. These fiscal costs and crime would be partially offset through increased tax revenues that would be stimulated by the operation and increased employment of Alternative A. It is anticipated that the Tribe would enter into a service agreement with the Porterville Police Department and/or the Tulare County Sheriff's Department to fully reimburse the affected department for quantifiable direct and indirect costs incurred in conjunction with the provision of law enforcement services at the Airpark Site. The Tribe will address these impacts through the implementation of on-site security measures and the mitigation described in **Section 6.6** below and Section 5.0 of the Final EIS, therefore, Alternative A would result in a less-than-significant effect on law enforcement services and crime

Alternative A would have a less than significant effect on local housing values, housing supply, parks, and libraries. Alternative A would have a beneficial impact on the Tribe and would generate new income to fund the operation of the tribal government. This income is anticipated to have a beneficial effect on tribal quality of life, health, education, culture, and expectations by funding tribal programs that serve tribal members, including education, health care, housing, social services, and tribally-sponsored cultural events, and by supporting tribal self-sufficiency and self-determination.

Environmental Justice – Alternative A would have a direct beneficial impact to minority and low-income populations. These benefits will likely occur in the form of more and better employment, and the social improvements that are related thereto. Other effects to minority and low-income persons, such as traffic, air quality, noise, etc. would be less than significant, after the implementation of the specific mitigation measures related to these environmental effects. Therefore, with the implementation of the mitigation measures described in this ROD

and Section 5.0 of the Final EIS, Alternative A would not result in significant adverse effects to minority or low-income communities.

5.1.7 Transportation/Circulation

Alternative A would result in temporary impacts resulting from construction activities. These effects would include temporary inconveniences to travelers. This minimal addition of construction traffic would not result in significant traffic impacts. Mitigation included in **Section 6.7** below and Section 5.0 of the Final EIS would reduce construction impacts to a less than significant level.

Alternative A would result in four study intersections operating at an unacceptable level of service (LOS) during the opening year. The intersection of SR-190/Rockford Road (Road 208) (weekend peak hour) is projected to operate at an unacceptable LOS E. The intersection of SR-190/Westwood Street (weekday AM and PM peak hours) is projected to operate at an unacceptable LOS E. However, the intersection SR-190/Westwood Street is the location of a programmed roundabout scheduled to be constructed before opening year. The roundabout would result in an acceptable LOS at this intersection with the addition of traffic from Alternative A, and therefore, no mitigation is required regarding this intersection. The intersection of Scranton Avenue/West Street (weekday PM and weekend peak hours) is projected to operate at an unacceptable LOS F. The intersection of Scranton Avenue/SR-65 was projected to operate at an unacceptable LOS F during weekday PM and an unacceptable LOS E during weekend peak hour; however recent improvements at this intersection, including the installation of a traffic signal, would improve operations to acceptable levels. All study roadway segments would operate under acceptable levels of service at the opening year with traffic from Alternative A except for the segment of SR-65 from Road 204 (Spruce Road) to Hermosa Street. However, this is not considered a significant impact, as Alternative A would result in a volume-to-capacity (V/C) increase of less than 0.05 for a roadway segment that is already operating unacceptably and would continue to operate unacceptably in the future even without the addition of project-related traffic. Upon implementation of recommended mitigation detailed in **Section 6.7** below and Section 5.0 of the Final EIS and required by the Memorandum of Understanding, Alternative A would have a less-than-significant effect on all traffic study locations.

Implementation of Alternative A would develop the Airpark Site with limited pedestrian-oriented walkways to connect different land uses with parking areas within the site. The project would not disrupt or otherwise prevent roadway improvements, including the addition of Class II bike paths, planned by the City or County in the vicinity of the Airpark Site. The project would also not disrupt existing transit services in the vicinity of the Airpark Site. Impacts to transit, bicycle, and pedestrian facilities under Alternative A would be less-than-significant.

5.1.8 Land Use

Alternative A would result in approximately 40 acres of land at the Airpark Site being transferred from fee to federal trust, thereby removing the property from the City's land use jurisdiction. The commercial uses proposed under Alternative A would be generally compatible with the type and intensity of uses that would be allowable under the City's

General Plan and zoning designations for the Airpark Site and would be generally consistent with local land use plans. Land uses under Alternative A would replace existing vacant and undeveloped land, and there are no land uses in the vicinity of the site that would be disrupted by the construction of a casino/hotel resort. The Airpark Site received a combined land evaluation and site assessment Farmland Conversion Impact Rating (FCIR) score of 69, which is under the 160-point threshold for evaluation of alternative sites. Additionally, there are no active agricultural activities occurring on the Airpark Site and it is not designated for agricultural uses in local planning documents. Therefore, there would be no significant impacts to agriculture from development of Alternative A on the Airpark Site.

Alternative A may result in the construction of a WRF on the 40-acre site. The 40-acre site is zoned for Agricultural/Conservation (AC) by the City; this designation does not explicitly allow major utilities. Should the 40-acre site be selected as the location for the proposed WRF, the City would process any approvals and permits necessary to allow the WRF through actions that may include either issuance of a special use permit or a zoning map amendment to allow major utilities. The proposed WRF is generally compatible with the AC designation, and would not generate significant noise, odor, or other concerns that would interfere with adjacent land uses. Alternative A would also result in the construction of a regional retention basin on the 40-acre site. The regional retention basin, like the WRF, is generally compatible with the AC designation, and would not generate significant noise, odor, or other concerns that would interfere with adjacent land uses. Therefore, development of proposed infrastructure improvements on the 40-acre site under Alternative A would have a less-than-significant impact on land use.

The 40-acre site is actively farmed and is designated Farmland of Statewide Importance by the Farmland Monitoring and Mapping Program. The 40-acre site received an FCIR score of 117, which is under the 160-point threshold for evaluation of alternative sites. The 40-acre site is currently under a Williamson Act Contract, restricting the land to agricultural use only. Under Alternative A, the City would withdraw from the Williamson Contract and no project-related construction would take place on the parcel until after cancellation is complete. Development on the 40-acre site would result in a conversion of 0.003 percent of the farmland in the County. This represents a negligible conversion of farmland, and would be a less-than-significant impact.

Alternative A may result in the construction of a WRF on the 8-acre site. The 8-acre site is currently zoned Parks and Public Recreation Facilities (PK); major utilities are not specifically permitted within this designation. Should the 8-acre site be selected as the location for the proposed WRF, the City would process any approvals and permits necessary to allow the WRF through actions that may include either issuance of a special use permit or a zoning map amendment to allow major utilities. The proposed WRF is generally compatible with the PK designation, and would not generate significant noise, odor, or other concerns that would interfere with adjacent land uses. Therefore, development of proposed infrastructure improvements on the 8-acre site would have a less-than-significant impact on land use. The 8-acre site received FCIR score of 63, which is under the 160-point threshold for evaluation of alternative sites. Additionally, there is no active agriculture occurring on the 8-acre site and the site is not designated for agricultural uses in local planning documents.

Therefore, there would be no significant impacts to agriculture from development of the WRF on the 8-acre site.

5.1.9 Public Services

Water Supply – No off-site water supply infrastructure would be needed to supply water to Alternative A; therefore, no exceedance of water system capacities that would result in significant effects to the physical environment would occur. However, water conservation mitigation measures are provided in **Section 6.2** below and Section 5.0 of the Final EIS, to ensure that potable water use is minimized. Additionally, to ensure sufficient potable water service for Alternative A without added burden on the City’s system, Alternative A includes the development of a WRF and associated recycled water infrastructure to offset project demands.

Wastewater Service – The Tribe has expressed its intent to contract with the City for wastewater treatment services and pay the expenses associated with providing service to the Airpark Site. Several features of the municipal wastewater system in the immediate vicinity of the Airpark Site either are deficient under existing conditions or would require renovations to handle Alternative A’s wastewater flows. Upgrades to these facilities are a component of Alternative A. No exceedance of wastewater conveyance or treatment capacities would occur that would result in significant effects to the physical environment, and no mitigation is required.

Solid Waste Service – Construction of the Proposed Project under Alternative A would result in a temporary increase in the generation of solid waste. Mitigation measures are presented in **Section 6.9.1** below and Section 5.0 of the Final EIS to reduce the amount of construction and demolition materials disposed of at the landfill and ensure impacts remain less than significant. The estimated daily and yearly solid waste streams under Alternative A represent a relatively small proportion of the daily intake limit and remaining capacity of both Teapot Dome Landfill and its projected successor, Visalia Landfill. No significant impact to these facilities would occur. However, additional mitigation measures are presented in **Section 6.9.1** below and Section 5.0 of the Final EIS, which would further reduce the amount of solid waste disposed of at the landfill(s).

Law Enforcement, Fire Protection, and Emergency Medical Services – Alternative A has the potential to increase demand for law enforcement, fire protection, and emergency medical services. Implementation of mitigation measure described in **Section 6.9.3** below and Section 5.0 of the Final EIS and required by the Memorandum of Understanding would reduce impacts to less than significant levels.

Energy and Natural Gas – Construction on the Airpark Site could damage underground utilities, leading to outages and/or serious injury. This would result in a significant adverse effect. Mitigation measures are presented in **Section 6.9.5** below and Section 5.0 of the Final EIS to reduce impacts to less-than-significant levels. A new circuit would need to be installed prior to the operation of Alternative A. This would include the addition of a new circuit breaker at the Poplar Substation, as well as the installation of new overhead and underground electrical lines in the region between the substation and the Airpark Site. The Tribe would be required to pay a fair share of the upgrades needed to serve Alternative A to receive service.

Potential impacts of the circuit expansion are anticipated to be minor. Therefore, no significant effects to the physical environment would occur because of these off-site improvements. **Section 6.3** below and Section 5.0 of the Final EIS include mitigation measures related to greenhouse gas emissions that would reduce the energy demand of Alternative A. The Tribe would be required to pay a fair share of the improvement costs necessary to service the Airpark Site to receive gas service. Alternative A would not result in significant adverse effects to natural gas services or the physical environment.

Off-Site Improvements – Construction and operation of the proposed WRF, regional retention basin, recycled water pipelines, lift stations, and wastewater force mains would have minimal to no effect on water supply, law enforcement, fire protection and EMS, and natural gas. Therefore, no exceedance of the capacities of these services would occur that would result in significant effects to the physical environment. Development of the off-site improvements has the potential to impact solid waste services due to the need to remove existing soil prior to construction on the 40-acre site and the 8-acre site, municipal wastewater services due to the loss of the 40-acre site as a biosolid dispersal location, and electrical services due to the need to extend distribution lines to the 40-acre site or the 8-acre site.

Impacts from soil removal would be temporary and not significant given that Visalia Landfill has an adequate capacity to accommodate the temporary increase in waste generated by the development of the 40-acre site and 8-acre site. The 40-acre site is currently used as a dispersal field for biosolid waste generated at the City's WWTP. The City would no longer be able to use it as a biosolid dispersal field under Alternative A due to the development of the regional retention basin. The loss of the 40-acre site as a disposal field would be accommodated through adjustments in the farming and dispersal practices at the City's other biosolid application fields. Therefore, development of the 40-acre site would not result in a significant impact on municipal wastewater treatment and disposal services. Due to the small electricity demand of the WRF relative to that of the Airpark Site development under Alternative A, it is not anticipated that operation of this facility would significantly impact SCE's ability to provide electricity in the region subsequent to the above-described upgrades. SCE has indicated that because the 8-acre site is landlocked, it may be necessary to obtain an easement prior to extending electrical services to that location

5.1.10 Noise

Construction Noise –The maximum construction noise at the Airpark Site is estimated to be less than the Federal Highway Administration (FHWA) Noise Abatement Criteria (NAC) threshold of 78 dBA Leq for construction. The maximum construction noise level at the nearest portion of the Porterville Sports Complex located approximately 300 feet east of the Airpark Site would be more than the FHWA NAC threshold for residential sensitive receptors but less than the threshold of 83 dBA Leq for commercial areas. Because construction activities would be temporary, and because anticipated construction noise levels at the Sports Complex would not result in physical adverse effects (e.g. hearing damage) to sensitive receptors due to the nature of activities occurring there, this is considered a less-than-significant impact. Noise resulting from increased construction traffic for Alternative A would not result in a significant adverse effects to the ambient noise level during any phase of construction.

Operational Noise – With the exception of Teapot Dome Avenue, Scranton Avenue, and Road 216, none of the roadways that would experience the most increase in project related traffic would exceed the FHWA NAC threshold of 67 dBA Leq with the addition of project traffic. Therefore, the impacts to sensitive receptors along these roadways from Alternative A would be less than significant. Teapot Dome Avenue currently exceeds the FHWA NAC threshold for traffic noise levels. However, the increase in traffic resulting from Alternative A would not cause a discernible increase in noise levels along this segment (greater than 3 dBA Leq). Therefore, the impacts to sensitive receptors along Teapot Dome Avenue from Alternative A traffic noise would be less than significant. Alternative A would substantially increase the volume of traffic on the segment of Scranton Avenue between Rockford Road (Road 208) and SR 65, as well as along the segment of Road 216 between SR-190 and Scranton Avenue, compared to opening year without project conditions, causing ambient noise levels to exceed the FHWA NAC threshold. The increase in ambient noise levels resulting from traffic would be greater than 3 dBA Leq and therefore, significant. The mitigation provided in **Section 6.10** below and Section 5.0 of the Final EIS would reduce the ambient noise level at the affected sensitive receptors to below the FHWA NAC threshold of 67 dBA Leq through the construction of a sound barrier wall or other noise attenuating features. After mitigation, traffic noise impacts along these road segments for Alternatives A would be reduced to less-than-significant levels.

Off-Site Improvements – Alternative A may result in the construction of off-site recycled water, sewer, and stormwater infrastructure. The highest typical construction noise levels from construction of the off-site infrastructure improvements would not exceed the FHWA NAC threshold of 78 dBA Leq, but is higher than the City threshold of 60 dBA Leq for residential land uses. This is a potentially significant impact. Construction activities on the 40-acre site would not cause significant adverse noise-related impacts to the Porterville Sports Complex due to the distance between the sites. If construction occurs on the 8-acre site, noise levels in the southern portion of the Porterville Sports Complex, which borders the 8-acre site to the north, would exceed the FHWA NAC threshold. Mitigation measures are recommended in **Section 6.10** below and Section 5.0 of the Final EIS, including limiting construction activities to daytime hours in accordance with the City’s noise ordinance to prevent sleep disturbance. As stated in Section 3.11.2 of the Final EIS, construction noise is exempt from City noise standards provided that construction activities do not take place before 6:00 AM or after 9:00 PM on any day except Saturday or Sunday, or before 7:00 AM or after 5:00 PM on Saturday or Sunday. Therefore, after mitigation, noise effects associated with construction of the proposed off-site infrastructure improvements would be less than significant.

Of the off-site infrastructure improvements, only operation of the proposed off-site WRF has the potential to generate an increase in the ambient noise environment. The components of this facility that would generate the most noise would be the pumps located on either the 40-acre site or the 8-acre site. The proposed WRF would not exceed the 60 dBA Leq City threshold. Accordingly, noise from operation of proposed off-site infrastructure would not result in significant adverse effects associated with the off-site ambient noise environment.

5.1.11 Hazardous Materials

The possibility exists that undiscovered contaminated soil and/or groundwater is present on the Airpark Site due to the migration of hazardous materials from off-site properties or unknown hazardous materials dumping. Construction personnel could encounter contamination during construction-related earth moving activities. BMPs presented in **Section 6.11** below and Section 5.0 of the Final EIS would minimize or eliminate adverse effects from undiscovered contaminated soil or groundwater. Additionally, use of fill material imported from other sites may carry a risk of contamination. Therefore, BMPs are presented in **Section 6.11** below and Section 5.0 of the Final EIS to verify fill is not contaminated before use. During grading and construction, the use of routine hazardous materials may include gasoline, diesel fuel, motor oil, hydraulic fluid, solvents, cleaners, sealants, welding flux, various lubricants, paint, and paint thinner. Specific BMPs presented in **Section 6.11** below and Section 5.0 of the Final EIS would minimize the risk of inadvertent release of these materials. With these measures, Alternative A would not result in significant adverse effects associated with hazardous materials during construction. Potential hazardous operational materials such as diesel fuel storage tanks, swimming pool and landscape materials, and small quantities of motor oil, cleaners, lubricants, and paint would not result in significant adverse effects with proper storage, handling, and disposal.

5.1.12 Aesthetics

During construction activities on all potential project sites, heavy construction equipment, materials, and work crews would be readily visible from stationary locations, as well as from vehicles traveling on nearby roadways. Aesthetic impacts from construction would be temporary in nature and would not result in obstructed views of scenic resources. The most visually dominant feature of the Proposed Project would be the 7-story hotel tower. To reduce visual impacts from the proposed development of Alternative A, the tower would not exceed 100 feet in height and the architecture of the proposed structures would incorporate native materials and colors and would be enhanced by landscaping using plants native to the region to be visually cohesive with surrounding land uses. Though the Proposed Project would alter the colors, lines, and texture of the landscape vegetation of the Airpark Site, the changes would not be out of character with typical development in the vicinity, nor would they alter any scenic vistas or resources. The potential for Alternative A to produce light and glare in the vicinity is a potentially significant adverse effect. Mitigation measures in **Section 6.12** below and Section 5.0 of the Final EIS are consistent with both the International Dark Sky Association's Model Lighting Ordinance and the Unified Facilities Criteria and would reduce this potential impact to a less-than-significant level. Therefore, Alternative A would have a less-than-significant aesthetic impact.

5.1.13 Indirect and Growth-Inducing Effects

Indirect Effects from Off-Site Traffic Mitigation and Gas and Electrical Utility Improvements – Implementation of Alternative A on the Airpark Site would require construction of traffic mitigation and gas and electrical utility improvements off-site. The construction of traffic mitigation and utility improvements would require grading and the introduction of fill material to extend existing road shoulders and roadbed, and install electricity transmission lines. These activities would have potential significant effects to

geology and soils, water resources, air quality, biological resources, and cultural resources. A SWPPP would be developed that would include soil erosion and sediment control practices to reduce the amount of exposed soil, prevent runoff from flowing across disturbed areas, slow runoff from the site, and remove sediment from the runoff. Mitigation for these activities is provided in the relevant subsections of **Section 6.0** below and Section 5.0 of the Final EIS.

Growth-Inducing Effects – Alternative A would result in employment opportunities, including direct, indirect, and induced opportunities. Construction-related employment opportunities would be temporary in nature, and would not result in the permanent relocation of employees to the City or County. The potential for commercial growth resulting from the development of Alternative A would result from fiscal output generated throughout the County from direct, indirect, and induced economic activity. Indirect and induced output could stimulate further commercial growth; however, such demand would be diffused and distributed among a variety of different sectors and businesses in the City and County. There are estimated to be more than enough vacant homes to support potential impacts to the regional labor market under Alternative A. As such, significant regional commercial growth inducing impacts would not be anticipated to occur under Alternative A.

Alternative A has the potential to induce on-Reservation growth. Any future growth and development on the Reservation would continue to be subject to tribal and federal environmental regulations, including the Clean Water Act (CWA), Clean Air Act (CAA), federal Endangered Species Act (FESA), Safe Drinking Water Act, and National Historic Preservation Act (NHPA). Adherence to these regulatory requirements would minimize the environmental consequences associated with on-Reservation development.

5.1.14 Cumulative Effects

The development of Alternative A, when added to past, present, and reasonably foreseeable future actions would not result in significant cumulative impacts to geology and soils, surface water and flooding, groundwater quality, cultural resources, socioeconomic conditions, land use, water supply, wastewater, solid waste, fire protection and emergency medical services, hazardous materials, and aesthetics.

Water Quality – Concurrent construction of Alternative A and other cumulative projects identified above could result in cumulative effects to water quality. Construction activities could result in erosion and sediment discharge to surface waters, potentially effecting water quality in downstream water bodies. In addition, construction equipment and materials have the potential to leak, thereby discharging oils, greases, and construction supplies into stormwater, potentially affecting both surface water and groundwater. To mitigate potential adverse effects, approved developments would be required to implement erosion control measures and construction BMPs via a site-specific SWPPP in compliance with the State of California General Permit for Discharges of Storm Water Associated with Construction Activity, or compliance with USEPA stormwater regulations. With the implementation of measures identified in **Section 6.1** and **Section 6.2** below and Section 5.0 of the Final EIS, Alternative A would not result in adverse cumulative effects to water quality.

Groundwater Supply – Buildout of the County and City General Plans could result in cumulative effects to groundwater if the total water demand of approved projects, including

the future developments identified above and Alternative A, exceed the recharge capacity of the groundwater basin. Future demands on the groundwater basin by cumulative development would be controlled by City and County land use authorities, as well as by the recently passed Senate Bill 1168, which requires local agencies to create groundwater management plans, and Assembly Bill (AB) 1739, which allows the state to intervene if local groups do not adequately manage groundwater resources. The inclusion of a greater than 100-percent groundwater use offset strategy within the project design of Alternative A, coupled with these state regulatory mechanisms and the BMPs specified in **Section 6.2** below and Section 5.0 of the Final EIS, would ensure that Alternative A's contribution to cumulative impacts to groundwater supply is not significant.

Air Quality – Because project emissions of NO_x are above the applicable General Conformity *de minimis* threshold, air quality in the region has a potential to be cumulatively impacted under Alternative A. However, with the mitigation provided in **Section 6.3** below and Section 5.0 of the Final EIS, implementation of Alternative A would not cumulatively adversely impact the region's air quality.

Biological Resources – Two special-status wildlife species, San Joaquin kit fox (SJKF) and American badger, have the potential to occur on the Airpark Site and Off-site Improvement Areas. Mitigation identified in **Section 6.4** below and Section 5.0 of the Final EIS include measures that would avoid or minimize impacts to these species. Similarly, other projects in the region would be required to comply with the FESA and California Endangered Species Act (CESA) by avoiding or minimizing effects to protected species. Alternative A would not result in significant cumulative effects to nesting migratory birds. However, disturbance to migratory bird habitats and increases in human activity from other proposed projects in the area could incrementally contribute to past, present, and future effects to migratory birds. The development of other projects considered in the cumulative analysis is required to comply with the Migratory Bird Treaty Act (MBTA), which will reduce the overall impact to migratory birds. Mitigation measures provided in **Section 6.4** below and Section 5.0 of the Final EIS would minimize significant effects to migratory birds. Therefore, after mitigation, implementation of Alternative A would not contribute to adverse cumulative effects to special-status species and migratory birds.

Transportation – Development of Alternative A, in combination with anticipated growth, would result in increased traffic flow, congestion, and a number of intersections and roadway segments (listed in the Final EIS) that do not meet minimum LOS levels. Such effects would be reduced to less than significant levels through fair share contributions and other mitigation for direct project impacts described in **Section 6.7** below and Section 5.0 of the Final EIS.

Law Enforcement – While development of the Airpark Site has the potential for an increase in calls for service during operation of Alternative A and extended hours of operation at the Airpark Site, the Tribe would enter into a service agreement with either the Porterville Police Department or the Tulare County Sheriff's Department to fully reimburse the affected department for quantifiable direct and indirect costs incurred in conjunction with the provision of law enforcement services. Additionally, an increase in service demands to the CHP may result from development of the project. However, payments to the State under the Tribal-State Compact would offset any impacts to the CHP. Therefore, with implementation of the mitigation described in **Section 6.9.3** below and Section 5.0 of the Final EIS,

Alternative A would result in a less-than-significant cumulative effect to public law enforcement services.

Energy and Natural Gas – SCE would require distribution system upgrades in order to have sufficient capacity to provide service to the Airpark Site. It is also anticipated that Southern California Gas Company would require pipeline improvements to supply natural gas to the Airpark Site. Individual projects, including the cumulative projects listed in Section 4.15.2 of the Final EIS, would be responsible for paying development or user fees to receive electrical and natural gas services. As such, the Tribe would pay a fair share of the upgrades needed to avoid affecting the service of existing customers and any infrastructure necessary to provide service to Alternative A. The mitigation measure provided in **Section 6.9.5** below and Section 5.0 of the Final EIS would ensure that Alternative A would not cause significant cumulative effects to energy or natural gas providers.

Noise – Teapot Dome Avenue, Scranton Avenue, and Road 216 may experience an increase in project related traffic that would exceed the Federal Highway Administration (FHWA) Noise Abatement Criteria (NAC). The mitigation measure provided in **Section 6.10** below and Section 5.0 of the Final EIS would ensure that Alternative A would not cause significant cumulative effects to noise.

5.1.15 Unavoidable Adverse Effects

All potential adverse effects can be mitigated with measures outlined in **Section 6.0** of this ROD.

5.2 COMMENTS ON THE FINAL EIS AND RESPONSES

The BIA received written comments from three cooperating agencies and seven individuals on the Final EIS, during the 30-day waiting period following EPA's NOA of the Final EIS on May 31, 2019. The BIA reviewed and considered all comment letters on the Final EIS during the decision making process for the Proposed Action. The Supplemental Response to Comments document, which is included as **Attachment II** to this ROD, contains the comment letters received and the BIA's responses to the comments.

6.0 MITIGATION MEASURES

All practicable means to avoid or minimize significant environmental impacts from the Preferred Alternative have been identified and adopted. The following mitigation measures and related enforcement and monitoring programs have been adopted as a part of this decision. Where applicable, mitigation measures will be monitored and enforced pursuant to federal law, tribal ordinances, and agreements between the Tribe and appropriate governmental authorities, as well as this decision. Specific BMPs and mitigation measures adopted pursuant to this decision are set forth below and included within the Mitigation Monitoring and Enforcement Plan (MMEP) (see **Attachment III** of this ROD).

6.1 GEOLOGY AND SOILS

The following measures shall be implemented for the Preferred Alternative in accordance with federal regulatory requirements:

- A. The project shall comply with the NPDES Construction General Permit from the USEPA for all construction site runoff during the construction phase in compliance with the CWA. A SWPPP shall be prepared, implemented, and maintained throughout the construction phase of the development, consistent with Construction General Permit requirements. The SWPPP shall detail the BMPs to be implemented during construction and post-construction operation of the selected project alternative to reduce impacts related to soil erosion and water quality. The BMPs shall include, but are not limited to, the following:
 1. Existing vegetation shall be retained where practicable. To the extent feasible, grading activities shall be limited to the immediate area required for construction and remediation.
 2. Temporary erosion control measures (such as silt fences, fiber rolls, vegetated swales, a velocity dissipation structure, staked straw bales, temporary re-vegetation, rock bag dams, erosion control blankets, and sediment traps) shall be employed for disturbed areas.
 3. To the maximum extent feasible, no disturbed surfaces shall be left without erosion control measures in place.
 4. Construction activities shall be scheduled to minimize land disturbance during peak runoff periods. Soil conservation practices shall be completed during the fall or late winter to reduce erosion during spring runoff.
 5. Creating construction zones and grading only one area or part of a construction zone at a time shall minimize exposed areas. If practicable during the wet season, grading on a particular zone shall be delayed until protective cover is restored on the previously graded zone.
 6. Disturbed areas shall be re-vegetated following construction activities.
 7. Construction area entrances and exits shall be stabilized with large-diameter rock.
 8. Sediment shall be retained on-site by a system of sediment basins, traps, or other appropriate measures.
 9. A spill prevention and countermeasure plan shall be developed which identifies proper storage, collection, and disposal measures for potential pollutants (such as fuel, fertilizers, pesticides, etc.) used on-site.

10. Petroleum products shall be stored, handled, used, and disposed of properly in accordance with provisions of the CWA (33 U.S.C. 1251 to 1387).
 11. Construction materials, including topsoil and chemicals, shall be stored, covered, and isolated to prevent runoff losses and contamination of surface and groundwater.
 12. Fuel and vehicle maintenance areas shall be established away from all drainage courses and designed to control runoff.
 13. Sanitary facilities shall be provided for construction workers.
 14. Disposal facilities shall be provided for soil wastes, including excess asphalt during construction and demolition.
 15. Other potential BMPs include use of wheel wash or rumble strips and sweeping of paved surfaces to remove any and all tracked soil.
- B. Contractors involved in the project shall be trained on the potential environmental damage resulting from soil erosion prior to construction in a pre-construction meeting. Copies of the project's SWPPP shall be distributed at that time. Construction bid packages, contracts, plans, and specifications shall contain language that requires adherence to the SWPPP.

The following measures shall be implemented in accordance with applicable federal, state, and local regulatory requirements for the Preferred Alternative, as they apply to off-site improvements on non-tribal lands:

- C. A SWPPP specific to the 40-acre site shall be prepared, implemented, and maintained throughout the construction phase of the development, consistent with Construction General Permit requirements. A SWPPP specific to the 8-acre site shall also be prepared, implemented, and maintained if the WRF is constructed on the 8-acre site. The SWPPP(s) shall detail the BMPs to be implemented during construction and post-construction operation of the selected project alternative to reduce impacts related to soil erosion and water quality. The BMPs shall include, but are not limited to, sub-measures 1 through 15 listed above under Mitigation Measure 6.1(A).
- D. Materials that are excavated during the construction of the regional retention basin and stockpiled on the 40-acre site shall be covered by tarps or other appropriate materials and stabilized to prevent erosion until these materials are removed.

6.2 WATER RESOURCES

The following BMPs will be implemented to prevent off-Reservation environmental effects to water supply resources in accordance with the anticipated requirements of the Tribal State Gaming Compact (Compact) for the Preferred Alternative:

- A. The Tribe shall adjust landscape irrigation based on weather conditions—reducing irrigation during wet weather—to prevent excessive runoff.

- B. Fertilizer use shall be limited to the minimum amount necessary and shall be adjusted for the nutrient levels in the water used for irrigation. Fertilizer shall not be applied within 24 hours of a rain event predicted by the National Oceanic and Atmospheric Administration.
- C. The Tribe shall implement water conservation measures, including but not limited to use of low flow faucets and showerheads, recycled water for toilets, and voluntary towel re-use by guests in the hotel; use of low-flow faucets, recycled water for toilets, and pressure washers and brooms instead of hoses for cleaning, in public areas and the proposed casino; use of garbage disposal on-demand, re-circulating cooling loop for water cooled refrigeration and ice machines where possible, and service of water to customers on request, in restaurants; and use of recycled and/or gray water for cooling.

6.3 AIR QUALITY

6.3.1 Construction

To prevent violation of federal, state and local policies related to air quality imposed for the protection of the environment (40 CFR 1508.27[b][10]) the following BMPs will be implemented for the Preferred Alternative.

- A. A Dust Control Plan shall be prepared prior to construction which meets the general requirements of the San Joaquin Valley Air Pollution Control District (SJVAPCD) Rule 8021 6.3. The following dust suppression measures shall be included in the plan and implemented during construction to control the production of fugitive dust (PM₁₀) and prevent wind erosion of bare and stockpiled soils:
 - 1. Provide a CARB approved Visible Emissions Evaluation (VEE) person to evaluate fugitive dust emissions once per week.
 - 2. Spray exposed soil with water or other suppressant twice a day or as needed to suppress dust to 20% opacity.
 - 3. Use non-toxic chemical or organic dust suppressants on unpaved roads and traffic areas to suppress dust to 20 percent opacity.
 - 4. Construct and maintain wind barriers sufficient to limit windblown dust emissions to 20 percent opacity.
 - 5. Minimize dust emissions during transport of fill material or soil by wetting down loads, ensuring adequate freeboard (space from the top of the material to the top of the truck bed) on trucks, cleaning the interior of cargo compartments on emptied haul trucks before leaving a site, and/or covering loads.
 - 6. Promptly clean up spills of transported material on public roads.
 - 7. Restrict traffic speeds on site to 15 miles per hour to reduce soil disturbance.

8. Provide wheel washers to remove soil that would otherwise be carried off site by vehicles to decrease deposition of soil on area roadways.
 9. Cover Dirt, gravel, and debris piles as needed to reduce dust and wind-blown debris to less than 20 percent opacity.
 10. Provide education for construction workers regarding incidence, risks, symptoms, treatment, and prevention of Valley Fever in accordance with California Department of Public Health guidelines.
- B. The following measures will be implemented to reduce emissions of criteria pollutants, greenhouse gases (GHGs), and diesel particulate matter (DPM) from construction:
1. The Tribe shall control criteria pollutants and GHG emissions from the facility by requiring all diesel-powered equipment be properly maintained and minimize idling time to five minutes when construction equipment is not in use, unless per engine manufacturer's specifications or for safety reasons more time is required. Since these emissions would be generated primarily by construction equipment, machinery engines shall be kept in good mechanical condition to minimize exhaust emissions. The Tribe shall employ periodic and unscheduled inspections to accomplish the above mitigation.
 2. Require all construction equipment with a horsepower rating of greater than 50 be equipped with diesel particulate filters, which would reduce approximately 85 percent of DPM.
 3. Require all construction equipment with a horsepower rating of greater than 50 be equipped with California Air Resources Board (CARB) rated Tier 3 engines, with the exception of scrapers.
 4. Require the use of low reactive organic gases (ROG; 150 grams per liter or less) for architectural coatings to the extent practicable.
 5. Environmentally preferable materials, including recycled materials, shall be used to the extent readily available and economically practicable for construction of facilities.

6.3.2 Operation and Climate Change

The following mitigation measures will be implemented in accordance with federal regulatory requirements (Clean Air Act [CAA]) and the anticipated requirements of the Compact for the Preferred Alternative:

- C. The Tribe shall reduce emissions of criteria air pollutants and GHGs during operation of the project through the following actions:
1. The Tribe shall use clean fuel vehicles in the vehicle fleet where practicable, which would reduce criteria pollutants and GHG emissions.

2. The Tribe shall provide preferential parking for employee vanpools and carpools, which would reduce criteria pollutants and GHGs.
3. The Tribe shall use low-flow appliances at the proposed facility. The Tribe shall use drought-tolerant landscaping and provide “Save Water” signs near water faucets.
4. The Tribe shall control criteria pollutants, GHG, and DPM emissions during operation of the project by requiring all diesel-powered vehicles and equipment be properly maintained and minimizing idling time to five minutes at loading docks when loading or unloading food, merchandise, etc. or when diesel-powered vehicles or equipment are not in use; unless per engine manufacturer’s specifications or for safety reasons more time is required. The Tribe shall employ periodic and unscheduled inspections to accomplish the above mitigation.
5. The Tribe shall use energy-efficient lighting at the facility, which would reduce indirect criteria pollutants and GHG emissions.
6. The Tribe shall install recycling bins throughout the hotel and casino for glass, cans, and paper products. Trash and recycling receptacles shall be placed strategically outside to encourage people to recycle. The Tribe shall reduce solid waste stream of the facility by 50 percent.
7. The Tribe shall plant trees and vegetation on site or fund such plantings off-site. The addition of photosynthesizing plants would reduce atmospheric carbon dioxide (CO₂), because plants use CO₂ for elemental carbon and energy production. Trees planted near buildings would result in additional benefits by providing shade to the building; thus reducing heat absorption, reducing air conditioning needs and saving energy.
8. The Tribe shall use energy-efficient appliances in the hotel and casino.
9. The Tribe shall provide a bus driver lounge at the facility and adopt and enforce an anti-idling ordinance for buses, which will discourage bus idling during operation of the project.

After implementation of mitigation measures 1 through 9 above, operational emissions would continue to exceed *de minimis* levels for NO_x. Therefore, the following mitigation is required for the Preferred Alternative in accordance with the federal regulatory requirements of the General Conformity Rule of the CAA:

10. The Tribe shall purchase 35.60 tons of nitrogen oxides (NO_x) emission reduction credits (ERCs) for the Preferred Alternative as specified in the Conformity Determination included in Appendix F of the Final EIS. Because the air quality effects are associated with operation of the facility and not with construction of the facility, real, surplus, permanent, quantifiable, and enforceable ERCs will be purchased prior to the opening day of the facility.

ERCs shall be purchased in accordance with the 40 CFR 93 Subpart B, conformity regulations. With the purchase of the ERCs the project would conform to the applicable SIP and result in a less than adverse effect to regional air quality. As an alternative to or in combination with purchasing the above ERCs, the Tribe has the option to enter into a Voluntary Emission Reduction Agreement (VERA) with the SJVAPCD. The VERA would allow the Tribe to fund air quality projects that quantifiably and permanently offset project operational emission.

6.4 BIOLOGICAL RESOURCES

The following mitigation measures are required to avoid potential adverse effects to the San Joaquin kit fox (SJKF) under the Preferred Alternative, in accordance with federal regulatory requirements FESA:

- A. Preconstruction surveys shall be conducted no less than 14 days and no more than 30 days prior to the beginning of ground disturbance, construction activities, and/or any project activity likely to impact the SJKF. These surveys shall be conducted in all potential SJKF habitat on and within 200 feet of the Airpark Site and Off-site Improvement Areas. The primary objective is to identify SJKF habitat features (e.g., potential dens and refugia) within the project area and evaluate their use by SJKF. These surveys shall include the maintenance of photo stations and track plates at burrows falling within the dimensional range of a SJKF burrow. If an active SJKF den is detected within or immediately adjacent to the Airpark Site or Off-site Improvement Areas, the United States Fish and Wildlife Service (USFWS) shall be contacted immediately to determine the best course of action.
- B. Should SJKF be found during preconstruction surveys, the Sacramento Field Office of the USFWS shall be notified. A disturbance-free buffer shall be established around the burrows in consultation with the USFWS, and shall be maintained until a qualified biologist has determined that the burrows have been abandoned.
- C. Permanent and temporary construction activities and other types of project-related activities should be carried out in a manner that minimizes disturbance to SJKF. Minimization measures shall include: restriction of project-related vehicle traffic to established roads, construction areas, and other designated areas; inspection and covering of structures (e.g., pipes), as well as installation of escape structures, to prevent the inadvertent entrapment of SJKF; and proper disposal of food items and trash.
- D. Prior to the start of construction, the applicant shall retain a qualified biologist to conduct an informational meeting to educate all construction staff on the SJKF. This training shall include a description of the SJKF and its habitat needs; a report of the occurrence of SJKF in the project area; an explanation of the status of the species and its protection under the FESA; and a list of the measures being taken to reduce effects to the species during project construction and implementation. The training shall include a handout containing training information. The project manager shall use this

handout to train any additional construction personnel that were not in attendance at the first meeting, prior to starting work on the project.

The Tribe will voluntarily implement the following mitigation measures for the Preferred Alternative to reduce potential impacts to the American Badger, a state-protected species:

- E. Prior to construction activities within the Airpark Site and Off-site Improvement Areas, a qualified biologist shall conduct a preconstruction survey for American Badger concurrent with the preconstruction survey for SJKF recommended under Mitigation Measure 5.5(A) to identify any active dens. If occupied dens are found during pre-construction surveys, the biologist would consult with California Department of Fish and Wildlife (CDFW) to determine whether the construction activities would adversely disrupt breeding behaviors of the badger. If it is determined that construction activities would disrupt breeding behaviors, then a 500-foot avoidance buffer shall be established around occupied burrow from March-August or until a qualified biologist can determine that juvenile badgers are self-sufficient enough to move from their natal burrow.
- F. A habitat sensitivity training shall be conducted for American badger. The same information would be provided to crewmembers for this species as was identified in the habitat sensitivity training for SJKF.

The following measures are required for the Preferred Alternative to avoid and/or reduce impacts to any potentially nesting migratory, raptor, and/or special-status bird species, in accordance with federal regulatory requirements under the Migratory Bird Treaty Act [MBTA]:

- G. If any construction activities (e.g., building, grading, ground disturbance, removal of vegetation) are scheduled to occur within the Airpark Site and Off-site Improvement Areas during the nesting season (February 15 to September 15), preconstruction nesting bird surveys shall be conducted. Preconstruction surveys for any nesting bird species shall be conducted by a qualified wildlife biologist throughout all areas of suitable habitat that are within 500 feet of any proposed construction activity. The surveys shall occur no more than 14 days prior to the scheduled onset of construction. If construction is delayed or halted for more than 14 days, another preconstruction survey for nesting bird species shall be conducted. If no nesting birds are detected during the preconstruction surveys, no additional surveys or mitigation measures are required.
- H. If nesting bird species protected under the MBTA are observed within 500 feet of construction areas during the surveys, appropriate “disturbance-free” buffers shall be established. The size and scale of nesting bird buffers shall be determined by a qualified wildlife biologist and shall be dependent upon the species observed and the location of the nest. Buffers shall be established around all active nest locations. The nesting bird buffers shall be completely avoided during construction activities. The qualified wildlife biologist shall also determine an appropriate monitoring plan and decide if construction monitoring is necessary during construction activities. Monitoring requirements are dependent upon the species observed, the location of the

nests, and the number of nests observed. The buffers may be removed when the qualified wildlife biologist confirms that the nest(s) is no longer occupied and all birds have fledged.

- I. If impacts (i.e., take) to migratory nesting bird species are unavoidable, consultation with USFWS shall be initiated. Through consultation, an appropriate and acceptable course of action shall be established.

The following mitigation measure is required for the Preferred Alternative, in accordance with applicable federal, state, and local regulatory requirements, as they apply to off-site traffic mitigation and utility improvements on non-tribal lands:

- J. Prior to the construction of any off-site traffic mitigation and utility infrastructure, a qualified biologist shall perform detailed, and if necessary, focused biological surveys of any undisturbed areas that would be affected by infrastructure development. If it is determined that off-site improvements have the potential to cause adverse effects to sensitive habitats, wetlands and/or Waters of the U.S., special-status species, and/or nesting birds, then project-specific mitigation requirements shall be developed and implemented and any necessary regulatory permits shall be obtained and adhered to.

Section 6.12 will reduce the potential impacts of lighting to migratory birds. These mitigation measures include: shielding and downcast illumination of lighting, reduction of glare from lights and glass, and the inclusion of natural elements, such as earth paint tones and native building materials.

