CHAPTER 3.0

COMMENTS AND RESPONSES TO COMMENTS

COMMENT SHEET
Shingle Springs Rancheria Interchange Project
U-S Highway 50, El Dorado County

COMMENTS

This public meeting is held to recive public comments on the EIR/EA. As such, no formal presentation will be provided by Caltrans or BIA staff. All comments regarding the adequency of the EIR/EA should be directed to the Court Reporter or submitted in writing on this comment form. If you submit a writen comment on this comment form, please leave your name and address with the court reporter. Alternatively, writen comments can be mailed to the following:

Department of Transportation (Caltrans)
Office of Environmental Management
Attn: Che McFarlin, Environmental Specialist
2800 Gateway Oaks Drive, Ste. 100
Sacramento, CA 95833
Email: Che_McFarlin@dot.ca.gov

The comment period for the EIR/EA ends June 20, 2002.

Name Nicholas H. Fonseca Phone/Fax 676-8010 (530)

Organization Shingle Springs Rancheria

Address ~~5281 Honpie RD~~ ARTESIA RD 4970

City/State/Zip Placerville, CA. 95667

Comment:

1-1 This much needed facility is a must for the tribe. it is the Rancheria's responsability and mine to accomplish and produce the best and most accurate E.I.R. to compliment our project. I stand firm on the quality of document and ask that this project approved.

Nicholas H. Fonseca

(If necessary, please continue your comments on the reverse side of this paper.)

California Department of Transportation
EIR Responses to Comments

Comment Letter #1

1-1 The comment represents a favorable opinion regarding the proposed project. The comment is noted and will be included in the record for consideration by the decision-makers prior to a final decision on the interchange project.

Caltrans

COMMENT SHEET
Shingle Springs Rancheria Interchange Project
U-S Highway 50, El Dorado County

COMMENTS

This public meeting is held to recive public comments on the EIR/EA. As such, no formal presentation will be provided by Caltrans or BIA staff. All comments regarding the adequency of the EIR/EA should be directed to the Court Reporter or submitted in writing on this comment form. If you submit a writen comment on this comment form, please leave your name and address with the court reporter. Alternatively, writen comments can be mailed to the following:

Department of Transportation (Caltrans)
Office of Environmental Management
Attn: Che McFarlin, Environmental Specialist
2800 Gateway Oaks Drive, Ste. 100
Sacramento, CA 95833
Email: Che_McFarlin@dot.ca.gov

The comment period for the EIR/EA ends June 20, 2002.

Name Jeff Murray Day. Phone/Fax (530) 676-8010

Organization Shingle Springs Rancheria.

Address 4910 Koto Rd.

City/State/Zip Placerville, Ca. 95667.

Comment:

2-1 Direct access to 50 From The Rancheria will assist Emergency Responders such as Fire, police and Medical in responding to Emergencies not ~~of~~ only for Rancheria Residents but also near By residents. services are Severly hampered Due to The narrow Road and several speed Bumps people living next to The Rancheria would have Better services in responce time and Travel conditions if a medic unit is needed. "spinal cord injury's and speed Bumps Don't mix"

(If necessary, please continue your comments on the reverse side of this paper.)

California Department of Transportation
EIR Responses to Comments

Comment Letter #2

2-1 The comment states that the interchange is needed for fire, police, and medical emergency purposes. The comment is noted and will be included in the record for consideration by the decision-makers prior to a final decision on the interchange project.

COMMENT LETTER #3

COMMENT SHEET
Shingle Springs Rancheria Interchange Project
U-S Highway 50, El Dorado County

COMMENTS

This public meeting is held to recive public comments on the EIR/EA. As such, no formal presentation will be provided by Caltrans or BIA staff. All comments regarding the adequency of the EIR/EA should be directed to the Court Reporter or submitted in writing on this comment form. If you submit a writen comment on this comment form, please leave your name and address with the court reporter. Alternatively, writen comments can be mailed to the following:

Department of Transportation (Caltrans)
Office of Environmental Management
Attn: Che McFarlin, Environmental Specialist
2800 Gateway Oaks Drive, Ste. 100
Sacramento, CA 95833
Email: Che_McFarlin@dot.ca.gov

The comment period for the EIR/EA ends June 20, 2002.

