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By: Federal Express

September 18, 2007

The Honorable
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Chairman, National Indian Gaming Commission
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Mr. Bradley Mehatty, REM, CIPS
NEPA Compliance Officer
National Indian Gaming Commission
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Washington, DC 20005

The Honorable
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Pauma Valley, California 92061

Michael G. Baksh, Ph.D.
Tierra Environmental Services
Suite C
9915 Businesspark Avenue
San Diego, California 92131

Gentlemen:

As residents and visitors of Pauma Valley concerned about public safety and sustaining a rural environment, we respectfully submit for your consideration recommendations regarding the Draft Environmental Assessment and Tribal Impact Report, dated July 27, 2007, (the "TEIR") for proposed construction of a Pauma Casino and Hotel (the "Project") on tribal land in Pauma Valley, California (the "Reservation"); which TEIR has been prepared by Tierra Environmental Services for the National Indian Gaming Commission (the "NIGC") and the Pauma Band of Mission Indians (the "Tribe").

We see it as the responsibility of all to ensure that major developments invariably place the highest importance on public safety and that such developments do not operate until such time as all public safety issues and appropriate environmental issues, have in-place solutions. Such responsibility especially rests on the shoulders of elected and appointed officials establishing policy, and the staffs of public agencies implementing such policies in their negotiations among various stakeholders.

We are vehemently of the opinion that the TEIR neither appropriately presents nor meaningfully addresses critical off-Reservation public safety and environmental issues, directly attributable to impacts of the Project, in that the TEIR:

- i. significantly understates the off-Reservation impacts of the Project (particularly regarding Aesthetics, Transportation/Traffic, and Water Resources), and

- ii. reaches unsupported, largely qualitative (not quantitative), and incorrect conclusions that the minimal mitigations recommended, many of which will not certainly be in place prior to any opening of the Project, will result in all off-Reservation environmental impacts being “less than significant,” and
- iii. fails to invariably adopt methods of rigorous scientific analysis because its conclusions frequently rely upon single-point parametric assumptions (some now out of date) of doubtful certainty, without any evaluation of the sensitivity of the TEIR projections to to-be-expected variations between the assumptions and eventual reality, and
- iv. fails to consider a reasonable range of Project alternatives, particularly including a lower hotel tower and parking structure (which would alleviate many aesthetic concerns), and dismisses, essentially offhand and with no quantitative detailed analysis, those limited alternatives that the TEIR does mention.

We respect the sovereignty of the Band with regard to its tribal lands, but believe that such sovereignty can and should be exercised without the significant, adverse and not-fully-mitigated, off-Reservation impacts which would result if the TEIR were to be accepted as drafted and the Project to proceed as apparently contemplated. Our recommendations, which are both interdependent and alternate, are fully detailed in the attachments to this letter and in summary are:

- I. *The TEIR should be revised to include the near term traffic identified in the SR-76 East Corridor Study prepared by the Reservation Transportation Authority with the involvement of the Tribe; which levels of traffic volumes are higher than, and have a high daily variation not included in, the assumptions set forth in the TEIR.*
- II. *The traffic calculations of the Project should be further examined as the TEIR understates the possible Peak Traffic Hourly Flow Rate (especially for employee and special event traffic) and, even with the limited mitigation proposed, the Project will result in a far worse Levels of Service than those projected by the Traffic Impact Analysis (particularly in the vicinity of Pauma Reservation Road).*
- III. *The basis of the traffic calculations of the Project should be independently reviewed and verified for their internal consistency, especially with regard to the apparent errors, the assumption of the same traffic percentage origination as occurs before the Project, and the use of outdated and historic, not Project specific, studies to estimate traffic origination volume.*
- IV. *The TEIR should analyze the Level of Service at the intersection of Pauma Reservation Road and the entrance to the Project and make appropriate recommendations regarding Pauma Reservation Road, especially requiring mitigation prior to Project occupancy that would provide paved shoulders for emergencies (to avoid congestion), an adequate length turn lane into the Project, appropriate traffic control at the exit from the Project, and emergency evacuation plans in the event of a blockage of the single road access.*
- V. *The TEIR should be amended to consider the extent to which bus and other heavy vehicle traffic will impact the projected Levels of Service at the intersection of SR-76 and Pauma Reservation Road, and the possibility of providing bus service directly to the Project. The mitigation and the signalization should be reviewed to include the provision of bus slowing and acceleration lanes as well as space for boarding and descending from buses. Further, the TEIR should be amended to consider the impact on Level of Service of bus-using pedestrians*

crossing SR-76 at Pauma Reservation Road, and the accommodations desirable to provide fully for their safety there, and on Pauma Reservation Road itself.