6.5 CULTURAL AND PALEONTOLOGICAL RESOURCES

The following mitigation measures are required for the Preferred Alternative, in accordance with federal regulatory requirements:

- A. In the event of inadvertent discovery of prehistoric or historic archaeological or paleontological resources during construction-related earth-moving activities, the appropriate agency shall be notified. All work within 50 feet of the find shall be halted until a professional archaeologist meeting the Secretary of the Interior's qualifications (36 CFR §61) can assess the significance of the find in consultation with the appropriate agency and the Tribe. If the find is determined to be significant by the archaeologist, then the archaeologist, in consultation with the appropriate agency and the Tribe, shall determine the appropriate course of action, including the development and implementation of a Treatment Plan, if necessary. All significant cultural materials recovered shall be subject to scientific analysis, professional curation, and a report prepared by the archaeologist according to current professional standards.
- B. If human remains are discovered during ground-disturbing activities, all construction activities shall halt within 100 feet of the find. The Tribe, appropriate agency, and County Coroner shall be contacted immediately, and the County Coroner shall determine whether the remains are the result of criminal activity; if possible, a human osteologist shall be contacted as well. If Native American, the provisions of

appropriate federal or state laws is required. Construction shall not resume in the vicinity until final disposition of the remains has been determined.

- C. Prior to undertaking construction of off-site infrastructure, a qualified archaeologist shall conduct a survey for any areas to be disturbed during construction. If significant resources or significant archaeological sites are present, they shall be avoided, as feasible. If avoidance of such resources is not feasible, recordation of the sites shall be required, along with treatment as is recommended by the archaeologist after consultation with the State Historic Preservation Officer (SHPO) and, if the find is prehistoric, the Native American Heritage Commission (NAHC). If unknown resources are encountered during construction, recommendations, including the management recommendations listed in Mitigation Measures 6.5(A) and 6.5(B), shall be implemented to ensure that the resources are avoided, protected, and/or recorded. If off-site traffic mitigation occurs at the intersection of State Route (SR) 137 and SR-65, consistent with Mitigation Measure 6.7.3(J), identified resources shall be avoided by all project construction.

6.6 SOCIOECONOMICS

The following mitigation measure is required in accordance with the anticipated requirements of Section 9.2 of the Compact for the Preferred Alternative:

- A. The Tribe shall implement policies at the new facility similar to or more effective than those in effect at the existing Eagle Mountain Casino, which include employee training, self-help brochures available on site, signage near automatic teller machines (ATMs) and cashiers, and self-banning procedures to help those who may be affected by problem gaming. The signage and brochures shall include advertising the problem gambler hotline and website.

6.7 TRANSPORTATION

Where transportation infrastructure is shown as having an unacceptable level of service (LOS) with the addition of traffic from the Preferred Alternative (and caused at least in part from project traffic), the Tribe shall pay for a fair share of costs for the recommended mitigation (including right-of-way and any other environmental mitigation). In such cases, the Tribe shall be responsible for the incremental impact that the added project trips generate, calculated as a percentage of the costs involved for construction of the mitigation measure (referred to as the pro rata share). The pro rata share is calculated using the methodology presented in the California Department of Transportation (Caltrans) Guide for the Preparation of Traffic Impact Studies (Appendix I of the Final EIS). Weekday PM peak hour was chosen for pro rata share calculations because it generally represents the worst-case scenario; calculations are included in the traffic impact study (TIS; Appendix I of the Final EIS).

In accordance with the Memorandum of Understanding, the anticipated requirements of the Compact, and to prevent violation of federal, state and local policies related to traffic operations imposed for the protection of the environment (40 CFR 1508.27[b][10]), the following traffic mitigation measures shall be implemented as identified within the TIS.

6.7.1 Construction

The following mitigation measure is required under the Preferred Alternative to minimize transportation impacts associated with construction:

- A. A traffic management plan shall be prepared in accordance with standards set forth in the Manual on Uniform Traffic Control Devices (MUTCD) for Streets and Highways (FHWA, 2003). The traffic management plan shall be submitted to each affected local jurisdiction and/or agency. Also, prior to construction, the contractor shall coordinate with emergency service providers to avoid obstructing emergency response service. Police, fire, ambulance, and other emergency response providers shall be notified in advance of the details of the construction schedule, location of construction activities, duration of the construction period, and any access restrictions that could impact emergency response services. Traffic management plans shall include details regarding emergency service coordination. Copies of the traffic management plans shall be provided to all affected emergency service providers.

6.7.2 Operation (Opening Year 2021)

The Tribe shall make fair share contributions to the traffic mitigation measures identified below prior to initiation of project construction. Funds shall either be paid directly to the jurisdictional agency, or be placed in an escrow account for use by the governmental entity with jurisdiction over the road to be improved so that the entity may design (funding shall be for design standards consistent with those required for similar facilities in the region, unless a deviation is approved by the entity with jurisdiction), obtain approvals/permits for, and construct the recommended road improvement. While the timing for the off-site roadway improvements is not within the Tribe's jurisdiction or ability to control, the Tribe shall make good faith efforts to assist the County and City with implementation of the improvements prior to opening day.

The following mitigation measures are required under the Preferred Alternative:

- B. The Tribe shall notify the City of Porterville of special events scheduled at the events center, and the Tribe shall meet with local agencies charged with traffic enforcement (including but not limited to the CHP, City of Porterville, and Tulare County) to obtain necessary permits and identify any necessary traffic control measures to be implemented. If determined to be necessary, a Traffic Management Plan (TMP) shall be prepared.
- C. SR-190/Rockford Road (Road 208). Conduct an Intersection Control Evaluation (ICE), and install a traffic signal or roundabout, pending the outcome of the ICE. Pro-rata share: 28.2 percent.
- D. Scranton Avenue/West Street. Install a traffic signal and widen northbound approach to accommodate left-turn lane or install a roundabout. Pro rata share: 85.6 percent.
- E. Scranton Avenue/Westwood Street. Install a traffic signal or a roundabout. Pro-rata share: 55.8 percent.

- F. The Tribe shall offer to enter into an agreement with the appropriate jurisdiction(s) regarding financial responsibility for improving the current conditions of West Street between Scranton Avenue and Yowlumne Avenue, Teapot Dome Avenue between Westwood Street (Road 224) and Newcomb Street, and Westwood Street between Scranton Avenue and approximately one half mile north of Scranton Avenue. The Tribe's one-time fair share towards these improvements would take into consideration other regional projects that contribute to traffic on these roadways, including the County's jail project. Based on the pro-rata fair share calculations provided in the TIS (Appendix I of the Final EIS) for Alternative A, the Tribe would be responsible for: 1) 100 percent of the cost of 1/3 mile of road pavement overlay on West Street between Scranton Avenue and Yowlumne Avenue, 2) 59.5 percent of the cost of one mile of road reconstruction on Teapot Dome Avenue between Westwood Street (Road 224) and Newcomb Street, and 3) 65.2 percent of the cost of 1/2 mile of road reconstruction immediately north of Scranton Avenue on Westwood Street.

6.7.3 Operation (Cumulative Year 2040)

The Tribe shall make fair share contributions available for mitigation recommended for cumulative impacts prior to construction of the improvement. The timing for construction of each improvement will be at the discretion of the applicable jurisdictional agency. Funds shall be placed in an escrow account for use by the governmental entity with jurisdiction over the road to be improved so that the entity may design (funding shall be for design standards consistent with those required for similar facilities in the region, unless a deviation is approved by the entity with jurisdiction), obtain approvals/permits for, and construct the recommended road improvement. While the timing for the off-site roadway improvements is not within the Tribe's jurisdiction or ability to control, the Tribe shall make good faith efforts to assist the County and City with implementation of improvements prior to 2040.

The following mitigation measures are required under the Preferred Alternative in the cumulative year 2040:

- G. SR-65 from Pioneer Avenue to SR-190: Upgrade facility to include auxiliary lanes between interchanges per Caltrans standards. Pro-rata share: 15.9 percent.
- H. SR-137/SR-63. Conduct an ICE if necessary. Widen northbound approach to accommodate an additional dedicated left turn lane, an additional dedicated thru lane and a dedicated right turn lane. Widen southbound approach to accommodate an additional thru lane. Widen eastbound approach to accommodate an additional dedicated left turn lane. Widen westbound approach to accommodate an additional dedicated thru lane and a dedicated right turn lane. Pro-rata share: 8.6 percent.
- I. SR-137/SR-65. Conduct an ICE if necessary, and widen eastbound approach to accommodate a dedicated thru lane with a shared thru/right turn lane. Pro rata share: 4.7 percent.
- J. SR-137/Road 204 (Spruce). Conduct an ICE if necessary, and widen westbound approach to accommodate two thru lanes and one free right turn-lane; widen southbound approach to accommodate dual-left turn lanes and shared thru-right lane;

widen eastbound approach to provide a thru and thru-right lane. Pro rata share: 4.6 percent.

- K. SR-190/Road 192. Conduct an ICE if necessary, and install a traffic signal or roundabout. Pro rata share: 31.0 percent.
- L. SR-190/Road 216. Conduct an ICE if necessary, and install a traffic signal or roundabout. Pro rata share: 14.7 percent.
- M. SR-198/Spruce Road (Road 204). Conduct an ICE if necessary. Traffic signal modifications to accommodate dual northbound left turn lanes and a shared thru/right lane. Eastbound approach, widen to accommodate dedicated right/thru/left lanes. Eastbound approach channelize right turn lane. Pro-rata share: 4.7 percent.
- N. Avenue 256/Spruce Road (Road 204). Install traffic signal or a roundabout. Pro-rata share: 7.0 percent.

6.8 LAND USE

Mitigation in **Section 6.3**, **Section 6.7**, **Section 6.10**, and **Section 6.12** will reduce incompatibilities with neighboring land uses under the Preferred Alternative due to air quality, noise, traffic, and aesthetic impacts to less than significant levels.

6.9 PUBLIC SERVICES

6.9.1 Solid Waste

Implementation of the BMPs below, as well as **Mitigation Measure 6.3.2(C)(6)**, would reduce the amount of solid waste generated during construction. These measures are required for the Preferred Alternative in accordance with the Compact to prevent off-Reservation impacts associated with solid waste:

- A. Construction waste shall be recycled to the fullest extent practicable by diverting green waste and recyclable building materials (including, but not limited to, metals, steel, wood, etc.) away from the solid waste stream.

The following BMPs will be implemented for the Preferred Alternative to reduce the amount of solid waste generated on-site, in accordance with the Compact to prevent off-Reservation impacts associated with solid waste:

- B. A solid waste management plan for the new facility shall be developed and adopted by the Tribe that addresses recycling and solid waste reduction on site. These measures shall include, but not be limited to, the installation of a trash compactor for cardboard and paper products, and periodic waste stream audits.
- C. Security guards shall be trained to discourage littering on site.

6.9.2 Law Enforcement, Fire Protection, and Emergency Medical Services

The mitigation measures below are related to security and shall be implemented in accordance with the Memorandum of Understanding, the Compact, and the Tribe's Gaming Ordinance for the Preferred Alternative:

- D. Areas surrounding the gaming facilities shall have "No Loitering" signs in place, be well lit and be patrolled regularly by roving security guards.
- E. The Tribe shall conduct background checks of all gaming employees and ensure that all employees meet licensure requirements established by the Indian Gaming Regulatory Act (IGRA) and the Tribe's Gaming Ordinance.

The following mitigation measures shall be implemented in accordance with the Compact and the Tribe's Gaming Ordinance for the Preferred Alternative:

- F. Prior to operation the Tribe shall enter into agreements to reimburse the Porterville Police Department and/or the Tulare County Sheriff's Department for quantifiable direct and indirect costs incurred in conjunction with providing law enforcement services.
- G. Parking areas shall be well lit and monitored by parking staff, and/or roving security guards at all times during operation. This will aid in the prevention of auto theft and other similar criminal activity.
- H. The Tribe shall adopt a Responsible Alcoholic Beverage Policy at the facility that shall include, but not be limited to, checking identification of patrons and refusing service to those who have had enough to drink.
- I. The Tribe shall make annual payments to the City of Porterville and/or Tulare County to offset the cost of increased provision of law enforcement and fire protection/emergency medical services in amounts of at least \$275,870 for the Preferred Alternative.

The following industry standard BMP shall be implemented for the Preferred Alternative:

- J. During construction, any construction equipment that normally includes a spark arrester shall be equipped with an arrester in good working order. This includes, but is not limited to, vehicles, heavy equipment, and chainsaws. Staging areas, welding areas, or areas slated for development using spark-producing equipment shall be cleared of dried vegetation or other materials that could serve as fire fuel. The contractor shall keep these areas clear of combustible materials in order to maintain a firebreak.

6.9.3 Electricity, Natural Gas, and Telecommunications

The following industry standard BMP shall be implemented to minimize potential impacts related to electricity and natural gas utilities. This measure is recommended for the Preferred Alternative:

- K. The Tribe shall contact USA North 811, which provides a free “Dig Alert” to all excavators (e.g., contractors, homeowners, and others) in central California, including Tulare County. This call shall automatically notify all utility service providers at the excavator’s work site. In response, the utility service providers shall mark or stake the horizontal path of underground facilities, provide information about the facilities, and/or give clearance to dig.

6.10 NOISE

6.10.1 Construction

The following measure is required in accordance with local statutory requirements for construction of off-site utility improvements under the Preferred Alternative:

- A. In accordance with the City’s noise ordinance, construction activities shall not take place on the Off-site Improvement Areas before 6:00 AM or after 9:00 PM on any day except Saturday or Sunday, or before 7:00 AM or after 5:00 PM on Saturday or Sunday.

6.10.2 Operation

The following measures are required for the Preferred Alternative during operation to prevent violation of the Federal Noise Abatement Criteria (NAC) standards used by the Federal Highway Administration (FHWA) imposed for the protection of the environment (40 CFR 1508.27[b][10]):

- B. The Tribe shall fund 100 percent of a noise reduction wall at the residence located on Road 216 between SR-190 and Scranton Avenue (Avenue 136), which will reduce the ambient noise level by a minimum of 3 dBA Leq. If requested by the residence, in lieu of a sound wall, the Tribe shall fund acoustic windows or a vegetative wall.
- C. The Tribe shall fund 100 percent of a noise reduction wall at the three residences located adjacent to Scranton Avenue between Rockford Road (Road 208) and SR-65, which will reduce the ambient noise level by a minimum of 3 dBA Leq. If requested by the residence, in lieu of a sound wall, the Tribe shall fund acoustic windows or a vegetative wall.

6.11 HAZARDOUS MATERIALS

The following measures are required to prevent violation of federal requirements related to hazardous materials for the Preferred Alternative:

- A. If the 40-acre site is selected as the location of the WRF, soil sampling shall occur on the site to ensure agricultural chemical contamination is not present. If sampling and testing indicates hazardous materials contamination, the contaminated soils and/or groundwater shall be properly removed and/or remediated by qualified professionals consistent with an approved remediation plan.
- B. If the 8-acre site is selected as the location of the WRF, soil sampling for lead shall be conducted on the site. Contaminated soils that are determined to be hazardous shall be properly removed and/or remediated by qualified professionals consistent with an approved remediation plan.

The following BMPs are required to prevent violation of federal requirements related to hazardous materials for the Preferred Alternative:

- C. Prior to accepting fill material, it shall be verified to be clean through evidence such as a Phase I Environmental Site Assessment (ESA), soil sampling, or other appropriate measures.
- D. Personnel shall follow BMPs for filling and servicing construction equipment and vehicles. BMPs that are designed to reduce the potential for incidents/spills involving the hazardous materials include the following:
 - 1. To reduce the potential for accidental release, fuel, oil, and hydraulic fluids shall be transferred directly from a service truck to construction equipment.
 - 2. Catch-pans shall be placed under equipment to catch potential spills during servicing.
 - 3. Refueling shall be conducted only with approved pumps, hoses, and nozzles.
 - 4. All disconnected hoses shall be placed in containers to collect residual fuel from the hose.
 - 5. Vehicle engines shall be shut down during refueling.
 - 6. No smoking, open flames, or welding shall be allowed in refueling or service areas.
 - 7. Refueling shall be performed away from bodies of water to prevent contamination of water in the event of a leak or spill.
 - 8. Service trucks shall be provided with fire extinguishers and spill containment equipment, such as absorbents.
 - 9. Should a spill contaminate soil, the soil shall be put into containers and disposed of in accordance with local, state, and federal regulations.
 - 10. All containers used to store hazardous materials shall be inspected at least once per week for signs of leaking or failure.

- E. In the event that contaminated soil and/or groundwater is encountered during construction related earth-moving activities, all work shall be halted until a professional hazardous materials specialist or other qualified individual assesses the extent of contamination. If contamination is determined to be hazardous, the Tribe shall consult with the USEPA to determine the appropriate course of action, including development of a Sampling and Remediation Plan if necessary. Contaminated soils that are determined to be hazardous shall be disposed of in accordance with federal regulations.

6.12 AESTHETICS

The following BMPs will be implemented in accordance with the Compact to prevent off-Reservation impacts associated with lighting and glare for the Preferred Alternative:

- A. Lighting shall consist of limiting pole-mounted lights to a maximum of 25 feet tall.
- B. All lighting shall be high-pressure sodium or light-emitting diode (LED) with cut-off lenses and downcast illumination, unless an alternative light configuration is needed for security or emergency purposes.
- C. Placement of lights on buildings shall be designed in accordance with Unified Facilities Criteria (UFC) 3-530-01, Interior, Exterior Lighting, and Controls so as not to cast light or glare off-site. No strobe lights, spotlights, or floodlights shall be used.
- D. Shielding, such as with a horizontal shroud, shall be used in accordance with UFC 3-350-01 for all outdoor lighting so as to ensure it is downcast.
- E. All exterior glass shall be non-reflective low-glare glass.
- F. Screening features and natural elements shall be integrated into the landscaping design of the project to screen the view of the facilities from directly adjacent existing residences.
- G. Design elements shall be incorporated into the project to minimize the impact of buildings and parking lots on the viewshed. These elements include:
 - 1. Incorporation of landscape amenities to complement buildings and parking areas, including setbacks, raised landscaped berms and plantings of trees and shrubs.
 - 2. Use earth tones in paints and coatings, and use native building materials such as stone.

6.13 MITIGATION MEASURES THAT ARE NOT ADOPTED

Council on Environmental Quality (CEQ) NEPA regulations 40 C.F.R. § 1505.2(c) call for identification in the ROD of any mitigation measures specifically mentioned in the Final EIS that are not adopted. Because Alternative A has been selected by BIA in this ROD, mitigation measures for other alternatives in the Final EIS are not adopted.

The FEIS included a mitigation measure for Alternative A under Section 5.8.2 (f) (Operation – Opening year 2021), which required the widening of the eastbound approach to accommodate a left-turn lane at Scranton Avenue/SR-65. However, this intersection has recently been signalized and has been improved to include additional lanes for all approaches. Therefore, no additional improvements are necessary and this mitigation measure will not be adopted.

7.0 DECISION TO IMPLEMENT THE PROPOSED ACTION / PREFERRED ALTERNATIVE

The Department has determined that it will implement the Proposed Action as identified within the Preferred Alternative (Alternative A) which includes the issuance of a Secretarial Determination and the fee-to-trust transfer of the 40-acre Airpark Site and subsequent development of a casino-hotel complex. This decision has been made based upon the environmental impacts identified in the EIS, a consideration of economic and technical factors, as well as the BIA's policy goals and objectives and the purpose and need for the project.

Of the alternatives evaluated in the EIS, Alternative A would best meet the purposes and needs of the BIA, consistent with its statutory mission and responsibilities, to promote the long-term economic vitality and self-sufficiency, self-determination, and self-governance of the Tribe. The construction of a casino-resort and other supporting facilities on the Airpark Site would provide the Tribe the best opportunity for securing a viable means of attracting and maintaining a long-term, sustainable revenue stream for its tribal government. This would enable the tribal government to establish, fund and maintain governmental programs that offer a wide range of health, housing, education, and welfare services to Tribal members, as well as provide the Tribe, its members, and local communities with greater opportunities for employment and economic growth.

The development of Alternative A would meet the purpose and need of the Proposed Action better than the other development alternatives due to the greater environmental impacts of Alternatives B and D and the reduced revenues that would be expected from the operation of Alternatives C, D, and E (described in detail in Section 2.11 of the Final EIS). While Alternative A would have greater environmental impacts than the No Action Alternative, that alternative does not meet the purpose and need for the Proposed Action, and the BMPs and mitigation measures adopted in this ROD adequately address the environmental impacts of the Preferred Alternative. Accordingly, the Department will implement the Proposed Action subject to implementation of the applicable BMPs and mitigation measures listed in **Section 6.0** and Attachment III of this ROD.

7.1 THE PREFERRED ALTERNATIVE RESULTS IN SUBSTANTIAL BENEFICIAL IMPACTS

The Preferred Alternative is reasonably expected to result in beneficial effects for residents of Tulare County, the City of Porterville, the Tribe, and its members. Key beneficial effects include:

- Establishment of a land base for the Tribe to establish a viable business enterprise. Revenues from the operation of the casino would provide funding for a variety of health, housing, education, social, cultural, and other programs and services for tribal members, and provide employment opportunities for its members.
- Revenue generated from the development will also provide capital for other development/improvement opportunities, and will allow the Tribe to achieve tribal self-sufficiency, self-determination, and a strong, stable tribal government.
- Generation of approximately 1,165 full-time equivalent (FTE) employment positions during the construction period, with total wages of \$80.3 million.
- Considering the closure of the existing Eagle Mountain Casino, Alternative A would result in a direct net increase of 790 job opportunities within Tulare County. Net indirect and induced employment opportunities are estimated to total 166 and 119, respectively. Operational activities associated with Alternative A would generate an increase of \$34.6 million in wages in Tulare County. Direct wages are estimated to total approximately \$23.1 million. Indirect and induced wages are estimated to total \$7.2 million and \$4.3 million, respectively.
- State, county, and local taxes resulting from operating activities of approximately \$308,875 per year, after adjusting for the elimination of the property taxes on the Airpark Site, once it is taken into trust.
- The Memorandum of Understanding articulates certain one time and annual payments to the City of Porterville.
- Recurring revenues to the state and local agencies through the Tribal-State Gaming Compact.

7.2 ALTERNATIVES B AND D WOULD RESULT IN GREATER ENVIRONMENTAL IMPACTS AND REQUIRE ADDITIONAL MITIGATION

Environmental impacts under Alternatives B, C Water Option 2, and D would be greater than those under the Preferred Alternative, as Alternatives B, C Water Option 2, and D involve drilling groundwater wells on-site, which would have the potential to negatively impact groundwater levels in the Tule Groundwater Sub-basin, which is currently classified as critically overdrafted. The Final EIS identified this as a significant adverse impact despite the implementation of BMPs and mitigation measures.

7.3 REDUCED INTENSITY ALTERNATIVE RESTRICTS BENEFICIAL EFFECTS

The Reduced Intensity Alternative (Alternative C) would have similar environmental impacts but would generate less revenue than the Preferred Alternative. As a result, this Alternative would restrict the Tribe's ability to meet its needs and to foster tribal economic development, self-determination, and self-sufficiency. The reduced economic and related benefits of Alternative C as well as the unavoidable significant impact to water resources under Water Option 2 make it a less viable option, which would fulfill the purpose and need of the Proposed Action to a lesser extent than the Preferred Alternative.

7.4 NON-GAMING AT THE AIRPARK SITE RESTRICTS BENEFICIAL EFFECTS TO THE TRIBE AND SURROUNDING COMMUNITY

The non-gaming alternative at the Airpark Site (Alternative D) would result in less employment and economic growth for both the Tribe and neighboring communities than from the Preferred Alternative. As a result, it would restrict the Tribe's ability to meet its needs and to foster tribal economic development, self-determination, and self-sufficiency. The reduced economic and related benefits of Alternative D as well as the unavoidable significant impact to water resources make it a less viable option, which would fulfill the purpose and need of the Proposed Action to a lesser extent than the Preferred Alternative.

7.5 EXPANSION OF THE EXISTING EAGLE MOUNTAIN CASINO WOULD NOT ALLOW THE TRIBE TO ADEQUATELY PROVIDE GOVERNMENTAL & SOCIAL SERVICES

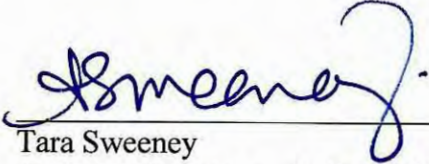
Expansion of the Tribe's existing Eagle Mountain Casino (Alternative E) would not produce a substantial additional revenue stream to fund essential governmental, social, and other services. Furthermore, because of a water shortage on the Reservation, Alternative E would require trucking water into the Reservation to meet the needs of the proposed expansion. Because of the remote location of the site, the revenue generated by Alternative E would be substantially lower than under Alternative A and may not be sufficient to cover the costs of construction and increased operational costs associated with trucking in water supplies. Additionally, Alternative E would not assist the Tribe in achieving more efficient allocation of limited water supplies within the Reservation.

7.6 NO ACTION ALTERNATIVE FAILS TO MEET PURPOSE AND NEED

The No Action Alternative (Alternative F) would not meet the stated purpose and need. Specifically, it would not improve the water supply reliability within the Reservation or provide a more stable income source that will enable the tribal government to provide essential social, housing, educational, health, and welfare programs. Therefore, the No Action Alternative would not promote the economic development and self-sufficiency of the Tribe. The No Action alternative also would likely result in substantially less economic benefits to Tulare County and the City of Porterville than any of the development alternatives.

8.0 SIGNATURE

By my signature, I indicate my decision to implement the Proposed Action and issue a Secretarial Determination of gaming eligibility pursuant to the Indian Gaming Regulatory Act. A decision whether to accept the 40-acre Airpark Site in trust pursuant to the Indian Reorganization Act, 25 U.S.C. § 5108, and its implementing regulations at 25 C.F.R. Part 151 will be made at a later date.



Tara Sweeney
Assistant Secretary – Indian Affairs

OCT 07 2019

Date

Record of Decision

Attachment I – Final EIS Notice of Availability May 31, 2019

Dated: May 17, 2019.

Tara Sweeney,

Assistant Secretary—Indian Affairs.

[FR Doc. 2019–11382 Filed 5–30–19; 8:45 am]

BILLING CODE 4337–15–P

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

[192D0102DR/DS5A300000/
DR.5A311.IA000118]

Final Environmental Impact Statement for the Tule River Tribe's Proposed Fee-to-Trust and Eagle Mountain Casino Relocation Project, Tulare County, California

AGENCY: Bureau of Indian Affairs,
Interior.

ACTION: Notice.

SUMMARY: This notice advises the public that the Bureau of Indian Affairs (BIA), as lead agency, with the Tule River Indian Tribe (Tribe), City of Porterville (City), Tulare County (County), California Department of Transportation (Caltrans), and the U.S. Environmental Protection Agency (EPA) serving as cooperating agencies, intends to file a Final Environmental Impact Statement (FEIS) with the EPA in connection with the Tribe's application for transfer into trust by the United States of approximately 40 acres for gaming and other purposes in the City of Porterville, Tulare County, California.

DATES: The BIA will issue a Record of Decision for the proposed action on or after 30 days after the date the EPA publishes its Notice of Availability in the **Federal Register**. The BIA must receive any comments on the FEIS before that date.

ADDRESSES: You may mail or hand-deliver written comments to Amy Dutschke, Regional Director, Bureau of Indian Affairs, Pacific Region, 2800 Cottage Way, Sacramento, CA 95825. Please include your name, return address, and the caption "FEIS Comments, Tule River Tribe Casino Relocation Project" on the first page of your written comments. You may also submit comments through email to Chad Broussard, Environmental Protection Specialist, Bureau of Indian Affairs, at chad.broussard@bia.gov. If emailing comments, please use "FEIS Comments, Tule River Tribe Casino Relocation Project" as the subject of your email.

FOR FURTHER INFORMATION CONTACT: Chad Broussard, Environmental Protection Specialist, Bureau of Indian Affairs, Pacific Regional Office, 2800

Cottage Way, Room W–2820, Sacramento, California 95825; telephone: (916) 978–6165; email: chad.broussard@bia.gov. Information is also available online at www.tuleriveris.com.

SUPPLEMENTARY INFORMATION: The Tribe proposes to construct a casino resort on the approximately 40-acre trust property in Tulare County, California. The BIA published a Notice of Intent (NOI) to prepare an EIS in the **Federal Register** on December 30, 2016 (81 FR 96477), and in the *Porterville Recorder*, and held a public scoping meeting on January 23, 2017, at the Veterans Memorial Building, in Porterville, California. The BIA published the Notice of Availability (NOA) of the Draft EIS in the **Federal Register** on September 21, 2018 (83 FR 47935), and held a public hearing on October 15, 2018, at the Veterans Memorial Building in Porterville, California.

Background: The Tribe's proposed project consists of the following components: (1) The Department's transfer of approximately 40 acres from fee to trust status; (2) issuance of a determination by the Secretary of the Interior pursuant to Section 20 of the Indian Gaming Regulatory Act, 25 U.S.C. 2719; and (3) the development of the trust parcel and the off-site improvement areas. The proposed casino-hotel resort would include a hotel, convention center, multipurpose event space, several restaurant facilities, parking facilities and water reclamation infrastructure. The new facility would replace the Tribe's existing casino, and the existing casino buildings would be converted to Tribal government or service uses.

The following alternatives are considered in the FEIS: (1) Proposed Project; (2) Proposed Project with On-Site Water and Wastewater Systems; (3) Reduced Intensity Hotel and Casino; (4) Non-Gaming Hotel and Conference Center; (5) Expansion of Existing Eagle Mountain Casino; and (6) No Action Alternative. The BIA identified Alternative 1 as the Preferred Alternative as discussed in the FEIS.

The information and analysis contained in the FEIS, as well as its evaluation and assessment of the Preferred Alternative, will assist the Department of the Interior (Department) in its review of the issues presented in the fee-to-trust application. The Preferred Alternative does not reflect the Department's final decision because the Department must further evaluate all of the criteria listed in 25 CFR part 151 and 25 CFR part 292. The Department's consideration and analysis of the

applicable regulations may lead to a final decision that selects an alternative other than the Preferred Alternative, including no action, or a variant of the Preferred or another of the alternatives analyzed in the FEIS.

Environmental issues addressed in the FEIS include geology and soils, water resources, air quality, biological resources, cultural and paleontological resources, socioeconomic conditions (including environmental justice), transportation and circulation, land use, public services, noise, hazardous materials, aesthetics, cumulative effects, and indirect and growth inducing effects.

Locations Where the FEIS is Available for Review: The FEIS is available for review during regular business hours at the BIA Pacific Regional Office at the address noted above in the **ADDRESSES** section of this notice, and the Porterville Public Library at 41 West Thurman Avenue in Porterville, California. The FEIS is also available online at www.tuleriveris.com. To obtain a compact disc copy of the FEIS, please provide your name and address in writing or by phone to Chad Broussard, Bureau of Indian Affairs, Pacific Regional Office. Contact information is listed in the **FOR FURTHER INFORMATION CONTACT** section of this notice.

Individual paper copies of the FEIS will be provided upon payment of applicable printing expenses by the requestor for the number of copies requested.

Public Comment Availability: Comments, including names and addresses of respondents, will be available for public review at the BIA address shown in the **ADDRESSES** section, during regular business hours, 8 a.m. to 4:30 p.m., Monday through Friday, except holidays. Before including your address, telephone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask in your comment that your personal identifying information be withheld from public review, the BIA cannot guarantee that this will occur.

Authority: This notice is published pursuant to Sec. 1503.1 of the Council of Environmental Quality Regulations (40 CFR parts 1500 through 1508) and Sec. 46.305 of the Department of the Interior Regulations (43 CFR part 46), implementing the procedural requirements of the NEPA of 1969, as amended (42 U.S.C. 4371, *et seq.*), and is in the exercise of authority delegated to the Assistant Secretary—Indian Affairs by 209 DM 8.

Dated: May 20, 2019.

John Tahsuda,

Principal Deputy Assistant Secretary—Indian Affairs.

[FR Doc. 2019–11383 Filed 5–30–19; 8:45 am]

BILLING CODE 4337–15–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

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LXSS072H0000.19X.HAG 19–0013]

Notice of Availability of the Draft Southeastern Oregon Resource Management Plan Amendment and Draft Environmental Impact Statement for the Malheur Field Office, Vale District, Oregon

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Availability.

SUMMARY: In accordance with the National Environmental Policy Act of 1969 (NEPA), as amended, and the Federal Land Policy and Management Act of 1976 (FLPMA), as amended, the Bureau of Land Management (BLM) has prepared a Draft Southeastern Oregon Resource Management Plan (RMP) Amendment and Draft Environmental Impact Statement (EIS) for the Malheur Field Office of the Vale District and, by this notice, is announcing the opening of the comment period.

DATES: To ensure that comments will be considered, the BLM must receive written comments on the Draft Southeastern Oregon RMP Amendment and Draft EIS within 90 days following the date the Environmental Protection Agency publishes its notice of availability of the Draft Southeastern Oregon RMP Amendment and Draft EIS in the **Federal Register**. The BLM will announce future meetings or hearings and any other public participation activities at least 15 days in advance through public notices, media releases, and/or mailings.

ADDRESSES: You may submit comments related to the Draft Southeastern Oregon RMP Amendment and Draft EIS by any of the following methods:

- *Website:* <https://go.usa.gov/xnsQx>.
- *Email:* BLM_OR_VL_SEORMP@blm.gov.

blm.gov.

- *Fax:* 541–473–6213.

• *Mail:* SEORMPA, c/o Vale District BLM, 100 Oregon Street, Vale, OR 97918.

The Draft Southeastern Oregon RMP Amendment and Draft EIS and accompanying background documents are available at the website: <https://go.usa.gov/xnsQx>.

FOR FURTHER INFORMATION CONTACT:

Renee Straub, Assistant Field Manager, 541–473–6289; 100 Oregon Street, Vale, OR 97918; BLM_OR_VL_Mail@blm.gov. Contact Ms. Straub to have your name added to our mailing list. Persons who use a telecommunications device for the deaf (TDD) may call the Federal Relay Service (FRS) at 1–800–877–8339 to contact the above individual during normal business hours. FRS is available 24 hours a day, seven days a week, to leave a message or a question with the above individual. You will receive a reply during normal business hours.

SUPPLEMENTARY INFORMATION: The Federal Land Policy and Management Act of 1976, 43 U.S.C. 1701 *et seq.*, is the statutory authority that provides the primary direction to the BLM to develop, maintain, amend, and revise land use plans, which provide for the use of public lands. Further, FLPMA provides that the BLM shall manage the public lands under the principles of multiple use and sustained yield (Sec. 103, 43 U.S.C. 1702; Sec 202, 43 U.S.C. 1712; and Sec. 302, 43 U.S.C. 1732). The southeastern Oregon planning area covers approximately 4.6 million acres of public lands in Malheur, Grant, Harney, and Baker Counties in Oregon. The area is characterized by a basin and range topography, with remote canyons, desert, and mountain systems. The Draft Southeastern Oregon RMP Amendment and Draft EIS includes a range of five alternatives designed to address three main issues raised in a 2010 settlement agreement: Lands with wilderness characteristics, off highway vehicle (OHV) use, and livestock grazing. Resource uses not addressed by the alternatives in this focused amendment will continue as defined under the 2002 Southeastern Oregon RMP, as amended by the 2015 and 2019 Oregon Greater Sage-Grouse Approved RMP Amendments.

The following is an overview of the five alternatives:

- The No Action Alternative represents the continuation of existing management under the 2002 Southeastern Oregon RMP and Record of Decision (ROD) (as amended by the 2015 Oregon Greater Sage-Grouse RMP Amendment) with the inclusion of interim management stipulations outlined in the 2010 settlement agreement. These stipulations require the protection of wilderness characteristics in 76 public land units where the BLM's updated inventory found wilderness characteristics to exist.
- Alternative A is the BLM's preferred alternative and reflects the

continuation of existing management under the 2002 Southeastern Oregon RMP and ROD (as amended by the 2015 Oregon Greater Sage-Grouse RMP Amendment) without the restrictions of the 2010 settlement agreement. The 2002 Southeastern Oregon RMP and ROD did not provide specific management for, or protection of, lands with wilderness characteristics. If this alternative were selected, the 2002 Southeastern Oregon RMP and ROD would not prioritize protection of lands with wilderness characteristics outside of existing wilderness study areas. Processing voluntary grazing permit relinquishment and implementation of measures to address standards and guidelines for rangeland health would continue as under current management and policy. Management of all other resources would continue under the 2002 Southeastern Oregon RMP, as amended. Existing allocations at the land use planning level (such as visual resource management classes, OHV categories, and rights-of-way authorizations) across the planning area would not change. Under Alternative A, the BLM would continue to provide for a sustainable yield of forage for livestock grazing while maintaining resource values for long-term multiple use, consistent with management objectives, and would be unchanged from current practices.

Alternatives B, C, and D would establish new management protections for units of public land (outside of existing wilderness study areas) that have been identified as having wilderness characteristics. The specific units identified for protection varies by alternative.

- Alternative B reflects the highest level of protection required by the 2010 settlement agreement. Alternative B prioritizes protection of wilderness characteristics in all 76 units determined to possess wilderness characteristics. The 76 wilderness characteristics units and all wilderness study areas would be managed as closed to OHV use, and existing primitive routes would be closed to motorized travel. In addition, in all other units where off-road vehicle use is currently allowed (referred to as “open”), OHV use would be limited to existing roads and primitive routes. To address the 2010 settlement agreement in this alternative, where existing livestock grazing practices are found to be significant causal factors for non-attainment of standards and guidelines for rangeland health, the BLM would suspend grazing permits, either at the allotment- or pasture-scale, for the duration of the RMP in units identified

***In the Superior Court of the State of California
In and for the County of Tulare***

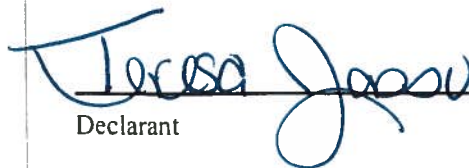
State of California

SS.

County of Tulare

Declarant says:

That at all times herein mentioned Declarant is and was a resident of said County of Tulare, over the age of twenty-one years; not a party to nor interested in the within matter; that Declarant is now and was at all times herein mentioned the Principal Clerk of the Porterville Recorder, a daily newspaper, which said newspaper was adjudged a newspaper of general circulation on October 15, 1951, by Superior Court Order No. 42369 as entered in Book 57 Page 384 of said Court; and that said newspaper is printed and published every day except Sunday published LEGAL NOTICE in said newspaper, May 31, 2019 and that such publication was made in the regular issues of said paper (and not in any supplemental edition or extra there of). I declare under penalty of perjury that the forgoing is true and correct. Executed May 31, 2019 at Porterville, California.


Declarant

PUBLIC NOTICE

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Final Environmental Impact Statement and Final Conformity Determination for the Tule River Tribe's Proposed Fee-to-Trust and Eagle Mountain Casino Relocation Project, Tulare County, California

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice of availability.

SUMMARY: This notice advises the public that the Bureau of Indian Affairs (BIA), as lead agency, with the Tule River Indian Tribe (Tribe), City of Porterville (City), Tulare County (County), California Department of Transportation (Caltrans), and the U.S. Environmental Protection Agency (EPA) serving as cooperating agencies, intends to file a Final Environmental Impact Statement (FEIS) with the EPA in connection with the Tribe's application for transfer into trust by the United States of approximately 40 acres for gaming and other purposes in the City of Porterville, Tulare County, California. This document has been prepared pursuant to the National Environmental Policy Act (NEPA) and the anticipated requirements of the Tribal-State Compact with the State of California, which are expected to include preparation of a Tribal Environmental Impact Report (TEIR) assessing the off-reservation environmental impacts of the Proposed Project. To reduce paperwork and eliminate redundancy, the FEIS and the Final TEIR have been prepared in coordination, resulting in a joint Final EIS/TEIR, hereinafter referred to as an FEIS. This notice announces that the FEIS is now available. In addition, in accordance with Section 176 of the Clean Air Act 42 USC 7506, and the USEPA general conformity regulations 40 CFR Part 93, Subpart B, a Final Conformity Determination (FCD) has been prepared for the proposed project. The FCD is contained within Appendix Q of the FEIS.

DATES: The BIA will issue a Record of Decision for the proposed action on or after 30 days after the date the EPA publishes its Notice of Availability in the Federal Register, anticipated to occur on May 31, 2019. The BIA must receive any comments on the FEIS before July 1, 2019.

ADDRESSES: You may mail or hand-deliver written comments to Amy Dutschke, Regional Director, Bureau of Indian Affairs, Pacific Region, 2800 Cottage Way, Sacramento, CA 95825. Please include your name, return address, and the caption "FEIS Comments, Tule River Tribe Casino Relocation Project" on the first page of your written comments. You may also submit comments through email to Chad Broussard, Environmental Protection Specialist, Bureau of Indian Affairs, at chad.broussard@bia.gov. If emailing comments, please use "FEIS Comments, Tule River Tribe Casino Relocation Project" as the subject of your email.

FOR FURTHER INFORMATION CONTACT: Chad Broussard, Environmental Protection Specialist, Bureau of Indian Affairs, Pacific Regional Office, 2800 Cottage Way, Room W-2820, Sacramento, California 95825; telephone: (916) 978-6165; e-mail: chad.broussard@bia.gov. Information is also available online at www.tulriverfeis.com.

SUPPLEMENTARY INFORMATION: The Tribe proposes to construct a casino resort on the approximately 40-acre trust property in Tulare County, California. The BIA published a Notice of Intent (NOI) to prepare an EIS in the Federal Register on December 30, 2016 (81 FR 96477), and in the *Porterville Recorder*, and held a public scoping meeting on January 23, 2017, at the Veterans Memorial Building, in Porterville, California. The BIA published the Notice of Availability (NOA) of the Draft EIS in the Federal Register on September 21, 2018 (83 FR 47935), and held a public hearing on October 15, 2018, at the Veterans Memorial Building in Porterville, California.

BACKGROUND: The Tribe's proposed project consists of the following components: 1) the Department's transfer of approximately 40 acres from fee to trust status; 2) issuance of a determination by the Secretary of the Interior pursuant to Section 20 of the Indian Gaming Regulatory Act, 25 U.S.C. 2719; and 3) the development of the trust parcel and the off-site improvement areas. The proposed casino-hotel resort would include a hotel, convention center, multipurpose event space, several restaurant facilities, parking facilities and water reclamation infrastructure. The new facility would replace the Tribe's existing casino, and the existing casino buildings would be converted to Tribal government or service uses.

The following alternatives are considered in the FEIS: (1) Proposed Project; (2) Proposed Project with On-Site Water and Wastewater Systems; (3) Reduced Intensity Hotel and Casino; (4) Non-Gaming Hotel and Conference Center; (5) Expansion of Existing Eagle Mountain Casino; and (6) No Action Alternative. The BIA identified Alternative 1 as the Preferred Alternative as discussed in the FEIS.

The information and analysis contained in the FEIS, as well as its evaluation and assessment of the Preferred Alternative, will assist the Department of the Interior (Department) in its review of the issues presented in the fee-to-trust application. The Preferred Alternative does not reflect the Department's final decision because the Department must further evaluate all of the criteria listed in 25 CFR part 151 and 25 CFR part 292. The Department's consideration and analysis of the applicable regulations may lead to a final decision that selects an alternative other than the Preferred Alternative, including no action, or a variant of the Preferred or another of the alternatives analyzed in the FEIS.

Environmental issues addressed in the FEIS include geology and soils, water resources, air quality, biological resources, cultural and paleontological resources, socioeconomic conditions (including environmental justice), transportation and circulation, land use, public services, noise, hazardous materials, aesthetics, cumulative effects, and indirect and growth inducing effects.

The Clean Air Act requires Federal agencies to ensure that their actions conform to applicable implementation plans for achieving and maintaining the National Ambient Air Quality Standards for criteria air pollutants. The BIA has prepared a FCD for the proposed action/project described above. The FCD is included in Appendix Q of the FEIS.

Locations Where the FEIS is Available for Review: The FEIS is available for review during regular business hours at the BIA Pacific Regional Office at the address noted above in the ADDRESSES section of this notice, and the Porterville Public Library at 41 West Thurman Avenue in Porterville, California. The FEIS is also available online at www.tuleriveris.com. To obtain a compact disc copy of the FEIS, please provide your name and address in writing or by phone to Chad Broussard, Bureau of Indian Affairs, Pacific Regional Office. Contact information is listed in the FOR FURTHER INFORMATION CONTACT section of this notice. Individual paper copies of the FEIS will be provided upon payment of applicable printing expenses by the requestor for the number of copies requested.

PUBLIC COMMENT AVAILABILITY: Comments, including names and addresses of respondents,

will be available for public review at the BIA address shown in the ADDRESSES section, during regular business hours, 8 a.m. to 4:30 p.m., Monday through Friday, except holidays. Before including your address, telephone number, e-mail address, or other personal identifying information in your comment, you should be aware that your entire comment - including your personal identifying information - may be made publicly available at any time. While you can ask in your comment that your personal identifying information be withheld from public review, the BIA cannot guarantee that this will occur.

AUTHORITY: This notice is published pursuant to Sec. 1503.1 of the Council of Environmental Quality Regulations (40 CFR parts 1500 through 1508) and Sec. 46.305 of the Department of the Interior Regulations (43 CFR part 46), implementing the procedural requirements of the NEPA of 1969, as amended (42 U.S.C. 4371, et seq.), and is in the exercise of authority delegated to the Assistant Secretary - Indian Affairs by 209 DM 8. This notice is also published in accordance with 40 CFR 93.155, which provides reporting requirements for conformity determinations.

Record of Decision

Attachment II – Comments & Responses to Comments on the FEIS

ATTACHMENT 2

SUPPLEMENTAL RESPONSES TO FINAL EIS COMMENTS

1.0 INTRODUCTION

This attachment to the U.S. Department of Interior’s (DOI’s) Record of Decision (ROD) for the Tule River Tribe (Tribe’s) Fee-to-Trust and Eagle Mountain Casino Relocation Project (Proposed Project) contains supplemental responses to comments that were received during and after the 30-day review period on the Final Environmental Impact Statement (Final EIS) following the publication of the Notice of Availability (NOA) in the *Federal Register* on May 31, 2019 [78 Fed. Reg. 15040 (2013)]. A total of 10 letters were received during this review period and were considered by the DOI during the decision making process for the Proposed Action. The commenters for these 10 letters are indexed in **Table 1** and copies of the comment letters are provided in **Exhibit 1** of this document. Specific responses to each of the 10 comment letters are provided in **Section 2.0** of this Attachment.

TABLE 1
INDEX OF COMMENT LETTERS ON FINAL EIS

Comment Letter No.	NAME	AGENCY/ORGANIZATION
A1	Connell Dunning	United States Environmental Protection Agency
A2	Deanne H. Peterson	Tulare County Counsel
A3	Michael Navarro	California Department of Transportation
I1	Barry Caplan	
I2	Stuart Goings	
I3	Delmer Smith	
I4	Jon Stricklin	
I5	William Larsen	
I6	Bob and Gail Nuckols	
I7	Ryan Ruckman	

2.0 RESPONSES TO SPECIFIC COMMENTS ON THE FINAL EIS

Each of the bracketed comments within the 10 comment letters contained in **Exhibit 1** of this document are responded to below. If a specific comment raises an issue that has previously been responded to within the Final EIS, the appropriate section or response within the Final EIS is referenced. Additionally, once an issue has been addressed in a response to a comment, subsequent responses to similar comments reference the initial response.

COMMENT LETTER A1: CONNELL DUNNING, UNITED STATES ENVIRONMENTAL PROTECTION AGENCY, JUNE 20, 2019

Response to Comment A1-01

Comment noted. Commenter describes the Proposed Project and underscores the importance of the proposed Water Reclamation Facility (WRF) discussed in the Final EIS, Volume II, Section 2.3.3.

COMMENT LETTER A2: DEANNE H. PETERSON, TULARE COUNTY COUNSEL, JUNE 28, 2019

Response to Comment A2-01

This comment has been previously responded to in the Final EIS, Volume I, Section 3.1 Response to Comment A5-1. Related to the increase in crime during the first two years of operation, the Final EIS, Volume II, Section 4.7.1 actually states “In addition, Nichols and Tosun (2017) examined casinos and crime rates across the United States from 1994 to 2012. They found that on average there was an increase in crime in counties that opened tribal casinos for the first two years and after there was a decreased crime rate from pre-casino levels. There was no long-term increase in crime resulting from casinos (Nichols and Tosun, 2017).” Here, the Eagle Mountain Casino is already operating in the County, so the typical increase in crime rates during the first two years of operation would not be expected.

Response to Comment A2-02

This comment has been previously responded to in the Final EIS, Volume I, Section 3.1 Response to Comment A5-2.

Response to Comment A2-03

This comment has been previously responded to in the Final EIS, Volume I, Section 3.1 Response to Comment A5-3.

Response to Comment A2-04

This comment has been previously responded to in the Final EIS, Volume I, Section 3.1 Response to Comment A5-4.

Response to Comment A2-05

This comment has been previously responded to in the Final EIS, Volume I, Section 3.1 Response to Comment A5-5.

Response to Comment A2-06

The comment regarding how the casino will minimize alcohol and other drug-related crisis calls for a “5150 involuntary hold evaluation” has been previously responded to in the Final EIS, Volume I, Section 3.1 Response to Comment A5-6.

Mitigation Measure 5.10.3 (I) states that the “Responsible Alcoholic Beverage Policy at the facility that shall include, but not limited to, checking identification of patrons and refusing service to those who have had enough to drink.”

Response to Comment A2-07

This comment has been previously responded to in the Final EIS, Volume I, Section 3.1 Response to Comment A5-8.

Response to Comment A2-08

This comment has been previously responded to in the Final EIS, Volume I, Section 3.1 Response to Comment A5-8.

Response to Comment A2-09

This comment has been previously responded to in the Final EIS, Volume I, Section 3.1 Response to Comment A5-11.

Response to Comment A2-10

This comment has been previously responded to in the Final EIS, Volume I, Section 3.1 Response to Comment A5-14.

Response to Comment A2-11

This comment has been previously responded to in the Final EIS, Volume I, Section 3.1 Response to Comment A5-28.

Response to Comment A2-12

This comment has been previously responded to in the Final EIS, Volume I, Section 3.1 Response to Comment A5-29.

Additionally, the 2017 Tribal-State Compact does not require a 75 percent reduction and it is unknown whether the new Tribal-State Compact will require a 75 percent reduction.

Response to Comment A2-13

The commenter stated that the Final EIS, Volume II, Section 5, Mitigation Measure 5.7A did not include reasonable compensation for County programs designed to address and treat gambling addiction as was written in the Tribal-State Compact. As discussed in the Final EIS, Volume II, Section 4.7.1, effects associated with an increase in problem gambling rates were determined to be less than significant given that the relocation of the existing casino under Alternative A would not substantially increase the availability of gaming venues to persons who are risk of problem gambling, and the current Tribal-State Compact includes provisions that allow the State to use funds paid by the Tribe for programs designed to address problem gambling. Because the environmental impact of increased rates of gambling addiction caused by the Proposed Project was determined to be less than significant, mitigation is not required under NEPA. However, the Tribe may negotiate reasonable compensation for programs designed to address and treat gambling addiction with the County as may be required by Section 11.7A(3) of the future Compact.

Response to Comment A2-14

This comment has been previously responded to in the Final EIS, Volume I, Section 3.1 Response to Comment A5-32. As noted therein, County and City road maintenance is funded primarily through the accrual of excise tax on gasoline and bonds approved by State voters. Trucks and other vehicles driving to and from the project site will contribute to County and City roadway maintenance funds when purchasing gasoline within the City and the County, similar to other developments in the region. As needed, the City and County will perform maintenance activities on roadways affected by trips to and from the project site, as is typical for all roadways within the City and County. Impact fees paid by new developments are typically identified for construction of new facilities or for operational enhancements, such as the addition of travel lanes. Impact fees are not typically utilized for pavement maintenance (refer to Appendix S of the Final EIS, Volume II). Operation of the Proposed Project would not generate a large volume of truck traffic that would exceed the design standards of the roadways providing access the project, and would not increase the rate of roadway deterioration beyond that of a typical commercial project; thus, as with a typical commercial project, compensation for roadway maintenance would be addressed through gasoline tax. Therefore, the need for ongoing roadway maintenance would not be considered a significant impact that would warrant mitigation.

Response to Comment A2-15

This comment has been previously responded to in the Final EIS, Volume I, Section 3.1 Response to Comment A5-33. Also, refer to the Final EIS, Volume II, Section 4.8.1, page 4.8-16. Mitigation measure 5.8.2K of the Final EIS has been reworded within the ROD to eliminate the term “offer”. Refer to the ROD, Section 6.7.2(F).

Response to Comment A2-16

Refer to **Response to Comment A2-14**.

Response to Comment A2-17

This comment has been previously responded to in the Final EIS, Volume I, Section 3.1 Response to Comment A5-35.

COMMENT LETTER A3: MICHAEL NAVARRO, CALIFORNIA DEPARTMENT OF TRANSPORTATION (CALTRANS), JULY 1, 2019

Response to Comment A3-01

Comment noted. Cooperating agency comments on the administrative draft Final EIS were requested by April 12, 2019. The May 7, 2019 letter was received more than 3 weeks after this deadline. Responses to the issues raised in the May 7, 2019 letter are provided in **Response to Comments A3-04 through A3-08**.

Response to Comment A3-02

The intersection of SR-190/Westwood Street currently operates at an unacceptable LOS and is projected to continue to operate at an unacceptable LOS in the future (without the Proposed Project).

As noted in the Traffic Impact Study, included as Appendix I of the Draft EIS, and the Final EIS, Volume II, Section 4.8.2, the intersection SR-190/Westwood Street is the location of a programmed roundabout identified in the 2017 Tulare County Council of Governments (TCAG) Federal Transportation Improvement Program (FTIP). The Draft EIS Appendix I Table 37, indicates that the intersection was identified within the 2017 TCAG FTP as being funded through Measure R; because the FTIP is a mandated four year document, funding for the improvement was assumed to be programmed between 2016/17 and 2020/21. The programmed intersection improvement would address the existing operational deficiencies of the intersection and subsequently accommodate additional traffic from the Proposed Project. Despite the fact that a construction schedule for the intersection improvement has not been finalized, the intersection improvement was programmed to address existing deficiencies, and a fair share contribution from the Proposed Project would not be appropriate.

Response to Comment A3-03

Comment noted. In accordance with the anticipated requirements of the Compact Section 11.7(c), and in order to facilitate fair share payments to address project related traffic impacts on the state highway system, as identified within the Final EIS, Volume II, the Tribe and Caltrans may negotiate an intergovernmental agreement or Caltrans may agree to an intergovernmental agreement between the Tribe and the County that mitigates the traffic impacts to the state highway system or facilities. In either instance, Caltrans would be provided an opportunity to review and approve the appropriate fair share payment to be provided by the Tribe for each impacted state highway facility.

Escrow refers to money held by a third party on behalf of transacting parties, with the disbursement of funds dependent on conditions agreed to by the transacting parties. In this case, the terms related to disbursement of funds would be identified within the agreement to be negotiated between Caltrans (or the County) and the Tribe.

Mitigation Measure 5.8.2 within the Final EIS, Volume II, has been revised within Section 6.7.2 of the ROD to clarify that payments made by the Tribe towards traffic improvements can be made either directly to the jurisdictional agency or placed in an escrow account to be later collected by the jurisdictional agency.

Response to Comment A3-04

Comment is noted. The programmed roundabout improvement at SR-190/Westwood is discussed within the Final EIS, Volume II, Section 4.8.2, page 4.8-13, and is assumed to be in place by opening year.

Response to Comment A3-05

Comment is noted. The previously identified Final EIS, Volume II, Mitigation Measure 5.8.2(F) to improve this intersection has been removed from the ROD Section 6.7.2 given that the recently constructed improvements at this intersection would alleviate project related impacts.

Response to Comment A3-06

Trip distribution and assignment figures for the “Proposed Project Only Trips” were included in Appendix O of the Final EIS.

Response to Comment A3-07

Comment noted. The commenter recommends adding a right-turn lane on SR 190 to southbound Road 216 to reduce the potential for traffic accidents. The TIS included within Appendix O of the Final EIS did not identify a significant impact at this location under opening day conditions, therefore mitigation is not required. However, under future year 2040 cumulative conditions, Mitigation Measure 5.8.3 Y of the Final EIS requires that the Tribe contribute a fair share payment for the installation of a traffic signal or roundabout at the SR-190/Road 216 intersection to mitigate the LOS to an acceptable level.

Response to Comment A3-08

Comment noted. Refer to Sections 3.8.3, 3.8.4, and 4.8.2 of the Final EIS, Volume I, for a description and analysis of the current and predicted pedestrian, bike, and transit infrastructure in the vicinity of the project site. As described within Section 3.8.4 of the Final EIS, 3,900 feet of sidewalk is located along the east side of West Street including a 600-foot stretch from Edison Court to Scranton Avenue. Furthermore, Class II bike paths are being planned by the City on both sides of West Street between Teapot Dome Avenue and Scranton Avenue, along Scranton Avenue between West Street and Hillcrest Street, and along Teapot Dome Avenue throughout southern Porterville. As described in Section 3.8.3 of

the Final EIS, the Airpark Site is nearby Porterville Transit and Tulare County Area Transit. Further transit such as Dial-a-ride and private taxi can be used to access the Airpark Site.

COMMENT LETTER I1: BARRY CAPLAN, JUNE 10, 2019

Response to Comment I1-01

Comment noted. On June 13, 2019, the Tule River Tribe Fee-to-Trust and Eagle Mountain Casino relocation website (<https://www.tulrivereis.com/>) was made secure by attaining a security certificate that confirms the website's identity as well as encrypts data when it is transferred. Furthermore, as stated in the Notice of Availability, the Final EIS was available during regular business hours at the BIA Pacific Regional Office and the Porterville Public Library, and a disc version of the FEIS could be sent to an address by providing a name and address to Chad Broussard at the BIA Pacific Regional Office by letter or phone.

COMMENT LETTER I2: STUART GOINGS, JUNE 17, 2019

Response to Comment I2-01

Commenter expresses concern about social and economic impact related to the Proposed Project. Economic and social effects resulting from the Proposed Project and the alternatives were discussed in Final EIS, Volume II, Section 4.7. As noted therein, the economic effects of the project would be positive. Refer to the Final EIS, Volume I, Section 3.2.1, Response to Comment I2-1 regarding social effects.

COMMENT LETTER I3: DELMER SMITH, JUNE 18, 2019

Response to Comment I3-01

Comment noted. This comment expresses the opinion of the commenter and does not require a response.

COMMENT LETTER I4: JON STRICKLIN, JUNE 21, 2019

Response to Comment I4-01

Commenter expresses concerns about the social impacts of the Proposed Project. Refer to the Final EIS, Volume I, Section 3.2.1, Response to Comment I2-1 regarding social effects.

COMMENT LETTER I5: WILLIAM LARSEN, JUNE 10, 2019

Response to Comment I5-01

Comment noted. Commenter expresses concern over the security of the Tule River Tribe EIS website. Refer to **Response to Comment I1-01**.

Response to Comment I5-02

As stated in the Final EIS, Volume II, Section 1.2, the BIA serves as the federal Lead Agency for compliance with NEPA. Anticipated approvals associated with the project, including federal, state and

local approvals, were listed in the Final EIS, Volume II, Section 1.6, Table 1-1. The EIS did address the entire scope of the Proposed Project, including the components of the project that would require potential state and local approvals.

COMMENT LETTER I6: BOB AND GAIL NUCKOLS, JUNE 29, 2019

Response to Comment I6-01

Comment noted. Refer to Responses to Comments I6-02 through I6-03 regarding the commenter's specific concerns.

Response to Comment I6-02

Comment noted. Commenter expresses concerns regarding the increased activity in the vicinity of the Proposed Project and the subsequent impacts that could have on Nuckols Ranch. Nuckols Ranch is located approximately 0.45 miles southwest of the Airpark Site, approximately 0.17 miles west of the proposed 40-acre WRF site, and approximately 0.74 miles west of the proposed 8-acre WRF site. The commenter is concerned about the segment of Road 216 between Teapot Dome Avenue and SR-190. Per Table 4.8-6 of the Final EIS, Volume II, Section 3.8, Road 216 between Teapot Dome Avenue and SR-190 would operate at a LOS A for all alternatives during the opening year. Furthermore, the segment of Road 216 between Scranton Avenue and Teapot Dome, where the Nuckols Ranch is located, is not projected to experience any increase in traffic, as patrons visiting the casino traveling south from SR-190 on Road 216 would turn east on Scranton Avenue. Refer to the Final EIS, Volume I, Response to Comment I2-1, regarding crime impacts.

The comment expresses concern regarding the odor impacts of the WRF. A detailed analysis of the compatibility of the Proposed Project with adjacent land uses was included in Section 4.9 of the Final EIS, Volume II. As described therein, the proposed WRF would not generate significant noise, odor, or other concerns that would interfere with adjacent land uses. Section 4.4 of the Final EIS, Volume II states that the WRF would treat secondary wastewater to tertiary levels and is not expected to result in any perceptible odors at off-site locations. Furthermore, the elimination of the current biosolid dispersal at the 40-acre site would likely reduce the propensity for odors at the site.

The commenter expresses concern regarding groundwater contamination caused by the Proposed Project. Potential impacts associated with groundwater quality resulting from the Proposed Project and WRF were described in the Final EIS, Volume II, Section 4.3.1 (refer to pages 4.3-4 through 4.3-5). As noted therein, runoff generated from the Airpark Site and the use of recycled water generated at the off-site WRF for irrigation purposes would have a less-than-significant on groundwater quality.

Response to Comment I6-03

The Final EIS, Volume II, Section 4.13 describes the aesthetic impacts of the Proposed Project resulting from the changes to the visual setting and from light and glare. The viewpoint of Nucklos Ranch is best represented by Viewpoint A as described in the Final EIS. As noted in Section 4.13 of the Final EIS, Volume II, the view would change from cleared fields and office buildings to a casino-resort facility, with

landscaping and other natural features. The aesthetic impacts of Alternative A were determined to be less-than-significant.

Effects from the increase in lighting within the project site were considered a potentially significant impact. Mitigation measures recommended in the Final EIS and incorporated into the ROD, Section 6.12, are consistent with both the International Dark Sky Association's Model Lighting Ordinance (IDA, 2011) and the Unified Facilities Criteria, and would reduce this potential impact to a less-than-significant level.

Response to Comment I6-04

Comment noted. Commenter expresses concern regarding the location of the WRF. The two potential locations of the WRF were described in Section 2.2 of the Final EIS, Volume II, and both options were evaluated on an equal level basis within the Final EIS. As the local lead agency, the City will make the final determination on the location of the proposed WRF.

COMMENT LETTER I7: RYAN RUCKMAN, JUNE 30, 2019

Response to Comment I7-01

Comment noted. Commenter expresses concern regarding socioeconomic impacts, specifically fiscal impacts and crime. An evaluation of the economic and crime effects of the Proposed Project and the alternatives was provided in the Final EIS, Volume II, Section 4.7. As noted therein, the economic impacts of the Proposed Project would be positive, and effects associated with crime would be less-than-significant with mitigation. Refer to the Final EIS, Volume I, Response to Comment I2-1 regarding crime.

Response to Comment I7-02

Please refer to **Response to Comment I7-01**.

Response to Comment I7-03

Potential effects associated with problem gambling were discussed in the Final EIS, Volume II, Section 4.7. Please also refer to the Final EIS, Volume I, Response to Comment A5-5.

Response to Comment I7-04

Please refer to **Response to Comment I7-03**.

Response to Comment I7-05

Please refer to **Response to Comment I7-01**.

Response to Comment I7-06

Please refer to **Responses to Comments I7-01 and I7-03**.

Response to Comment I7-07

This comment expresses the opinion of the commenter and does not require a response.

EXHIBIT 1

COMMENT LETTERS

COMMENT LETTER A1

**UNITED STATES ENVIRONMENTAL PROTECTION
AGENCY**



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION IX
75 Hawthorne Street
San Francisco, CA 94105-3901

June 20, 2019

Ms. Amy Dutschke
Pacific Regional Director
Bureau of Indian Affairs
2800 Cottage Way
Sacramento, California 95825

Subject: Final Environmental Impact Statement for the Tule River Indian Tribe Fee-To-Trust and Eagle Mountain Casino Relocation Project, Tulare County, California (EIS No. 20190121)

Dear Ms. Dutschke:

The U.S. Environmental Protection Agency (EPA) has reviewed the above-referenced document pursuant to the National Environmental Policy Act (NEPA), Council on Environmental Quality (CEQ) regulations (40 CFR Parts 1500-1508), and our NEPA review authority under Section 309 of the Clean Air Act, 42 U.S.C. § 7609.

The Final Environmental Impact Statement (FEIS) evaluates the impacts of the proposed transfer of approximately 40 acres from fee to federal trust status for tribal development of a casino, hotel, and event conference center, with associated facilities in the City of Porterville.

EPA provided comments on the Draft EIS on November 1, 2018 and has served as a cooperating agency for the development of the EIS. We appreciate the responsiveness of the Bureau of Indian Affairs to our feedback during development of the document. We continue to support the Water Reclamation Facility included in the selected alternative as an important component in limiting the project's impacts to the regional water supply.

EPA appreciates the opportunity to review this FEIS. When the ROD is released, please send one copy to the address above (mail code: TIP-2). If you have any questions, please contact me at (415) 947-4161, or Jean Prijatel, the lead reviewer for this project, at (415) 947-4167 or prijatel.jean@epa.gov.

Sincerely,


Connell Dunning, Acting Manager
Environmental Review Branch

cc: Neil Peyron, Chairman, Tule River Indian Tribe of the Tule River Reservation
Keri Vera, Environmental Director, Tule River Indian Tribe of the Tule River Reservation

A1-01

COMMENT LETTER A2

TULARE COUNTY COUNSEL

TULARE COUNTY COUNSEL

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Deanne H. Peterson

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John A. Rozum
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Ameet Nagra

2900 W. Burrel Avenue, County Civic Center, Visalia, CA 93291 Telephone: (559) 636-4950 Fax: (559) 737-4319 or (559) 713-3240

June 28, 2019

Via US Mail and email to *chad.broussard@bia.gov*.

Amy Dutschke, Regional Director
United States Department of the Interior
Bureau of Indian Affairs
Pacific Regional Office
2800 Cottage Way, Room W-2820
Sacramento, CA 95825

Re: FEIS Comments - Tule River Indian Tribe Casino Relocation Project
(Our Matter No. 20161562)

Dear Ms. Dutschke:

On behalf of the County of Tulare, which is acting as a Cooperating Agency, please accept our thanks for the opportunity to review and provide comments regarding the Final Environmental Impact Statement/Tribal Environmental Impact Report ("FEIS") for the Tule River Indian Tribe Fee-to-Trust and Eagle Mountain Casino Relocation Project ("Project"). Our comments regarding the FEIS are in addition to the comments previously provided regarding the Draft Environmental Impact Report ("DEIS"), and are as follows:

AESTHETICS:

As the County has commented before, the Tribe has a unique opportunity to greatly enhance the aesthetics in the vicinity of the Airport industrial area by including additional landscape and hardscape features along the County and City roadways that will serve as gateways to the new casino site. The Tribe can transform the Porterville Airport area and make it a true tourist destination and jewel in the economic life of the greater Porterville community by developing and implementing a comprehensive aesthetics plan that will welcome and draw tourists to the area from near and far. The aesthetics enhancement plan should include financial and other mechanisms for operating and maintaining the gateway features and require participation by other property owners/developers in the vicinity who will benefit from the Tribe's aesthetic efforts. The FEIS should address this issue and incorporate such a plan as a positive Project feature, not to mention as a mitigation measure in section 5.13 for Alternatives A, B, C, and D.

PUBLIC SERVICES:

(1) Law Enforcement

The FEIS continues to understate the potential impacts on the County and City law enforcement resources available to serve the Project at the Airport site. As the FEIS now states, it can be anticipated that crime will rise significantly in the vicinity of the Airport site for at least the first two years of Casino operation. It is our understanding that statistical information from other casino resorts in California shows a more significant jump in demand for law enforcement services when casinos of the size envisioned are opened in more accessible areas like the Airport site, in contrast to the challenging location of the existing Eagle Mountain Casino.

As the County has previously stated, the FEIS defers any real mitigation for the impacts on law enforcement services by simply stating that “Prior to operation the Tribe shall enter into agreements to reimburse the Porterville Police Department (PPD) and/or the Tulare County Sheriff’s Department (TCSD) for quantifiable direct and indirect costs incurred in conjunction with providing law enforcement services.” (Mitigation Measure 5.10.3.G.). Such a mitigation measure offers the affected agencies, the public, and the Bureau no sense of what the real mitigation will be, what conditions will be attached to the agreements, how much will be paid or provided on a one-time basis, and how much, if any, will be provided on an on-going basis.

Absent these details, it cannot fairly be said that law enforcement impacts have been or will be mitigated to levels of less than significant. Indeed, it appears this measure amounts to a deferral of mitigation that is improper under both the National Environmental Policy Act and the California Environmental Quality Act.

Mitigation Measure 5.10.3.J. attempts to remedy this shortcoming by stating “The Tribe shall make annual payments to the City of Porterville and/or Tulare County to offset the cost of increased provision of law enforcement and fire protection/emergency medical services in amounts of at least the following amounts: ... \$275,870 for Alternative A or B” (Mitigation Measure 5.10.3.J.). In a footnote, the FEIS explains, “The amounts listed reflect the minimum recommended combined payment to the City and/or County for the provision of law enforcement and fire protection/emergency medical services. As described in a Klas Robinson memo dated September 18, 2017 (**Appendix B**), these amounts were primarily determined based on financial information from the City and County and the anticipated increase in services from the estimated incremental attendance of the respective alternative.”

As previously stated, this Mitigation Measure is flawed and inadequate. The amount of money proposed is dramatically less than the amounts previously identified by the County alone, in correspondence with the Tribe, as necessary to mitigate the one-time and annual costs of County law enforcement and fire protection/emergency medical services for the Project, not to mention cost impacts to the City of Porterville. As detailed in the attached correspondence dated September 27, 2017, November 21, 2017, and June 14, 2018, the County anticipates one-time costs of \$220,000 for law enforcement and \$230,000 for fire protection/emergency medical services, and annual costs of \$1,191,777 for law enforcement and \$73,000 for fire protection/emergency medical services to adequately mitigate the impacts of the Project.

(2) Fire and Emergency Medical Services

As previously stated, the FEIS understates the potential impacts on the County pre-hospital emergency medical services available to serve the Project at the Airport site. At present, the Tribal Fire Department lacks adequate equipment and trained emergency medical services staff to provide emergency ambulance transportation services for casino patrons, visitors, and staff in need of such services. While relocation of the casino to the Airport site would put casino patrons, visitors, and staff considerably closer to established pre-hospital and hospital-based medical services, the increased numbers of patrons, visitors, and staff will cause a commensurate increase in the need for and demands on such services. The FEIS omits any real discussion or recognition of this impact and so offers inadequate measures to mitigate these impacts. The FEIS needs to address this issue and provide an appropriate level of one-time and on-going mitigation for such impacts in Mitigation Measure 5.10.3.

A2-03

Likewise, the FEIS undertakes no analysis of the Project’s impacts on the Fire Departments’ mutual aid response system. A major conflagration at the Airport site would likely overwhelm the fire suppression services available from the Tribal Fire Department and require mutual aid responses from both the City of Porterville’s Fire Department and the Tulare County Fire Department. Such mutual aid responses leave fewer resources, or even no available resources, to respond to incidents within the primary jurisdictions of the Fire Departments. The FEIS needs to address this issue and provide an appropriate level of on one-time and on-going mitigation for such impacts in Mitigation Measure 5.10.3.

(3) Other Public Safety Services

The FEIS fails to concretely address potential adverse impacts on the delivery of public safety services by other agencies/departments such as the County District Attorney, County Probation Department, and the County’s Public Defender office and Conflict Public Defender services. We believe statistical information is available from other California communities hosting similarly-sized casino resorts that shows increased demand for public safety services from these agencies/department as the number of casino patrons, visitors, and staff grows, as envisioned for this Project and site. The FEIS needs to address this issue and provide an appropriate level of on one-time and on-going mitigation for such impacts. Instead, the FEIS defers any real mitigation for the impacts on these other public safety services by simply stating that “Prior to operation the Tribe shall enter into agreements to reimburse the Porterville Police Department (PPD) and/or the Tulare County Sheriff’s Department (TCSD) for quantifiable direct and indirect costs incurred in conjunction with providing law enforcement services.” (Mitigation Measure 5.10.3.G.). Such a mitigation measure offers the affected agencies, the public, and the Bureau no sense of what the real mitigation will be, what conditions will be attached to the agreements, how much will be paid or provided on a one-time basis, and how much, if any, will be provided on an on-going basis.

A2-04

Absent these details, it cannot fairly be said that impacts on other public safety services have been or will be mitigated to levels of less than significant. Indeed, it appears this measure amounts to a deferral of mitigation that is improper under both the National Environmental Policy Act and the California Environmental Quality Act.

Additionally, the Tribe will be required to compensate the County for the cost of mitigating such impacts under the terms of section 11.7 (a)(4) of the 2017 Tribal-State Compact between the Tribe and the State of California.

(4) Health and Human Services

The County’s previous comments regarding the DEIS asked a number of questions about the Project’s expected impacts on health and human services issues. The FEIS answers some of the questions but the County believes the following questions still need to be seriously considered and addressed:

- 1. Does the casino have a system in place to identify problem and pathological gambling addicts using loyalty cards? If so, does the casino have any process in place to prohibit patrons identified by the casino as problem and pathological gamblers from gambling at the casino, outside of a self-exclusion program?
- 2. Hispanics, young adults, and low-income individuals are all at higher risk for problem gambling. How is the casino engaging this population to prevent the onset of problem gambling?
- 3. How will the casino minimize alcohol and other drug related crisis calls for a “5150” involuntary hold evaluation completed by Mental Health?
- 4. What is the proposed “Responsible Alcoholic Beverage Policy” and how will it minimize problem drinking by casino patrons?
- 5. Would a hazard mitigation plan be developed for the new site?
- 6. How will Public Health emergency response and injury/disease surveillance be addressed?

A2-05

A2-06

A2-07

A2-08

TRANSPORTATION/CIRCULATION:

Following are comments related to the review of the Transportation/Circulation Section of the FEIS and associated Traffic Impact Study (“TIS”) for the Project.

- 1. Under “*Trip Reductions*,” the County understands the rationale for but does not support a 5% reduction in the overall trip generation to account for transit/shuttle/bicycle trips due to the location of the proposed Project, the lack of adjacent bicycle facilities, proximity to users who would be likely to travel by bicycle, and the fact the existing counts, and similar facilities on which the trip generation is based should already capture these reductions. Furthermore, there is a significant number of patrons of the existing Eagle Mountain Casino Facility that utilize the park and ride/shuttle lot located at Avenue 286 and State Route 190 who then take a shuttle to the Casino. Depending on where the counts for the existing Casino were taken, the users of the park and ride lot may not be accounted for. These users would be more likely to commute by private vehicle to the new Casino location due to its more accessible location, as compared to the challenging on-Reservation location of the existing casino. Trip generation estimates should account for this anomaly.
- 2. Under “*Transit, Bicycle, and Pedestrian Facilities*,” since the Project is claiming the benefit of an assumed 5% reduction in overall trip generation from patrons and employees’ presumed use of transit/bicycle/pedestrian transportation modes, then the Project should contribute a “fair-share”

A2-09

A2-10

to construct any planned City/County bicycle and pedestrian facilities within the Project vicinity. These improvements should be analyzed and discussed in the FEIS and not dismissed out-of-hand.

A2-10
(Cont.)

MITIGATION MEASURES:

5.4 Air Quality.

5.4.1 Construction

As written, Mitigation Measure 5.4.1 B.5 has too many caveats to be effective. The measure should be strengthened by eliminating the caveats or deleted in its entirety as it isn't enforceable.

A2-11

5.4.2 Operation and Climate Change

C. 6. The 50% reduction is consistent with current targets by CalRecycle but the target is going up to 75% in 2020 under AB 341. The measure should reflect the revised target, as may be required by the anticipated new Tribal-State Compact.

A2-12

5.7 Socioeconomics

A. Section 11.7 (a)(3) of the 2017 Tribal-State Compact between the Tribe and the State of California requires the Tribe to enter into an agreement with the County to provide, as off-site impact mitigation for a project such as the subject, "[r]easonable compensation for programs designed to address and treat gambling addiction." Mitigation Measure 5.7 A. should be revised to include at least this requirement.

A2-13

5.8 Transportation

5.8.2 Operation (Opening Year 2021)

All Mitigation Measures: As stated previously, the Mitigation Measures and traffic analysis make no mention of or commitment for the Project to contribute to the on-going maintenance of the roadway segments to be improved. This will be a major issue for the County and the City of Porterville going forward. The FEIS cavalierly dismisses this concern out of hand, with no suggestion that the Project will have any responsibility for future maintenance of the roadways upon which the Casino will depend, and upon which it is putting significant amounts of new traffic. It is disingenuous to say that the Project and its new traffic will not increase the rate of roadway deterioration because the Project will not generate a large volume of truck traffic.

A2-14

K. As previously stated, the use of "offer" does not reflect the Environmental Consequence chapter's determination that the Project would contribute 76.5% of West Street's "new traffic," 29.8% of Teapot Dome's new traffic, 72.5 % of Westwood Street's new traffic, and 77.8% of Scranton Avenue's new traffic. An "offer" would be inadequate as the analysis points to a "real" impact. This Mitigation Measure should be reworded as a commitment/obligation to provide the pro rata shares of pavement rehabilitation costs for the listed locations respectively.

A2-15

June 28, 2019
FEIS Comments - Tule River Indian Tribe Casino Relocation Project
Page 6

5.8.3 Operation (Cumulative Year 2040)

All Mitigation Measures: Again, the Mitigation Measures and traffic analysis make no mention of or commitment for the Project to contribute to the on-going maintenance of the roadway segments to be improved. This will be a major issue for the County and the City of Porterville going forward.



A2-16

5.10 Public Services

5.10.3 Law Enforcement, Fire Protection, and Emergency Medical Services

G. and J. See earlier comments on these Mitigation Measures.

I. The County continues to believe this Mitigation Measure should be strengthened to make it more effective. State law already requires the Casino to check identification to ensure patrons are legally old enough to drink alcoholic beverages. Although a deterrent, refusing service does not guarantee that an inebriated patron will leave the Casino without driving under the influence. Inebriated persons/drivers would be a menace to pedestrians, vehicles and property; merely telling them “No more alcohol for you.” would not prevent an inebriated person from potentially causing harm. The Casino should consider offering complimentary sobriety testing, breathalyzer testing, sober transportation to a destination (either sponsored by the Casino or through a company such as Uber), discounted hotel accommodation rates as an incentive not to drive, or possibly a “sleep it off room” (a dorm type of room) for a minimal charge wherein someone could literally “sleep it off” for a few hours until their alcohol blood level content is below the legal limit and he or she is more safe to drive.



A2-17

Again, thank you for the opportunity to review and provide comments regarding the FEIS for this Project. Please contact me if you have questions or need anything further from the County of Tulare at this point.

Very truly yours,

DEANNE H. PETERSON
County Counsel

By /s/ Jeffrey L. Kuhn
Jeffrey L. Kuhn
Chief Deputy County Counsel

Attachments: September 27, 2017, November 21, 2017, and June 14, 2018 Letters from Tulare County Administrative Officer to Neil Peyron, Chairman of Tribal Council

cc: Chad A. Broussard, Environmental Protection Specialist, BIA
Tulare County Board of Supervisors
County Administrative Officer
County Sheriff

June 28, 2019

FEIS Comments - Tule River Indian Tribe Casino Relocation Project

Page 7

County District Attorney
County Fire Chief
County Probation Director
County Public Defender
Director of County Resources Management Agency
Director of County Health and Human Services Agency
Tule River Indian Tribe, via counsel
City of Porterville, via counsel

JLK/6/28/2019/20161562/1343095

COUNTY OF TULARE
 COUNTY ADMINISTRATIVE OFFICE



MICHAEL C. SPATA
 County Administrative Officer

Via U.S. Mail and Email

September 27, 2017

Mr. Neil Peyron
 Chairman, Tule River Indian Tribal Council
 340 N Reservation Rd
 Porterville, CA 93257

Re: Tule River Indian Tribe Fee-to-Trust and Eagle Mountain Casino Relocation Project

Dear Chairman Peyron:

Following our meeting of August 28, 2017 regarding the Tribe's Fee-to-Trust and Eagle Mountain Casino Relocation Project ("Project"), County staff has compiled the mitigation/benefit cost figures we promised to provide you and your legal counsel.

The following chart shows the County's costs – depicted by County Agency/Department – reflecting both one-time and on-going costs associated with this Project.

	County Department	One-Time Costs	Annual Costs
1.	Sheriff's Department	\$ 220,000	\$1,191,777*
2.	County Fire Department	230,000	73,000*
3.	District Attorney's Office	--	60,000*
4.	Public Defender	--	108,326*
5.	Probation Department	--	77,000*
6.	Health & Human Services Agency – Mental Health Division	--	470,900*
7.	Resource Management Agency (Public Works - Roads)	10,040,000	---
8.	Payments in Lieu of Taxes /General Mitigation	--	500,000*
	TOTALS	\$10,490,000	\$2,481,003*

* Annual costs are subject to an annual escalator after the first year based on the change in the County's Gann Spending Limit, but not to exceed 2% per year.

The following is an explanation of the information shown in the chart:

Mr. Neil Peyron
September 27, 2017
Page 2

(1) Sheriff's Department.

The costs shown for the Sheriff's Department represent (a) one-time costs of providing police vehicles for new staff, and (b) annual, on-going salary, benefit and equipment costs of additional staff (one (1) Lieutenant, one (1) Sergeant, eight (8) Deputy positions) needed to help mitigate the impacts that the Project will have on the Sheriff's workload.

(2) County Fire Department.

The costs shown for the County's Fire Department represent (a) half the one-time cost of providing a fire engine, associated equipment and taxes/licenses, and (b) annual, on-going salary and benefit costs of one (1) new firefighter position needed to help the Department serve the new casino site and the Department's primary jurisdiction.

(3) District Attorney's Office.

The costs shown for the District Attorney's (DA's) Office represent the annual, on-going salary and benefit costs of providing additional staff to help mitigate the impacts that the Project will have on the DA's caseload.

(4) Public Defender.

The costs shown for the Public Defender represent the annual, on-going salary and benefit costs of providing additional staff to help mitigate the impacts that the Project will have on the Public Defender's caseload.

(5) Probation Department.

The costs shown for the Probation Department represent the annual, on-going salary and benefit costs of providing additional staff to help mitigate the impacts that the Project will have on the Probation Department's caseload.

(6) Health and Human Services Agency (Mental Health Division).

The costs shown for the Mental Health Division of the Health and Human Services Agency (HHSA) represent the annual, on-going costs of providing additional mental health, alcohol and substance abuse treatment services to help mitigate the impacts that the Project will have on the caseload of HHSA's Mental Health Division.

(7) Resource Management Agency (Public Works - Roads).

The costs shown for the Resource Management Agency (Public Works - Roads) represent the one-time costs of improving local roadways within the County's jurisdiction that will be impacted by the Project.

The specific roadway segments and needed one-time improvements are as follows:

Mr. Neil Peyron
 September 27, 2017
 Page 3

Roads	Segment	Miles	Projected Treatment	Cost Per Mile	Casino's Total Projected Costs
Road 224 (S Westwood St)	Scranton Ave to SR 190	0.75	Reconstruct	\$900,000	\$ 675,000
Scranton Ave	West St to SR 65	3.00	Reconstruct	900,000	2,700,000
Avenue 128 (Teapot Dome Ave)	West St to SR 65	2.50	Reconstruct	900,000	2,250,000
West St	Ave 128 (Teapot Dome Ave) to Scranton Ave	1.00	Overlay	400,000	400,000
Westwood St & SR 190	Intersection	--	Signalize	---	250,000
Total					\$10,040,000

(8) Payments in Lieu of Taxes/General Mitigation.