- VI. The TEIR should be supported by a Traffic Impact Analysis that exhaustively examines the impact of variations in the assumed parametric values (for traffic Volume, Peak Hour Factor, geographic distribution of origination, and the like) on calculated Levels of Service, thereby providing greater certainty of the reliability and attainability of calculated Levels of Service.*
- VII. A condition of the approval of the Project should be that it may not be opened until such time as all of the traffic mitigations are completed, including the implementation of the recommendations of the SR-76 East Corridor Study (particularly from Pala Mission Road to Valley Center Road).*
- VIII. The TEIR should more carefully analyze the size of the water extraction facility necessary to operate the Project, as approved, without establishing what appear to be excessive extraction capabilities that can result in diminution of local and distant water supply. Additionally, the Project approval should preclude water extracted by equipment established under the TEIR from being used for purposes other than those of the Project.*
- IX. The mitigation proposed in the TEIR regarding lighting effect off-Reservation should be reviewed to providing more specifics and, in particular, to establish a condition of the development of an external lighting plan for approval by the County of San Diego and the authorities controlling the use of Palomar Observatory well prior to the start of the Project and the construction of buildings or facilities.*
- X. The Project should be redesigned to be less high, possibly no more than 8 stories, thereby having a footprint of approximately 3 times that of that now proposed. Such a reduction in height would both better enable the structure to blend into the local topography and not provide the, however remote, occupant danger hazard of a 23 story structure.*
- XI. The TEIR should analyze, and make appropriate mitigation recommendations regarding, any impact of aviation safety arising from any construction of the Project proximate to the landing and take-off patterns of nearby private airports.*
- XII. Neither the TEIR nor the Project should be approved until such time as there is agreement, commitment and in-place funding for a road system that provides acceptable Levels of Service throughout the vicinity of the Project; a direct cause of both approximately 25% of such traffic and the need for extensive improvements to roads that intersect with SR-76 (without adversely impacting the intent of the off-Reservation community that SR-76 should be a scenic highway).*
- XIII. The TEIR should be reviewed to ensure it is in full compliance with Section 10.8 (especially 10.8.1 (b)) of the Tribal-State Compact, as amended on June 21, 2004 between the State of California and the Tribe, particularly with regard to the deferral of the identification of mitigation measures and the identification and discussion of alternate mitigation measures.*
- XIV. The several alternate projects that the TEIR postulates should be analyzed in more detail than now contained in the assigned 4 pages of a 220+ page report to ensure that the rightful ambitions of the Tribe in the exercise of its sovereignty could not be achieved with a smaller Project; one that would not be so likely to enrich non members of the Tribe at the expense of the local, off-Reservation environment.*

Attached are detailed analyses supporting the above recommendations, wherein, unless otherwise stated, numbered references to sections, figures, and pages are to the corresponding numbers in the TEIR and the content of quotation marks has been extracted from the TEIR.

We look forward to your enabling a response to our recommendations resulting in a project that fulfills the rightful objectives of the Tribe and recognizes their sovereignty but creates no materially adverse impact upon neither the off-reservation environment of Pauma Valley nor upon the safety of both its on- and off-Reservation residents and visitors.

Very truly yours,

Signature

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Advance Press Copy Emengaged to September 20

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Recommendation I

The TEIR should be revised to include the near term traffic identified in the SR-76 East Corridor Study prepared by the Reservation Transportation Authority with the involvement of the Tribe; which levels of traffic volumes are higher than, and have a high daily variation not included in, the assumptions set forth in the TEIR.

Issue

The “SR-76 East Corridor Study” of the traffic in the vicinity of the Project, prepared by the Reservation Transportation Authority, with the involvement of the Tribe, includes counts of today’s traffic which are higher than the assumptions of the TEIR of near term traffic, resulting in an overestimate of the current and projected Levels of Service.

Commentary

The Reservation Transportation Authority published in March 2007 a draft ‘SR-76 East Corridor Study’ (the “SR76ECS”) with the involvement of the Tribe, other Indian nations, and others. That study presents a detailed analysis of current traffic in the vicinity of the Project measured in metered traffic studies conducted in August 2006 by the Traffic Data Services unit of the California Department of Transportation.

Comparing near term traffic volumes of the hard data of SR76ECS (its Table 7-6) with the assumptions of the TEIR (Figure 3-4 Appendix F) shows:

<u>Road Segment</u>	<u>ADT of SR76ECS</u>	<u>ADT of TEIR</u>
Pauma Reservation Road (“PRR”)	6,570	2,840
SR-76 east of PRR	11,160	8,090
SR-76 west of PRR	12,460	12,240
Valley Center Road (south of SR-76)	9,570	6,670

This table clearly shows that the TEIR underestimates the actual measured near term traffic, and does not reflect the LOS E (near gridlock) of four road segments et forth in SR76ECS.

It would seem prudent to incorporate in the TEIR the actual levels of today’s traffic from the SR76ECS data and to recalculate the Levels of Service of the TEIR to understand the true effect of the Project traffic.

Comparing traffic volumes projected for the Buildout Year 2035 of SR76ECS (its Table 7-1) with the projection for the Horizon Year 2030 of the TEIR (Figure 3-10 Appendix F) shows:

<u>Road Segment</u>	<u>ADT</u>	<u>2035 of SR76ECS</u>	<u>2030 of TEIR</u>
Pauma Reservation Road (“PRR”)		20,950	9,712
SR-76 east of PRR		25,900	15,181
SR-76 west of PRR		29,000	19,151
Valley Center Road (south of SR-76)		19,090	14,091

Again, these are significant discrepancies and it would seem prudent for the TEIR to address the traffic volumes of the SR76ECS which have been developed by a more broadly involved set of stakeholders.

Recommendation II

The traffic calculations of the Project should be further examined as the TEIR understates the possible Peak Traffic Hourly Flow Rate (especially for employee and special event traffic) and, even with the limited mitigation proposed, the Project will result in a far worse Levels of Service than those projected by the Traffic Impact Analysis (particularly in the vicinity of Pauma Reservation Road).

Issue

The TEIR understates the Peak Hour Traffic Flow Rate subsequent to completion of the Project, thereby overstating the calculated Levels of Service.

Commentary

Figure 25 projects the Near Term Plus Project PM Peak Hour Traffic (the “Peak Traffic”) on Pauma Reservation Road at its intersection with SR-76 (the “76 Intersection”) to be 322 outbound and 279 inbound to the Project. The assumed Peak-Hour Factor of 0.90 represents a remarkably even distribution of traffic over a 24-hour period.

The TEIR states that the Project will employ 2,200 individuals, the vast majority of whom will access the Project via the 76 Intersection. Of those individuals, it is probable that several hundred will work similar shifts and enter and leave the Project in a very short time span.

Additionally, the TEIR states that the Project will provide a 1,500-seat multi-purpose area and a 200 seat lecture hall. Events in those facilities will result in large numbers of customers both arriving and departing in shorter intervals of time than for hotel guests and casino patrons.

Further, the TEIR states that the Project will provide 3,900 parking spaces. Such parking capacity does not seem consistent with the TEIR values of the Peak Traffic as it represents approximately 12 hours of Peak Traffic flow. As the assumed park-period distribution is not stated in the TEIR, the relation between parking and traffic flow rates cannot be determined.

Section 3.2 of Appendix F states that Event Center traffic was not considered as “significant by the Pauma Tribe because of the infrequency of use and the off-peak times, which would be less significant than PM hour impacts.” The TEIR also states that the Tribe believes that facilities smaller than the Proposal “would not allow them to be competitive with other tribal resorts in the local area.” Those tribal resorts use their facilities and outside performance stages to regularly mount evening entertainments, headlined by star names, which attract large numbers of attendees.

Correspondingly, the traffic calculations of the Project should be further examined in detail to ensure they represent the traffic most likely resultant from a 2,000 slot, 50+10 table casino, combined with a 400 room hotel property and a 1,500 seat multipurpose area, collectively employing 2,200.

Recommendation III

The basis of the traffic calculations of the Project should be independently reviewed and verified for their internal consistency, especially with regard to the apparent errors, the assumption of the same traffic percentage origination as occurs before the Project, and the use of historic and outdated, not Project-specific, studies to estimate traffic origination volume.

Issue

The traffic forecasts of the TEIR are not internally consistent.

Commentary

As one example, Figure 25 projects the Near Term Plus Project PM Peak Hour Traffic Hourly Flow Rate (the “Peak HFR”) eastbound on SR-76 immediately east of its junction with Pauma Reservation Road (the “76 Intersection”) as 310 continuing SR-76 eastbound and 110 joining SR-76 eastbound by turning left off Pauma Reservation Road for a total of 420.

Yet, less than a mile (Figure 4-1 Appendix F) further east on SR-76, with no intervening access, the eastbound Peak HFR entering the junction of SR-76 and Cole Grade Road (the “Cole Grade Intersection”) is 308, of which 239 turn right onto Cole Grade Road and 69 continue eastbound on SR-76.