The costs shown under this category are to reimburse the County for its annual, on-going share of property taxes (\$280,000) and Measure R sales taxes (\$50,000) that the Tribe is not required to pay but that any non-tribal entity would pay in connection with ownership and operation of facilities like those proposed by the Project. We are aware that since the airport site is located within the City of Porterville's boundaries, the City also would receive a portion of such property and sales tax revenues. Nevertheless, the County would also receive a portion of such taxes and that is what this category addresses. This category also includes reimbursement to the County for the additional, intangible annual expenses unrelated to mitigation of environmental impacts that the County will incur as a result of the Project (\$170,000).

We look forward to successful negotiation of a Memorandum of Understanding that pledges the County's support for the Project and ensures that the costs shown above will be defrayed by the Project. Please let me know if you have questions or need anything further from the County at this time. Thank you for your consideration.

Sincerely,

Michael C. Spata
 County Administrative Officer

- cc: Supervisor Mike Ennis
 Supervisor Steve Worthley
 Carrie Monteiro, Board Representative
 County Counsel

Mr. Neil Peyron
September 27, 2017
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County Sheriff
County District Attorney
County Probation Officer
County Public Defender
County Fire Chief
County RMA Director
County HHSA Director
Stephen M. Hart, Esq.

COUNTY OF TULARE
COUNTY ADMINISTRATIVE OFFICE



MICHAEL C. SPATA
 County Administrative Officer

Via U.S. Mail and Email

November 21, 2017

Mr. Neil Peyron
 Chairman, Tule River Indian Tribal Council
 340 N Reservation Rd
 Porterville, CA 93257

Re: Tule River Indian Tribe Fee-to-Trust and Eagle Mountain Casino Relocation Project

Dear Chairman Peyron:

This is in response to the questions posed by the Tribe’s attorney Stephen M. Hart by email dated October 19, 2017 regarding the County’s mitigation/benefit cost figures provided in my letter to you of September 27, 2017.

To recap, the following chart shows the County costs – depicted by County Agency/Department – reflecting both one-time and on-going mitigation costs associated with the Project.

	County Department	One-Time Costs	Annual Costs*
1.	Sheriff’s Department	\$ 220,000	\$1,191,777
2.	County Fire Department	230,000	73,000
3.	District Attorney’s Office	--	60,000
4.	Public Defender	--	108,326
5.	Probation Department	--	77,000
6.	Health & Human Services Agency – Mental Health Division	--	470,900
7.	Resource Management Agency (Public Works - Roads)	10,040,000	---
8.	Payments in Lieu of Taxes /General Mitigation	--	500,000
	TOTALS	\$10,490,000	\$2,481,003*

* Annual costs are subject to an annual escalator after first year, based on the change in County’s Gann Spending Limit, but not to exceed 2% per year.

The following answers respond to attorney Hart’s questions regarding these figures. For convenience, we have re-printed each question, followed by the County’s *answers*.

Mr. Neil Peyron
November 21, 2017
Page 2

1. Sheriff's Department.

- a. Please provide the methodology used by the Sheriff's Department in determining the need for additional staff and vehicles in its normal course of business.

The staffing will include the positions listed below.

POSITIONS	FTE
<i>Lieutenant</i>	<i>1</i>
<i>Sergeant</i>	<i>1</i>
<i>Sheriff Deputy</i>	<i>8</i>

The proposed staffing level will allow patrol services to be provided 24 hours per day/365 days per year in the vicinity of the project site and will deliver high quality and diversified law enforcement services. The staffing level is also in alignment with the size of the casino/resort which includes a 105,000 square foot casino, an approximately 250-room hotel, approximately 36,000 square feet of food and beverage facilities, administrative space, a multi-purpose events center, a conference and center, and associated parking and infrastructure.

The Tulare County Sheriff's Office (TCSO) will assign one uniformed FTE deputy with a marked TCSO patrol vehicle to the casino vicinity. One deputy assigned to day shift and one deputy assigned to night shift.

The Tulare County Sheriff's Office strongly embraces the philosophy and model of Community Policing in all its daily operations and functions. Community Policing will be based upon a partnership between the Sheriff's Office and the Tribal Council whereby the Sheriff's Office and the Council share responsibility for identifying, reducing, eliminating and preventing problems that impact the casino/resort safety and order. By working together, the Sheriff's Office and the Council can reduce the fear and incidence of crime for the vicinity of the casino. In this effort, the casino/resort community and Sheriff's Office will work as partners to identify and prioritize problems of crime and disorder and share the responsibility for the development and implementation of proactive problem-solving strategies to address identified issues. The strategies used prove success because they mobilize the efforts and resources of the Sheriff's Office and the Tribal Council.

The Sheriff's Office strives to improve the quality of life at the casino project, by providing professional law enforcement services, prevention, education, and community policing efforts with a strong community service emphasis. Our main goal is providing a high level of public service and nurture our relationships with casino patrons while keeping the casino safe.

Mr. Neil Peyron
November 21, 2017
Page 3

- b. Please provide all facts, assumptions and methodology that the County used to arrive at the need for "vehicles for new staff", as well as the need for the additional positions as a result of this proposed Project. Please include the analysis used to arrive at the believed increase in Sheriffs workload.

Vehicles will be required for the Sheriff's Deputy to respond to calls for service, enforce the law, first responders to emergencies, and patrol the vicinity of the casino/resort. These non-personnel costs are essential whether responding to an immediate threat to life or a non-emergency call for service. The fully equipped vehicles are a pro-active visual presence to prevent and deter criminal behavior and provide a feeling of security. Currently the TCSO operates a fleet of patrol units. These units are assigned to specific areas. Purchase of additional unit(s) to be utilized with the additional personnel to be assigned to the Casino project.

Additionally, the staffing level for casino/resort public safety will achieve the challenges of possible criminal offenses such as driving under the influence, personal robbery, credit card fraud, burglaries, auto thefts, traffic collisions, thefts from vehicles/businesses, disorderly conduct and assault, nighttime prowlers and suspicious persons, fraud/embezzlement, and graffiti/vandalism.

The Lieutenant will manage the day to day activities of the staff assigned to the casino. Additionally, the Lieutenant will coordinate events and activities, meet and form cooperative relationships with casino management, security, and other staff to ensure the casino receives the optimum policing it deserves, while remaining a safe and secure location for people to work and visit.

The Sergeant (supervisor) will at times assist as a backup to the casino assigned deputy, but more importantly ensure that the supervision, equipment, reports, evidence, and any number of activities that a deputy encounters or is responsible for will be maintained. The standard law enforcement span of control for supervision calls for one supervisor for every 5-8 personnel.

The Sheriff's Deputy will provide front-line, uniformed services. They will be the primary first responders for all emergencies, and respond to all calls for service. The Sheriff Deputy will also conduct field investigations of reported crimes, and provide preventative patrol in assigned areas. They will also conduct proactive enforcement of traffic and criminal laws, and make a vast majority of arrests conducted by the department.

- c. Please provide a description of how the additional staff and equipment would be deployed and used when the Project is constructed and operational.

As mentioned above, the deployment plan for law enforcement services will be provided 24 hours per day/365 days per year in the vicinity of the project site. The deployment of the staffing and equipment is comprised of demographics, response times, calls for service, casino/resort patrons and sound law enforcement management practice. A copy of a preliminary schedule is below.

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HOURS	SUNDAY	MONDAY	TUESDAY	WEDNESDAY	THURSDAY	FRIDAY	SATURDAY
0500							
0600							
0700		1- Lieutenant	1- Lieutenant	1- Lieutenant	1- Lieutenant	1- Lieutenant	
0800	1	1	1	1	1	1	1
0900	Deputy Sheriff	Deputy Sheriff	Deputy Sheriff	Deputy Sheriff	Deputy Sheriff	Deputy Sheriff	Deputy Sheriff
1000							
1100							
1200							
1300							
1400							
1500							
1600							
1700							
1800							
1900	1- Sergeant					1- Sergeant	1- Sergeant
2000							
2100							
2200	1	1	1	1	1	1	1
2300	Deputy Sheriff	Deputy Sheriff	Deputy Sheriff	Deputy Sheriff	Deputy Sheriff	Deputy Sheriff	Deputy Sheriff
2400							
0100							
0200							
0300							
0400							
0500							

The Sheriff's Office proposes that the deployment plan should be revisited frequently to analyze if the deployment plan is meeting the needs of the Tribal Council and where the deployment plan could be adjusted based on successes and challenges.

Additional staff will be deployed for special events and functions. The Tribe Council and Sheriff Commander will meet and confer to ensure extra law enforcement services are adequately provided. The Sheriff's Office will invoice the Tribe for law enforcement costs incurred for additional law enforcement personnel.

- d. Please provide detail and sources of information for all cost of vehicles, as well as annual benefits, salaries and equipment.

Below is the itemized costs for fully equipped patrol vehicles.

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COST FOR FULLY EQUIPPED PATROL VEHICLE

1	Ford Explorer Utility Interceptor	30,000.00	\$	30,000.00
1	Aedec Rear Seat fits '13 FPI Utility, Includes Rear Screen	849.00	\$	849.00
1	Setina Single T-Rail w/ BlacRac 10BOE	515.00	\$	515.00
1	Charge Guard	95.00	\$	95.00
1	Setina PB450L4 Push Bumper w/lon Lights fits '16 FPI Utility	695.00	\$	695.00
1	Troy Dual Weapon Rack Adjustable. No Locks	189.00	\$	189.00
1	Santa Cruz Universal Gun Lock for Extra Large Weapons. Specify Key	129.00	\$	129.00
1	Gun lock for 870	84.00	\$	84.00
1	Setina BVS RP Coated Partition	585.00	\$	585.00
1	Whelen Liberty II Light Bar Package with Sapphire Controller	2,420.00	\$	2,420.00
1	Havis Universal Laptop Mount. Tilt/Swivel 4"High	174.00	\$	174.00
1	Havis 12" Console	59.00	\$	59.00
1	Havis 8" LP Console No Vehicle Mount	155.00	\$	155.00
1	Havis Vehicle Mount fits Crown Vic	99.00	\$	99.00
1	Havis Console Mic Clip	9.95	\$	9.95
1	Havis Console Mic Clip Bracket	12.00	\$	12.00
1	Havis Arm Rest Mounts to Trak Mount Base	121.00	\$	121.00
1	Havis dual cup holder	34.95	\$	34.95
1	Havis 2.5" Faceplate	25.00	\$	25.00
1	Havis Faceplate	27.00	\$	27.00
1	1" Blank Havis Face Plate	9.00	\$	9.00
1	1.5" Blank Havis Face Plate	9.00	\$	9.00
1	2" Blank Havis Face Plate	9.00	\$	9.00
1	HS Lighter Plug Assembly 3 Outlet	35.00	\$	35.00
1	Mounting Bracket w/Swing Arm	79.00	\$	79.00
1	Whelen LED Light- Amber	102.00	\$	102.00
3	NMO Mount w/Teflex Cable No Connector	19.00	\$	57.00
1	Laird 450-470mhz Antenna Black	9.00	\$	9.00
4	Relay	5.00	\$	20.00
1	Mini UHF Connector RG58	1.35	\$	1.35
1	Mobile Mark GPS Antenna w/SMA Connector Installed	55.00	\$	55.00
2	Laird Multi Band Phantom Antenna Black	35.00	\$	70.00
1	Sierra Wirelss GX450 Modem Wifi LTE Cell Modem Verizon,DC,GPS	821.00	\$	821.00
1	Troy Hinged Platform Cargo Rear Mount	298.00	\$	298.00
1	Installation Material Bundle	115.00	\$	115.00
1	Shop Installation	1,700.00	\$	1,700.00
1	Lens Replacement Kit for Liberty Light Bars	213.16	\$	213.16
1	Aedec Rear Molded Seats With Screen With	853.05	\$	853.05
1	SMA male to mini UHF female adapter;	5.93	\$	5.93
1	POLLAK RELAY	24.15	\$	24.15
1	Power taimer - turns off DC power after fixed	98.99	\$	98.99
1	PB450L4 Lighted Push Bumper Steel 4 Total	736.95	\$	736.95
1	Dual T-Rail Mount 1 Small 1 1080E Blac-	736.95	\$	736.95
1	8VS-RP Recess Panel Coated Partition	591.75	\$	591.75
1	Slide in tray radio mount for trunk - drivers	162.75	\$	162.75
1	Trak mounted armrest, for Havis Console	121.28	\$	121.28
1	Dual cupholder for console	35.75	\$	35.75
1	Console face plate for Motorola XTL2500	26.40	\$	26.40
1	Faceplate for Cencom siren control head - 1	27.23	\$	27.23
1	Filler plate for console 1" height	9.35	\$	9.35
1	Filler plate - 1.5 inch	12.10	\$	12.10
1	2 inch filler plate for Havis consoles	11.00	\$	11.00
1	Faceplate with 3 - 12VDC outlets (2" wide	35.53	\$	35.53
1	8 inch Stout mount console pkg for Crown	260.98	\$	260.98
1	8" low profile console extension	51.98	\$	51.98
1	28" trak mount for Ford Crown Victoria	105.05	\$	105.05
1	Whelen SAPPHIRE Series Siren & Light Bar	742.50	\$	742.50
1	Siren speaker w/ General Purpose bracket -	170.20	\$	170.20
1	LINZ6 Series LED Lighthead, Horizontal	102.85	\$	102.85
1	NMO coax assembly w/17' teflon coax - no	15.93	\$	15.93
1	Stud Mount MicronBlue Smoke	109.56	\$	109.56
1	Stud Mount Micron Red Smoke	109.56	\$	109.56
1	Power inverter 130W	27.49	\$	27.49
1	Quarter wave antenna - Black	7.51	\$	7.51
1	40 Amp relay, 12Volt coil	3.85	\$	3.85
1	Mini UHF male connector for RG58AU7	1.30	\$	1.30
1	GPS antenna, 26 dB 5Volt, Active Service	40.04	\$	40.04
1	698-896 Mhz 1710-2700 Mhz Black omni,	27.82	\$	27.82
	County IT Radio Tech Labor 60.5 Hours at \$65 per hour	3,932.50	\$	3,932.50
1	Dash DVR Watch Guard	5,921.28	\$	5,921.28
	GRAND TOTAL FOR FULLY EQUIPPED PATROL VEHICLE		\$	54,999.97

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Below is the breakdown for first-year salaries, annual benefits and operating expenditures for the proposal for law enforcement services.

Casino Relocation Project Budget	FTE'S	TOTAL COST	
Salary Costs			
Sheriff's Lieutenant 1 FTE @ \$12,317.08 / month x 12 months			
Salary:	106,024	1	106,024
Other Pay: (Uniforms, Detective Pay & Career Dev.)	700	1	700
Health Benefits:	13,098	1	13,098
Retirement:	19,819	1	19,819
Social Security:	8,164	1	8,164
			Total Salary & Benefits:
			147,805
Sheriff's Sergeant 1 FTE @ \$10,384.83 / month x 12 months			
Salary:	83,941	1	83,941
Other Pay: (Uniforms, Detective Pay & Career Dev.)	700	1	700
Health Benefits:	14,190	1	14,190
Retirement:	19,312	1	19,312
Social Security:	6,475	1	6,475
			Total Salary & Benefits:
			124,618
Sheriff's Deputy 8 FTE @ \$68,477.13 / month x 12 months			
Salary:	67,151	8	537,208
Other Pay: (Uniforms, Detective Pay & Career Dev.)	700	8	5,600
Health Benefits:	14,190	8	113,520
Retirement:	15,484	8	123,870
Social Security:	5,191	8	41,528
			Total Salary & Benefits:
			821,726
Agency Costs			
Communications - Cell Phone & Pager	648	x 10	6,480
Radio Communications	600	x 10	6,000
Motor Pool (fuel & maint)	6,750	x 4	27,000
Worker's Comp Expense	5,644	x 10	56,440
Payroll Processing Charge	171	x 10	1,708
			Total Agency Costs
			97,628
TOTAL COSTS			\$1,191,777

- e. Please provide a comparison of the anticipated uses, and staffing for Sheriff sub-station in Porterville versus the sub-station proposed for this Project. Please include all rationale and warrants that the County uses for siting a new substation, and how those criteria apply in this instance. Please include the amount of citizens served in the City of Porterville and the amount of individuals served on this Project.

The deficiency with the current Porterville Substation is the size of the facility. The Porterville Substation is approximately 4,764 square feet and currently houses 48 Sheriff personnel. The

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space is inadequate to house additional Sheriff staff and accommodate parking. The Visalia Substation houses 26 staff and Pixley Substation houses 30 Sheriff staff. Porterville Substation is the largest of all substations, however, there is no space for additional staff and vehicles.

A new substation in a strategic location will provide a more visible Sheriff's presence and allow Deputies to respond to calls for service in a very quick manner. A new substation will need to include office space for a Lieutenant, Sergeant, and support staff. A separate space is needed for report writing, briefing and interviewing, lockers and storage for supplies and equipment. The substation will also need periodic access to a large space that can be used for emergency and strategic operations, such as cooperative efforts with other law enforcement or public safety agencies. A long-term plan should be included to expand the space as Sheriff staffing increases to support the growing and possibly expanding casino/resort.

The new substation will go hand-in-hand with law enforcement's more focused efforts on community-oriented policing and will go a long way for casino resort patrons to feel safe.

According to the link below, the casino currently has 50 employees and will be adding 500 additional team members to operate the casino, the hotel, restaurant, convention center and the entertainment center. The casino currently has 1,000 visitors each day. It could be anticipated that there could be 2,000 visitors each day at the new casino/resort.

<http://www.tulerivereis.com/wp-content/uploads/2017/05/scoping-report.pdf>

2. County Fire Department.

- a. It is anticipated that the Tribe and the County will have a mutual and automatic aid agreement regarding fire and emergency services that includes services provided by the Tribe to the County in the vicinity of the Tule Reservation, as well as the Project site, which are a significant benefit to the County (and cost to the Tribe). How is the County factoring this relationship and expenses by the Tribe into the net costs provided? Will these services to the County be compensated through payments to the Tribe? Or will they be applied as set-offs against other requested costs? Please explain the County's process for this remuneration.

The Fire Department has addressed certain off-reservation impacts attributable to the operation of the Casino. It is understood that certain mutual-aid services provided to the Casino will be "net cost" in nature, however this new gaming facility will have adverse impacts above and beyond the normal services provided in such a mutual aid contact. There will be no remuneration to the Casino for mutual aid services provided by County.

It is expected that the County will enter a Memorandum of Understanding (MOU) with the Tribe in respect to those additional costs related to the off-reservation related impacts. Similar MOUs exist with the County of Tuolumne/Tuolumne Rancheria Band of Me-Wuk Indians and the County of Madera/Picayune Rancheria of the Chukchansi Indians.

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- b. Given that the Tribe plans to build a fire station on the trust property and equip and staff the station, how has the County determined that mitigation would require one-half (1/2) the cost of an engine and one (1) new firefighter position? Please provide all facts, assumptions and methodology used by the County in coming to this conclusion.

The Fire Department and County have determined that there are certain off-reservation and off-site impacts attributable to the construction and operation of the Casino. As a contribution to the public safety of the Casino location the Department desires that the Casino contribute funds based on the anticipated adverse impacts of the Casino and its surrounding areas. Please refer to the cost summary shown below for assumptions and methodology.

- c. Please provide precedent for the payment of such costs by a government entity which enters into an automatic aid and mutual aid agreement with the County's fire department.

Payment for such costs will be agreed upon outside of the mutual aid process. It will be done with the County through the MOU process. It is expected that the County will enter into an MOU with the Tribe in respects to those additional costs related to the off-reservation related impacts.

While this is the first project of this nature in Tulare County, we are aware that similar mitigation measures have been included in MOUs between other Tribes and Counties, such as that between Yolo County and the Yocha Dehe Wintun Nation, for example, and the MOUs between the County of Tuolumne and the Tuolumne Rancheria Band of Me-Wuk Indians, and the County of Madera and the Picayune Rancheria of the Chukchansi Indians.

- d. Please provide detail on equipment believed necessary (including the one-half (1/2) of a fire engine), and staff benefits and salary.

One-time cost of \$230,000 is 50% of the \$460,000 estimated cost of a new Type 1 Fire Engine, with estimated cost based on a previous purchase.

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The first year annual costs of \$73,000 cover:

Item	First Year Cost
3 Fire Apparatus Engineers to be stationed at Station 19 (Porterville) (Cost shared 80% County/20% Tribe)	\$32,000.00
Dispatch Cost: 261 Dispatched Calls .71 Dispatched Calls Per Day	\$14,100.00*
Apparatus Cost 1 Hour Per Dispatched Call	\$24,500.00**
Ancillary Costs: Fuel – Vehicle Maintenance First Responder Equipment	\$ 2,400.00
<p><i>Additional Information:</i></p> <p>* Dispatch Cost, Per Dispatched Call = current rate \$53.97. ** Apparatus Per Hour Cost = \$93.50, based on Cal OES Rates.</p> <p>Highway 190 - Traffic Volume Increase of 4,740 Vehicles Per Year. Highway 65 - Traffic Volume Increase of 4,900 Vehicles Per Year. This will Increase Responses to Vehicle Accidents.</p> <p>No. of Calls Per Year - 76 Current Average - 5.85 % of Station 19 Calls. Anticipated increase of 185 Calls Per Year. 20% of Station 19 Calls = 261 Calls Annually.</p> <p>Currently the Reservation is paying 27.85 per dispatched call - this contract is up for renewal</p> <p>The Fire Department anticipates a 20% increase in Fire and EMS-related incidents from the Casino Relocation. This increase is reflected in the number of dispatched calls shown above.</p> <p>Annual Costs will Vary Depending on actual calls, events, population served, etc.</p> <p>All Annual Costs Rounded Accordingly.</p>	

- e. It was discussed that the Tribe’s fire department would also enter an agreement with the County to help serve Tulare County. Please provide the method the Tribe would use to seek remuneration for said services.

For general mutual aid, there would be no remuneration for reciprocal services rendered. Currently this mutual aid is provided and the Reservation reimburses the County for Dispatch Services.

3. District Attorney's Office.

- a. Please provide all facts, assumptions and methodology used by the County in coming to the conclusion that additional DA staff is required with the relocation of the facility.

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The District Attorney's office currently receives and will continue to receive cases for review and prosecution which stem from the Tule River Tribe Casino. We were able to pull statistics that we provided to the Public Defender's office which reflects the total number of cases for 2016 which were submitted to our office by the Porterville Police Department. These numbers were 1,861 misdemeanors and 668 felonies. Additionally the Probation Department provided us with a study by the California Research Bureau from 2006 showing that crime in areas where a casino is located increases approximately eight percent for property crimes and ten percent for violent crimes after a six year period.

We are uncertain as to exactly what effect the relocated Casino Project will have on the DA's overall caseload, but it is clear there will be an increase in crime resulting in a rise in the number of cases submitted to the DA's office. For simplicity, the District Attorney's office gave an estimated annual cost of \$60,000 to mitigate for the increase in workload.

- b. Please provide a listing and quantification of the new activities caused by the Project that the District Attorney would perform.

The new activities caused by the Project that the DA's office would perform are the various tasks that will accompany the additional caseload stemming from the Casino. This would include the attorneys reviewing and filing the additional cases, the court appearances by the attorneys and the additional trials the attorneys would incur. Also included would be the inputting and processing of each case by clerical staff, the investigative work that would need to be done by the DA investigators and the subpoena services for the additional cases. There are also unforeseen expenses such as travel expenses and lodging for witnesses, among other costs.

- c. Please provide precedent of other similarly situated governmental projects that pay for District Attorney staffing costs.

While this is the first project of this nature in Tulare County, we are aware that similar mitigation measures have been included in MOUs between other Tribes and Counties, such as that between San Diego County and the Viejas Band of Kumeyaay Indians, for example.

- d. Please provide precedent of other similarly situated private projects that pay for District Attorney staffing costs (including rationale and amount).

Again, this is the first project of this nature in Tulare County. However, we are aware that similar mitigation measures have been included in MOUs between other Tribes and Counties, such as that between San Diego County and the Viejas Band of Kumeyaay Indians, for example.

4. Public Defender.

- a. Please provide all facts, assumptions and methodology used by the County in coming to the conclusion that additional Public Defender staff is required with the relocation of the facility.

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Former Chief Probation Officer Christie Myers was able to locate a study done by the California Research Bureau entitled "Gambling in the Golden State 1998 Forward," published in 2006. A copy of the report is included with this letter. The section addressing "Victim Crimes" is located at page 140 and indicates that "after six years casino counties had eight percent more property crimes and ten percent more violent crimes than non-casino counties."

The Tulare County District Attorney office has provided the Public Defender's office with the total number of Porterville Police Department cases filed in 2016, broken down between misdemeanor and felony cases. The numbers are 1,861 misdemeanors and 668 felonies. Assuming a ten percent increase in misdemeanor and felony cases due to the Porterville-area Casino, the Public Defender Office would have an additional 186 misdemeanor cases and 67 felony cases.

A very rough estimate of the cost per case of representing an individual charged with a misdemeanor was calculated by dividing the budgeted salary for misdemeanor attorneys divided by the number of cases and the number of misdemeanor attorneys. A similar calculation was done for the felony cases. The calculations resulted in a cost per case of \$251.00 for misdemeanors and \$920.00 for felonies.

The cost to the Public Defender Office due to the estimated ten percent increase in crime caused by the Porterville Casino is \$108,326.00. The rough estimate was calculated by multiplying the additional 186 misdemeanor cases and 67 felony cases by the cost per case for misdemeanors and felonies.

These figures do not include the separate costs the County would incur for providing separate indigent criminal defense services by means of the Conflict Public Defender in cases with multiple defendants and conflicts of interest.

- b. Please provide a listing and quantification of the new activities caused by the Project that the Public Defender would perform.

As stated above, it is estimated that a ten percent increase in crime in the Porterville area due to the Porterville Casino would result in an additional 186 misdemeanor cases and 67 felony cases per year that the Public Defender Office would handle.

- c. Please provide precedent of other similarly situated governmental projects that pay for Public Defender staffing costs.

While this is the first project of this nature in Tulare County, we are aware that similar mitigation measures have been included in MOUs between other Tribes and Counties, such as that between San Diego County and the La Posta Band of Mission Indians, for example.

- d. Please provide precedent of other similarly situated private projects that pay for Public Defender staffing costs (including rationale and amount).

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While this is the first project of this nature in Tulare County, we are aware that similar mitigation measures have been included in MOUs between other Tribes and Counties, such as that between San Diego County and the La Posta Band of Mission Indians, for example.

5. Probation Department.

- a. Please provide all facts, assumptions and methodology used by the County in coming to the conclusion that additional Probation Department staff is required with the relocation of the facility.

As shown above under the District Attorney and the Public Defender headings, it has been estimated that relocation of the Eagle Mountain Casino facility to the urbanized Porterville area will result in eight percent more property crimes and ten percent more violent crimes in the area than before the relocation.

The projected increase in arrests and subsequent convictions would impact the Probation Department's workload in a number of areas, specifically: Pre-Trial Release Supervision, Electronic Monitoring/GPS Supervising, OR/Bail Reports, Pre-Sentence Investigations, Specialty Court participation, and over-all caseload numbers. To mitigate the impact on the Department workload, we have proposed adding one (1) Senior Probation Officer position at a first year cost of \$77,000.

- b. Please provide a listing and quantification of the new activities caused by the Project that the Probation Department would perform.

As stated above, it is estimated that the Project will result in an eight percent increase in property crimes and ten percent increase in violent crimes in the Porterville area, which in turn will add increased workload in two separate categories court related services (Assessments, OR/Bail Reports and Pre-Sentence Investigations) resulting from the processing of an additional 186 misdemeanor cases and 67 felony cases and supervision of offenders with an estimated increase in caseload size by approximately 123 clients. The caseload number is based upon the additional cases filed estimating a 20 percent conviction rate with probation supervising all felony offenders and 10 percent of the misdemeanor offenders. The increased caseload size would necessitate the need of an additional Deputy Probation Officer to provide appropriate supervision, case management and interventions to ensure compliance with court orders and promote protection of the community.

Please provide precedent of other similarly situated governmental projects that pay for Probations Department staffing costs.

While this is the first project of this nature in Tulare County, we are aware that similar mitigation measures have been included in MOUs between other Tribes and Counties, such as that between San Diego County and the La Posta Band of Mission Indians, for example.

- c. Please provide precedent of other similarly situated private projects that pay for Probation Department staffing costs (including rationale and amount).

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While this is the first project of this nature in Tulare County, we are aware that similar mitigation measures have been included in MOUs between other Tribes and Counties, such as that between San Diego County and the La Posta Band of Mission Indians, for example.

6. Health and Human Services Agency (Mental Health Division).

- a. Please provide all facts, assumptions and methodology used by the County in coming to the conclusion that additional services are necessary for the believed increased caseload of HHSA's Mental Health Division staff caused by the relocation of the facility.

Potential impacts from the relocation and expansion of the Casino for behavioral health services include the introduction of alcoholic sales at the Casino and its impact on gamblers, as well as the possibility of increased crisis services in Porterville as a result of binge drinking and substance abuse in a 24-hour gambling entertainment environment.

Studies related to gambling addictions, alcohol and substance use and mental disorders show that living within 50 miles of a casino doubles the chance a person will be a pathological or problem gambler (Gerstein et al., 1999). The proposed relocation of the Casino increases the population living within a 50-mile radius thus increasing their sphere of influence within the community. In the US, gambling addicts make up 1 percent to 2 percent of the population, but that rate is closer to 4 percent in California, or almost one in every 25 Californians (UCLA Gambling Studies Program) will have gambling addictions. Given the county population of 459,863, this could be a significant impact on our residents. The National Council on Problem Gambling estimates that one in five gambling addicts attempts suicide—the highest rate among addicts of any kind.

County level data on the use of behavioral health services due to gambling related disorders is limited. In 2013, problem or pathological gambling was reclassified to gambling addiction in the Diagnostic and Statistical Manual of Mental Disorders (DSM) 5, which is now tracked by a billing code in medical records. It's reasonable to assume that public awareness and increased screenings are needed to fully understand the increased cost to the County from the potential increased prevalence in gambling addictions.

As noted above, California's gambling addiction rate is 4% of the population, twice that of the national average and 1 in 5 gamblers attempts suicide. If we assume that the national gambling addiction rate of 2% applies in Tulare County, it translates into an estimated 9,197 gambling addicts in the county and 1,839 of these addicts might attempt suicide. If we estimate conservatively that just 1% of these addicts will need treatment services at some point, we estimate costs to the County to be up to:

Service costs at 1% of the Gambling Addict Population			
	Cases	Cost Per Case	Total Costs
<i>Specialty Mental Health Services, outpatient</i>	92	\$3,200*	\$294,312
<i>Alcohol and or substance use treatment, outpatient</i>	92	\$1,800*	\$165,551

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<i>Crisis team evaluation - Involuntary holds</i>	18	\$ 600*	\$ 11,037
<i>Estimated Treatment cost:</i>			<i>\$470,900</i>

**Note: Average cost per service or treatment is based on service levels provided during 2016-17 fiscal year*

References

1. Gerstein, D., Hoffmann, J., Larison, C., Engelman, L., Murphy, S., Palmer, A., Chuchro, L., Toce, M., Johnson, R., Buie, T., Hill, M. (1999) *Gambling Impact and Behavioral Study*. Retrieved from <http://www.norc.org/pdfs/publications/gibsfinalreportapril1999.pdf>
2. Lee, C. (2011, January 10). *Doctors treat gambling addiction as brain disease*. Retrieved from <http://newsroom.ucla.edu/stories/gambling-addicts-suffer-from-brain-190668>
3. National Council on Problem Gambling. (2014). Retrieved from <http://www.ncpgambling.org/wp-content/uploads/2014/08/NCPG-Comments-on-SAMHSA-Leading-Change-2.0-Advancing-the-Behavioral-Health-of-the-Nation-2015-2018.pdf>
4. Grant, J.E., Kushner, M.G., Kim, S.W., *Pathological Gambling and Alcohol Use Disorder*. National Institute on Alcohol Abuse and Alcoholism. Retrieved from <https://pubs.niaaa.nih.gov/publications/arh26-2/143-150.htm>

- b. Please provide a listing and quantification of the new activities caused by the Project that the HHSA's Mental Health Division would perform.

Plans to sell alcohol at several sites within the Casino and entertainment area will change the environment for gamblers, introducing increased risk for binge drinking in a 24-hour entertainment environment. Individuals participating in gambling activities are much more likely to choose to drink alcohol and drink in larger quantities than individuals in a non-gambling situation (National Institute on Alcohol Abuse and Alcoholism). Since this would be a change from the current alcohol-free gambling environment, it is reasonable to assume an increased need for alcohol and other drug related crisis calls might increase, impacting County resources.

HHSA receives funding to provide Public Health, Behavioral Health and Social Services in the community through a variety of Federal, State, local and grant sources. Should Eagle Mountain Casino need assistance or services from HHSA programs, for which the County does not receive full reimbursement from the sources listed above, HHSA requests that Eagle Mountain Casino fully reimburse the affected department for quantifiable direct and indirect costs incurred in conjunction with the provisions of services provided. Examples of services that might be requested include:

Crisis calls for 5150 involuntary hold evaluations completed by Mental Health. Reimbursement would be requested for Casino patrons that are not residents of Tulare County and are not insured. County rates for Crisis services are \$3.88 per minute with average costs ranging from \$250 - \$600 depending on severity. This estimated cost includes the initial hospital assessment and follow-up visits.

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A listing of typical Mental Health and Substance Use services that may be provided to Eagle Mountain patrons are included below, with their current rate.

Service Function	Rates, per Minute	Hourly
Mental Health Services	\$2.61	\$156.60
Medication Support	\$4.82	\$289.20
Crisis Intervention	\$3.88	\$232.80
Outpatient Drug Free Counseling		\$ 76.91
Outpatient Group Counseling		\$ 30.89

These activities have been quantified under question #1 as part of the cost estimate, as well as included below. It should be noted that the estimated cost is based on average service delivery. Any actual services would be billed at cost based on rates above.

Service costs at 1% of the Gambling Addict Population			
	Cases	Cost per Case	Total Costs
Specialty Mental Health Services, outpatient	92	\$3,200*	\$294,312
Alcohol and or substance use treatment, outpatient	92	\$1,800*	\$165,551
Crisis team evaluation - Involuntary holds	18	\$ 600*	\$ 11,037
Estimated Treatment cost:			\$470,900

**Note: Average cost per service or treatment is based on service levels provided during 2016-17 fiscal year*

- c. Please provide precedent of other similarly situated governmental projects that pay for HHSA's Mental Health Division costs.

While this is the first project of this nature in Tulare County, we are aware that similar mitigation measures have been included in MOUs between other Tribes and Counties, such as that between Sacramento County and the Wilton Rancheria, for example.

- d. Please provide precedent of other similarly situated private projects that pay for HHSA's Mental Health Division costs (including rationale and amount).

While this is the first project of this nature in Tulare County, we are aware that similar mitigation measures have been included in MOUs between other Tribes and Counties, such as that between Sacramento County and the Wilton Rancheria, for example.

- e. Pursuant to its compact, the Tribe reimburses the State for costs incurred by the Office of Problem Gambling. How do the services proposed from the Mental Health Division differ?

The Office of Problem Gambling provides problem gambling prevention and education resources and linkage to local treatment options. It does not provide crisis services or follow-up services for patrons, which are provided by the Health and Human Services Agency's Mental Health Division as described above. These services are not reimbursed by the Office of Problem Gambling.

Mr. Neil Peyron
November 21, 2017
Page 16

7. Resource Management Agency (Public Works - Roads).

- a. Please provide all facts, information, assumptions and methodology used by the County Resource Management Agency in determining the required traffic improvements due to the Project.

The required traffic improvements are Project-related mitigations to the local street system based upon the number of trips the Project is expected to add to the adjacent street system. Additional roadway maintenance expenditures would be triggered by the additional traffic resulting from the Casino relocation. Since these projects would not be necessary if the Casino development does not occur, they are not included in any previously established plan.

Page 2-30 of the 2010 General Plan Background Report (Table 2-15) indicates that the Unincorporated Projected Growth Rates (2007-2030) is projected at 1.3%. The 1.3% population growth rate is consistent with the approach we have taken for recent community plan traffic studies. Projecting a 1.3% growth rate to traffic in the proposed project area would not trigger the need for traffic related improvements with the exception of routine maintenance until many years in the future. As a result, the proposed Project is responsible for the impacts and associated costs described in the September 27, 2017 letter from the County Administrative Office.

The following County General Plan Policies are relevant in determining the required traffic improvements due to the Project.

TC-1.14 Roadway Facilities

As part of the development review process, new development shall be conditioned to fund, through impact fees, tonnage fees, and/or other mechanism, the construction and maintenance of roadway facilities impacted by the project. As projects or locations warrant, construction or payment of pro-rata fees for planned road facilities may also be required as a condition of approval.

TC-1.15 Traffic Impact Study

The County shall require an analysis of traffic impacts for land development projects that may generate increased traffic on County roads. Typically, applicants of projects generating over 100 peak hour trips per day or where LOS "D" or worse occurs, will be required to prepare and submit this study. The traffic impact study will include impacts from all vehicles, including truck traffic.

TC-1.16 County Level of Service (LOS) Standards

The County shall strive to develop and manage its roadway system (both segments and intersections) to meet a LOS of "D" or better in accordance with the LOS definitions established by the Highway Capacity Manual.

PFS-1.2 Maintain Existing Levels of Services

The County shall ensure new growth and developments do not create significant adverse impacts on existing County-owned and operated facilities.

Mr. Neil Peyron
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Page 17

PFS-1.3 Impact Mitigation

The County shall review development proposals for their impacts on infrastructure (for example, sewer, water, fire stations, libraries, streets, etc). New development shall be required to pay its proportionate share of the costs of infrastructure improvements required to serve the project to the extent permitted by State law. The lack of available public or private services or adequate infrastructure to serve a project, which cannot be satisfactorily mitigated by the project, may be grounds for denial of a project or cause for the modification of size, density, and/or intensity of the project.

PFS-1.4 Standards of Approval

The County should not approve any development unless the following conditions are met: 1. The applicant can demonstrate all necessary infrastructure will be installed and adequately financed, 2. Infrastructure improvements are consistent with adopted County infrastructure plans and standards, and Funding mechanisms are provided to maintain, operate, and upgrade the facilities throughout the life of the project.

PFS-1.5 Funding for Public Facilities

The County shall implement programs and/or procedures to ensure that funding mechanisms necessary to adequately cover the costs related to planning, capital improvements, maintenance, and operations of necessary public facilities and services are in place, whether provided by the County or another entity.

PFS-1.6 Funding Mechanisms

The County shall use a wide range of funding mechanisms, such as the following, to adequately fund capital improvements, maintenance, and on-going operations for publicly owned and/or operated facilities:

- 1. Establishing appropriate development impact fees,*
- 2. Establishing assessment districts, and*
- 3. Pursuing grant funding.*

PFS-1.11 Facility Sizing

The County shall ensure that publicly-owned and operated facilities are designed to meet the projected capacity needed in their service area to avoid the need for future replacement to achieve upsizing. For facilities subject to incremental sizing, the initial design shall include adequate land area and any other elements to easily expand in the future.

PFS-1.16 Joint Planning Efforts

The County will promote joint planning efforts between communities, hamlets, and cities within proximity of each other so that services and infrastructure planning can be complementary.

CEQA Appendix G is also utilized in determining the required traffic improvements due to the project.

Mr. Neil Peyron
November 21, 2017
Page 18

XVI. TRANSPORTATION/TRAFFIC. Would the project:

a) Conflict with an applicable plan, ordinance or policy establishing measures of effectiveness for the performance of the circulation system, taking into account all modes of transportation including mass transit and non-motorized travel and relevant components of the circulation system, including but not limited to intersections, streets, highways and freeways, pedestrian and bicycle paths, and mass transit?

b) Conflict with an applicable congestion management program, including, but not limited to level of service standards and travel demand measures, or other standards established by the county congestion management agency for designated roads or highways?

c) Result in a change in air traffic patterns, including either an increase in traffic levels or a change in location that results in substantial safety risks?

d) Substantially increase hazards due to a design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g., farm equipment)?

e) Result in inadequate emergency access?

f) Conflict with adopted policies, plans, or programs regarding public transit, bicycle, or pedestrian facilities, or otherwise decrease the performance or safety of such facilities?

- b. Are the traffic projects noted in the County letter included in the current TCAG RTP? Are they in the update? How are they included in the RTP? (responsibility, scope, timing, thresholds, etc.)

Tulare County does not generally include maintenance and road rehabilitation projects in the RTP. Scranton Avenue, Teapot Dome Avenue, Newcomb Street, Westwood Street, and West Street, are all identified in the City of Porterville General Plan as Major/Minor Arterial or Collector Streets, but are not currently improved to the standards set forth in the General Plan. Tulare County currently has an agreement with the City of Porterville wherein any improvements constructed within the City's Urban Development Boundary are to be developed according to City of Porterville standards. Substantial road maintenance/rehabilitation projects in this area would be subject to City of Porterville development standards.

- c. What assumptions has the County made regarding their inclusion/exclusion in the RTP? Are these assumptions changing with the current RTP update?

Mr. Neil Peyron
November 21, 2017
Page 19

Tulare County does not generally include maintenance projects in the RTP. Since this area is included in the City of Porterville's General Planning Area Boundary, it is anticipated the City would incorporate current General Plan Circulation Improvements into the RTP update, although many of these roadways will remain in County right of way for the foreseeable future.

- d. What assumptions does the RTP make regarding the Airpark site regarding traffic and circulation without the Tribe's Project? With the Tribe's Project?