Accordingly, the analysis as presented raises the question as to the destination of the approximately 100 Peak HFR discrepancy, as the Peak Hour occurrence will not significantly differ over the one-mile separation.

Elsewhere the Traffic Impact Report contains clerical (and therefore possibly mathematical) errors; one obvious example being the wrong street names in the heading of the Two-way Stop Control Summary for SR-76 and Pauma Reservation Road.

Yet another example of inconsistency is in Figure 3-9 Appendix 5. This projects the Horizon Year PM Peak Hour Traffic Hourly Flow Rate (the “HFR”) on SR-76 immediately north of its intersection with Cole Grade Road as 492 (210 continuing on SR-76 and 282 entering from Cole Grade Road), yet less than a mile west (with no intervening access) immediately prior to the 76 Intersection the northbound traffic on SR-76 is projected to have a HFR of 630 (545 continuing on SR-76 and 85 entering Pauma Reservation Road).

According to the TEIR the Project is both located “about five miles away” (Section 3.16) from and “11 miles east of” (Section 1.2 Appendix F) of the SR-76 and I-15 interchange. The difference is critical to the extent of the improvements to SR-76 necessitated by the Project.

Recommendation IV

The TEIR should analyze the Level of Service at the intersection of Pauma Reservation Road and the entrance to the Project and make appropriate recommendations regarding Pauma Reservation Road, especially requiring mitigation prior to Project occupancy that would provide paved shoulders for emergencies (to avoid congestion), an adequate length turn lane into the Project, appropriate traffic control at the exit from the Project, and emergency evacuation plans in the event of a blockage of the single road access.

Issue

The Average Daily Traffic on Pauma Reservation Road is likely to be far in excess of its reasonable capacity, while no information is available on the Level of Service at the entrance to the Project.

Commentary

Figure 24 projects the Near Term Plus Project Average Daily Traffic (the “ADT”) on to be 7,352 (599 PM Peak, a value believed to be understated) on Pauma Reservation Road; a road created as a Residential Road anticipating an ADT of 1,500 on a roadway approximately 24 feet wide with unpaved shoulders on both sides.

The Reservation borders one side of Pauma Reservation Road which is also used for access by local residents to their off-Reservation homes, and to agricultural groves, on both Pauma Reservation Road and Adams Road, as well as by the Tribe and its invitees accessing the Reservation.

Other than for its use to access the Project, Pauma Reservation Road is lightly traveled and the majority of its projected traffic would be entering and exiting the Project. Exiting traffic would turn left across local eastbound traffic proceeding past the Project and then into the downhill stream of local traffic, potentially causing a major traffic hazard. There are no traffic engineering calculations for the intersection of Pauma Reservation Road and the entrance to the Project.

The now projected ADT on Pauma Reservation Road is in excess of quadruple what would ordinarily be anticipated causing excessive noise and danger of accident to those whose properties adjoin it and those who travel on it other than for Project access.

Pauma Reservation Road will be the only paved vehicular access to the entrance to the Project. During the life of the Project it is probable that this road will be blocked, whether by accident, police investigation, security management, or natural catastrophe. Correspondingly, the TEIR should examine and set forth the impact on the off-Reservation environment of such events and the policy that the Project will adopt in its handling of the occurrence of such events, including the unique concerns of regularly transporting presumably significant amounts of United States currency in the form of coin and notes.

Recommendation V

The TEIR should be amended to consider the extent to which bus and other heavy vehicle traffic will impact the projected Levels of Service at the intersection of SR-76 and Pauma Reservation Road, and the possibility of providing bus service directly to the Project. The mitigation and the signalization should be reviewed to include the provision of bus slowing and acceleration lanes as well as space for boarding and descending from buses. Further, the TEIR should be amended to consider the impact on Level of Service of bus-using pedestrians crossing SR-76 at Pauma Reservation Road, and the accommodations desirable to provide fully for their safety there, and on Pauma Reservation Road itself.

Issue

No appropriate provision is made for access to the Project by public (bus) transport.

Commentary

SR-76 is served by public bus transport operated to a published schedule by the North San Diego County Transit District (the "Bus"). It is probable that some of the 2,000 projected employees of the Project and its guests and patrons will travel to the Project by Bus, for financial and ecological reasons.

The TEIR fails to consider what amount of people will travel by Bus to the Project, how such individuals will alight from the Bus eastbound and westbound on SR-76 near to its intersection with Pauma Reservation Road (the "76 Intersection"), how they will cross SR-76, how their safety will be protected there and while they walk along Pauma Reservation Road, or whether the Bus should traverse Pauma Reservation Road to the Project.