The City of Porterville General Plan identifies the proposed circulation and roadway improvements (classifications) in the area. The City's General Plan circulation system in the area identify "Industrial" zoning of the Project site. Traffic/circulation improvements associated with zone amendments are considered on a case by case basis.

- e. What is the projected funding source for the identified improvements without the Tribe's Project?

There is no specific funding source identified for the improvements. Without the additional traffic attributed to the Casino development, these projects would not be needed or prioritized at this time. The majority of these improvements are considered "maintenance" or "rehabilitation" in nature. Generally, maintenance and rehabilitation projects are funded through the Tulare County Roads fund.

- f. What is the process for the County/TCAG incorporating new projects into the RTP? Are any of the proposed improvements "new projects"?

The County provides a list of "candidate" projects to TCAG for inclusion in the RTP. Projects are typically identified based upon adopted plans, and a priority list of special projects maintained by the County. Special projects are established primarily based on safety needs. In the case of the Casino, none of the projects would be considered "new projects."

- g. What assumptions are made in the RTP regarding the traffic to and from the current reservation?

The County is not aware of any specific assumptions contained in the RTP regarding traffic to/from the current reservation.

- h. What assumptions does the RTP make regarding growth in this area?

The County is not aware of any specific assumptions contained in the RTP regarding growth in the area.

- i. What assumptions does the County General Plan make about growth in this area?

The Airpark site is within the City of Porterville's planning area. The City's general plan should be consulted regarding growth assumptions near the Airpark site. As indicted earlier in response

Mr. Neil Peyron
November 21, 2017
Page 20

a), page 2-30 of the 2010 General Plan Background Report (Table 2-15) Indicates that the Unincorporated Projected Growth Rates (2007-2030) is projected at 1.3%. The 1.3% population growth rate is consistent with the approach we have taken for recent community plan traffic studies. Projecting a 1.3% growth rate to traffic in the proposed project area would not trigger the need for traffic related improvements with the exception of routine maintenance until many years in the future. As a result, the proposed project is responsible for the impacts and associated costs described in the September 27, 2017 letter from the County Administrative Office. Adopted County Plans are available at the following link: <http://generalplan.co.tulare.ca.us/index.asp>.

- j. How will these assumptions change the traffic models if the Casino is moved?

The traffic analysis for the Casino relocation addresses the shifting of trips from the existing Casino to the new site. The regional traffic model will need to be updated accordingly.

- k. How has the RTP dealt with other governmental projects (including funding responsibility)?

The RTP identifies several revenue sources for funding projects, one of which is local building assessments. The Financial Element (Chapter 4) of the RTP should be consulted for additional information.

- l. How has the RTP dealt with other Tribal projects (including funding responsibility)?

Generally, all projects, including tribal projects, are reviewed for specific traffic/transportation related impacts, and off-site mitigations are determined on a case by case basis.

- m. What is the entire scope of funding tools available to handle traffic projects in the County and through RTP?

A complete list of funding sources to fund projects in the RTP can be found in the Financial Element (Chapter 4) of the RTP available on TCAGs website.

- n. On what basis would the Tribe be responsible for each of the intersections? What other contributors occur in each case (in terms of traffic and funding)?

Fair share percentages are typically calculated for each roadway segment and intersection using the formula in the Caltrans Guide for the preparation of Traffic Impact Studies (State of California DOT, 2002). Future developments that impact the same facilities would also be responsible to contribute a fair-share based upon the amount of traffic each is projected to contribute to a specific segment.

- o. If the Tribe is asked to expend more than its fair share for traffic, how will the County work with the Tribe to develop a reimbursement mechanism for the overpayment?

This would typically be handled through a reimbursement agreement.

Mr. Neil Peyron
November 21, 2017
Page 21

- p. Is there a public facilities financing plan for the projects in the RTP? For the County's General Plan?

See response to Item m. above. The County's General Plan contains the following policy:

TC-1.4 Funding Sources the County shall work to enhance funding available for transportation projects. This includes:

- 1. Working with TCAG, Federal and State agencies, and other available funding sources to maximize funding available to the County for transportation projects and programs, and*
- 2. Enhance local funding sources, including assessment of transportation impact fees to pay for appropriate construction, enhancement, and maintenance of transportation facilities.*

- q. How do these projects fit into the PFFP? How often is it updated? Can we get a copy of it?

The County does not have a PFFP. The County General Plan contains a Public Facilities and Services Element (PFS). The purpose of the PFS Element is to establish and maintain acceptable levels of service, minimize costs, and provide criteria for determining the location, capacity, and timing of existing and future public facilities and services.

- r. What other plans address traffic project within the County?

The County has several plans that address transportation improvements both within unincorporated communities, and the rural areas of the County. These include, but are not limited to, complete street plans and policies, community plans, safe route to school plans, ADA transition plan, and Short/Long term transit plans. TCAG also has several plans that address the same, and should be consulted for a list of plans.

Adopted County Plans are available at the following link: <http://generalplan.co.tulare.ca.us/index.asp>.

- s. What incentives does the County or other entity provide for traffic reduction efforts to businesses and governments?

There are no specific incentive programs that address traffic reduction efforts.

- t. The amounts of costs provided do not add up. What was the county's method for determining costs of each project. "costs per mile". total costs and responsibility for costs?

The total cost of \$10,040,000 includes costs for: Construction at \$6,275,000; Contingency at \$1,255,000; PS&E (Design) \$1,255,000; and Construction Engineering at \$1,255,000. These numbers were not specifically broken down or shown in the County's letter dated Sept 27, 2017. The unit costs per mile were developed based upon estimates for the type of work required using

Mr. Neil Peyron
November 21, 2017
Page 22

values from recent maintenance and reconstruction projects the County has completed through construction contract procurement methods. Project cost responsibility was determined through a comparison of current and projected Traffic Indexes for the roads listed for pre and post project conditions (with all else being held constant). The increased traffic volumes post project triggered the need for the identified improvements.

8. *Payments in Lieu of Taxes/General Mitigation.*

- a. Could you let us know how the County's Measure R monies are allocated and administered by the County? Please provide a current listing of roads and transportation projects that are funded with those monies. Are there any other projects that are funded with those monies? Is it possible to pay for roadway improvements with Measure R monies?

On November 7, 2006, the voters of Tulare County approved Measure R, imposing a 1/2 cent sales tax for transportation within the incorporated and unincorporated area of Tulare County for the next 30 years. The transportation measure will generate slightly more than \$652 million over 30 years for Tulare County's transportation needs. The funds are administered by the Tulare County Association of Governments (TCAG) and made available to the County and all eight incorporated cities within Tulare County.

Regional projects have been dedicated 50% of all the Measure R funds. These funds are used for things such as adding additional lanes to existing streets, roads, highways, and freeways; freeway interchange improvements; and increasing safety and the improvement and reconstruction of major commute corridors. These projects will allow for the movement of goods, services, and people throughout Tulare County.

The local program of Measure R is allocated 35% of all Measure R funds. The purpose of this program is to improve transportation in all cities within Tulare County, plus the unincorporated area of the county. This funding will help cities and the County to meet scheduled maintenance needs and aid in the rehabilitation of their aging transportation systems.

The last portion of Measure R funds is used for transit, bikes, and environmental mitigation projects. This program uses 14% of all Measure R funds. The goal of this program is to expand and enhance public transit programs that address the transit dependent population. Mobility will also be improved through the construction of bike lanes, which have a demonstrated ability to get people out of their cars and improve air quality and the environment. The remaining 1% of the total expected Transportation Measure funding is directed to program implementation activities.

The specific projects funded by Measure R and the policies and procedures governing the use of Measure R funds are described on TCAG's website found at <http://www.tularecog.org/measurer-publications/>.

Roadway improvements can be paid for with Measure R funds. However, as a matter of policy, Measure R funds have not been used to pay for roadway improvements required to mitigate the

Mr. Neil Peyron
November 21, 2017
Page 23

impacts of development projects such as the Casino Project, since such projects are required to pay their own ways.

- b. Please describe the County's "intangible annual expenses unrelated to environmental impacts" and how the \$170,000 figure was calculated.

This payment is intended to cover the funding for impacts/services related to the Casino resort that would normally be paid for by the County's General Fund out of discretionary resources (primarily property and sales taxes), but where the actual cost of these services/impacts cannot be determined with any specificity. Once land is taken into trust for the Tribe by the Bureau of Indian Affairs, the County will cease to have taxation authority. The County will not collect sales tax or property tax yet the Casino resort will still impact County services such as jails (Sheriff), alternative criminal defense (Conflict Criminal Defender), and more.

Given the difficulty in estimating what the impact of the proposed Casino resort would be on most County programs, staff determined a reasonable General Mitigation amount based, in part, on an estimate by the County staff of the amount of property, general sales, and Measure R sales tax revenue the County would have received from a hypothetical taxable casino resort project similar to the Project proposed by the Tribe. The County staff estimated that the amount of property, general sales and Measure R sales tax revenue the County would have received from a taxable project similar in scope to the Tribe's would be approximately \$455,000 annually assuming the project were located in the unincorporated County.

- c. Is any portion of the budgets for the agencies and positions described above funded from property taxes and Measure R sales taxes? Please provide detail regarding the various sources of funding for those agencies and positions.

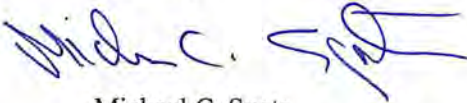
No portion of the budgets for the agencies and positions described above is funded from Measure R sales taxes. For specific County roadway projects partly or fully funded by Measure R, the County may charge staff time and/or materials and labor costs to Measure R as part of the costs of the specific projects but no County positions are purely funded by Measure R.

Property taxes generally fund approximately 14% of the County's General Fund budget, with the balance paid for by general sales taxes (1.2%), state subventions (30%), and federal funds (14%), among other sources. The details about the sources of funding for the agencies and positions described above can be found in the County's FY 2017-18 Recommended Budget, which can be viewed on the CAO's webpage at <http://tularecounty.ca.gov/cao/index.cfm/budget/>.

Mr. Neil Peyron
November 21, 2017
Page 24

Please let me know if you have further questions or need anything else from the County at this point in time. Thank you for your consideration.

Sincerely,



Michael C. Spata
County Administrative Officer

Attachment: California Research Bureau report *Gambling in the Golden State 1998 Forward* (2006).

cc: Supervisor Mike Ennis
Supervisor Steve Worthley
Carrie Monteiro, Board Representative
County Counsel
County Sheriff
County District Attorney
County Probation Officer
County Public Defender
County Fire Chief
County RMA Director
County HHSA Director
Stephen M. Hart, Esq.

COUNTY OF TULARE
COUNTY ADMINISTRATIVE OFFICE



MICHAEL C. SPATA
 County Administrative Officer

Via U.S. Mail and Email

June 14, 2018

Mr. Neil Peyron
 Chairman, Tule River Indian Tribal Council
 340 N Reservation Rd
 Porterville, CA 93257

Re: Tule River Indian Tribe Fee-to-Trust and Eagle Mountain Casino Relocation Project

Dear Chairman Peyron:

This is in response to the follow-up questions posed by the Tribe’s attorney Stephen M. Hart by letter dated February 14, 2018 asking about the County’s mitigation/benefit cost figures for fire and EMS services provided in my letters to you of September 27 and November 21, 2017.

The following answers respond to attorney Hart’s follow-up questions. For convenience, we have re-printed each question, followed by the County’s *answers*.

Question 1: The Omni Means Traffic Study shows a maximum increase of 7% in vehicles per day on Highway 190 and 65 for Alternative A. This increase is substantially lower than the estimated 20% increase in vehicle incident calls per year assumed by the County. Please provide additional information to support the estimated increase of 20% in calls, including any other inputs or assumptions.

County Fire estimated an additional 4,740 vehicles per year for Highway 190 and an additional 4,900 vehicles per year for Highway 65. Per the Omni Means Traffic study it is estimated that there will be an additional 2,222,850 vehicles per year for Highway 190 and an additional 1,142,450 vehicles per year for Highway 65. The Omni Means Traffic Study clearly illustrates that Fire estimates were extremely conservative and demonstrates that an increase of anticipated vehicular accidents will occur.

It should also be noted that there are other freeways, arterials, collector, and other local roads within the general area of the Casino location that will have an off-reservation impact. The overall traffic impact clearly justifies the 20% estimate in calls.

Traffic Detail	Increase to Traffic Flow
Highway 190	11.0%
Highway 65	4.0%
Other Traffic Flows	5.0%
Total	20.0%

It should also be noted that there will be additional impacts to traffic inflows/outflows related to Casino multi-purpose room events, concert events, casino events, or other casino/hotel related events that may occur during the year. Typical traffic related emergency situations include; spills response, vehicle fire, medical emergencies, extreme weather response, and other traffic emergencies.

Question 2: Assuming a 20% increase in vehicle incident calls is a reasonable number, by our calculation calls would increase from 76 calls per year to 91 calls per year. Your calculation reflects a 243% increase in calls (from 76 to 261). Please clarify your calculation of the total number of increased calls.

Our calculation includes the total calls dispatched for Station 19 and the impacted Casino Area. The 76 calls are for those calls to the reservation. It is anticipated that due to the additional traffic flow and increased activities in the area of the Casino there will be additional calls for service.

Question 3: Given the expected Mutual Aid Agreements, whereby the Tribe will provide "offsite" support, what percentage of all vehicle incident calls would the County expect to be covered by the County Fire Department, what percentage by Tribe's Fire Department, and what percentage by the City Fire Department.

The Tribe is only responsible for vehicle accidents or other emergencies on the Tribal property and they would not have a percentage of responsibility of offsite vehicle accidents or other emergencies at any time thus resulting in 100 percent is to be covered by the County within the unincorporated areas.

However with the proposed mutual aid agreement the Tribe would respond to a 4 mile radius from the proposed casino location and provide aid when requested. Due to the unpredictability of emergency incidents, the specific nature of each emergency incidents, and the commitment of or availability of adjoining/responding resources, it is not possible to quantify a percentage based upon an unknown. What we can provide is based on 2017 mutual aid data. The Tribe provided 5 mutual aid calls for service to the County for vehicle accidents within the current mutual aid boundary. Using the predicted increase of 20 percent it is reasonable to expect that the Tribe will respond to one additional call for service for a total of 6. If this data and the aid the Tribe would provide off the reservation remains the same then the Tribe would respond to a total of 11 vehicle accident calls as mutual aid given to the County combined from the reservation and the proposed casino location. Please keep in mind the proposed mutual aid agreement allows both the requesting agency and responding agency to respond (or not respond based on availability of resources) to a request for aid for many of the same reasons listed above.

Question 4: Please provide further information from your current staffing model that supports the additional three fire apparatus engineers for Station 19.

Currently our staffing model consists of one and two person staffing per fire station per day. Station 19 is staffed with one person on duty per day. However due to the projected and unanticipated impacts to the service area that station 19 provides, it is vital to increase our staffing to adequately mitigate possible emergencies. Additionally, this would benefit the proposed casino in the following ways:

- 1) *A reduction in the Insurance Services Rating for mutual aid received;*
- 2) *Allow compliance of NFPA 1710, creating compliance with CCR 1910.2, and allow crews to perform tasks 30 percent faster, thus reducing the threat to life and saving property.*

Comment Letter A2

I hope that this information is helpful to you. Please let me know if you have further questions or need anything else from the County at this point in time. Thank you for your consideration.

Sincerely,



Michael C. Spata
County Administrative Officer

cc: Supervisor Mike Ennis
Supervisor Steve Worthley
Carrie Monteiro, Board Representative
Eric Coyne, Deputy CAO
County Counsel
Sheriff
District Attorney
Probation Officer
Public Defender
Fire Chief
RMA Director
HHSa Director
Stephen M. Hart, Esq.

COMMENT LETTER A3

DEPARTMENT OF TRANSPORTATION

DEPARTMENT OF TRANSPORTATION
DISTRICT 6

1352 WEST OLIVE AVENUE
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www.dot.ca.gov



Making Conservation
a California Way of Life.

July 1, 2019

06-TUL-190-13.13
TULE RIVER INDIAN TRIBE CASINO RESORT
FINAL EIS
SCH# 2013-12
JOINT DEIS/TEIR
SCH # 2016124002

SENT VIA EMAIL

Ms. Amy Dutschke, Regional Director
Bureau of Indian Affairs, Pacific Region
2800 Cottage Way
Sacramento, CA 95825

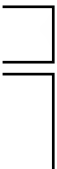
Dear Ms. Dutschke:

Thank you for the opportunity to review the Final Environmental Impact Statement to accept into "trust" approximately 40 acres of land for the Tule River Indian Casino Resort Relocation project. The casino resort proposes to construct a 104,637 square foot casino which includes 64,541 square feet of gaming floor area for 1,750 slot machines and 20 tables, a 250-room hotel, 36,301 square feet of a variety of food and beverage facilities, a 64,002 square foot multi-purpose events center with 1,700 seats and 29,081 square feet of convention space, an outdoor pool, and parking garage with an additional 27-acre site for overflow parking and recreation area. Various design alternatives are proposed for the casino resort. If approved, the proposed new casino facility would replace the Tribe's existing casino which would be converted to tribal government or service uses.

The project is located at the southeast corner of Scranton Avenue (aka: Avenue 136) and West Street, adjacent to the Porterville Airport (Airpark Site) and approximately 1 mile south of State Route (SR) 190 and 1 mile west of SR 65.

The mission of Caltrans is to provide a safe, sustainable, integrated and efficient transportation system to enhance California's economy and livability. To ensure a safe and efficient transportation system, we encourage early consultation and coordination with local jurisdictions and project proponents on all development projects that utilize the multimodal transportation network. Caltrans provides the *following comments* consistent with the State's smart mobility goals that support a vibrant economy and sustainable communities:

1. Our previous comments have not been addressed per our May 7, 2019 letter.
2. The Project should make a fair-share contribution to the proposed roundabout at SR 190/Westwood St., since it was identified in the TIS that the Project would have significant impacts to this intersection.



A3-01

A3-02

Ms. Amy Dutschke – FEIS – Tule River Indian Tribe Casino
July 1, 2019
Page 2

3. On page 4.8-13, in reference to Table 4.8-5, the FEIS indicates that SR190/Westwood Str. is projected to operate at an unacceptable LOS during weekday peak hours. The FEIS states, "However, the intersection SR-190/Westwood Street is the location of a programmed roundabout scheduled to be constructed before the opening year of Alternative A. The roundabout would result in an acceptable LOS at this intersection with the addition of traffic from Alternative A, and therefore, no mitigation is required."
4. Caltrans is currently working on the Westwood intersection improvement project. However, complete project funding has not been determined at this time. The Westwood Project status indicates a tentative date to Award a Construction Contract in mid-2021. Depending on funding acquisition, project construction for the Westwood intersection could be rescheduled for 2022 or later.
5. Based on this tentative construction schedule, Caltrans recommends that the SR 190/ Westwood St. intersection be included in the EIS for fair share calculation and contribution.
6. On page 5-13, section 5.8.2 – Operation (opening year 2021) states that fair share contributions will be placed in an Escrow Account and that those contributions will be consistent with design standards for similar facilities in the region.
7. Caltrans requires that funding estimates for fair share contributions towards the State Highway System needs to be reviewed by Caltrans prior to payment into the escrow account.
8. Please clarify how the escrow account will be executed. Typical fair share contributions are paid directly to the governmental agency having jurisdiction over the mitigation improvement project.

A3-02
(Cont.)

A3-03

If you have any other questions, please call David Deel, Associate Transportation Planner at (559) 488-7396.

Sincerely,



MICHAEL NAVARRO, Chief
Transportation Planning – North

Attached:
Caltrans comment letter dated May 7, 2019

Copy via email:
Mr. Chad Broussard, Environmental Protection Specialist - Bureau of Indian Affairs

DEPARTMENT OF TRANSPORTATION

DISTRICT 6

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Making Conservation
a California Way of Life.

May 7, 2019

06-TUL-190-13.13
TULE RIVER INDIAN TRIBE CASINO RESORT
ADMINISTRATIVE DRAFT
FEIS
SCH# 2013-12
JOINT DEIS/TEIR
SCH # 2016124002

SENT VIA EMAIL

Mr. Chad Broussard
Bureau of Indian Affairs, Pacific Region
2800 Cottage Way
Sacramento, CA 95825

Dear Mr. Broussard:

Thank you for the opportunity to review the Administrative Draft of the Final Environmental Impact Statement to accept into "trust" approximately 40 acres of land for the Tule River Indian Casino Resort Relocation project. The casino resort proposes to construct a 104,637 square foot casino which includes 64,541 square feet of gaming floor area for 1,750 slot machines and 20 tables, a 250-room hotel, 36,301 square feet of a variety of food and beverage facilities, a 64,002 square foot multi-purpose events center with 1,700 seats and 29,081 square feet of convention space, an outdoor pool, and parking garage with an additional 27-acre site for overflow parking and recreation area. Various design alternatives are proposed for the casino resort. If approved, the proposed new casino facility would replace the Tribe's existing casino which would be converted to tribal government or service uses.

The project is located at the southeast corner of Scranton Avenue (aka: Avenue 136) and West Street, adjacent to the Porterville Airport (Airpark Site) and approximately 1 mile south of State Route (SR) 190 and 1 mile west of SR 65.

The mission of Caltrans is to provide a safe, sustainable, integrated and efficient transportation system to enhance California's economy and livability. To ensure a safe and efficient transportation system, we encourage early consultation and coordination with local jurisdictions and project proponents on all development projects that utilize the multimodal transportation network. Caltrans provides the following comments consistent with the State's smart mobility goals that support a vibrant economy and sustainable communities:

Regarding the TIS for the FEIS:

- 1. Please note that for study intersection #12: SR 190/Westwood Street, Caltrans is reviewing an intersection operations improvement project which potentially includes an alternative for construction of a Roundabout.

"Provide a safe, sustainable, integrated and efficient transportation system to enhance California's economy and livability"



Mr. Chad Broussard – ADFEIS – Tule River Indian Tribe Casino
May 7, 2019
Page 2

- 2. Please note that for study intersection #22: SR 65/Scranton Avenue, this intersection is signalized and has been improved to include additional lanes for all approaches.
- 3. There is missing detailed information regarding the "Proposed Project Only Trips" distribution and assignment, for the Distribution map and Trip Assignment Figures for each of the above-mentioned study intersections.
- 4. Regarding the Airport Site Alternative design, Caltrans recommends an eastbound (EB) right-turn lane on SR 190 to southbound (SB) Road 216 (rural unsignalized intersection #11), be provided due to the increasing traffic volumes attributed to the Casino project as part of the opening-day improvements by the Project. This right-turn lane will allow vehicles that are decelerating for the right turn to move away from the faster through-traffic on SR 190, thus reducing the potential for rear-end crashes at this intersection.
- 5. An assessment of multi-modal facilities should be conducted to develop an integrated multi-modal transportation system to serve and help alleviate traffic congestion caused by the project and related development in this area of the City. The assessment should include the following:
 - a. Pedestrian walkways should link this proposal to an internal project area walkway, transit facilities, as well as other walkways in the surrounding area.
 - b. The project should consider bicycles as an alternative mode of transportation and offer internal amenities to encourage bicycle use which should include parking, security, lockers and showers.
 - c. If transit is not available within ¼-mile of the site, transit should be extended to provide services to what will be a high activity center.

A3-05

A3-06

A3-07

A3-08

If you have any other questions, please call David Deel, Associate Transportation Planner at (559) 488-7396.

Sincerely,



MICHAEL NAVARRO, Chief
Transportation Planning – North

Copy via email:
Ms. Amy Dutschke, Regional Director - Bureau of Indian Affairs, Pacific Region

COMMENT LETTER I1

BARRY CAPLAN

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

From: **Barry Caplan** <bcaplan@gmail.com>

Date: Mon, Jun 10, 2019 at 2:22 PM

Subject: [EXTERNAL] Fwd: URGENT: FEIS Comments, Tule River Tribe Casino Relocation Project

To: <chad.broussard@bia.gov>

Mr. Broussard:

I am writing regarding the recent announcement of the availability of the Final EIS for the Tule River Tribe's proposed casino move to Porterville.

I learned of this announcement via facebook on the Tribe's page, in a post from this morning at approximately 11AM. Here is the link to their page: <https://www.facebook.com/tulerivertribeca>

That announcement links to a website at <http://www.tulerivereis.com/>, where supposedly the full EIS is available to download.

But as you can see from the url, and if you visit it yourself in your browser (not recommended), it is not secure. It does not use the proper https protocol that has been required by most browsers since at least a year ago and has been recommended for quite some time before that. I develop web sites for a living, and I converted all my sites at least two years ago to use https in advance of announced new browser requirements.

It appears that the Tribe's EIS consultant's web site is similarly insecure: <http://www.analyticalcorp.com/>. My guess is that the consultant developed the site the tribe linked to, but for some reason they are not familiar with modern security practices when developing and serving web sites.

Here are a few pages that describe the risks to visitors of web sites that do not use https:

- <https://www.wired.com/story/google-chrome-https-not-secure-label/>
- <https://www.howtogeek.com/181767/htg-explains-what-is-https-and-why-should-i-care/>
- <https://www.https.in/blog/top-5-risks-of-not-having-an-ssl-certificate-on-your-website/>

In short, among other risks, a visitor can not be 100% sure that the document they received actually came from the web site that they

thought they were getting it from, if there is no https protocol.

This is important when there is a limited amount of time for review and public comment.

It is not fair at all for the residents in Porterville to assume the risks involved with poor security practices by the web developer, whoever it is, in order to download this material, and to assume the risk that they even downloaded the right document without a man-in-the-middle attack, all just to expedite the EIS process.

Correcting this situation is not technically complicated, and there is no cost involved, There are any number of web sites that provide simple step by step instructions for wordpress web sites (both of the sites I have linked here are wordpress). The necessary certificates are available for free from Let's Encrypt and others.

For these explicit and implicit security reasons, I request that the review period be stopped, and that the clock does not start until the web site(s) that reviewers and affected residents in Porterville can download the materials from a properly secured web site and a corrected announcement is distributed as existing regulations may require.

Thank you for your timely attention to this matter, and please let me know the status of your review of this matter.

Best regards,

Barry Caplan

COMMENT LETTER I2

STUART GOINGS

Comment Letter I2

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

From: **Stuart Goings** <stuart.goings@gmail.com>

Date: Mon, Jun 17, 2019 at 8:57 AM

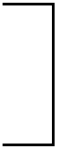
Subject: [EXTERNAL] FEIS Comments, Tule River Tribe Casino Relocation Project

To: <chad.broussard@bia.gov>

Dear BIA,

I peacefully and lovingly oppose the Eagle Mountain Casino Relocation Plan to Porterville, CA. Please do not approve this move. The research reveals that casinos have a negative social and economic impact on communities. We do not want this to happen to our beloved city.

Thank you for considering my request,
Stuart Goings



I2-01

COMMENT LETTER I3

DELMER SMITH

✓
 Delmer Smith
 164 South Ohio St.
 Porterville, Calif. 93257

REGISTRAR GENERAL
 BUREAU OF LAND AFFAIRS
 TO: AUG. 1 PM 3 05

Reg Dir _____ ✓
 Dep RD Trust _____ ✓
 Dep RD IS _____
 Route FET _____
 Response Required _____
 Due Date _____
 Memo _____ Ltr _____
 Fax _____

FETS comments:
 Tule River Tribe Relocation Project.

I object to this proposal, because there are just too many negatives. The Indians have tons of land already. They should figure out how to put it to use. They sure figured out to build a casino there. Porterville already has a water problem. Plus local business cannot compete with someone who is tax exempt. Unfair, all the way. So, they should stay up there at the location they have, they are making enough money already. We do not need them down here using up all our resources, period!

That's my thought
 Delmer Smith

6-08-19

I3-01

COMMENT LETTER I4

JON STRICKLIN

Comment Letter I4

Forwarded message -----

From: **Jon Stricklin** <jonwstricklin@yahoo.com>

Date: Fri, Jun 21, 2019 at 4:32 PM

Subject: [EXTERNAL] FEIS Comments, Tule River Tribe Casino Relocation Project

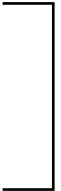
To: <chad.broussard@bia.gov>

Dear BIA,

I would like to take the opportunity to express my opposition to the plan to relocate the Eagle Mountain Casino to Porterville, CA. I would ask that those who are responsible to make such decision would reconsider this plan. As a resident of Porterville I do not want the negative social impact that the casino will surely thrust upon our community.

Thank you for considering my opinion.

Jonathan Stricklin



I4-01

COMMENT LETTER I5

WILLIAM LARSEN

From: William Larsen <wlarsen@ocsnet.net>

Date: June 10, 2019 at 3:21:03 PM PDT

To: <chad.broussard@bia.gov>

Subject: [EXTERNAL] Request for extension of comment period for Tule River Casino move to Porterville

Dear Mr. Broussard,

I note that the Final EIS for the Tule River Tribe's proposed casino move to Porterville has been announced with a review period for comments.

I did not download the referenced document because I also noted it was not from a secure site.

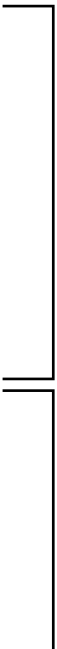
This request is for the referenced document to be made available from a secure site and the comment period be extended to allow review of the completed document by the public.

Since I am aware that the lead agencies in this permitting process are both Federal and State (including local agencies), I am surprised that the document is not a combined EIR/EIS which would give a better indication of the whole of the project.

Thank you for your consideration. I request that this request be made part of the official record.

Regards,

William Larsen, Terra Bella, CA



I5-01

I5-02

COMMENT LETTER I6

BOB AND GAIL NUCKOLS

June 29, 2019

Chad Broussard
Environmental Protection Specialist
Bureau of Indian Affairs

Mr. Broussard,

As a family who runs a local business, we understand the importance of relocating Eagle Mountain Casino to help our community and continue to employ hundreds of people. We are not against the Casino relocating, but major concerns once the Casino is relocated is the proposed off-site 40 acre parcel which a Water Reclamation Facility (WRF) would be developed, which connects to our property on Road 216. If site is approved for the (WRF) this will negatively affect our property in several ways.

16-01

With the Casino less than a mile away from our property, we are concerned about high traffic on Road 216. With the extra traffic from the Casino, our property will need to be secured with a fence. Currently the ONLY reason why people should be driving down Road 216, is to go to the county "dump". Once the Casino is completed, Road 216, will have increased activity and traffic in the area. (Just like when the City has the "Freedom Fest" there's tons of traffic around our property and driving up and down Road 216.) There should be some funding to help offset the costs to securing our property. The high traffic on Road 216 and the possible odor of the Water Reclamation Facility, along with possibility of contamination of our groundwater could potentially, devastate our property value and the Nuckols Ranch Venue.

16-02

Thirty years of hard work has been put into the Nuckols Ranch outdoor Venue where we host weddings, wedding receptions, anniversary parties, class reunions, fundraisers and other functions for the community. We provide a serene setting with lush grass, trees, plants and a garden like setting. Once our guess head to the back of the venue and see the Tertiary Treatment Plant and see the Casino lights, this will not only decrease venue value, but future bookings and clients. (Who would want to look at that at a function or have possible

16-03

odors?) Trees will have to be planted so to block view of treatment plant (WRF). There should be some funding to help offset costs.

I6-03
(Cont.)

The Nuckols Family has had a long standing tradition of being a part of the Porterville community and has lived on this property since the 1940's. Our family has been involved with this community through fundraisers, helping clubs and organizations, along with feeding and donating food to Helping Hands. For the City to allow a (WFR) to connect to our property seems to be very suspicious and concerning.

In our personal opinion, we feel that the Reservation is going to be paying for the major infrastructure for the City of Porterville's future waste water treatment expansion. The engineer gave the City of Porterville, several options where the Tertiary Treatment Plant and Seasonal Storage could be placed.

One location is documented on the eight acres located at the vacant Porterville Shooting Range on the airport. This would seem to be more fitting, and convenient since already located by the City's bio solid drying beds and waste water line infrastructure. Why is the City choosing to place the Tertiary Treatment Plant right next to the Nuckols Ranch?

I6-04

We understand that we are only one family. But our family has lived in this community for close to 80 years and have enjoyed the peace and quiet of rural living along with farming/ranching. Our traditions run deep in this community. The decision the City of Porterville makes with this project will impact our lives forever. I would imagine if someone from the City Council, City of Porterville or anyone who lives where we live, would NOT want a Tertiary Treatment or waste-water plant in "THEIR" backyard either!

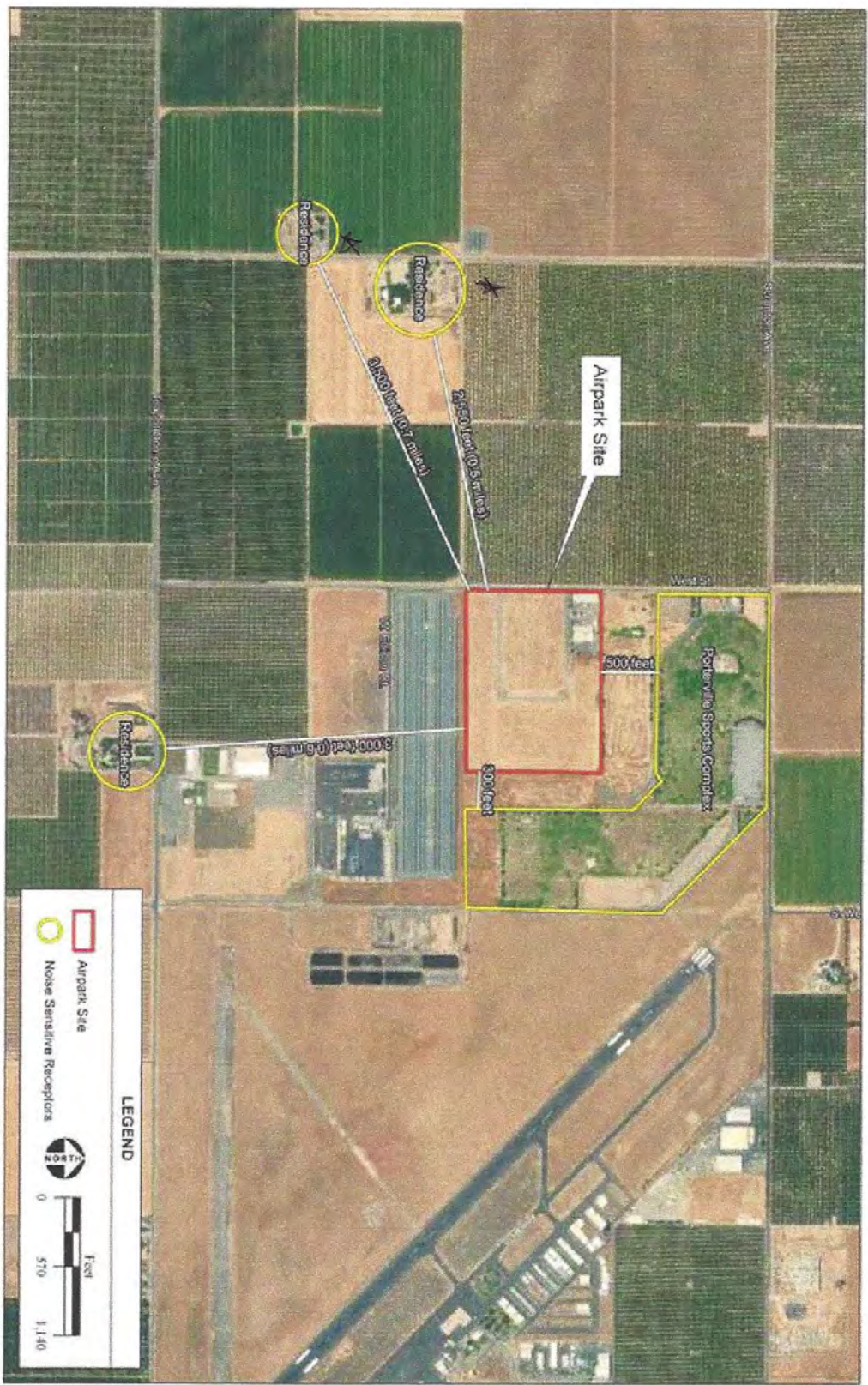
We hope you can explain why the City of Porterville is choosing to put such a project which could devastate our property and livelihood. We hope you take our concerns into consideration to have the Tertiary Treatment Plant moved to the eight acres on the airport, where it will be less costly for the Tule River Tribe and demonstrate that the City of Porterville treats members of their community with respect in valuing their homes, properties and businesses.

Sincerely,

Bob and Gail Nuckols

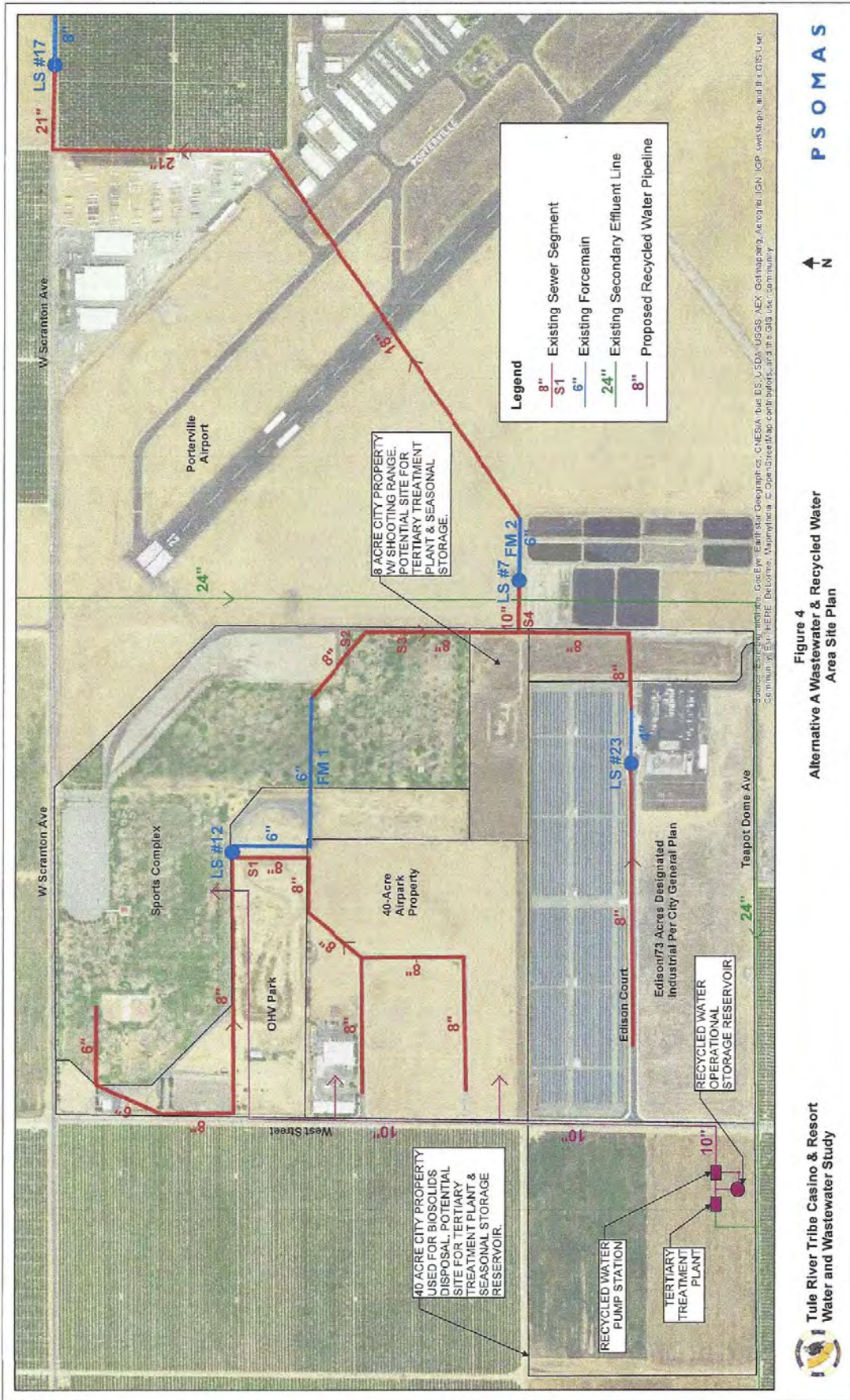
The Nuckols Family
13144 Road 216
Porterville, Ca 93257
(559)359-8376

Justin and Michelle Nuckols
13009 Road 216
Porterville, Ca 93257
(559)310-0607



SOURCE: NAIP aerial photography, 01/25/14, AEN 2/25/10

The River Tribe Fee-to-Trust and Casino Relocation Final EIS / 216560



**Tule River Tribe Casino & Resort
Water and Wastewater Study**

**Figure 4
Alternative A Wastewater & Recycled Water
Area Site Plan**

COMMENT LETTER I7

RYAN RUCKMAN

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

From: **Ryan Ruckman** <mrruel@aol.com>

Date: Sun, Jun 30, 2019 at 11:47 PM

Subject: [EXTERNAL] "FEIS Comments, Tule River Tribe Casino Relocation Project"

To: Broussard, Chad <chad.broussard@bia.gov>

FROM THE LEADERSHIP OF VISION CALVARY CHAPEL - LINDSAY/PORTERVILLE, CA.

Dear Bureau of Indian Affairs,

With love and respect, I write to you. Please, know that I mean no disrespect to you in writing this letter.

Though I love all people, the following are some reasons why I am humbly and respectfully asking the BIA to oppose Eagle Mountain Casino's land-trust application in order to relocate its casino to Porterville, CA.:

1. Casinos have a negative, fiscal impact on communities - "...Earl Grinols, an economics professor at Baylor University, in Texas, and the author of *Gambling in America: Costs and Benefits*, has estimated that every dollar of benefit a casino brings to a community entails about \$3 in social costs—whether it's increased crime, or declining productivity, or more spending on services such as unemployment payments. 'It's a social negative,' Grinols told me. 'Casino gambling is bad for the economy. It should not be allowed by anyone, anywhere, anytime.'"[1]

17-01

2. Drugs – The selling of methamphetamine is a real issue in our area. I am very grateful that recently, through a sting operation provided by Tulare County Sheriff, seven people were arrested and are being accused of selling methamphetamine at the casino.[2]

17-02

Please, we don't want more drug related issues in our community. Please do not approve the relocation plan.