The traffic calculations for the signalized, claimed to be mitigated, 76 Intersection provides only 3 seconds of 'All Red' in a 120 second Cycle Length and clearly does not make adequate allowance for any pedestrian traffic crossing SR-76. Even then, the Intersection is unsatisfactorily rated at Level of Service D and will create significant delays for the 669 projected PM Peak Volume Hourly Flow Rate continuing on SR-76 through the intersection.(Delay 43.4).

The TEIR does not apparently contemplate the provision of an appropriate Bus facility proximate to the 76 Intersection that would provide space for buses to be boarded and descended from without interfering with other traffic on either the through lanes (eastbound and westbound) or right turn lanes (entering and exiting Pauma Reservation Road).

The Project both during its construction and operating phases will be serviced by heavy vehicles of maximum allowable length. The TEIR addresses neither the issues of such vehicles turning from SR-76 onto the narrow Pauma Reservation Road, and returning, nor its grade effect. During the construction phase it is probable that there will be additional disruptions along the entirety of SR-76 from large equipment transports, including those requiring movement permits.

Recommendation VI

The TEIR should be supported by a Traffic Impact Analysis that exhaustively examines the impact of variations in the assumed parametric values (for traffic Volume, Peak Hour Factor, geographic distribution of origination, and the like) on calculated Levels of Service, thereby providing greater certainty of the reliability and attainability of calculated Levels of Service.

Issue

The Traffic Impact Analysis relies for its integrity upon assumptions made in the TEIR concerning traffic Volume, Peak Hour Factor, geographic distribution of origination, and the like. The combination of small variations from these assumptions can result in significant deterioration of the calculated Levels of Service, which in many cases are already projected to be marginal at Level of Service D and is actually Level of Service E according to actual traffic measurement conducted by the state of California..

Commentary

The precision of the determination of Level of Service (the “LOS”) by computer modeling (Appendix F) masks the fact that the accuracy of the predicted value relies upon the accuracy of the assumptions upon which the calculation is made. It is unlikely that the assumptions made in the TEIR for traffic Volume, Peak Hour Factor, geographic distribution of origination, and the like will prove to be entirely accurate at the time of any completion of the Project. Further, the combination of small changes in each parameter of a multi-factor model can result in significant changes in the outcome value calculated by that model (analogous to tolerances all stacking the ‘wrong’ way in wood- or metalworking).

For these reasons, a rigorous scientific approach would have been to extend the computer modeling to include combinations of somewhat different parametric assumptions. In that way the sensitivity of the calculated values of the computer model to different combinations of variations in parametric assumptions could be established. It would then be possible to improve the quality and certainty of the projected LOS by making separate assessments of the likelihood, at the margin, of the eventuality of such combinations of parametric values.

Such a sensitivity analysis is particularly important in the case of the TEIR both because of the very significant growth of traffic volume along what is presently a quiet rural road resultant from any implementation of the Project, and the extensive reliance of the TEIR upon the notion that LOS D (in many cases a marked deterioration from today’s LOS) has to be acceptable to the off-Reservation community.

Recommendation VII

A condition of the approval of the Project should be that it may not be opened until such time as all of the traffic mitigations are completed, including the implementation of the recommendations of the SR-76 East Corridor Study (particularly from Pala Mission Road to Valley Center Road).

Issue

If the mitigations throughout SR-76 are not completed prior to the completion of the Project, then the Levels of Service and the potential for traffic accidents and harm to human life will be far more adverse than projected in the TEIR.

Commentary

Even using the Peak Traffic that is believed to be understated, the Traffic Impact Analysis of the TEIR finds (Executive Summary, Appendix F) that Project Traffic will adversely impact:

- SR-76 west of Old Highway 395 currently operating at LOS E and/or F, and,
- SR-76 between I-15 and Cole Grade Road currently operating at LOS E and/or F, and
- The intersections of SR-76 with both Pauma Reservation Road and I-15

The TEIR proposes certain mitigation to these serious impacts by (Section 5.0 Appendix F):

- by the Tribe discussing with CALTRANS and SANDAG the timing of the SR-76 corridor study versus any interim improvement, and
- signalizing and reconfiguring the intersection of SR-76 and Pauma Reservation Road (the “SR-76 Intersection”), and
- recommending that the Tribe pay a fair share towards improvements along SR-76.

While the Tribe has apparently agreed to fund limited improvements at the SR-76 Intersection and has informed CALTRANS that such should be made prior to the opening of the Project (Page 130), it is far from clear that such will be the case. Furthermore, there is no timing committed regarding the other mitigations along SR-76, in particular from Pala Mission Road east to Valley Center Road.