3. Gambling addiction[3] – As a minister of the Gospel of Jesus Christ, I offer the hope, the truth, and the comfort of the Scriptures to help people overcome sin through faith in the death, burial, and resurrection of the Lord Jesus Christ. I know people who have succumbed to gambling addiction in our area. I have counseled and shared that the Bible says that Jesus Christ possesses the power to set anyone free from gambling addiction. As I have shared the love of Christ and the power of His resurrection, I have been told that rehab did not help. Gambling addiction brings people into bondage, and the research shows that the casino industry takes advantage of those who are trapped in this sin (I am not pointing the finger, for I am a sinner too. However, Jesus Christ has set me free from the bondage of sin which leads to death. He will set anyone free who repents of sin and believes in His death and resurrection because He is gracious, loving, and merciful).

17-03

Research reveals that casinos prey on the addicted gambler: "As Richard Daynard, a law professor at Northeastern University and the president of the Public Health Advocacy Institute, explained at the group's forum on casino gambling in the fall of 2014, 'The business plan for casinos is not based on the occasional gambler. The business plan for casinos is based on the addicted gambler.'"[4]

I have read that a casino cannot afford to have the truth made public in regard to their business plan: "They cannot afford to have that made public, because it would confirm what everybody

knows: that one- to two-thirds of their income comes from the roughly 10 to 20 percent of their customers who are pathological and problem gamblers.”[5]

Casinos take advantage of problem gamblers: “Such addicts simply cannot stop themselves, regardless of the consequences. ‘When you’re dealing with an addict active in their addiction, they’ve lost all judgment,’ says Valerie Lorenz, the author of *Compulsive Gambling: What’s It All About?* ‘They can’t control their behavior.’”[6]

17-03
(Cont.)

I do know of One who can set people free from bondage and death; He is Jesus Christ who is risen from the dead and will help anyone who will turn to Him by faith. There is hope for people because God is the God of hope.

4. Electronic gaming machines (EGM) – electronic gaming machines (though legal!) are flagrantly deceptive. The computer chips that operate these machines deceive people into thinking they are close to a win, when in fact they are not. Casinos are permitted to legally deceive people – exploit people – in order to gain a financial reward.

Roger Horbay is “the EGM expert and former gambling-addiction therapist.” He stated, “I think society in general has been led to believe that this is a highly regulated and fair industry because the regulators test everything... but they would be shocked if they knew even slot machines don’t have to comply with consumer-protection laws.”[7]

“Horbay points to informed choice as the central tenet of consumer protection, which is why when you apply for a loan, the bank has to tell you the interest rate and how it’s calculated. It’s why many state lotteries have to disclose their odds, and it’s why even the contests on the backs of cereal boxes list the chances of winning a prize. Yet such essential disclosure is not required of electronic gaming machines. ‘These machines present all sorts of deceptive trade practices that wouldn’t be allowed in any other industry, not even in other gambling games,’ he says. ‘The standard for game fairness is nonexistent on slots.’”

17-04

EGMs are designed with “virtual reel mapping.” “Astonishingly, the patent application for virtual reel mapping, the technology that made all these deceptive practices possible, was straightforward about its intended use: ‘It is important,’ the application stated, ‘to make a machine that is perceived to present greater chances of payoff than it actually has within the legal limitations that games of chance must operate.’ Countries such as Australia and New Zealand have outlawed virtual reel mapping because of the harm the inherent deception inflicts upon players.”[8]

5. Sex Trafficking – there is sex trafficking in Tulare County, CA., and we pray to the Lord Jesus Christ against this plague and seek to make our community aware of its dangers. My wife has prayed with and comforted precious souls who were tortured and violated by human traffickers here in Tulare County. How our hearts break over this vile practice and how we pray for its abolition!

17-05

We have always prayed for the protection of our police force and for their ability to capture sex traffickers. In the summer of 2017, we prayed for the Lord Jesus Christ to expose sex trafficking

in our city. Soon after our prayer time, arrests for the crime of sex trafficking were publicly announced by our local and county law enforcement!

There have been many arrests for sex trafficking crimes in Porterville, CA.[9]

Moreover, the data on sex trafficking and Native American women is alarming. Studies from four sites in the USA and Canada reveal that 40% of sex trafficking victims are Native American women.[10]

“Human trafficking of Native women in the United States is not a new era of violence against Native women but rather the continuation of a lengthy historical one... Native women experience violent victimization at a higher rate than any other US population. Congressional findings are that more than 1 in 3 Native American and Alaska Native women will be raped in their lifetime... more than 6 in 10 will be physically assaulted. Native women are stalked more than twice the rate of other women. Native women are murdered at more than ten times the national average. Non-Indians commit 88% of violent crimes against Native women. Given the above statistical data and the historical roots of violence against Native women, the level of human trafficking given the sparse data collected can only equate to the current epidemic levels we face within our tribal communities and Nations.” Lisa Burnner, National Indigenous Women’s Resource Center [11]

There are those who believe that the presence of casinos contribute to the sex trafficking of Native American women.[12]

A strong advocate for Native American women is Cindy McCain. She is the wife of former Senator John McCain. She is the co-Chair of the Arizona Human Trafficking

Council. Here is what she has stated in one article: “I witnessed with my own eyes six little girls lined up against a wall in a casino outside of Phoenix on display for customers.”[13]

As a minister of the Gospel of the risen Lord and Savior Jesus Christ, I will advocate against anything that has the potential or possibility to contribute to sex trafficking.

6. Liquor sales – On the reservation, Eagle Mountain Casino is an alcohol-free casino.[14] Many of us are very grateful for this fact. However, alcohol will be sold once the casino relocates.

(I am a strong advocate of abstinence among those with political, judicial, and ministerial positions. The Bible warns kings and leaders to refrain from alcohol – Proverbs 31.)

Studies show that there are cases where casinos have used alcohol to their advantage as another means to exploit their patrons and get their money.[15]

One such patron to a casino was Jenny Kephart. “In 2006, she spent an entire night gambling at Caesars Riverboat Casino, drinking strong alcoholic beverages provided for free.”[16]

Again, I am against anything that deceives or takes advantage of others. I believe what the Lord Jesus Christ taught: love God and love your neighbor as you already love yourself. Love does no harm to a neighbor, and love is the fulfillment of God’s law.

Research proves that gambling will be bad for the economy of Porterville. The potential increase of drug dealing, gambling addiction, gambling deception, sex trafficking, and liquor manipulation are enough to make a reasonable and intelligent argument that the casino industry is not a positive influence on a community. Please do not approve Eagle Mountain Casino’s Relocation Plan to Porterville, CA.

7. Most importantly, the gambling industry is based on greed. Greed is the love of money. The love of money is idolatry and sin and brings people into bondage. I have devoted my life to helping people find freedom from bondage through repentance of sin and faith in the death, burial, and resurrection of Jesus Christ. The Bible teaches us to be free from the love of money – to run from it:

⁹ But they that desire to be rich fall into temptation and a snare, and into many foolish and hurtful lusts, which drown men in destruction and perdition. ¹⁰ For the love of money is the root of all evil: which while some coveted after, they have erred from the faith, and pierced themselves through with many sorrows. ¹¹ But you, O man of God, flee these things; and follow after righteousness, godliness, faith, love, patience, meekness. 1 Timothy 6:9–11

It comes as no surprise that “California outlawed many forms of gambling soon after statehood.”[17]

Please, do not approve the Eagle Mountain Casino land-trust application for relocation to Porterville, CA.

The casino would do more for our community by remaining in its current location.

Thank you for your time in reading and considering my views.

Respectfully,

R. Ryan Ruckman - Servant, Vision Calvary Chapel

Official Signatories - Bob Ruckman, Kurt Espinoza, Tony Cota, Gill Gonzales, Bob Buck, Darren Bay - Leadership of Vision Calvary Chapel, Porterville/Lindsay, CA.

17-06
(Cont.)

17-07

[1] <https://www.theatlantic.com/magazine/archive/2016/12/losing-it-all/505814/>

[2] <https://www.visaliatimesdelta.com/story/news/2018/07/09/undercover-investigators-arrest-seven-porterville-casino/769328002/>

[3] <http://walker.d.people.cofc.edu/pubs/2010/UNLV.pdf>

[4] <https://www.theatlantic.com/magazine/archive/2016/12/losing-it-all/505814/>

[5] Ibid

[6] <https://www.theatlantic.com/magazine/archive/2016/12/losing-it-all/505814/>

[7] Ibid

[8] Ibid

[9] https://www.recorderonline.com/news/sex-trafficking-ring-broken/article_4092ed76-7344-11e7-87e4-036c8634124e.html

[10] <http://humantraffickingsearch.org/traffickingofnativeamericans/>

[11] <http://www.ncai.org/policy-research-center/research-data/prc-publications/TraffickingBrief.pdf>

[12] <http://humantraffickingsearch.org/traffickingofnativeamericans/>

[13] Ibid

[14] <https://www.eaglemtncasino.com/play-responsibly/>

[15] <https://www.theatlantic.com/magazine/archive/2016/12/losing-it-all/505814/>

[16] Ibid

[17] https://lao.ca.gov/2007/tribal_casinos/tribal_casinos_020207.aspx

Record of Decision

Attachment III – Mitigation Monitoring and Endorsement Plan

TULE RIVER INDIAN TRIBE FEE-TO-TRUST AND EAGLE MOUNTAIN CASINO RELOCATION PROJECT

MITIGATION MONITORING AND ENFORCEMENT PLAN

Mitigation Monitoring Overview

This Mitigation Monitoring and Enforcement Plan (MMEP) has been developed to guide mitigation compliance before, during, and after implementation of the Bureau of Indian Affairs' (BIA's) Preferred Alternative. The mitigation measures described below in **Table 1** were developed through the analysis of potential impacts within the Final Environmental Impact Statement (EIS). As specified in **Table 1**, the compliance monitoring and evaluation will be performed by the Tule River Indian Tribe (Tribe), the City of Porterville (City), Tulare County (County), the California Department of Transportation (Caltrans), the Porterville Fire Department (PFD), Tulare County Fire Department (TCFD), the United States Fish and Wildlife Service (USFWS), the California Department of Fish and Wildlife (CDFW), the Bureau of Indian Affairs (BIA), the State Historic Preservation Officer (SHPO), the Native American Heritage Commission (NAHC), and the United States Environmental Protection Agency (USEPA) as indicated in the description of each measure. The MMEP provides:

- Requirements for compliance of the mitigation measures specifically created to mitigate impacts;
- List of responsible parties; and
- Timing of mitigation measure implementation.

Where applicable, mitigation measures will be monitored and enforced pursuant to Federal law, tribal ordinances, and agreements between the Tribe and appropriate governmental authorities, as well as the Record of Decision (ROD). Note that numbering of mitigation measures listed in **Table 1** differs from the numbering of the mitigation measures listed in Section 6.0 of the ROD. **Table 1** includes only those mitigation measures that are applicable to Alternative A – the casino resort at the Airpark Site.

TABLE 1
MITIGATION MONITORING AND ENFORCEMENT PLAN

Mitigation Measure	Responsible for Monitoring and/or Reporting	Timing of Implementation	Verification (Date and Initials)
1. Geology and Soils			
<p>A. The project shall comply with the National Pollutant Discharge Elimination System (NPDES) Construction General Permit from the United States Environmental Protection Agency (USEPA) for all construction site runoff during the construction phase in compliance with the Clean Water Act (CWA). A Stormwater Pollution Prevention Plan (SWPPP) shall be prepared, implemented, and maintained throughout the construction phase of the development, consistent with Construction General Permit requirements. The SWPPP shall detail the BMPs to be implemented during construction and post-construction operation of the selected project alternative to reduce impacts related to soil erosion and water quality. The BMPs shall include, but are not limited to, the following:</p> <ol style="list-style-type: none"> 1. Existing vegetation shall be retained where practicable. To the extent feasible, grading activities shall be limited to the immediate area required for construction and remediation. 2. Temporary erosion control measures (such as silt fences, fiber rolls, vegetated swales, a velocity dissipation structure, staked straw bales, temporary re-vegetation, rock bag dams, erosion control blankets, and sediment traps) shall be employed for disturbed areas. 3. To the maximum extent feasible, no disturbed surfaces shall be left without erosion control measures in place. 4. Construction activities shall be scheduled to minimize land disturbance during peak runoff periods. Soil conservation practices shall be completed during the fall or late winter to reduce erosion during spring runoff. 5. Creating construction zones and grading only one area or part of a construction zone at a time shall minimize exposed areas. If practicable during the wet season, grading on a particular zone shall be delayed until protective cover is restored on the previously graded zone. 	Tribe/USEPA	Planning Phase Construction Phase	

<ol style="list-style-type: none"> 6. Disturbed areas shall be re-vegetated following construction activities. 7. Construction area entrances and exits shall be stabilized with large-diameter rock. 8. Sediment shall be retained on-site by a system of sediment basins, traps, or other appropriate measures. 9. A spill prevention and countermeasure plan shall be developed which identifies proper storage, collection, and disposal measures for potential pollutants (such as fuel, fertilizers, pesticides, etc.) used on-site. 10. Petroleum products shall be stored, handled, used, and disposed of properly in accordance with provisions of the CWA (33 U.S.C. 1251 to 1387). 11. Construction materials, including topsoil and chemicals, shall be stored, covered, and isolated to prevent runoff losses and contamination of surface and groundwater. 12. Fuel and vehicle maintenance areas shall be established away from all drainage courses and designed to control runoff. 13. Sanitary facilities shall be provided for construction workers. 14. Disposal facilities shall be provided for soil wastes, including excess asphalt during construction and demolition. 15. Other potential BMPs include use of wheel wash or rumble strips and sweeping of paved surfaces to remove any and all tracked soil. 			
<p>B. Contractors involved in the project shall be trained on the potential environmental damage resulting from soil erosion prior to construction in a pre-construction meeting. Copies of the project's SWPPP shall be distributed at that time. Construction bid packages, contracts, plans, and specifications shall contain language that requires adherence to the SWPPP.</p>	Tribe	Construction Phase	
<p>C. A SWPPP specific to the 40-acre site shall be prepared, implemented, and maintained throughout the construction phase of the development, consistent with Construction General Permit requirements. A SWPPP specific to the 8-acre site shall also be prepared, implemented, and maintained if the water reclamation facility (WRF) is constructed on the 8-acre site. The SWPPP(s) shall detail the BMPs to be implemented during construction and post-construction operation of the selected project alternative to reduce impacts related to soil erosion and water quality. The BMPs shall include, but are not limited to, sub-measures 1 through 15 listed above under Mitigation Measure 1(A).</p>	Tribe	Planning Phase Construction Phase	

<p>D. Materials that are excavated during the construction of the regional retention basin and stockpiled on the 40-acre site shall be covered by tarps or other appropriate materials and stabilized to prevent erosion until these materials are removed.</p>	<p>Tribe</p>	<p>Planning Phase Construction Phase</p>	
<p>2. Water Resources</p>			
<p>A. The Tribe shall adjust landscape irrigation based on weather conditions—reducing irrigation during wet weather—to prevent excessive runoff.</p>	<p>Tribe</p>	<p>Operation Phase</p>	
<p>B. Fertilizer use shall be limited to the minimum amount necessary and shall be adjusted for the nutrient levels in the water used for irrigation. Fertilizer shall not be applied within 24 hours of a rain event predicted by the National Oceanic and Atmospheric Administration.</p>	<p>Tribe</p>	<p>Operation Phase</p>	
<p>C. The Tribe shall implement water conservation measures, including but not limited to use of low flow faucets and showerheads, recycled water for toilets, and voluntary towel re-use by guests in the hotel; use of low-flow faucets, recycled water for toilets, and pressure washers and brooms instead of hoses for cleaning, in public areas and the proposed casino; use of garbage disposal on-demand, re-circulating cooling loop for water cooled refrigeration and ice machines where possible, and service of water to customers on request, in restaurants; and use of recycled and/or gray water for cooling.</p>	<p>Tribe</p>	<p>Planning Phase Operation Phase</p>	
<p>3. Air Quality</p>			
<p>Construction</p>			
<p>A. A Dust Control Plan shall be prepared prior to construction which meets the general requirements of SJVAPCD Rule 8021 6.3. The following dust suppression measures shall be included in the plan and implemented during construction to control the production of fugitive dust (PM10) and prevent wind erosion of bare and stockpiled soils:</p> <ol style="list-style-type: none"> 1. Provide a CARB approved Visible Emissions Evaluation (VEE) person to evaluate fugitive dust emissions once per week. 2. Spray exposed soil with water or other suppressant twice a day or as needed to suppress dust to 20 percent opacity. 3. Use non-toxic chemical or organic dust suppressants on unpaved roads and traffic areas to suppress dust to 20 percent opacity. 4. Construct and maintain wind barriers sufficient to limit windblown dust emissions to 20 percent opacity. 	<p>Tribe</p>	<p>Planning Phase Construction Phase</p>	

<ol style="list-style-type: none"> 5. Minimize dust emissions during transport of fill material or soil by wetting down loads, ensuring adequate freeboard (space from the top of the material to the top of the truck bed) on trucks, cleaning the interior of cargo compartments on emptied haul trucks before leaving a site, and/or covering loads. 6. Promptly clean up spills of transported material on public roads. 7. Restrict traffic speeds on site to 15 miles per hour to reduce soil disturbance. 8. Provide wheel washers to remove soil that would otherwise be carried off site by vehicles to decrease deposition of soil on area roadways. 9. Cover dirt, gravel, and debris piles as needed to reduce dust and wind-blown debris to less than 20 percent opacity. 10. Provide education for construction workers regarding incidence, risks, symptoms, treatment, and prevention of Valley Fever in accordance with California Department of Public Health guidelines. 			
<p>B. The following measures shall be implemented to reduce emissions of criteria pollutants, greenhouse gases (GHGs), and diesel particulate matter (DPM) from construction.</p> <ol style="list-style-type: none"> 1. The Tribe shall control criteria pollutants and GHG emissions from the facility by requiring all diesel-powered equipment be properly maintained and minimize idling time to five minutes when construction equipment is not in use, unless per engine manufacturer's specifications or for safety reasons more time is required. Since these emissions would be generated primarily by construction equipment, machinery engines shall be kept in good mechanical condition to minimize exhaust emissions. The Tribe shall employ periodic and unscheduled inspections to accomplish the above mitigation. 2. Require all construction equipment with a horsepower rating of greater than 50 be equipped with diesel particulate filters, which would reduce approximately 85 percent of DPM. 3. Require all construction equipment with a horsepower rating of greater than 50 be equipped with California Air Resources Board (CARB) rated Tier 3 engines, with the exception of scrapers. 4. Require the use of low reactive organic gases (ROG; 150 grams per liter or less) for architectural coatings to the extent practicable. 5. Environmentally preferable materials, including recycled materials, shall be used to the extent readily available and economically practicable for construction of facilities. 	Tribe	Planning Phase Construction Phase	
Operation and Climate Change			
<p>C. The Tribe shall reduce emissions of criteria air pollutants and GHGs during operation of the project through the following actions:</p>	Tribe	Planning Phase Operation Phase	

<ol style="list-style-type: none"> 1. The Tribe shall use clean fuel vehicles in the vehicle fleet where practicable, which would reduce criteria pollutants and GHG emissions. 2. The Tribe shall provide preferential parking for employee vanpools and carpools, which would reduce criteria pollutants and GHGs. 3. The Tribe shall use low-flow appliances at the proposed facility. The Tribe shall use drought-tolerant landscaping and provide "Save Water" signs near water faucets. 4. The Tribe shall control criteria pollutants, GHG, and DPM emissions during operation of the project by requiring all diesel-powered vehicles and equipment be properly maintained and minimizing idling time to five minutes at loading docks when loading or unloading food, merchandise, etc. or when diesel-powered vehicles or equipment are not in use; unless per engine manufacturer's specifications or for safety reasons more time is required. The Tribe shall employ periodic and unscheduled inspections to accomplish the above mitigation. 5. The Tribe shall use energy-efficient lighting at the facility, which would reduce indirect criteria pollutants and GHG emissions. 6. The Tribe shall install recycling bins throughout the hotel and casino for glass, cans and paper products. Trash and recycling receptacles shall be placed strategically outside to encourage people to recycle. The Tribe shall reduce solid waste stream of the facility by 50 percent. 7. The Tribe shall plant trees and vegetation on site or fund such plantings off site. The addition of photosynthesizing plants would reduce atmospheric carbon dioxide (CO₂), because plants use CO₂ for elemental carbon and energy production. Trees planted near buildings would result in additional benefits by providing shade to the building; thus reducing heat absorption, reducing air conditioning needs and saving energy. 8. The Tribe shall use energy-efficient appliances in the hotel and casino. 9. The Tribe shall provide a bus driver lounge at the facility and adopt and enforce an anti-idling ordinance for buses, which will discourage bus idling during operation of the project. <p>After implementation of mitigation measures 1 through 9 above, operational emissions would continue to exceed <i>de minimis</i> levels for NO_x. Therefore, the following mitigation is recommended for the Preferred Alternative.</p> <ol style="list-style-type: none"> 10. The Tribe shall purchase 35.60 tons of nitrogen oxides (NO_x) emission reduction credits (ERCs) for the Preferred Alternative as specified in the Conformity Determination included in Appendix F of the FEIS. Because the air quality effects are associated with operation of the facility and not with construction of the facility, real, surplus, permanent, quantifiable, and enforceable ERCs will be purchased prior to the opening day of the facility. ERCs shall be purchased in accordance with the 40 CFR 93 Subpart B, 			
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<p>conformity regulations. With the purchase of the ERCs the project would conform to the applicable SIP and result in a less than adverse effect to regional air quality. As an alternative to or in combination with purchasing the above ERCs, the Tribe has the option to implement one or more of the following measures, which would reduce project-related NO_x emissions. If one or more of the following is chosen to reduce NO_x emissions, the Tribe shall have the emissions reductions verified by either the BIA, USEPA, or the San Joaquin Valley Air Pollution Control District (SJVAPCD).</p> <ol style="list-style-type: none"> 11. Implement ride-sharing programs at the project site. 12. Use 100 percent electric vehicles at the project site. 13. Implement other feasible mitigation measures that are at the project site, which would reduce project-related NO_x and ROG emissions. 14. Enter into a Voluntary Emission Reduction Agreement (VERA) with the SJVAPCD. The VERA would allow the Tribe to fund air quality projects that quantifiably and permanently offset project operational emissions. 			
<p>4. Biological Resources</p>			
<p>The following mitigation measures are recommended to avoid potential adverse effects to the San Joaquin kit fox (SJKF) under the Preferred Alternative.</p>			
<p>A. Preconstruction surveys shall be conducted no less than 14 days and no more than 30 days prior to the beginning of ground disturbance, construction activities, and/or any project activity likely to impact the SJKF. These surveys shall be conducted in all potential SJKF habitat on and within 200 feet of the Airpark Site and Off-site Improvement Areas. The primary objective is to identify SJKF habitat features (e.g., potential dens and refugia) within the project area and evaluate their use by SJKF. These surveys shall include the maintenance of photo stations and track plates at burrows falling within the dimensional range of a SJKF burrow. If an active SJKF den is detected within or immediately adjacent to the Airpark Site or Off-site Improvement Areas, the United States Fish and Wildlife Service (USFWS) shall be contacted immediately to determine the best course of action.</p>	<p>Tribe/USFWS</p>	<p>Planning Phase Construction Phase</p>	
<p>B. Should SJKF be found during preconstruction surveys, the Sacramento Field Office of the USFWS shall be notified. A disturbance-free buffer shall be established around the burrows in consultation with the USFWS, and shall be maintained until a qualified biologist has determined that the burrows have been abandoned.</p>	<p>Tribe/USFWS</p>	<p>Planning Phase Construction Phase</p>	
<p>C. Permanent and temporary construction activities and other types of project-related activities should be carried out in a manner that minimizes disturbance to SJKF. Minimization</p>	<p>Tribe</p>	<p>Planning Phase Construction Phase</p>	

<p>measures shall include: restriction of project-related vehicle traffic to established roads, construction areas, and other designated areas; inspection and covering of structures (e.g., pipes), as well as installation of escape structures, to prevent the inadvertent entrapment of SJKF; and proper disposal of food items and trash.</p>		<p>Operation Phase</p>	
<p>D. Prior to the start of construction, the applicant shall retain a qualified biologist to conduct an informational meeting to educate all construction staff on the SJKF. This training shall include a description of the SJKF and its habitat needs; a report of the occurrence of SJKF in the project area; an explanation of the status of the species and its protection under the federal Endangered Species Act (FESA); and a list of the measures being taken to reduce effects to the species during project construction and implementation. The training shall include a handout containing training information. The project manager shall use this handout to train any additional construction personnel that were not in attendance at the first meeting, prior to starting work on the project.</p>	<p>Tribe</p>	<p>Planning Phase</p>	
<p>The following optional mitigation measure is recommended to reduce potential impacts to the American Badger under the Preferred Alternative.</p>			
<p>E. Prior to construction activities within the Airpark Site and Off-site Improvement Areas, a qualified biologist shall conduct a preconstruction survey for American Badger concurrent with the preconstruction survey for SJKF recommended under Mitigation Measure 4(A) to identify any active dens. If occupied dens are found during pre-construction surveys, the biologist would consult with California Department of Fish and Wildlife (CDFW) to determine whether the construction activities would adversely disrupt breeding behaviors of the badger. If it is determined that construction activities would disrupt breeding behaviors, then a 500-foot avoidance buffer shall be established around occupied burrow from March-August or until a qualified biologist can determine that juvenile badgers are self-sufficient enough to move from their natal burrow.</p>	<p>Tribe/CDFW</p>	<p>Planning Phase</p>	
<p>F. A habitat sensitivity training shall be conducted for American badger. The same information would be provided to crewmembers for this species as was identified in the habitat sensitivity training for SJKF.</p>	<p>Tribe</p>	<p>Planning Phase Construction Phase</p>	
<p>The following measures are recommended for the Preferred Alternative to avoid and/or reduce impacts to any potentially nesting migratory, raptor, and/or special-status bird species:</p>			
<p>G. If any construction activities (e.g., building, grading, ground disturbance, removal of vegetation) are scheduled to occur within the Airpark Site and Off-site Improvement Areas during the nesting season (February 15 to September 15), preconstruction nesting bird</p>	<p>Tribe</p>	<p>Planning Phase</p>	

<p>surveys shall be conducted. Preconstruction surveys for any nesting bird species shall be conducted by a qualified wildlife biologist throughout all areas of suitable habitat that are within 500 feet of any proposed construction activity. The surveys shall occur no more than 14 days prior to the scheduled onset of construction. If construction is delayed or halted for more than 14 days, another preconstruction survey for nesting bird species shall be conducted. If no nesting birds are detected during the preconstruction surveys, no additional surveys or mitigation measures are required.</p>			
<p>H. If nesting bird species protected under the Migratory Bird Treaty Act (MBTA) are observed within 500 feet of construction areas during the surveys, appropriate “disturbance-free” buffers shall be established. The size and scale of nesting bird buffers shall be determined by a qualified wildlife biologist and shall be dependent upon the species observed and the location of the nest. Buffers shall be established around all active nest locations. The nesting bird buffers shall be completely avoided during construction activities. The qualified wildlife biologist shall also determine an appropriate monitoring plan and decide if construction monitoring is necessary during construction activities. Monitoring requirements are dependent upon the species observed, the location of the nests, and the number of nests observed. The buffers may be removed when the qualified wildlife biologist confirms that the nest(s) is no longer occupied and all birds have fledged.</p>	<p>Tribe</p>	<p>Planning Phase Construction Phase</p>	
<p>I. If impacts (i.e., take) to migratory nesting bird species are unavoidable, consultation with USFWS shall be initiated. Through consultation, an appropriate and acceptable course of action shall be established.</p>	<p>Tribe/USFWS</p>	<p>Planning Phase Construction Phase</p>	
<p>The following mitigation measure is recommended for the Preferred Alternative to reduce impacts associated with off-site traffic mitigation and utility improvements to less-than-significant levels:</p>			
<p>J. Prior to the construction of any off-site traffic mitigation and utility infrastructure, a qualified biologist shall perform detailed, and if necessary, focused biological surveys of any undisturbed areas that would be affected by infrastructure development. If it is determined that off-site improvements have the potential to cause adverse effects to sensitive habitats, wetlands and/or Waters of the U.S., special-status species, and/or nesting birds, then project-specific mitigation requirements shall be developed and implemented and any necessary regulatory permits shall be obtained and adhered to.</p>	<p>Tribe</p>	<p>Planning Phase</p>	
<p>5. Cultural and Paleontological Resources</p>			

<p>A. In the event of inadvertent discovery of prehistoric or historic archaeological or paleontological resources during construction-related earth-moving activities, the appropriate agency shall be notified. All work within 50 feet of the find shall be halted until a professional archaeologist meeting the Secretary of the Interior's qualifications (36 CFR §61) can assess the significance of the find in consultation with the appropriate agency and the Tribe. If the find is determined to be significant by the archaeologist, then the archaeologist, in consultation with the appropriate agency and the Tribe, shall determine the appropriate course of action, including the development and implementation of a Treatment Plan, if necessary. All significant cultural materials recovered shall be subject to scientific analysis, professional curation, and a report prepared by the archaeologist according to current professional standards.</p>	<p>Tribe/BIA</p>	<p>Construction Phase</p>	
<p>B. If human remains are discovered during ground-disturbing activities, all construction activities shall halt within 100 feet of the find. The Tribe, appropriate agency, and County Coroner shall be contacted immediately, and the County Coroner shall determine whether the remains are the result of criminal activity; if possible, a human osteologist shall be contacted as well. If Native American, the provisions of appropriate federal or state laws is required. Construction shall not resume in the vicinity until final disposition of the remains has been determined.</p>	<p>Tribe/BIA/County</p>	<p>Construction Phase</p>	
<p>C. Prior to undertaking construction of off-site infrastructure, a qualified archaeologist shall conduct a survey for any areas to be disturbed during construction. If significant resources or significant archaeological sites are present, they shall be avoided, as feasible. If avoidance of such resources is not feasible, recordation of the sites shall be required, along with treatment as is recommended by the archaeologist after consultation with the State Historic Preservation Officer (SHPO) and, if the find is prehistoric, the Native American Heritage Commission (NAHC). If unknown resources are encountered during construction, recommendations, including the management recommendations listed in Mitigation Measures 5.6(A) and 5.6(B), shall be implemented to ensure that the resources are avoided, protected, and/or recorded. If off-site traffic mitigation occurs at the intersection of State Route (SR) 137 and SR-65, consistent with Mitigation Measure 7(J), identified resources shall be avoided by all project construction.</p>	<p>Tribe/SHPO/NAHC</p>	<p>Planning Phase</p>	
<p>6. Socioeconomics</p>			
<p>A. The Tribe shall implement policies at the new facility similar to or more effective than those in effect at the existing Eagle Mountain Casino, which include employee training, self-help brochures available on site, signage near automatic teller machines (ATMs) and cashiers,</p>	<p>Tribe</p>	<p>Operation Phase</p>	

<p>and self-banning procedures to help those who may be affected by problem gaming. The signage and brochures shall include advertising the problem gambler hotline and website.</p>			
<p>7. Transportation</p>			
<p>Where transportation infrastructure is shown as having an unacceptable level of service (LOS) with the addition of traffic from the Preferred Alternative (and caused at least in part from project traffic), the Tribe shall pay for a fair share of costs for the recommended mitigation (including right-of-way and any other environmental mitigation). In such cases, the Tribe shall be responsible for the incremental impact that the added project trips generate, calculated as a percentage of the costs involved for construction of the mitigation measure (referred to as the pro rata share). The pro rata share is calculated using the methodology presented in the California Department of Transportation (Caltrans) Guide for the Preparation of Traffic Impact Studies (Appendix I of the FEIS). Weekday PM peak hour was chosen for pro rata share calculations because it generally represents the worst-case scenario; calculations are included in the traffic impact study (TIS; Appendix I of the FEIS).</p>			
<p>Construction</p>			
<p>A. A traffic management plan shall be prepared in accordance with standards set forth in the Manual on Uniform Traffic Control Devices (MUTCD) for Streets and Highways (FHWA, 2003). The traffic management plan shall be submitted to each affected local jurisdiction and/or agency. Also, prior to construction, the contractor shall coordinate with emergency service providers to avoid obstructing emergency response service. Police, fire, ambulance, and other emergency response providers shall be notified in advance of the details of the construction schedule, location of construction activities, duration of the construction period, and any access restrictions that could impact emergency response services. Traffic management plans shall include details regarding emergency service coordination. Copies of the traffic management plans shall be provided to all affected emergency service providers.</p>	<p>Tribe/City/ Porterville and Tulare County Fire Departments</p>	<p>Planning Phase Construction Phase</p>	
<p>Operation (Opening Year 2021)</p>			
<p>The Tribe shall make fair share contributions to the traffic mitigation measures identified below prior to initiation of project construction. Funds shall either be paid directly to the jurisdictional agency or shall be placed in an escrow account for use by the governmental entity with jurisdiction over the road to be improved so that the entity may design (funding shall be for design standards consistent with those required for similar facilities in the region, unless a deviation is approved by the entity with jurisdiction), obtain approvals/permits for, and construct the recommended road improvement. While the timing for the off-site roadway improvements is not within the Tribe's jurisdiction or ability to control, the Tribe shall make good faith efforts to assist the County and City with implementation of the improvements prior to opening day.</p>			
<p>B. The Tribe shall notify the City of Porterville of special events scheduled at the events center, and the Tribe shall meet with local agencies charged with traffic enforcement (including but</p>	<p>Tribe/City/ County/Caltrans</p>	<p>Operation Phase</p>	

<p>not limited to the California Highway Patrol [CHP], City of Porterville, and Tulare County) to obtain necessary permits and identify any necessary traffic control measures to be implemented. If determined to be necessary, a Traffic Management Plan (TMP) shall be prepared.</p>			
<p>C. SR-190/Rockford Road (Road 208). Conduct an Intersection Control Evaluation (ICE), and install a traffic signal or roundabout, pending the outcome of the ICE. Pro-rata share: 28.2 percent.</p>	<p>Tribe</p>	<p>Operation Phase</p>	
<p>D. Scranton Avenue/West Street. Install a traffic signal and widen northbound approach to accommodate left-turn lane or install a roundabout. Pro rata share: 85.6 percent.</p>	<p>Tribe</p>	<p>Operation Phase</p>	
<p>E. Scranton Avenue/Westwood Street. Install a traffic signal or a roundabout. Pro-rata share: 55.8 percent.</p>	<p>Tribe</p>	<p>Operation Phase</p>	
<p>F. The Tribe shall enter into an agreement with the appropriate jurisdiction(s) regarding financial responsibility for improving the current conditions of West Street, Teapot Dome Avenue, and Westwood Street. The necessary street rehabilitations shall be determined by sound engineering principles associated with the pavement condition index. The Tribe's one-time fair share towards these improvements would take into consideration other regional projects that contribute to traffic on these roadways, including the County's jail project. Based on the pro-rata fair share calculations provided in the TIS (Appendix I of the Final EIS) for Alternative A, the Tribe would be responsible for: 1) 100 percent of the cost of 1/3 mile of road pavement overlay on West Street between Scranton Avenue and Yowlumne Avenue, 2) 59.5 percent of the cost of one mile of road reconstruction on Teapot Dome Avenue between Westwood Street (Road 224) and Newcomb Street, and 3) 65.2 percent of the cost of 1/2 mile of road reconstruction immediately north of Scranton Avenue on Westwood Street.</p>	<p>Tribe</p>	<p>Operation Phase</p>	
<p>Operation (Cumulative year 2040)</p>			
<p>The Tribe shall make fair share contributions available for mitigation recommended for cumulative impacts prior to construction of the improvement. The timing for construction of each improvement shall be at the discretion of the applicable jurisdictional agency. Funds shall be placed in an escrow account for use by the governmental entity with jurisdiction over the road to be improved so that the entity may design (funding shall be for design standards consistent with those required for similar facilities in the region, unless a deviation is approved by the entity with jurisdiction), obtain approvals/permits for, and construct the recommended road improvement. While the timing for the off-site roadway improvements is not within the Tribe's jurisdiction or ability to control, the Tribe shall make good faith efforts to assist the County and City with implementation of improvements prior to 2040.</p>			

G. SR-65 from Pioneer Avenue to SR-190: Upgrade facility to include auxiliary lanes between interchanges per Caltrans standards. Pro-rata share: 15.9 percent.	Tribe	Operation Phase	
H. SR-137/SR-63. Conduct an ICE if necessary. Widen northbound approach to accommodate an additional dedicated left turn lane, an additional dedicated thru lane and a dedicated right turn lane. Widen southbound approach to accommodate an additional thru lane. Widen eastbound approach to accommodate an additional dedicated left turn lane. Widen westbound approach to accommodate an additional dedicated thru lane and a dedicated right turn lane. Pro-rata share: 8.6 percent.	Tribe	Operation Phase	
I. SR-137/SR-65. Conduct an ICE if necessary, and widen eastbound approach to accommodate a dedicated thru lane with a shared thru/right turn lane. Pro rata share: 4.7 percent.	Tribe	Operation Phase	
J. SR-137/Road 204 (Spruce). Conduct an ICE if necessary, and widen westbound approach to accommodate two thru lanes and one free right turn-lane; widen southbound approach to accommodate dual-left turn lanes and shared thru-right lane; widen eastbound approach to provide a thru and thru-right lane. Pro rata share: 4.6 percent.	Tribe	Operation Phase	
K. SR-190/Road 192. Conduct an ICE if necessary, and install a traffic signal or roundabout. Pro rata share: 31.0 percent.	Tribe	Operation Phase	
L. SR-190/Road 216. Conduct an ICE if necessary, and install a traffic signal or roundabout. Pro rata share: 14.7 percent.	Tribe	Operation Phase	
M. SR-198/Spruce Road (Road 204). Conduct an ICE if necessary. Traffic signal modifications to accommodate dual northbound left turn lanes and a shared thru/right lane. Eastbound approach, widen to accommodate dedicated right/thru/left lanes. Eastbound approach channelize right turn lane. Pro-rata share: 4.7 percent.	Tribe	Operation Phase	
N. Avenue 256/Spruce Road (Road 204). Install traffic signal or a roundabout. Pro-rata share: 7.0 percent.	Tribe	Operation Phase	
8. Public Services			
Solid Waste			

A. Construction waste shall be recycled to the fullest extent practicable by diverting green waste and recyclable building materials (including, but not limited to, metals, steel, wood, etc.) away from the solid waste stream.	Tribe	Construction Phase	
B. A solid waste management plan for the new facility shall be developed and adopted by the Tribe that addresses recycling and solid waste reduction on site. These measures shall include, but not be limited to, the installation of a trash compactor for cardboard and paper products, and periodic waste stream audits.	Tribe	Planning Phase Construction Phase	
C. Security guards shall be trained to discourage littering on site.	Tribe	Planning Phase Operation Phase	
Law Enforcement, Fire Protection, and Emergency Medical Services			
D. Areas surrounding the gaming facilities shall have “No Loitering” signs in place, be well lit and be patrolled regularly by roving security guards.	Tribe	Operation Phase	
E. The Tribe shall conduct background checks of all gaming employees and ensure that all employees meet licensure requirements established by the Indian Gaming Regulatory Act (IGRA) and the Tribe’s Gaming Ordinance.	Tribe	Operation Phase	
The following mitigation measures shall be implemented in accordance with the Compact, 2019 MOU, and the Tribe’s Gaming Ordinance for the Preferred Alternative:			
F. Prior to operation the Tribe shall enter into agreements to reimburse the Porterville Police Department (PPD) and/or the Tulare County Sheriff’s Department (TCSD) for quantifiable direct and indirect costs incurred in conjunction with providing law enforcement services.	Tribe/PPD/TCSD	Planning Phase	
G. Parking areas shall be well lit and monitored by parking staff, and/or roving security guards at all times during operation. This will aid in the prevention of auto theft and other similar criminal activity.	Tribe	Operation Phase	
H. The Tribe shall adopt a Responsible Alcoholic Beverage Policy at the facility that shall include, but not be limited to, checking identification of patrons and refusing service to those who have had enough to drink.	Tribe	Operation Phase	

<p>I. The Tribe shall make annual payments to the City of Porterville and/or Tulare County to offset the cost of increased provision of law enforcement and fire protection/emergency medical services in amounts of at least \$275,870 for the Preferred Alternative.</p>	<p>Tribe/City/County</p>	<p>Planning Phase Operation Phase</p>	
<p>J. During construction, any construction equipment that normally includes a spark arrester shall be equipped with an arrester in good working order. This includes, but is not limited to, vehicles, heavy equipment, and chainsaws. Staging areas, welding areas, or areas slated for development using spark-producing equipment shall be cleared of dried vegetation or other materials that could serve as fire fuel. The contractor shall keep these areas clear of combustible materials in order to maintain a firebreak.</p>	<p>Tribe</p>	<p>Construction Phase</p>	
<p>Electricity, Natural Gas, and Telecommunications</p>			
<p>K. The Tribe shall contact USA North 811, which provides a free “Dig Alert” to all excavators (e.g., contractors, homeowners, and others) in central California, including Tulare County. This call shall automatically notify all utility service providers at the excavator’s work site. In response, the utility service providers shall mark or stake the horizontal path of underground facilities, provide information about the facilities, and/or give clearance to dig.</p>	<p>Tribe</p>	<p>Planning Phase Construction Phase</p>	
<p>9. Noise</p>			
<p>Construction</p>			
<p>A. In accordance with the City’s noise ordinance, construction activities shall not take place on the Off-Site Improvement Areas before 6:00 AM or after 9:00 PM on any day except Saturday or Sunday, or before 7:00 AM or after 5:00 PM on Saturday or Sunday.</p>	<p>Tribe</p>	<p>Construction Phase</p>	
<p>Operation</p>			
<p>B. The Tribe shall fund 100 percent of a noise reduction wall at the residence located on Road 216 between SR-190 and Scranton Avenue (Avenue 136), which will reduce the ambient noise level by a minimum of 3 dBA Leq. If requested by the residence, in lieu of a sound wall, the Tribe shall fund acoustic windows or a vegetative wall.</p>	<p>Tribe</p>	<p>Operation Phase</p>	
<p>C. The Tribe shall fund 100 percent of a noise reduction wall at the three residences located adjacent to Scranton Avenue between Rockford Road (Road 208) and SR-65, which will</p>	<p>Tribe</p>	<p>Operation Phase</p>	

<p>reduce the ambient noise level by a minimum of 3 dBA Leq. If requested by the residence, in lieu of a sound wall, the Tribe shall fund acoustic windows or a vegetative wall.</p>			
<p>10. Hazardous Materials</p>			
<p>A. If the 40-acre site is selected as the location of the WRF, soil sampling shall occur on the site to ensure agricultural chemical contamination is not present. If sampling and testing indicates hazardous materials contamination, the contaminated soils and/or groundwater shall be properly removed and/or remediated by qualified professionals consistent with an approved remediation plan.</p>	<p>Tribe</p>	<p>Planning Phase Construction Phase</p>	
<p>B. If the 8-acre site is selected as the location of the WRF, soil sampling for lead shall be conducted on the site. Contaminated soils that are determined to be hazardous shall be properly removed and/or remediated by qualified professionals consistent with an approved remediation plan.</p>	<p>Tribe</p>	<p>Planning Phase Construction Phase</p>	
<p>C. Prior to accepting fill material, it shall be verified to be clean through evidence such as a Phase I Environmental Site Assessment (ESA), soil sampling, or other appropriate measures.</p>	<p>Tribe</p>	<p>Construction Phase</p>	
<p>D. Personnel shall follow BMPs for filling and servicing construction equipment and vehicles. BMPs that are designed to reduce the potential for incidents/spills involving the hazardous materials include the following:</p> <ol style="list-style-type: none"> 1. To reduce the potential for accidental release, fuel, oil, and hydraulic fluids shall be transferred directly from a service truck to construction equipment. 2. Catch-pans shall be placed under equipment to catch potential spills during servicing. 3. Refueling shall be conducted only with approved pumps, hoses, and nozzles. 4. All disconnected hoses shall be placed in containers to collect residual fuel from the hose. 5. Vehicle engines shall be shut down during refueling. 6. No smoking, open flames, or welding shall be allowed in refueling or service areas. 7. Refueling shall be performed away from bodies of water to prevent contamination of water in the event of a leak or spill. 8. Service trucks shall be provided with fire extinguishers and spill containment equipment, such as absorbents. 9. Should a spill contaminate soil, the soil shall be put into containers and disposed of in accordance with local, state, and federal regulations. 	<p>Tribe</p>	<p>Planning Phase Construction Phase</p>	

10. All containers used to store hazardous materials shall be inspected at least once per week for signs of leaking or failure.			
E. In the event that contaminated soil and/or groundwater is encountered during construction related earth-moving activities, all work shall be halted until a professional hazardous materials specialist or other qualified individual assesses the extent of contamination. If contamination is determined to be hazardous, the Tribe shall consult with the USEPA to determine the appropriate course of action, including development of a Sampling and Remediation Plan if necessary. Contaminated soils that are determined to be hazardous shall be disposed of in accordance with federal regulations.	Tribe/USEPA	Construction Phase	
11. Aesthetics			
A. Lighting shall consist of limiting pole-mounted lights to a maximum of 25 feet tall.	Tribe	Construction Phase Operation Phase	
B. All lighting shall be high-pressure sodium or light-emitting diode (LED) with cut-off lenses and downcast illumination, unless an alternative light configuration is needed for security or emergency purposes.	Tribe	Planning Phase Construction Phase Operation Phase	
C. Placement of lights on buildings shall be designed in accordance with Unified Facilities Criteria (UFC) 3-530-01, Interior, Exterior Lighting, and Controls so as not to cast light or glare offsite. No strobe lights, spotlights, or floodlights shall be used.	Tribe	Planning Phase Construction Phase Operation Phase	
D. Shielding, such as with a horizontal shroud, shall be used in accordance with UFC 3-350-01 for all outdoor lighting so as to ensure it is downcast.	Tribe	Planning Phase Construction Phase Operation Phase	
E. All exterior glass shall be non-reflective low-glare glass.	Tribe	Planning Phase Construction Phase	
F. Screening features and natural elements shall be integrated into the landscaping design of the project to screen the view of the facilities from directly adjacent existing residences.	Tribe	Planning Phase Construction Phase	
G. Design elements shall be incorporated into the project to minimize the impact of buildings and parking lots on the viewshed. These elements include:	Tribe	Planning Phase Construction Phase	

<ol style="list-style-type: none">1. Incorporation of landscape amenities to complement buildings and parking areas, including setbacks, raised landscaped berms and plantings of trees and shrubs.2. Use earth tones in paints and coatings, and use native building materials such as stone.			
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**Secretarial Determination for the
Tule River Indian Tribe of the Tule River Reservation
Pursuant to the Indian Gaming Regulatory Act, 25 U.S.C. § 2719(b)(1)(A)**

DECISION

On September 16, 2016, the Tule River Indian Tribe of the Tule River Reservation (Tribe) submitted a request to the Bureau of Indian Affairs (BIA) to accept into trust approximately 40 acres of land known as the Airpark Site (Site) in the City of Porterville, Tulare County, California, for gaming and other purposes.¹ The Tribe also submitted a request to the BIA for a determination that the Site is eligible for gaming pursuant to the Indian Gaming Regulatory Act (IGRA), 25 U.S.C. § 2701 *et seq.*²

The Tribe proposes to construct a casino-resort, including a hotel, conference and event center, parking, and supporting facilities (Proposed Project). The Proposed Project would replace the Tribe's existing on-reservation Eagle Mountain Casino, which the Tribe would then convert to educational, health care, and tribal government services. The Site lies approximately 15 miles west of the Tribe's Reservation boundary.