Without these mitigations being completed prior to the projected completion of the Project in 2009 (Page 120) the Level of Service and the consequent risk of traffic accidents will be significantly more adverse than those contained in the TEIR.

This ‘mitigate first, operate second’ approach has been successfully adopted for the Palomar Aggregates project (Page 142) so that desired road improvements will be completed prior to the operation of the facility.

Recommendation VIII The TEIR should more carefully analyze the size of the water extraction facility necessary to operate the Project, as approved, without establishing what appear to be excessive extraction capabilities that can result in diminution of local and distant water supply. Additionally, the Project approval should preclude water extracted by equipment established under the TEIR from being used for purposes other than those of the Project.

Issue *The projected expansion of water extraction capability to a capacity of 444,000 gallons per day appears excessive compared to the historic usage of 90,000gallons per day for the Tribe, allowing for significantly reduced agricultural demand and the expanded casino and hotel.*

Commentary The existing three wells on the Reservation have a stated capacity of 233,000 gallons per day (“gpd”) at an allegedly, but not scientifically supported, aquifer-recoverable 65% utilization (Page 74). Of that capacity, water demands averaged 90,000 gpd in 2006 including 54,000 gpd for the existing casino. Of the casino usage some 30,000 gpd is apparently reclaimed.

The TEIR projects (Page 16) expanding the ground water extraction capacity with three additional wells providing the Project a total capacity of 444, 000 gpd.

The TEIR projects that the Project, on the Pauma tract of the Tribe, will require the clearing of approximately 34.7 acres of citrus groves (largely replaced with flatwork and other construction) and the replanting of some 4.2 acres of citrus for a net loss of 30.5 acres of on-Reservation agricultural land. At the same time, the capacity for reclaimed water is projected to increase by expanding the existing wastewater treatment facility from 54,000 gpd to an average of 227,500 gpd.

Accordingly, the capacity for producing recycled water will markedly increase while demand for agricultural water will markedly decrease. The TEIR is silent as to the disposition of this apparently excess amount of recycled water.

Therefore the TEIR statement (Section 4.8b) that there “would not be a net increase in water use on the Reservation” is, at best, misleading. For, if there were to be no net increase in water usage there would be no requirement to increase the water extraction capacity, let alone by such a significant amount, as the existing capacity is well in excess of current demand (including that for to-be-cleared citrus groves).

Recommendation IX

The mitigation proposed in the TEIR regarding lighting effect off-Reservation should be reviewed to providing more specifics and, in particular, to establish a condition of the development of an external lighting plan for approval by the County of San Diego and the authorities controlling the use of Palomar Observatory well prior to the start of the Project and the construction of buildings or facilities.

Issue

The mitigation proposed in the TEIR for the off-Reservation effects of on-Reservation lighting is inadequate, resulting in adverse effect upon world-class scientific research conducted in the vicinity of the Reservation and the off-Reservation scenic vista of Pauma Valley.

Commentary

The generic nature of the proposed mitigation set forth in Mitigation Measure A-1 (Page 82) is inadequate in its lack of specifics and reliance upon generalities.

In addition, by its use searchlights to serve as promotional, attention-getting devices, the Tribe has evidenced its disinterest in reducing light pollution and satisfaction of the vital needs of the unique and powerful research center at nearby Palomar Observatory.

The mitigation does not address the issue of indirect upward illumination from reflection off the face of the Project buildings, structures, and concrete parking lots and structures, which amount of reflection can be favorably impacted by the selection of construction styles and materials, as well as landscaping proximate to the structures. Further, the intensity of the light as viewed from a distance to the Project can be favorably effected by the light from dispersed, not concentrated, sources, the avoidance of ‘wash’ lighting, the selection of source technologies and colors, and other factors.

Aside from the impact on the critical scientific endeavors at Palomar Observatory, the early, careful development and execution of an integrated external lighting plan can ensure that what the TEIR terms “the largest and tallest structure in the Pauma Valley” does not at night turn into a beacon of off-Reservation despair.

Recommendation X

The Project should be redesigned to be less high, possibly no more than 8 stories, thereby having a footprint of approximately 3 times that of that now proposed. Such a reduction in height would both better enable the structure to blend into the local topography and not provide the, however remote, occupant danger hazard of a 23 story structure.

Issue

Contrary to the finding of the TEIR, the 23 story hotel of the Project would have a substantial adverse effect upon the off-Reservation scenic vista of Pauma Valley.