Section 20 of IGRA generally prohibits gaming activities on lands acquired in trust by the United States on behalf of a tribe after October 17, 1988, subject to several exceptions. One exception, known as the "Secretarial Determination" or "two-part determination" permits a tribe to conduct gaming on lands acquired after October 17, 1988 where the Secretary of the Interior (Secretary), after consultation with the Indian tribe and appropriate State and local officials, including officials of other nearby Indian tribes, determines that:

1. A gaming establishment on the trust lands would be in the best interest of the tribe and its members; and
2. The Secretary also determines that gaming on the trust lands would not be detrimental to the surrounding community.

¹ See Memorandum to Paula Hart, Director, Office of Indian Gaming, from Amy Dutschke, Regional Director, Pacific Region, *Findings of Pacific Region on the 25 C.F.R. Part 292 Factors* [hereinafter R.D.'s Part 292 Findings] (Aug. 13, 2019) and *Findings of Pacific Region on the 25 C.F.R. Part 151 Factors* [hereinafter R.D.'s Part 151 Findings] (Aug. 13, 2019). See also Memorandum to Amy Dutschke, Regional Director, Pacific Region, from Neil Peyron, Chairman, Tule River Indian Tribe (Sept. 16, 2016) transmitting the Tule River Indian Tribe Off Reservation Fee-to-Trust Application for Gaming Purposes [hereinafter Tribe's 151 Application]. See also Tule River Indian Tribe Resolution No. FY2016-247, *Resolution Approving Applications To Place Land into Trust for Off-Reservation Gaming Purposes* (Sept. 13, 2016)

² See Tule River Indian Tribe 292 Application (June 27, 2018) [hereinafter Tribe's 292 Application], see also Tule River Indian Tribe Resolution No. FY2018-166, *Authorizing the Chairman to Submit the 292 Application to the Secretary of the Interior* (June, 27, 2019).

Under this exception, the Governor of the State in which the gaming activity is to be conducted must concur in the Secretary's "two-part determination" before the applicant tribe may operate gaming on the proposed site.

We completed our review of the Tribe's application and determined that the proposed gaming establishment at the Site would be in the best interest of the Tribe and its members and would not be detrimental to the surrounding community.

The Tribe is suffering from a water shortage issue that is exacerbating a housing shortage. The Tribe has a larger than average number of minors and a higher than average poverty rate, which makes the availability of housing an important issue. Additionally, the Tribe is experiencing budget constraints that further limit its ability to address the needs of its members.

To address these issues, the Tribe seeks to relocate its Eagle Mountain Casino to the Site. The casino is the largest water user on the Reservation. This will allow the Tribe to re-allocate water to tribal housing. Relocating the casino would also allow the Tribe to expand the casino into a casino-resort, thereby, improving the Tribe's revenue stream.

The availability of water is a significant concern for the local community, where many tribal members live. The Tribe will partner with the City to develop a water reclamation facility near the Site, resulting in an increase of available City-supplied potable water. I note the support of local governments and the collaboration between the Tribe and the City to address the availability of water, a vital resource for both the Tribe and the surrounding community.

Much of the information relied on in the Secretarial Determination is confidential commercial and/or financial information of the Tribe and would not customarily be released to the public, therefore it is confidential and should be withheld from the public under Exemption 4 of the Freedom of Information Act, 43 C.F.R. §§ 2.23 and 2.24.

BACKGROUND

Proposed Project

The Tribe plans to relocate the Eagle Mountain Casino by constructing a casino-resort at the Site.³ The Proposed Project will feature a 104,637-square foot casino, a 250-room hotel, food and beverage facilities, administrative space, a multi-purpose events center, a conference center, a fire station, and associated parking and infrastructure.

The Proposed Project will connect to the City's municipal water supply and wastewater facilities.⁴ In partnership with the City, the Tribe will also construct a water reclamation facility on city-owned property. The water reclamation facility will treat secondary effluent from the

³ Final Environmental Impact Statement titled *Tule River Indian Tribe Fee-to-Trust and Eagle Mountain Relocation Project*, published May 31, 2019 [hereinafter FEIS] at § 2.3, available at <https://www.tulerivereis.com/>.

⁴ FEIS § 2.3.3.

City's wastewater treatment plant to provide recycled water to the Proposed Project and to the Porterville Sports Complex. The Sports Complex, consisting primarily of grass ball-fields, is located north of the Site and uses 138,500 gallons per day of potable City water for irrigation. Recycled water from the water reclamation facility will replace the potable water currently used at the Sports Complex. Because the Proposed Project will use less potable water than is currently used to irrigate the Sports Complex, there will be a 73,828-gallon per day increase in available potable water for the City.

The Tribe will also repurpose the existing Eagle Mountain Casino building for tribal governmental uses.⁵ The relocation of the existing casino will increase the availability of on-reservation water by 27,863 gallons per day.

The Tule River Indian Tribe

In 1851, the United States negotiated treaties with California tribes, including the predecessors of the Tule River Indian Tribe.⁶ Congress failed, however, to ratify the treaties.⁷ In 1856, the California Superintendent of Indian Affairs established the original Tule River Reservation on 2,240 acres of prime farmland on the banks of the Tule River near the present City of Porterville.⁸ Numerous Indian villages relocated to the Tule River Reservation.⁹

In 1860, the Superintendent's clerk gained personal title to the original Tule River Reservation and rented it to the United States for use as a reservation.¹⁰ Rather than purchase or repossess the property, as was authorized by Congress,¹¹ the United States relocated the Tribe 15 miles east to the Sierra Nevada Mountains.¹² In 1873, two executive orders created the Tribe's Reservation in the foothills of the Sierra Nevada Mountains.¹³ In 1878, a third executive order reduced the size of the Reservation. Since then, the boundaries of the Reservation have changed little. The current Reservation includes more than 55,000 acres of primarily steep and rocky terrain.

⁵ FEIS § 2.3.3.

⁶ *Indian Affairs, Laws and Treaties*, Vol. IV, compiled and edited by Charles J. Kappler (1927) at 1099, Treaty with the Chu-Nute, Wo-Wol, etc. June 3, 1851.

⁷ *Id.* at 1082, Note 1, containing the Senate's unanimous resolution to refuse ratification of the 18 California treaties on June 28, 1852.

⁸ FEIS § 3.6.2. See also G. Frank, C. E. Goldberg, *Defying the Odds: The Tule River Tribe's Struggle for Sovereignty in Three Centuries*, Yale University Press (2010) [hereinafter *Defying the Odds*] at 40-44.

⁹ *Defying the Odds* at 40-44.

¹⁰ *Id.*

¹¹ Act to Provide for the Better Organization of Indian Affairs in California, 13 Stat. 39 (1846).

¹² *Defying the Odds* at 48.

¹³ *Executive Orders Relating to Indian Reserved from May 14, 1855, to July.1, 1902*, compiled by the Indian Office under authority of act of Congress approved May 17, 1882 (22 Stats., p.88), Government Printing Office (1902) at 34.

Socioeconomics of the Tribe

Socioeconomics can be measured by a combination of employment, income, and education. The Tribe experiences higher than average unemployment and underemployment rates relative to the surrounding community. The Tribe's unemployment rate for members living on the Reservation in 2016 was 40%, while the unemployment rate for the County was 11%. Of the Tribe's members who are employed, many are underemployed, earning below the poverty threshold.¹⁴ In 2017, approximately 44% of the Tribe's members lived in households that were near or below the poverty threshold. The poverty rate for the County was approximately 24%.

The Tribe attributes its unemployment and underemployment rates to its members' lower college education rate. The Tribe's adult members have a significantly lower rate of college education at approximately 7%, compared to the County at 13.3%.

The Tribe currently has 1,875 enrolled members and expects a growth rate of 3% per year.¹⁵ The Tribe has a larger number of minors than the surrounding community with approximately 41%, while minors make up 35% of the County's population.¹⁶ The Tribe's demographics indicate that its members are likely to need more governmental assistance than other populations due to the high unemployment and underemployment and the relatively large number of minor children who are living in households that are at or near poverty. The Tribe intends to address these areas of concern through increased programmatic funding and economic development.¹⁷

The Eagle Mountain Casino

In 1996, the Tribe opened the Eagle Mountain Casino, which is the main revenue source for the Tribe.¹⁸ The casino is one of the largest employers in the County and currently provides more than 400 jobs. The casino's remote location, however, limits its economic benefit. Employees and patrons must travel on the only access road to the casino, which creates significant safety concerns due to sharp turns, limited sight distance, and narrow road widths. The casino does not offer alcoholic beverages, as do competing venues, due to concerns for public safety.

¹⁴ Tribe's 292 Application, Exhibit A at 5. In 2005, 48% of the Tribe's members who had jobs were earning below the poverty threshold, the Tribe did not supply more recent data but asserts that number has not changed significantly since then.

¹⁵ FEIS § 3.7.2.

¹⁶ FEIS § 3.7.2. See also Tribe's 292 Application, Exhibit A at 5. The Tribe conduct an enrolled member demographic survey during the winter of 2017-2018. Tribe's 292 Application, Exhibit A, *The Tule River Tribe Unmet Needs Report* contains the Tribe's commercial and/or financial information which is customarily and actually treated as private by the Tribe, and was submitted to the Department under an assurance of privacy. The Department will withhold *The Tule River Tribe Unmet Needs Report* in its entirety from the public because it is confidential within the meaning of Exemption 4 of the Freedom of Information Act (FOIA) 43 C.F.R. §§ 2.23 and 2.24. See *Food Mktg. Inst. v. Argus Leader Media*, 139 S. Ct. 2356 (2019).

¹⁷ Tribe's 292 Application at 12-22, 24; and Exhibit A at 5.

¹⁸ FEIS § 1.3.

On-Reservation Water Shortage

The Tribe is experiencing a severe shortage of on-reservation potable water.¹⁹ The Tribe's water supply includes surface water from the South Fork of the Tule River, spring water, and groundwater from wells.

The Tribe draws the majority of its potable water supply from the South Fork of the Tule River, but has a limited allocation. Many of the Reservation's larger springs are suitable only for agricultural use due to the presence of carbon dioxide in the water. The Tribe relies on groundwater from three wells to make up supply deficits, but the Reservation's wells suffer from yield and water quality issues.

The Tribe's combined water supply are insufficient to meet the water demand in the late summer and early fall due to declining seasonal flows of the South Fork of the Tule River. This has resulted in many on-reservation households running out of water on a recurring basis despite water conservation notices.²⁰

On-Reservation Housing Restrictions

The water shortage has forced the Tribe to issue a building moratorium. The Tribe has a housing waiting list of over 200 members. The Tribe has identified the lack of adequate housing coupled with the water shortage as a significant limitation for the quality of life for its members living on the Reservation.²¹

The Tribe's on-reservation housing is lacking in both quantity and quality resulting in a significant shortage of on-reservation housing that is compounded by the water shortage.²² The Tribe has approximately 350 houses on the Reservation. The Tribe estimates that approximately 25% of the Tribe's on-reservation houses need to be replaced immediately. The Tribe will need to replace approximately 58% of the on-reservation houses within the next 10 years. In total, the Tribe anticipates the need for nearly 700 new housing units over the next 20 years.²³

On-Reservation Water Distribution System Limitations

The Tribe's water distribution system needs approximately \$25 million of infrastructure improvement to modernize the system.²⁴ The Tribe's water distribution system is undersized and outdated.²⁵ The water system includes a series of storage tanks ranging in size from 3,000 gallons to 200,000 gallons. These tanks, however, do not function as a coordinated storage

¹⁹ FEIS §§ 3.7.2 and 3.10.1.

²⁰ Tribe's 292 Application at 8.

²¹ Tribe's 292 Application, Exhibit A at 9-11.

²² FEIS § 3.7.2.

²³ Tribe's 292 Application at 2.

²⁴ *Id.* at 9.

²⁵ FEIS § 3.10.1.

system, limiting the Tribe's ability to accommodate demands. The water system distributes potable water through 6- and 8-inch distribution pipes of varying ages, a 4-inch pipe that is roughly 50 years old, and 1- and 2-inch pipes that connect individual—or, in one instance, up to five—homes. Individual homes are not metered, and few of the system's components are monitored regularly or thoroughly. The amount of water lost due to leakage may be significant, and the lack of metering and monitoring makes quantifying losses difficult.

Tribal Budgetary Limitations

In addition to the water shortage, housing shortage, and aging infrastructure, the Tribe is experiencing budgetary limitations.²⁶ The Tribe's annual general fund has operated at a deficit in recent years, forcing budget and staffing reductions. The following tribal government departments have experienced the largest reductions in budget and personnel over the course of the last year:

- Department of Public Safety: \$346,212 in budget cuts and eliminated 14 full-time positions.
- Department of Family and Social Services: \$312,883 in budget cuts and eliminated 2 full-time positions.
- Department of Public Works: \$108,938 in budget cuts and eliminated 5 full-time positions.

Despite these cuts, the Tribe expects that the annual deficit will continue to grow to approximately \$8 million. The Tribe will need to implement further cuts to departments and programs, diminishing the Tribe's ability to provide services to its members.

REVIEW OF THE TRIBE'S APPLICATION PURSUANT TO IGRA AND PART 292, SUBPART C

The Department's regulations at 25 C.F.R. Part 292 set forth the procedures for implementing Section 20 of IGRA. Subpart C of Part 292 governs Secretarial Determinations.

Sections 292.13 through 292.15 identify the conditions under which a tribe may conduct gaming.

Sections 292.16 through 292.18 identify the information that must be included in a tribe's request for a Secretarial Determination.

Section 292.17 pertains to an evaluation of whether the gaming establishment would be in the best interest of the tribe and its members.

²⁶ R.D.'s Part 292 Findings at 13.

Section 292.18 pertains to an evaluation of whether there is detriment to the surrounding community.

APPLICATION CONTENTS

Section 292.16 provides that a tribe's application requesting a Secretarial Determination under section 292.13 must include the following information:

(a) The full name, address, and telephone number of the tribe submitting the application.

The Tribe's name is:
Tule River Indian Tribe of
the Tule River Reservation

The Tribe's mailing address is:
P.O. Box 589
Porterville, California 93258

The Tribe's address is:
340 North Reservation Road
Porterville, CA 93257

The Tribe's phone numbers are:
(559) 781-4271 phone
(559) 781-4610 fax

(b) A description of the location of the land, including a legal description supported by a survey or other document.

The Site includes 17 parcels totaling approximately 40 acres, located on West Street, in the City of Porterville, Tulare County, California.²⁷ The parcels are identified by APN: 302-400-001 through 302-400-017. A legal description is included as **Appendix II**.

(c) Proof of identity of present ownership and title status of the land.

The Tribe owns the Site in fee simple. The Tribe purchased the Site from the City in 1990.²⁸ The Tribe submitted a commitment for title insurance, identified as File No.: 01180-183174-Amended No. 1, effective September 1, 2016, issued by Stewart Title Guaranty Company.²⁹

²⁷ R.D.'s Part 292 Findings at 6, and R.D.'s Part 151 Findings at 4. See also Tribe's 151 Application at 3-4, and Tribe's 292 Application at 16.

²⁸ Tribe's 292 Application, Exhibit F.

²⁹ R.D.'s Part 292 Findings at 6, and R.D.'s Part 151 Findings at 4. See also Tribe's 151 Application at 3-4, and Tribe's 292 Application at 16.

(d) Distance of the land from the Tribe's reservation or trust lands, if any, and tribal government headquarters.

The Site is located approximately 15 miles from the Reservation boundary, and approximately 18.5 miles by road from the Tribe's headquarters.³⁰

(e) Information required by section 292.17 to assist the Secretary in determining whether the proposed gaming establishment will be in the best interest of the tribe and its members.

As discussed more fully below under Section 292.17, the Tribe has submitted the required information.

(f) Information required by section 292.18 to assist the Secretary in determining whether the proposed gaming establishment will not be detrimental to the surrounding community.

As discussed more fully below under Section 292.18, the Tribe has submitted the required information.

(g) The authorizing resolution from the tribe submitting the application.

On September 13, 2016, the Tule River Tribal Council approved Tribal Resolution No. FY2016-247, authorizing the preparation and submission of an application for transfer into trust of the 40-acre Site for gaming purposes.³¹ On June 27, 2018, the Tule River Tribal Council approved Tribal Resolution No. FY2018-166, authorizing the preparation and submission of an application for a Secretarial Determination pursuant to Section 20 of IGRA and the Department's implementing regulations at 25 C.F.R. Part 292.³²

(h) The tribe's gaming ordinance or resolution approved by the National Indian Gaming Commission in accordance with 25 U.S.C § 2710, if any.

The National Indian Gaming Commission approved amendments to the Tribe's Gaming Ordinance on March 14, 2019.³³ The Tribe will submit to the National Indian Gaming Commission any necessary amendments to the Gaming Ordinance in accordance with IGRA.³⁴

³⁰ R.D.'s Part 292 Findings at 6.

³¹ Tribe's 151 Application, Exhibit B.

³² Tribe's 292 Application, Exhibit D.

³³ Jonodev Chaudhuri, NIGC Chairman, letter to Kerry K. Patterson, Legal Council for the Tule River Tribe, March 14, 2019, regarding amendments to the Tule River Tribe Gaming Ordinance, available at <https://www.nigc.gov/images/uploads/gamingordinances/20190314TuleRiverOrdAmendApproval.pdf> (last accessed August 1, 2019).

³⁴ Tribe's 292 Application at 17.

(i) The tribe's organic documents, if any.

The Tribe is organized under the Indian Reorganization Act.³⁵ The Tribe is governed by its Constitution and Bylaws that were ratified on January 15, 1936, and last amended on March 4, 1974. The Tribe submitted a copy of its Constitution and Bylaws.³⁶

(j) The tribe's class III gaming compact with the State where the gaming establishment is to be located, if one has been negotiated.

In 2017, the Tribe and the State of California entered into a new class III tribal–state gaming compact (Tribal-State Compact).³⁷ Section 4.2 of the Tribal-State Compact authorizes gaming on lands held in trust for the Tribe in 2017. However, Section 4.2 also states “[i]f additional land is placed in trust for the Tribe pursuant to [a Secretarial Determination] the Tribe may request and the State shall agree to enter into negotiations to allow the Tribe to operate a gaming facility on that trust land.”

(k) If the tribe has not negotiated a class III gaming compact with the State where the gaming establishment is to be located, the tribe's proposed scope of gaming, including the size of the proposed gaming establishment.

See above.

(l) A copy of the existing or proposed management contract required to be approved by the NIGC under 25 U.S.C. § 2711 and 25 CFR Part 533, if any.

The Tribe will manage the Proposed Project directly, therefore, this section does not apply.³⁸

ANALYSIS OF BEST INTEREST OF THE TRIBE AND ITS MEMBERS

Section 292.17 provides that an application must contain:

(a) Projections of class II and class III gaming income statements, balance sheets, fixed assets accounting, and cash flow statements for the gaming entity and the tribe.

When considering whether a proposed gaming project is in the best interest of the Tribe and its members, we examine the income statement, which projects the income and expenses in

³⁵ Indian Reorganization Act, 48 Stat. 984, Public Law 73-383 (June 18, 1934).

³⁶ Tribe's 292 Application, Exhibit G.

³⁷ Tribal-State Compact between the State of California and the Tule River Indian Tribe of California, dated August 2017 [hereinafter Tribal-State Compact].

³⁸ Tribe's 292 Application at 18.

accordance with generally accepted accounting principles. We use the income statement to determine the profitability of a proposed gaming project.

We also review the balance sheet, which lists assets, liabilities, and capital. From the balance sheet, we can identify various ratios to determine if a proposed gaming project will grow, and whether it will have the resources to pay its obligations in the short term and long term. It also allows us to review the ownership composition of the proposed gaming project.

Cash flow statements project the distribution to the various stakeholders, such as debt holders and owners. They project the ongoing investments the Tribe will make, what debt will be incurred or repaid, and the projected utilization of non-cash expenses, such as depreciation and amortization. We review cash flow statements to determine the amounts that will go to the manager/developer, the debt holders, the state and its political subdivisions, and the Tribe. From cash flow statements, we can generally determine whether the Tribe will be the primary beneficiary of the proposed gaming project.

Because the financial documents are based on projections rather than actual performance, we examine the financial information to determine whether they are reasonable. This assists us in reaching conclusions that the proposed gaming project will likely perform according to the projections.

Reports

The Tribe submitted the *Eagle Mountain Casino Resort Business Plan* (Business Plan) prepared by the Innovation Group. The Business Plan includes pro-forma financing statements, including income statement, balance sheet, and statement of cash flows for the first five years of operations.³⁹ The Innovation Group based the Business Plan and financial projections on a feasibility study prepared by KlasRobinson Q.E.D. as well as on design features of the Proposed Project and certain assumptions discussed below.

As part of the environmental review process, KlasRobinson Q.E.D. prepared an analysis of the economic impact of the Proposed Project in the *Economic Impact of Planned New Eagle Mountain Casino* (Economic Impact Analysis).⁴⁰ The Economic Impact Analysis analyzed impacts to the local economy and the Tribe from construction of the Proposed Project and its subsequent operation. KlasRobinson Q.E.D. based the Economic Impact Analysis on its feasibility study which contained market projections based on certain assumptions discussed below.

³⁹ Tribe's 292 Application, Exhibit E. The *Eagle Mountain Casino Resort Business Plan* contains the Tribe's commercial and/or financial information which is customarily and actually treated as private by the Tribe, and was submitted to the Department under an assurance of privacy. The Department will withhold the Business Plan in its entirety from the public because it is *confidential* within the meaning of Exemption 4 of the Freedom of Information Act (FOIA) 43 C.F.R. §§ 2.23 and 2.24. See *Food Mktg. Inst. v. Argus Leader Media*, 139 S. Ct. 2356 (2019).

⁴⁰ KlasRobinson Q.E.D. *Economic Impact of Planned New Eagle Mountain Casino*, November 15, 2016, Appendix B to the DEIS [hereinafter Economic Impact Analysis].

The Business Plan and the Economic Impact Analysis utilized the following assumptions. The new casino-resort will be a high-quality facility, with 1,750 gaming machines including a mix of class II and class III machines some of which will be high-limit as well as table games and poker tables. The hotel and other amenities will be of a similar quality in design, décor, and service as existing and new competitors of a comparable size in California. The new location and high-quality amenities are expected to capture more of the gaming market and result in a higher win per visit than the existing facility. The pro forma income statements identify expected visitation rates and win per visit. We find these assumptions to be reasonable by industry standards and the market research conducted for the Proposed Project.

Analysis

The Tribe's Eagle Mountain Casino captured approximately 10.7% of the local market in 2016.⁴¹ The Business Plan projects that the Proposed Project will nearly double the Tribe's capture rate of the local gaming market. The Proposed Project includes a different mix of games and amenities than the existing casino, resulting in a slightly higher win per visit. With the higher capture rate and win per visit, the Proposed Project will significantly increase the Tribe's net revenue in the first year of operation with stabilized growth for the following years. The Economic Impact Analysis estimates the Proposed Project would generate \$103.6 million in new annual revenue.

The Business Plan anticipates that construction costs for the Proposed Project would be \$245 million.⁴² The Business Plan projects that the Tribe may obtain a loan of \$220.5 million, representing a 90/10 debt-to-equity ratio. Based on the high debt-to-equity ratio, the Business Plan anticipates that interest rates could be in the range of 12% to 18%, but the pro-forma financial statement assumes a 14.5% interest rate, and long-term debt with a term of 15 years. The Cash Flow Statement projects that at the end of the first year of operation, after covering expenses and servicing debts, the Proposed Project will be profitable.

The Regional Director found, and we concur, that the Tribe submitted the required financial documentation. Our analysis of the financial projections finds that they are reasonable, and indicates that the Proposed Project would provide needed revenue for the Tribe.⁴³

⁴¹ Tribe's 292 Application, Exhibit E at 60.

⁴² *Id.* at 50.

⁴³ We have carefully reviewed all of the financial and economic documents and the analysis and projections contained therein. We have limited our discussion of these documents here because they contain confidential commercial and financial information of the Tribe, which is customarily and actually treated as private by the Tribe, and was submitted to the Department under an assurance of privacy. The Department will withhold these documents in their entirety from the public because they are *confidential* within the meaning of Exemption 4 of the Freedom of Information Act (FOIA) 43 C.F.R. §§ 2.23 and 2.24. See *Food Mktg. Inst. v. Argus Leader Media*, 139 S. Ct. 2356 (2019).

(b) Projected tribal employment, job training, and career development

The Economic Impact Analysis projects that construction of the Proposed Project will create 1,200 temporary construction jobs.⁴⁴ Operation of the casino-resort will provide approximately 978 permanent jobs and expand to approximately 1,215 permanent jobs once fully-operational. That equates to 790 new positions after factoring in the relocation of the Tribe's employees from the Eagle Mountain Casino. The Proposed Project will create substantial employment opportunities for unemployed and underemployed tribal members, including salaried staff, hourly full-time employees, and hourly part-time employees.⁴⁵

The Tribe utilizes an Indian preference policy for hiring and intends to offer training programs to assist tribal members and local residents in becoming qualified for employment at the Proposed Project. The Tribe's goal is to develop tribal members' leadership and management skills.⁴⁶

The Tribe also intends to use increased revenue from the Proposed Project to expand governmental services, including education and career training for its members.⁴⁷ Further, the Tribe expects that the additional revenue will support employment opportunities for tribal members in tribal government or tribal programs.

The Regional Director found, and we concur, that the Tribe submitted the required projections of tribal employment, job training, and career development.⁴⁸ The record shows that the Proposed Project will create employment opportunities, job training, and career development for tribal members.

(c) Projected benefits to the tribe and its members from tourism

The Tribe expects that the Proposed Project will lead to increased visitation to the City and County.⁴⁹ The close proximity of two highways, state route 65 and state route 190, provides access to the Site. The Proposed Project is a high quality casino-resort that includes gaming, lodging, entertainment, dining, and shopping experiences. The Tribe reports that no other hotel or lodging establishment in the surrounding area provides the multiple amenities and first-class service that the Proposed Project will offer. The 20,000 square-foot convention space, 9,000 square-foot divisible ballroom, and other breakout rooms, will make the Proposed Project ideal for conferences, conventions, and other business events. In addition, the Proposed Project will have a 1,700-seat entertainment venue that would host shows, as well as cultural and other events for the Tribe. The addition of the hotel, conference space, and event center to the casino will encourage increased tourism in and around Porterville. The Economic Impact Analysis

⁴⁴ FEIS § 4.7; *see also* Tribe's 292 Application at 21.

⁴⁵ R.D.'s Part 292 Findings at 12.

⁴⁶ Tribe's 292 Application at 22.

⁴⁷ R.D.'s Part 292 Findings at 12.

⁴⁸ *Id.*

⁴⁹ *Id.* at 12-13.

estimates that approximately 74% of new spending at the Proposed Project will come from outside of the County, with 22% of that coming from out-of-state.⁵⁰

Businesses owned by or employing tribal members will benefit from increased tourism in and around Porterville.⁵¹ The Proposed Project will also increase knowledge of the Tribe and its history by encouraging patrons to visit the Tribe's Cultural Center.

The Regional Director found, and we concur, that the Tribe submitted the required projections of benefits to the Tribe and its members from tourism.⁵² The record shows that the Proposed Project will stimulate local tourism and benefit the local businesses and economy by creating an influx of non-resident consumers.

(d) Projected benefits to the tribe and its members from the proposed uses of the increased tribal income

As detailed above, the tribal government is facing annual budget deficits despite cuts to many programs and departments. The Tribe anticipates that the Proposed Project will generate much needed additional revenue.⁵³ The Tribe will use the increased revenue to promote tribal economic development and improve the quality of life of tribal members through better-funded tribal departments and programs. The increased revenue will also help stabilize the Tribe's budget promoting tribal self-sufficiency and strong tribal government.

The Regional Director found, and we concur, that the Tribe submitted the required projections of benefits to the Tribe and its members from the uses of the increased tribal income.⁵⁴ The Tribe's application demonstrates a clear commitment to strengthening its government and advancing its social, political, and economic opportunities. The Tribe's intent to use the gaming revenue to address unmet social and economic needs of its members demonstrates that the Proposed Project is in the best interest of the Tribe and its members.

(e) Projected benefits to the relationship between the tribe and non-Indian communities

The Proposed Project will enhance the relationship between the Tribe and the local non-Indian community. The Tribe already has a strong relationship with the community of Porterville. The Proposed Project's water recycling facility that the Tribe will construct on city-owned property resulted from this strong relationship. The Tribe entered into a Memorandum of Understanding with the City, to facilitate the development of the Proposed Project and ongoing cooperation

⁵⁰ Economic Impact Analysis at 9.

⁵¹ R.D.'s Part 292 Findings at 13.

⁵² *Id.*

⁵³ *Id.*

⁵⁴ *Id.* at 14.

between the Tribe and the City.⁵⁵ The Memorandum of Understanding articulates the services that the City will provide to the Proposed Project and the compensation the Tribe will provide for those services. The Memorandum of Understanding also articulates the Tribe's responsibility to mitigate project related traffic impacts.

Further, the Tribe continues its outreach efforts with the surrounding communities by meeting with local civic and business leaders, community groups, service organizations, industry groups, and employee/trade associations to discuss the Proposed Project.⁵⁶ By doing so, the relationship between the Tribe and local community remains strong.

The Regional Director found, and we concur, that the Proposed Project already has generated positive impacts to the relationship between the Tribe and the non-Indian communities.⁵⁷ The Tribe has developed a strong relationship with the non-Indian communities surrounding the Site. The record contains a number of support letters from City and County officials as well as representatives from other organizations.⁵⁸ The Proposed Project reflects collaboration between the Tribe and the City to address the availability of water, a vital resource for any community. The Tribe intends to continue to work with community leaders and businesses to strengthen their relationship.

(f) Possible adverse impacts on the tribe and its members and plans for addressing those impacts

The Tribe has not experienced significant adverse impacts to itself or its members from the operation of the Eagle Mountain Casino.⁵⁹ Further, the Tribe does not anticipate the Proposed Project will create any significant adverse impacts to its members. The Tribe will continue to offer various support programs to help mitigate problem gambling, including but not limited to distribution of pamphlets, self-exclusion programs, and information cards.

The Regional Director found, and we concur, that the Tribe submitted the required information regarding possible adverse impacts on the Tribe and its members and plans for addressing those impacts.⁶⁰

⁵⁵ Memorandum of Understanding between the Tule River Indian Tribe, the Tule River Tribe Gaming Authority, and the City of Porterville, (Aug. 5, 2019) [hereinafter MOU].

⁵⁶ R.D.'s Part 292 Findings at 14.

⁵⁷ *Id.*

⁵⁸ *Id.*; see also Tribe's 292 Application, Exhibit B.

⁵⁹ Tribe's 292 Application at 26.

⁶⁰ R.D.'s Part 292 Findings at 14.

(g) Distance of the land from the location where the tribe maintains core governmental functions

The Site is located in the City of Porterville, California, approximately 15 miles from the Reservation boundary, and approximately 18.5 miles by road from the tribal headquarters.⁶¹ The Regional Director found, and we concur, that the Tribe submitted the required information regarding the distance of the Site from the Tribe's headquarters.

(h) Evidence that the tribe owns the land in fee or holds an option to acquire the land at the sole discretion of the tribe, or holds other contractual rights to cause the lands to be transferred from a third party to the tribe or directly to the United States.

The Tribe submitted proof that it owns the Site in fee simple.⁶² The Tribe purchased the Site from the City in 1990. The Regional Director found, and we concur, that the Tribe submitted the required information regarding the Tribe's ownership of the Site.

(i) Evidence of significant historical connections, if any, to the land.

The Department's regulations require the Secretary to weigh the existence of a historical connection, if any, between an applicant tribe and its proposed site as a factor in determining whether gaming on the proposed site would be in the best interest of the Tribe and its members.⁶³

The Tribe has a long history in the area. The Site is approximately 5 miles north of the Tribe's unratified 1851 treaty territory, and approximately 5 miles southwest of the original Tule River Reservation, which included part of the present day Porterville.⁶⁴ A culturally significant rock shelter called Painted Rock is located along the Tule River on the Reservation and contains pictographs depicting the creation story of the Tribe.

The Regional Director found, and we concur, that the Tribe has long-standing historical connections to the Site.⁶⁵

⁶¹ R.D.'s Part 292 Findings at 15.

⁶² *Id.*; see also Tribe's 292 Application, Exhibits C and F.

⁶³ Section 292.17(i) does not require an applicant tribe to demonstrate an aboriginal, cultural, or historical connection to the land in order to receive a positive Secretarial Determination.

⁶⁴ FEIS § 3.6.2.

⁶⁵ R.D.'s Part 292 Findings at 15.

- (j) *Any other information that may provide a basis for a Secretarial Determination that the gaming establishment would be in the best interest of the tribe and its members, including copies of any: (1) Consulting agreements relating to the proposed gaming establishment; (2) Financial and loan agreements relating to the proposed gaming establishment; and (3) Other agreements relative to the purchase, acquisition, construction, or financing of the proposed gaming establishment, or the acquisition of the land where the gaming establishment will be located.*

The Tribe owns the Site in fee simple and intends to manage and operate the Proposed Project. As discussed above, the Business Plan reflects the Tribe's intent to finance 90% of the construction cost and anticipates servicing that level of debt. The Tribe is exploring funding mechanisms including grants, municipal and TED bonds to finance the hotel and water reclamation facility.⁶⁶ At this early stage in the development process, we recognize the Tribe has not yet secured financing and thus no financing or loan agreements are in place. However, we defer to the business judgment of the Tribe regarding the proposed financing mechanism.

Conclusion: Best Interest of Tribe and its Members

The record demonstrates the Proposed Project will be in the best interest of the Tribe and its members. It will increase the available on-reservation water supply, strengthen the tribal government, and create jobs. Tribal members living on or near the Reservation will benefit from the increased on-reservation water supply, which will allow the Tribe to address tribal housing needs. The Tribe also intends to use increased revenue from the Proposed Project to expand governmental services for its members. Tribal members living on or near the Reservation will have access to jobs related to construction and operation of the Proposed Project. The Tribe's application states that increased revenue will fund tribal governmental operations and programs, general welfare of the tribe and its members.⁶⁷

We have determined that a gaming establishment on the Site would be in the best interest of the Tribe and its members.

⁶⁶ Tule River Part 292 Supplemental Questions and Responses, dated August 5, 2019.

⁶⁷ R.D.'s Part 292 Findings at 13.

ANALYSIS OF DETRIMENT TO THE SURROUNDING COMMUNITY

Section 292.18 provides that to satisfy the requirements of § 292.16(f), an application must contain the following information on detrimental impacts of the proposed gaming establishment:

- (a) Information regarding environmental impacts and plans for mitigating adverse impacts, including an Environmental Assessment (EA), an Environmental Impact Statement (EIS), or other information required by the National Environmental Policy Act (NEPA).*

The Department oversaw the preparation of an environmental impact statement (EIS) to evaluate the potential impacts of gaming at the Site pursuant to the National Environmental Policy Act (NEPA), 42 U.S.C. § 4321 *et seq.* Based on the facts and available evidence, the environmental impact statement concluded that gaming at the proposed Site would not result in significant impacts to land resources, water resources, air quality, biological resources, cultural resources, socioeconomic resources and environmental justice, transportation and circulation, land use, public services and utilities, visual resources, or noise.

The proposed action consists of the following components: (1) issuance of a Secretarial Determination by the Secretary; (2) concurrence by the Governor in the Secretarial Determination; (3) acquisition of the approximately 40-acre Site in trust by the United States for the benefit of the Tule River Tribe; and (4) the subsequent development of a casino-resort and associated facilities on the Site by the Tribe.

The BIA published a notice of intent to prepare an EIS in the Federal Register on December 30, 2016. The BIA also held a public hearing on January 23, 2017. The BIA and U.S. Environmental Protection Agency (EPA) published the Notice of Availability (NOA) of the Draft EIS in the Federal Register on September 21, 2018. The BIA published the NOA in local papers, and mailed it to interested parties. Additionally, the Tribe filed the NOA with the state clearinghouse for distribution to state agencies. The BIA made the Draft EIS available for public review and comment for a 45-day period that ended on November 5, 2018. On October 15, 2018, the BIA held a public hearing in Porterville, and received verbal and written comments on the Draft EIS. The BIA with the EPA published the NOA of the Final EIS in the Federal Register and the local newspaper on May 31, 2019. The BIA received written comments from three cooperating agencies and seven individuals on the Final EIS. The BIA reviewed and considered all comment letters on the Final EIS during the decision making process for the Proposed Action. Copies of these comments are provided with the Record of Decision.

The EIS provided extensive information on the existing environment and provided environmental analysis of six alternatives including a no action alternative. For the remainder of this Determination we refer to the EIS as the Final EIS (FEIS):

Alternative A – Proposed Project (FEIS § 2.3)

Alternative A involves the transfer of the Site into trust, and includes the Tribe's development of a 104,637-sf casino, a 250-room hotel, food and beverage facilities, administrative space, a multi-purpose events center, a conference center, a fire station, and associated parking and infrastructure. The Proposed Project will connect to the City's municipal water supply and wastewater facilities. As part of the Proposed Project, the Tribe will construct a water reclamation facility on city-owned property. The Tribe will relocate the existing Eagle Mountain Casino and repurpose the building for tribal governmental uses, increasing available on-reservation water by 27,863 gallons per day.

Alternative B – Proposed Project with On-Site Water & Wastewater Systems (FEIS § 2.4)

Alternative B involves transfer of the Site into trust, and includes all of the same development components as Alternative A, with the exception of utilizing on-site water and wastewater treatment facilities instead of connecting to City infrastructure for water supply and wastewater service. Two on-site wells, along with pumping, storage, and disinfection facilities, would supply potable water. A waste water treatment plant would be constructed on the Site to treat wastewater to a tertiary level; treated wastewater would then be disposed of through a leach field below the development's parking lot.

Alternative C – Reduced Intensity Hotel and Casino (FEIS § 2.5)

Alternative C involves transfer of the Site into trust, and includes the Tribe's construction of a similar development as that described under Alternatives A and B, but at a smaller scale. Water and wastewater services would be provided either through connection to City facilities (as described under Alternative A) or through development of on-site facilities (as described under Alternative B). As with Alternatives A and B, Alternative C would include the renovation of the existing Eagle Mountain Casino for tribal government uses.

Alternative D – Non-Gaming Hotel and Conference Center (FEIS § 2.6)

Alternative D involves the transfer of the Site into trust, and includes the Tribe's development of a hotel as described under Alternative A, and a slightly smaller conference center. Alternative D does not require a Secretarial Determination because there would be no casino. Alternative D also does not include a multi-purpose events center. As with Alternative C, Alternative D would either connect to City wastewater infrastructure or develop on-site facilities. As with Alternative B, Alternative D would involve the construction of two on-site wells and associated pumping, storage, and disinfection facilities to supply potable water. Under Alternative D, the existing Eagle Mountain Casino would continue to operate.

Alternative E – Expansion of Existing Eagle Mountain Casino (FEIS § 2.7)

Alternative E involves the Tribe's expansion of the existing Eagle Mountain Casino within the Reservation. The expanded gaming component of the facility would consist of 16,500 sf of new building space, 350 additional EGDs, and a new 3,500-sf dining venue. Alternative E does not require federal action.

Alternative F – No Action Alternative (FEIS § 2.8)

Under the No Action Alternative, the Department would not implement any of the development alternatives considered within the FEIS. The No Action Alternative assumes that no parcels within the Site would be transferred into trust and the Tribe would continue to operate its existing Eagle Mountain Casino as it does presently.

Selection of the Alternative A

The project design of the Proposed Project (Alternative A) incorporates Best Management Practices (BMPs) which eliminate or substantially reduce environmental consequences to less-than-significant levels (FEIS § 2.3.3). The FEIS describes additional mitigation measures in Section 5.0 that the Tribe will implement to further mitigate potential environmental impacts. The FEIS concludes that development of the Proposed Project with BMPs and mitigation measures would ensure impacts to these resources would be less-than-significant. Based on a review of the FEIS and its analysis of potentially affected resources, we have determined that the Proposed Project (Alternative A) would best meet the purpose and need for acquiring the Site in trust as explained in the attached Record of Decision.

(b) Anticipated impacts on the social structure, infrastructure, services, housing, community character, and land use patterns of the surrounding community.

Impacts on Social Structure

Crime: (FEIS §§ 4.7.1, 4.10.1, and 5.10.3) There is a general belief that the introduction of legalized gambling into a community increases crime. This argument, however, is based more on anecdotal evidence rather than empirical evidence. Whenever large volumes of people are introduced into an area, the volume of crime would also be expected to increase. This is true of any large-scale development. Taken as a whole, literature on the relationship between gambling and crime rates suggests that communities with gaming facilities are as safe as communities without. A study published in 2011 compared crime effects from different forms of tourism growth.⁶⁸ The study revealed that ski tourism resulted in a larger increase in crime than casino development. Another study published in 2017 examined casinos and crime rates across the United States from 1994 to 2012.⁶⁹ That study found on average there was an increase in crime in counties that opened tribal casinos for the first two years and after there was a decreased crime rate from pre-casino levels. Further, that study concluded there was no long-term increase in crime resulting from casinos.

The Proposed Project would result in an increased number of patrons and employees traveling/commuting into the area on a daily basis. As a result, criminal incidents would likely

⁶⁸ *Casino Gaming and Crime: Comparisons Among Gaming Counties and Other Tourism Places*, Journal of Travel Research, 50(3), 280-302, by M. Park & P.A. Stokowski (2011).

⁶⁹ *The Impact of Legalized Casino Gambling on Crime*, Regional Science and Urban Economics, M.W. Nichols & M.S. Tosun (2017)

increase in the vicinity of the Site, as would be expected with a large development of any type. Conversely, the number of people traveling to the existing Eagle Mountain Casino would decrease, and the rate of criminal incidents in the vicinity of the Eagle Mountain Casino Site would be expected to experience a corresponding decline. The Tribe will enter into a service agreement with Porterville Police Department and/or Tulare County Sheriff's Department to reimburse them for quantifiable direct and indirect costs incurred from the provision of law enforcement services at the Site. Through the implementation of this agreement, the on-site security measures, and the mitigation described in the FEIS, impacts would be addressed and the Proposed Project would result in a less-than-significant effect on law enforcement services and crime.

Alcohol Service: (FEIS §§ 4.10.1. and 5.10.3) The Tribe will adopt a Responsible Alcoholic Beverage Policy at the Proposed Project.⁷⁰ This policy will include, but not be limited to, checking identification of patrons and refusing service to intoxicated patrons. As a result, potential impacts to law enforcement, fire protection, and emergency medical service would be reduced.

Environmental Justice for Minority and Low Income Populations: (FEIS §§ 3.7.1, 4.7.1, and 5.2-.13) The minority population in the City and the County are above 50%, qualifying it as a minority community. The Proposed Project would have a direct beneficial impact to minority and low-income populations. These benefits include decreased unemployment and underemployment as well as related decreases in poverty rates and increases in standards of living.

The Proposed Project would also have beneficial effects on the Tribe (considered a minority population) including increased revenue for tribal governmental programs that serve tribal members, including education, health care, housing, social services, and tribally-sponsored cultural events, and by supporting tribal self-sufficiency and self-determination. Tribal members would have access to new jobs created on the Site resulting in decreased unemployment and underemployment. The Proposed Project would provide approximately 1,215 direct employment positions; of these, 790 would be a direct net addition after the relocation of the existing Eagle Mountain Casino.

Other effects to minority and low-income persons, such as traffic, air quality, noise, etc. would be less-than-significant, after the implementation of the specific mitigation measures related to these environmental effects. The Proposed Project would not result in significant adverse effects to minority or low-income communities.

Impacts on infrastructure

Water Resources (Supply and Wastewater): (FEIS §§ 2.3.3, 4.10.1, and 5.3, *see also* MOU) The Proposed Project will connect to the City's municipal water supply and wastewater facilities. As part of the Proposed Project, the Tribe will construct a water reclamation facility on city-owned

⁷⁰ Tribe's 292 Application at 31.

property. The water reclamation facility will treat secondary effluent from the City's wastewater treatment plant to provide recycled water to the Proposed Project and to the Porterville Sports Complex. Because the Proposed Project will use less potable water than is currently used to irrigate the Sports Complex, it will result in a 73,828 gallon per day increase in available potable water for the City. Additionally, Section 5.3 of the FEIS provides water conservation measures to minimize potable water use at the Site.

In the Memorandum of Understanding, the City identifies the water reclamation facility as a beneficial impact because it would:

- reduce the City's potable water use at the Sports Complex,
- reduces the City's need to develop additional potable water supplies,
- reduces the amount of sewage disposed of by the City by diverting it for reuse, and
- allow the City to treat its own effluent at the water reclamation facility, with an option to expand capacity, and provide treated water for higher value uses.

The Proposed Project would help address the City of Porterville's water supply shortage, reduce the overall water demands within the City, and lay the groundwork to address the City's future capacity needs, thus, creating a beneficial impact for the City.

Transportation Infrastructure and Traffic Volume: (FEIS §§ 3.8, 4.8.2, 4.15.3, 5.8, and Appendix I; *see also* MOU) Development of the Proposed Project, in combination with anticipated growth, would result in increased traffic flow, congestion, and decreased levels of service. Both the cumulative and direct traffic impacts would be reduced to less-than-significant levels by the Tribe's fair share contributions and other mitigation measures articulated in the FEIS and the Memorandum of Understanding between the Tribe and the City. The Proposed Project would have a less-than-significant effect on all traffic study locations.

Air Quality: (FEIS §§ 3.4, 4.4.2, and 5.4) The Site is in an area designated as "nonattainment" for O₃ and PM_{2.5}. Emissions of individual criteria pollutants from construction of the Proposed Project would not exceed applicable *de minimis* levels. Operation of the Proposed Project, however, will produce emissions of the ozone precursor NO_x exceeding applicable levels. This would be a significant adverse impact. Section 5.4 of the FEIS contains mitigation measures and BMPs that would minimize criteria air pollutant emissions from construction and operation of the Proposed Project by reducing fugitive dust, diesel particulate matter, on-site area emissions, vehicle idling, and mobile emissions. Additionally, Section 5.4 of the FEIS requires the Tribe to offset NO_x emissions by purchasing credits. After implementing BMPs and mitigation measures, construction and operation of the Proposed Project would have less-than-significant impacts to the regional air quality.

Solid Waste Service: (FEIS §§ 3.10, 4.10.1, and 5.10.2) Construction of the Proposed Project would temporarily generate construction related solid waste. Operation of the Proposed Project would generate approximately 4.5 tons per day of solid waste representing approximately 0.56% of the daily capacity of Teapot Dome Landfill. Following the planned closure of the Teapot Dome Landfill, the County projects that solid waste from the Site region will be disposed of at the Visalia Landfill and represent approximately 0.23% of its daily capacity. Construction and

operation of the Proposed Project would have no significant impact to these facilities. Section 5.10.2 of the FEIS contains BMPs including recycling and composting, which would further reduce the amount of solid waste disposed of at the landfill(s).

Energy & Natural Gas: (FEIS §§ 3.10, 4.10.1, and 5.10.4) Southern California Edison (SCE) will continue to provide electricity to the Site. Operation of the Proposed Project will require an increase in capacity of both the servicing circuit and the substation. SCE expects to complete a planned expansion of the substation in 2019, which will increase its capacity and satisfy the Proposed Project's electricity demands. Additionally, improvements to the circuit that serves the Site would include the addition of a new circuit breaker at the substation, as well as the installation of new overhead and underground electrical lines in the region between the substation and the Site.

Southern California Gas Company (SoCalGas) will continue to provide natural gas to the Site for the Proposed Project. SoCalGas may need to increase the capacity of the servicing distribution line to accommodate the estimated maximum peak operational demand of the Proposed Project. Sections 5.4.2 and 5.10.4 of the FEIS contain BMPs to reduce energy demands and minimize potential construction impacts to utility service providers. Further, the Tribe would pay a fair share of the upgrades needed to serve the Proposed Project to receive service. Any infrastructure improvements required by the development of the Proposed Project would comply with California Environmental Quality Act regulations and other applicable federal, state, and local laws. Therefore, the Proposed Project with BMPs and mitigation would have less-than-significant impacts to electricity and natural gas services.

Impacts on services

Library Services, Schools, and Recreation: (FEIS §§ 3.7.1, and 4.7.1) The Proposed Project would not result in a substantial increase in population or housing in the community surrounding the Site. Therefore, the demand for library services, additional schools, and recreational facilities would not substantially increase. Development of the Proposed Project would result in less-than-significant impacts to library services, schools, and recreation.

Law Enforcement: (FEIS §§ 3.10.4, 4.10.1, and 5.10.3, *see also* MOU) The City of Porterville Police Department (City P.D.) and/or the Tulare County Sheriff's Department (Sheriff's Department) would continue to provide law enforcement services to the Site and the surrounding area. The Tule River Tribal Gaming Security would provide security patrol and monitoring of the casino resort. The Tribe would expand the Tule River Tribal Gaming Security to just over 90 full- and part-time personnel, 12 of whom would be full-time EMS officers.

Operation of the Proposed Project will increase the number of calls for service placed to City P.D. and/or Sheriff's Department. The FEIS estimates the number of calls for law enforcement service at the Proposed Project would be 33 calls per month, based on the estimated increase in traffic to the Site. Section 5.10.3 of the FEIS includes BMPs to minimize the potential service calls as well as mitigation measures including a requirement for the Tribe to enter into a reimbursement agreement with City P.D. and or Sheriff's Department for quantifiable direct and indirect costs incurred in conjunction with the provision of law enforcement services. The Tribe

has entered into a Memorandum of Understanding with the City that includes reimbursement payments to the City for anticipated project related law enforcement costs. The Memorandum of Understanding, and other mitigation described in the FEIS, would address impacts law enforcement services. Further, the on-site security measures and BMPs would reduce the expected on-site law enforcement service calls to City P.D. and/or Sheriff's Department. Therefore, the Proposed Project would result in a less-than-significant effect on law enforcement services.

Fire Protection & Emergency Medical Services: (FEIS §§ 2.3, 3.10.5, 4.10.1, and 5.10.3 *see also* MOU) The Proposed Project includes constructing a Tule River Fire Department (Tribal F.D.) fire station at the Site. The Tribal F.D. would provide primary fire protection and emergency medical services to the Proposed Project. The proposed on-site fire station would be capable of a much faster response times than the City of Porterville Fire Department (City F.D.) or the Tulare County Fire Department (County F.D.). The Tribe has entered into a Memorandum of Understanding with the City that includes reimbursement payments to the City for anticipated project related fire protection costs and training.

The Proposed Project will increase the number of service calls for fire protection or emergency medical services. The Tribal F.D. fire station at the Site will be equipped to handle the service calls for fire protection or emergency medical services at the Site. Additionally, the Tribe's on-site security staff would include 12 full-time emergency medical services personnel who could respond to emergency medical services calls at or around the Site. Further, the presence of a Tribal F.D.-staffed fire station at the Site could reduce the number of existing service calls near the Site for the City F.D. and County F.D. Sierra View Medical Center is the nearest full-service emergency room to the Site and is located approximately 3.6 miles away in Porterville. Sierra View Medical Center is in the processing of doubling the capacity of its emergency department from 22 to 44 beds; this expansion is anticipated to be completed in two to three years, and would allow Sierra View Medical Center to accommodate any increase in emergency room visits. Therefore, the Proposed Project's impact on fire protection and emergency room services would be less-than-significant.

Impacts on housing

Impacts on housing are predominantly expected from employment induced relocation (FEIS §§ 3.7.1, 4.7.1, and Appendix B). The Proposed Project will create approximately 790 new jobs after factoring in the Tribe's existing casino workforce. Due to the existing unemployed and underemployed workforce in the County, the Proposed Project is not likely to require employees to relocate their housing but rather change their commute patterns. The Proposed Project may cause some in-migration, resulting in new occupation of between 41 and 65 housing units by employees seeking to relocate their place of residence to the County. The City has approximately 1,242 vacant housing units and the County has approximately 11,222 vacant housing units. The regional housing stock contains more than enough vacant homes to support potential impacts to the regional labor market under the Proposed Project. Therefore, the Proposed Project is not expected to stimulate regional housing development. The Proposed Project would not cause a significant adverse impact to the housing market.

Impacts on community character and land use

Visual Resources: (FEIS §§ 3.13, 4.13.1, and 5.13) The Proposed Project would change the existing views of the Site from disked open fields with several office buildings to a casino-resort complex. The architecture of the proposed structures would incorporate native materials and colors and would be enhanced by landscaping using plants native to the region to be visually cohesive with surrounding land uses. BMPs included in Section 5.13 of the FEIS would further reduce the potential for aesthetic impacts from implementation of the Proposed Project. The City's General Plan designates the Site and vicinity for industrial use. The intensity of use of the Site under the Proposed Project is considered compatible with future surrounding land uses as development occurs in accordance with the General Plan. The Proposed Project would result in a visually cohesive development that may be considered more aesthetically pleasing than the existing office and storage structures within the Site and the Proposed Project would have a less-than-significant aesthetic impact.

Noise: (FEIS §§ 3.11, 4.11.1, 5.11) The assessment of the Proposed Project's noise-related effects is based on Federal Noise Abatement Criteria (NAC) standards used by the Federal Highway Administration (FHWA). Grading and construction activities associated with the Proposed Project would be intermittent and temporary in nature and would not result in significant adverse effects associated with the ambient noise environment. Operational noise sources could include traffic, heating ventilation, and air conditioning (HVAC) systems, special events, parking lots, and delivery trucks. The nearest sensitive receptors are far enough away that the anticipated noise from operation including during events at the outdoor amphitheater would not exceed applicable NAC standards. The Proposed Project would increase traffic on certain roadways and would result in increases in ambient noise above the FHWA NAC threshold of 67 dBA Leq for several sensitive receptors. The Tribe will construct sound barrier walls or other noise attenuating features to reduce the ambient noise level at those sensitive receptors. After mitigation, traffic noise impacts from the Proposed Project along these roadways would be reduced to less-than-significant levels.

Land Use: (FEIS §§ 3.9, 4.9.1, and 5.9) The Proposed Project would result in the approximately 40-acre Site being transferred from fee to federal trust, thereby removing the Site from the City's land use jurisdiction. The Proposed Project would develop a casino-resort on vacant and undeveloped land. The City's General Plan designates the Site and vicinity for industrial use. The Proposed Project's commercial use of the Site would be generally compatible with the type and intensity of uses that would be allowable under the City's General Plan and zoning designations for the Site. There are no land uses in the vicinity of the Site that would be disrupted by the Proposed Project, however, mitigation measures contained in Section 5.9 of the FEIS would further reduce any potential land use incompatibilities to less-than-significant. Therefore, the Proposed Project is generally consistent with local land use plans.

Biological Resources: (FEIS §§ 3.5.2, 4.5.1, and 5.5) The Proposed Project includes development of the entire 40-acre Site, which currently includes the disked fallow field and ruderal/developed habitat types. These habitat types are of low value and have no particular significance to wildlife occurring within the region. Although habitats within the Site and the City owned off-site improvement areas (for the water reclamation facility) may be suitable for

federal and State special-status species, they are not, in and of themselves, listed as critical or sensitive under federal designation. Therefore, impacts to wildlife habitat resulting from development of the Site and the City owned off-site improvement areas are less-than-significant and no mitigation is required.

Surveys conducted during the FEIS process identified no wetlands or Waters of the U.S. within the Site or City owned off-site improvement areas. Therefore, the Proposed Project would not result in adverse effects to wetlands and Waters of the U.S. and no mitigation is required.

Two special-status species have a very low potential to occur on the Site and the City owned off-site improvement areas (San Joaquin Kit Fox and the American Badger). Mitigation listed in Section 5.5 of the FEIS would reduce impacts to all species with the potential to occur on the Site to less-than-significant levels. The Proposed Project could adversely affect active migratory bird nests if vegetation removal or loud noise-producing activities associated with construction were to occur during the nesting season (February 15 through September 15). Mitigation listed in Section 5.5 of the FEIS would reduce potential impacts to migratory birds to less-than-significant levels.

Cultural Resources: (FEIS §§ 3.6.4, 4.6.1, and 5.6) Surveys conducted during the FEIS process identified no known historic properties or paleontological resources within the Site or the City owned off-site improvements areas. The Proposed Project ground disturbing construction activities potentially unearthing previously unknown archaeological or paleontological resources. Section 5.6 of the FEIS contains mitigation measures to address the inadvertent discovery of cultural resources resulting in less-than-significant impacts.

Agriculture: (FEIS §§ 3.9.3 and 4.9.1) The Site received a combined land evaluation and site assessment Farmland Conversion Impact Rating score of 69, which is under the 160-point threshold for evaluation of alternative sites. Additionally, there are no active agricultural activities occurring on the Site and it is not designated for agricultural uses in local planning documents. However, one of the City owned off-site improvement areas is actively farmed for the production of non-human consumption crops and is designated “Farmland of Statewide Importance” by the Farmland Monitoring and Mapping Program, as well as under a Williamson Act Contract. Under the Proposed Project, the City would withdraw the Williamson Contract and no project-related construction would take place on the parcel until after cancellation is complete. There are 1,239,000 acres of farmland in the County (USDA, 2012). The Proposed Project would result in a conversion of 0.003% of the farmland in the County. This represents a negligible conversion of farmland. Therefore, there would be no significant impacts to agriculture from development of the Proposed Project.

Hazardous Materials: (FEIS §§ 3.12.2, 4.12.1, and 5.12) The BIA conducted a Phase I Environmental Site Assessment of the Site in 2016 which identified some on-site debris which were subsequently removed. Database searches revealed no known potential contamination at the Site. The Proposed Project’s ground disturbing activities could expose previously undiscovered contaminated soil and/or groundwater the Site from migration of hazardous materials from off-site properties or unknown hazardous materials dumping. The City owned off-site improvement areas may be contaminated from either agricultural chemical use or

previous use as a shooting range. Additionally, use of fill material imported from other sites may carry a risk of contamination. Section 5.12 of the FEIS contains soil related mitigation measures and BMPs, including further soil testing and, if necessary, remediation as well as verification that fill material is clean. During grading and construction, the use of routine hazardous materials may include gasoline, diesel fuel, motor oil, hydraulic fluid, solvents, cleaners, sealants, welding flux, various lubricants, paint, and paint thinner. Potential hazardous operational materials such as diesel fuel storage tanks, swimming pool and landscape materials, and small quantities of motor oil, cleaners, lubricants, and paint would not result in significant adverse effects with proper storage, handling, and disposal. Section 5.12 of the FEIS also contains construction related mitigation measures and BMPs to limit accidental release of hazardous material. With these measures, the Proposed Project would not result in significant adverse effects associated with hazardous materials during construction or operation.

Conclusion

The Tribe submitted the required information regarding anticipated impacts on the social structure, infrastructure, services, housing, community character, and land use patterns of the surrounding community. As discussed above, the record reflects that the Tribe is working with the local governments to ensure that Proposed Project would result in less-than-significant significant impacts to these resources. In fact, the Proposed Project would have beneficial impacts on the City's services and infrastructure in particular potable water provision.

(c) Anticipated impacts on the economic development, income, and employment of the surrounding community.

The Proposed Project would result in a variety of beneficial impacts to the regional economy, including increases in overall economic output, employment opportunities, and tax revenue. Construction and operation of the Proposed Project would generate substantial temporary and permanent employment opportunities. The available workforce in the City and the County primarily would fill these jobs resulting increases in local wages and spending.

KlasRobinson Q.E.D. prepared an analysis of the economic impact of the Proposed Project in the *Economic Impact of Planned New Eagle Mountain Casino* (Economic Impact Analysis). The Economic Impact Analysis analyzed impacts to the local economy and the Tribe from construction of the Proposed Project and its subsequent operation. The Economic Impact Analysis also analyzed the Proposed Projects impact on existing gaming operations and non-gaming operations including hotels, restaurants, bars, and entertainment.

Construction Economic Impact

The construction of the Proposed Project will result in economic output to the County and the State of California in the form of jobs, purchases of goods and services and through positive fiscal effects (FEIS § 4.7.1 and Appendix B). The Economic Impact Analysis estimated the Proposed Project would cost approximately \$245 million to construct, the majority of that cost will flow to workers, residents, businesses, and local governments located in the County. This construction cost includes approximately \$98.7 million on hard construction and site work

expenditures. Construction of the Proposed Project would generate approximately 1,165 full-time equivalent construction jobs with approximately \$80.3 million in wages. The construction cost also includes approximately \$66 million on furnishings, fixtures, equipment, fees, working capital, and pro-opening costs and construction interest. In addition, the construction of the Proposed Project would result in indirect and induced economic activity among a variety of different industries and businesses throughout the County. Impacted businesses in the County would in turn increase their spending, and labor demand, thereby further stimulating the local economy. The Department considers all of this economic activity a beneficial impact.

Operational Economic Impact

The Economic Impact Analysis contains estimates of revenue and expenditures from the operation of the Proposed Project (FEIS § 4.7.1 and Appendix B). The Economic Impact Analysis estimates the Proposed Project would generate \$103.6 million in new revenue or output within the County. The Economic Impact Analysis estimates net increases in indirect and induced outputs within the County are \$19.3 million and \$14.8 million, respectively. Overall, operation of the Proposed Project would generate approximately \$137.7 million annually within the County. The Economic Impact Analysis estimates approximately 70% of revenue would be direct expenditures. Output received by the County businesses would in turn increase their spending, and labor demand, thereby further stimulating the local economy. The Department considers all of this economic activity a beneficial impact.

The Economic Impact Analysis calculated operation of the Proposed Project would generate approximately 1,075 new full-time equivalent jobs (including direct, indirect, and induced) in the County after accounting for the closure of the existing Eagle Mountain Casino. Considering the closure of the existing Eagle Mountain Casino, which currently supports 424 employment positions, the Proposed Project would create 790 new job with \$23.1 million in new wages. The Economic Impact Analysis estimated the Proposed Project would generate approximately 166 new indirect jobs with \$7.2 million in new wages, and 119 new induced jobs with \$4.3 million in new wages. In total, the operation of the Proposed Project would generate an increase of \$34.6 million in wages in the County.

Estimated Annual Operational Economic Impacts

Type of Impact	Employment	Labor Income	Economic Output
Direct Operational	790	\$23.1 million	\$103.6 million
Indirect Operational	166	\$7.2 million	\$19.3 million
Induced Operational	119	\$4.3 million	\$14.8 million

Substitution Effects

The Economic Impact Analysis contains estimates of substitution effects on competing gaming establishments and non-gaming establishments from the operation of the Proposed Project (FEIS § 4.7.1 and Appendix B). The Proposed Project is expected to cause a decline in revenue at competing gaming establishments, which include three Indian Tribe casinos and one commercial cardroom. The nearest tribally operated casino is the Santa Rosa Indian Community of the Santa Rosa Rancheria's Tachi Palace Hotel and Casino located in Lemoore, Kings County, California. The Economic Impact Analysis projects the Tachi Palace would experience a 10.4% decrease in revenue during the first year of operation of the Proposed Project. The Picayune Rancheria of Chukchansi Indians of California's Chukchansi Gold Resort & Casino, located in Madera County, California would experience a 2.4-percent decrease in revenue during the first year of operation of the Proposed Project. The Table Mountain Rancheria's Table Mountain Casino located in Fresno County, California would experience a 1.6% decrease in revenue during the first year of operation of the Proposed Project. The commercial cardroom, Aviator Casino, in Delano, Kern County, California, would experience a 3.9% decrease in revenue during the first year of operation of the Proposed Project. Each of these facilities would return to baseline (no-project condition) in four to ten years. Each of these facilities would continue to operate and for the Tribal facilities continue to provide their respective tribal governments revenue. We must note that IGRA does not guarantee that tribes operating existing facilities will conduct gaming free from tribal and non-tribal competition.⁷¹ Nor is competition in and of itself sufficient to conclude a detrimental impact on a tribe.⁷²

Conclusion

The Regional Director found and we concur, that the Tribe has submitted the required information regarding impacts to economic development, income, and employment of the surrounding community. The record reflects the Proposed Project will generate increases in economic activity directly and indirectly. The Proposed Project will directly create significant employment opportunities for the surrounding community and will provide a significant source of income.

(d) Anticipated costs of impacts to the surrounding community and identification of sources of revenue to mitigate them.

The Tribe anticipates that several of the impacts of operation of the Proposed Project, while less-than-significant, would nevertheless result in incremental costs to the surrounding community. The Tribe intends to address all such costs through Memoranda of Understanding with affected local government entities, paying its fair share of costs to improve existing infrastructure, and where possible, providing services on-site.

⁷¹ See *Sokaogon Chippewa Cmty. V. Babbitt*, 214 F.3d 947 (7th Cir. 2000).

⁷² See *Citizens for a Better Way, et. al. v. DOI*, 2015 U.S. Dist. LEXIS 128745, 2015 WL 5648925 (E.D. Cal. Sept. 24, 2015)

Property Taxes: (FEIS § 4.7.1 and Appendix B) The Proposed Project includes the transfer of the 17 parcels that make up the Site from fee status into federal trust for the benefit of the Tribe, resulting in the loss of local property taxes. During the 2016-2017 tax year, state, county, and local governments assessed property taxes for the Site of \$37,504. Because property in trust is not subject to local taxes, these property taxes would be lost to state and local governments.

Law Enforcement: (FEIS §§ 3.10.4, 4.10.1, and 5.10.3 *see also* MOU) The City of Porterville Police Department (City P.D.) and/or the Tulare County Sheriff's Department (Sheriff's Department) would continue to provide law enforcement services to the Site and the surrounding area. During operation of the Proposed Project, the Tule River Tribal Gaming Security would provide security patrol and monitoring of the casino resort complex. Section 5.10.3 of the FEIS includes BMPs to minimize the potential service calls as well as mitigation measures including a requirement for the Tribe to enter into a reimbursement agreement with City P.D. and or Sheriff's Department for quantifiable direct and indirect costs incurred in conjunction with the provision of law enforcement services. The MOU provides the Tribe will pay the City an annual payment, of which \$250,000 shall be used annually for the City's increased law enforcement costs related to the project. The MOU and other mitigation described in the FEIS would address impacts law enforcement services.

Fire Protection & Emergency Medical Services: (FEIS §§ 2.3, 3.10.5, 4.10.1, and 5.10.3 *see also* MOU) The Proposed Project includes constructing a Tule River Fire Department (Tribal F.D.) fire station at the Site. The Tribal F.D. would provide primary fire protection and emergency medical services to the Proposed Project. The Tribal F.D. fire station at the Site will be equipped to handle the service calls for fire protection or emergency medical services at the Site. Additionally, the presence of a Tribal F.D.-staffed fire station at the Site could reduce the number of existing service calls near the Site for the City F.D. and County F.D. The Tribe has discussed the Proposed Project with both the City F.D. and County F.D. and the parties will negotiate details of a mutual aid agreement. The Tribe has entered into a Memorandum of Understanding with the City that includes reimbursement payments to the City of \$50,000 for anticipated project related fire protection costs and training. The County F.D. has estimated servicing the Proposed Project would require one-time costs of new equipment at \$230,000 and hiring a new fighter at an annual cost of \$73,000.⁷³

Transportation Infrastructure: (FEIS §§ 3.8, 4.8.2, 4.15.3, 5.8, and Appendix I) The Proposed Project would result in four study intersections operating at an unacceptable level of service (LOS) during the opening year. The traffic impact study estimated cumulative traffic volumes for the year 2040. Development of the Proposed Project, in combination with anticipated growth, would result in increased traffic flow, congestion, and a number of intersections and roadway segments that do not meet minimum LOS levels. Both the cumulative and direct traffic impacts would be reduced to less-than-significant levels through fair share contributions and other mitigation for the Proposed Project.

⁷³ Tribe's 292 Application at 34.

Mitigation of Economic Impacts on Local Governmental Services: (FEIS §§ 1.5, 4.7.1, 4.8.2, 4.10.1, 4.15.3, 5.8, 5.10, and Appendix B) The Proposed Project would result in increased costs to local governments as well as losses in property tax revenue. However, sections 5.8 and 5.10 of the FEIS requires the Tribe to make fair share contributions to offset anticipated costs from development of the Proposed Project. Additionally, the lost property taxes would be more than offset by the estimated increase in sales tax revenue on secondary economic activity generated by the Proposed Project of \$346,375. Further, the Proposed Project will create 790 jobs, which will decrease demands for unemployment and social services. Operation of the Proposed Project would generate substantial economic output for a variety of business in the region, and thus generate substantial tax revenues for state and local governments. Increased state and local tax revenues resulting from operation of the Proposed Project would offset the loss of property tax revenues resulting from trust acquisition of the Site.

Conclusion

The Regional Director found, and we concur, that the Tribe has submitted the required information regarding anticipated costs of impacts to the surrounding community and has identified sources of revenue to mitigate them. The Tribe has committed to negotiating fair share contributions for infrastructure improvements and increased demands on public services. Further, the record reflects the cumulative economic impact of the Proposed Project will generate increased employment and sales tax revenue for state and local governments.

(e) Anticipated cost if any, to the surrounding community of treatment programs for compulsive gambling attributable to the proposed gaming establishment.

The Tribe intends to apply its existing responsible gambling and self-limitation policies as further described below:

Responsible Gambling Policies

The Tribe currently participates in funding State problem gaming prevention programs through its contributions to the Office of Problem Gambling as provided in section 9.2 of the Tribe's Tribal-State Gaming Compact (FEIS §§ 4.7.1 and 5.7). Furthermore, the Tribe intends to implement multiple resources to mitigate problem gaming, such as offering brochures and signage in the casino advertising the problem gambler hotline and website, and training employees on how to identify and manage problem gambling. The Tribe has also committed to implementing procedures to allow for voluntary self-exclusion and to revisit its policies on a regular basis to encourage responsible gaming practices. Through the Tribe's self-exclusion program, a self-identified problem gambler may request the halt of promotional mailings, the revocation of privileges for casino services, the denial or restraint on the issuance of credit and check-cashing services, and exclusion from the Gaming Facility. Adherence to the requirements of the Tribal-State Gaming Compact and mitigation measures described in section 5.7 of the FEIS would further reduce this less-than-significant impact.

Conclusion

The Regional Director found and we concur that the Tribe has sufficiently addressed the anticipated costs to the surrounding community for treatment programs and compulsive gambling attributed to the Proposed Project.

(f) If a nearby Indian Tribe has a significant historical connection to the land then the impact on that tribe's traditional cultural connection to the land.

The closest Indian Tribes to the Site are more than 25 miles away, therefore, there are no nearby Indian Tribes as defined at 25 C.F.R. 292.2, and no consultation is required. Also, as discussed above the Site is within the Tribe's historic territory.

(g) Any other information that may provide a basis for a Secretarial Determination whether the proposed gaming establishment would or would not be detrimental to the surrounding community, including memoranda of understanding and intergovernmental agreements with affected local governments.

The Tribe and the City entered into a Cooperative Agreement in 2010, which describes the intent of the parties to enter into a cooperative and mutually respectful relationship regarding the Tribe's development of the Site (FEIS § 1.5.2). That relationship is evidenced by Proposed Project's water reclamation facility and the City's letter of support dated October 25, 2016. The Proposed Project has the support of numerous local officials, other tribes, and local businesses. The Tribe has obtained eighteen letters of support from various entities including, but not limited to, the Mayor of Porterville, the District Attorney for the County, the Sheriff-Coroner for the County, the President and CEO of the Porterville Chamber of Commerce, the Assembly Member for the 26th District, and several members of the County Board of Supervisors.⁷⁴ The Tribe has involved the City and County during all stages of the process. The Tribe is continuing to negotiate with the City and the County regarding mitigation measures and public service agreements.

Conclusion: Detriment to Surrounding Community

The FEIS considered reasonable alternatives and analyzed the potential impacts. The FEIS found that the issuance of a Secretarial Determination and the development of the Proposed Project would not significantly affect the quality of the human environment within the meaning of NEPA. The Proposed Project would have beneficial impacts to the surrounding community including addressing the City's potable water supply, stimulating economic development, and employment. The Proposed Project incorporates BMPs and mitigation measures, which limit potential negative impacts to less-than-significant. The Tribe entered into a Memorandum of Understanding with the City, to facilitate the development of the Proposed Project and ongoing

⁷⁴ Tribe's 292 Application, Exhibit B.

cooperation between the Tribe and the City.⁷⁵ The Memorandum of Understanding articulates the services that the City will provide to the Proposed Project and the compensation the Tribe will provide for those services. The Memorandum of Understanding also articulates the Tribe's responsibility to mitigate project related traffic impacts. Based on the Tribe's application and supporting documents, the FEIS and associated studies, the consultation process, submissions by citizens and local governmental representatives, and the entire record before us, we conclude that gaming at the Site would not be detrimental to the surrounding community.

CONSULTATION

Section 292.19 provides that in conducting the consultation process:

(a) The Regional Director will send a letter that meets the requirements in Section 292.20 and that solicits comments within a 60-day period from: (1) Appropriate State and local officials; and (2) Officials of nearby Indian Tribes.

By letters dated September 18, 2018, the Regional Director sent Consultation Notices to the State and local officials within a 25-mile radius of the Site.⁷⁶ Letters were sent to the following:

- California State Clearinghouse
- Office of the Governor, Senior Advisor for Tribal Negotiations
- Deputy Attorney General, State of California
- U.S. Senator Dianne Feinstein
- City of Porterville
- City of Lindsay
- City of Visalia
- City of Tulare
- City of Delano
- City of Concoran
- City of Woodlake
- City of Farmersville
- City of Exeter
- City of McFarland
- Tulare County Board of Supervisors

The BIA received letters from the Tulare County and the City of Porterville.

⁷⁵ MOU.

⁷⁶ R.D.'s Part 292 Findings, Tab 6.

The County of Tulare, County Administrative Office

The Tulare County Administrative Officer on behalf of the County expressed continued support for the Proposed Project as long as the Tribe and the County are able to arrive at an agreement providing satisfactory mitigation and potential impacts on the County and surrounding community. The County also provided a copy of the County's comments on the Draft EIS, which were addressed in the FEIS.⁷⁷

The City of Porterville

The City Manager, on behalf of the City, confirmed the City does not anticipate the Proposed Project would have a detrimental effect on the community. In particular, the City Manager noted the "robust and collaborative relationship" between the Tribe and the City as well as their ongoing negotiations regarding potential impacts. The City Manager also noted expected benefits for the community including project related economic development and jobs. The City Manager also concurred with section 4.9.1 of the FEIS that the Proposed Project would be compatible with the surrounding land use pattern identified in the Porterville General Plan.

Conclusion

We have fully reviewed and evaluated comments in the record, as discussed above, and find that there is sufficient evidence to make a positive Secretarial Determination concluding that a gaming establishment on the Site would be in the best interest of the Tribe and its members, and that gaming on the Site would not be detrimental to the surrounding community.

CONCLUSION

We have completed our review and analysis of the Tribe's application under 25 U.S.C. § 2719 (b)(1)(A), including submissions by state and local officials, citizens, and citizens' groups. For the reasons discussed above, we have determined that gaming on the Site in the City of Porterville, Tulare County, California, would be in the best interest of the Tribe and its members, and would not be detrimental to the surrounding community, including nearby Indian tribes.

The Department respectfully requests that you concur in this determination, pursuant to 25 U.S.C. § 2719(b)(1)(A). Under the Department's regulations at 25 C.F.R. § 292.23, you have one year from the date of this letter to concur in this determination. You may request an extension of this period for up to 180 days. The Tribe may also request an extension of this period for up to 180 days.

If you concur in this determination, the Tribe may use the Site for gaming purposes after it has complied with all other requirements in IGRA and its implementing regulations, and upon its

⁷⁷ R.D.'s Part 292 Findings, Tab 6, Exhibit 1.

acquisition in trust.⁷⁸ If you do not concur in this determination, the Tribe may not use the Site for gaming purposes.

This letter and its attachments contain commercial and financial information that is protected from release under Exemption 4 of the Freedom of Information Act (FOIA). Due to the sensitive nature of this information, it is the Department's practice to withhold it from the public under FOIA, and to contact the Tribe any time a member of the public requests it. We respectfully request that the State of California take appropriate steps to similarly protect the commercial interests of the Tribe.

Thank you for your consideration of this important matter. My staff has included copies of the record for your review and consideration.

Sincerely,

A handwritten signature in blue ink, appearing to read "Tara Sweeney". The signature is fluid and cursive, with a large initial "T" and "S".

Tara Sweeney
Assistant Secretary – Indian Affairs

⁷⁸ See, e.g., 25 C.F.R. § 599 (Tribe must submit to the National Indian Gaming Commission a new facility license at least 120 days prior to opening a new gaming facility).

Appendix I

Secretarial Determination for the Tule River Indian Tribe of the Tule River Reservation

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Appendix II

PARCELS 1-17: APN: 302-400-002 THRU 017. Parcels No. 1 through 17 inclusive, PARCEL MAP NO. 4343, in the City of Porterville, County, State of California, according to the map thereof recorded in Book 44, Page 47 of Parcel Map, in the Office of the County Recorder of said County and by certificates of correction recorded, June 1, 1999 as Instrument No. 99-0041612 and August 12, 1999 as Instrument No. 99-0061851.

The 40-acre Airpark Site is located in a portion of Southwest 1/4 Quarter of the Northeast 1/4 Quarter of Section 8, Township 22 South, Range 27 East, of the Mt. Diablo Base and Meridian, Tulare County, California. The Airpark Site is located within the city limits of Porterville, adjacent to the Porterville Municipal Airport.

Excepting therefrom all oil, gas, minerals and other hydrocarbon substances in, on, or under said land, as reserved by the City of Porterville, a Municipal Corporation, in a Deed recorded October 29, 1990 as file No. 71536 of Official Records.