Commentary

The outcome of the construction of “the largest and tallest structure in the Pauma Valley” would be that in “many areas where views of the existing casino are currently not possible views of the upper portions of the hotel tower would be possible.” (Page 76)

The presence of a larger several hundred foot tall building in the center of “a rural agricultural valley” (Page 21) would markedly detract from the scenic beauty of the valley in its center, whereas the hotel towers of other tribes are located to the ends of the valley and are not so obtrusive throughout the valley.

Contrary to the contention of the TEIR that residential development is “concentrated to northwest of the Project Site” (Page 22) there are hundreds of residences to the west and southwest of the Project site. These residences are situated both on higher elevations across the valley (south and west) from the Project and on the floor of the valley in the Pauma Valley Country Estates (beginning some 8,000 feet from the Project site, Figure 6.) .

As is clearly demonstrated by the contrast of the Project site and View Simulated from the carefully selected Key Observation Points (Figures 7 and 17, Figures 9 and 19, and Figures 10 and 20) the Project will both be an immediate focus point for those viewing the valley from off-Reservation and, because of its height compared to surrounding vegetation and its being viewed in contrast to an agrarian vista.

The bland statement that “[w]hile the development would be highly visible it would be designed to be aesthetically pleasing” (Page 76) lacks in both specificity and defined commitment and is an impractical for a large, several hundred foot tower situate in otherwise wide open space.

Other than the four-mile-distant availability of a 100-foot Ladder Truck, the TEIR contains no specific actions nor mitigation measures to provide high-rise fire security.

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Recommendation XI The TEIR should analyze, and make appropriate mitigation recommendations regarding, any impact of aviation safety arising from any construction of the Project proximate to the landing and take-off patterns of nearby private airports.

Issue *While the TEIR mentions that the Project is, and it indeed is, proximate to two private airports, one of which is frequently used, it presents no analysis of the impact of the Project on aviation safety nor makes any required mitigation recommendations.*

Commentary Of the two private airports mentioned in the TEIR, Pauma Valley Airpark has a surfaced runway (29/11) that is approximately 2800 feet long and 50 feet wide and is approximately 756 feet above MSL. Nearly all traffic utilizes Runway 29 (landing and taking off to the north/east) which has a right-hand traffic pattern at an altitude of 1,500 feet..

Paragraph 4-3-3 of the Airman Information Manual defines the approach pattern to be followed when landing at an airport with no local tower. The Project is exactly on the defined 45 degree flight path for a normal downwind approach to Runway 29 and, as such, a hotel tower at the Project could be a flight hazard for most aircraft arriving at Pauma Valley Airpark.

Accordingly the TEIA should consider, with the advice of relevant authorities such as the Federal Aviation Administration, the issues of any obstruction of air space that could resultant from the Project and the impact of such upon existing operations at local, privately-owned airfields (especially regarding obstruction markings and lighting).

Recommendation XII

Neither the TEIR nor the Project should be approved until such time as there is agreement, commitment and in-place funding for a road system that provides acceptable Levels of Service throughout the vicinity of the Project; a direct cause of both approximately 25% of such traffic and the need for extensive improvements to roads that intersect with SR-76 (without adversely impacting the intent of the off-Reservation community that SR-76 should be a scenic highway).

Issue

The TEIR projects that by 2030 (the “Horizon Year”) the casino and hotel operations of the Tribe will represent approximately 25% of the traffic in Pauma Valley with essentially every intersection and road segment having a Level of Service F

Commentary

The TEIR projects that the casino and hotel operations of the Tribe will represent approximately 25% of the traffic on SR-76 in the vicinity of the Project (as measured by calculated Peak Traffic presenting at the intersection of SR-76 and Pauma Reservation Road, Figure 29). The TEIR projects that the Average Daily Traffic (the “ADT”) on SR-76 will be 19,151 north of, and 15,181 south of, its intersection with Pauma Reservation Road.

On Pauma Reservation Road, the Horizon Year ADT is projected to be 9,712, more consistent with the 10,900 capacity at Level of Service (“LOS”) D for a Rural Connector (30 foot wide in an 84 foot right of way) than for a 24 foot residential road with unpaved shoulders.

The TEIR projects a LOS F for each of the intersections of SR-76 with Cole Grade Road and Valley Center Road. With these roads projected to carry ADTs of 8,180 and 14,091, respectively, these intersections, intervening intersections not included in the TEIR (such as Pauma Valley Drive) and the road segments themselves will become increasingly congested, especially with the effects of developments, residential and other, that are in various stages of planning but that are not included in the Cumulative Impacts – Project List (Page 180.) Such ADT values will require significant improvements not only to the SR 76 intersections but also the entirety of the road segments to maintain an acceptable Level of Service.

In support of the projected ADT on SR-76, the TEIR states (Page 69) that SR-76 is “classified as a major road.” Elsewhere, (Page 56) the TEIR states that the Pala-Pauma Planning Group supports “the Designation of SR-76 as a scenic highway” which according to the TEIR “would allow a new turn out lane, a middle turn lane, and scenic turn out lanes, effectively resulting in a three-lane highway”. Such a scenic highway is not comparable to the four-lane, 78 foot wide road in 98 feet right of way of a Main Road. Therefore, the TEIR statement (Page 81) that the Project would “not affect the eligibility of SR-76 from I-15 to SR-79 for designation as a scenic highway” is patently not correct.

Recommendation XIII The TEIR should be reviewed to ensure it is in full compliance with Section 10.8 (especially 10.8.1 (b)) of the Tribal-State Compact, as amended on June 21, 2004 between the State of California and the Tribe, particularly with regard to the deferral of the identification of mitigation measures and the identification and discussion of alternate mitigation measures.

Issue *The TEIR both fails to avoid deferral of mitigation measures and does not discuss possible alternate mitigation measures as required by the terms of the Tribal-State Compact between the Tribe and the State of California.*

Commentary The Tribal-State Compact, as amended on June 21, 2004 between the State of California and The Tribe at Section 10.8.1 states with regard to a TEIR that “[w]here several measures are available to mitigate an effect, each should be discussed and the basis for selecting a particular measure should be identified” and further that “[f]ormulation of mitigation measures should not be deferred until some future time.”

On several occasions the TEIR defers the identification of specific mitigation measures, in some cases indicating that they are subject to future negotiation, including the issues of:

- Mitigation Measure M-1, not providing specific mitigation nor providing a commitment on the part of the Tribe other than at some future time to “make a fair contribution to the RTA [not the State nor the County] for near-term improvements to the intersection of SR 76/I-15 NB Ramp identified in the SR-76 Corridor Study”, and
- Mitigation Measure M-3 providing no specific mitigation nor commitment on the part of the Tribe other than to say “[i]t is recommended that the Proposed Project pay a fair share as determined by the MOU the Tribe will enter toward implementation of the results of the corridor study to address cumulative indirect impacts associated with the Proposed Project.”, and
- while Section 5.1.1 addressing the issue of Aesthetics states “[m]itigation measures have been proposed to . . . provide an attractive appearance to the highly-visible casino “ . . . there are no specific mitigation measures defined in the TEIR, presumably they are being deferred to the future, and
- few, if any, of the limited number of mitigation measures proposed provides any alternative measures that were considered and the reason for the selection of the defined measure(s), and

Additionally, other the statement (Page 149) that the “ . . . Project would not result in significant off-reservation growth . . . “ is not consistent with the provision of 2,200 jobs in a 115 square mile area having only a population of 6,200. There fore the TEIR fails to adequately consider and remediate the induced growth resultant from the Project.

Recommendation XIV The several alternate projects that the TEIR postulates should be analyzed in more detail than now contained in the assigned 4 pages of a 220+ page report to ensure that the rightful ambitions of the Tribe in the exercise of its sovereignty could not be achieved with a smaller Project; one that would not be so likely to enrich non members of the Tribe at the expense of the local, off-Reservation environment.

Issue *The scale of the Project is inconsistent with the TEIR-defined objectives of the Project, leading to the possibility of a smaller scale project being able to fulfill the needs of the Tribe.*

Commentary Included in the purpose of and need for the Project which the TEIR defines (Section 1.2) as key considerations are to broadly:

- improve the socio economic status of the Tribe, and
- provide additional employment opportunities for the Tribe, and
- fund other expenditures permitted or required by the Indian gaming Regulatory Act (the “IGRA”).

The TEIR identifies that the Project will employ 2,200 people.

It is clear that such employment is far in excess of that needed to fully employ a 176 member Tribe, one with an unemployment rate of 65% (Section 1.2). The existing facility employs some 500 people; possibly adequate to provide employment for all the Tribe, given training and education. Possibly, therefore, even the provision of 1,700 additional jobs will not offset the high rate of unemployment, which may have causes other than job availability.

Based upon industry statistics of some \$250-300 net take per slot machine per day (Source: San Diego Union Tribune) generating net income of some 10% the Project’s 2,000 (expandable to 2,500) slots would, in addition to the income produced elsewhere in the Project, very conservatively generate income for the members of the Tribe in the range of \$25-30 million dollars; some \$175,000 per year for each and every member of the Tribe.

The assumption of those parameters of employment and finances generates the question as to whether the rightful ambitions of the Tribe in the exercise of its sovereignty could be achieved with a smaller Project that would not create such adverse impacts on the local, off-Reservation environment.