Name Ruth M. Tausta Phone/Fax 642-0537

Organization Independent Rancher

Address P.O. Box 1231 (4830 Union Mine Rd)

City/State/Zip El Dorado, CA. 95623

Comment: Here we are in the 21st Century and we (acting as the gov't and individuals) are still treating native people as if they did not even belong on their own property, and as if they were not persons who belonged here. Their history here goes back thousands of years — of living adequately, not polluting or raping their environment (rivers, lands, pastures, trees etc.) These reports EIR/EA go on and on to show that there will be no more damage or pollution than is or has already been caused by motor vehicle traffic and other shopping centers, banks, churches etc.

3-1

The Miwok Indians and other tribes need a proper non [illegible] road and easement to the reservation. As it [illegible] on [illegible] of the Big Book [illegible] last line of [illegible] Reservation Rd — [illegible] three of these [illegible] roadways with [illegible] and contain extreme [illegible]

If necessary, please continue your comments on the reverse side of this paper.)

Also, PM. peak traffic to and from the reservation ~~is~~ 15 inbound vehicles, 7 outbound (p. 21). These roads also have some restrictions of types of trucks (PGE, Garbage, GAS etc) and hours they can come in or out. Again, Shame!

The Hotel/Casino will generate more trips into the Reservation — and the Hwy 50 interchange is certainly necessary. However, the tribe has suggested that they will provide Carpools, electric vehicles and work with Bus/Transit connections w/ county and Private Charter groups. These are a better suggestions than any I've heard from WALMART — or the new El Dorado Hills Shopping Mal. Complex! What is their mitigation method for motor vehicle pollution?

3-1 Cont.

p. 63

I have studied the Final EA, Shingle Spring Rancheria, Hotel and Casino Project. Dec 2001 and see very little to no reason that the Project could not go on, that is to say, it Could go forward. It would be an economic boon for the county, and especially the Native People residing here.

Go Forward, get into the 21st Century

Respectfully,

Ruth Tausta

05/30/02

Ruth Tavola
PO Box 1231
El Dorado, CA 95623-1231

May 20, 2002

Ronald Jaeger, Regional Director, Pacific Region
Bureau of Indian Affairs
2800 Cottage way
Sacramento, CA 95825

Dear Sir:

The Draft Environmental Impact Report/Environmental Assessment (ERA/EA) of the acceptance of a new interchange on Highway 50 into the IRR System and the Analysis of Air Quality impacts and conformity with California State [illegible] from the proposed interchange with Highway 50 was outstanding well documented and presented. All the estimates were given and all passed conformity with the State and County codes. There need not be any reason for the Miwok Indian people of Shingle Springs Rancheria to prove this all over again. The Miwoks are a peaceful quiet people with families living on this small reservation. They have had to deal with only one narrow road to their property for many years. Let them get started on the project, so the native people can have a proper egress and entrance to their homes so that they could get jobs, money and live again with dignity.

3-2

The only negative comments that were given were by the NIMBY people who lived in the housing development around the Reservation. With their whining and manipulation of the law, they almost managed to close the only road that the reservation had for the families living there, and to restrict to only certain types of vehicles. Also, only trucks of certain utilities can enter (PGE, EID, WM Disposal) at regularly scheduled times. If there is a medical or health emergency, it is difficult for an Emergency vehicle to drive through if not at a specified time. It happened once when an elderly native Miwok suffered a heart attack. The Homeowners have also built speed bumps and put other obstacles on that only road that leads to the families on the Reservation.

3-3

They have never shown the Indians any sympathy or respect for the hardships that they (the Indians) have had to endure for years. The comments were in a tone that reeked of bigotry and ignorance.

For instance, one person said that when he moved on his 2 acres, 2 miles from the Reservation, 20 years ago, there were only 4 Indian families living there, and now there are 41, such an increase. What did he expect? Perhaps, he had hoped that they would die off, and/or not live there anymore!

3-4 The population in this county is increasing, as it is in the world. The very fact that El Dorado Hills, a few miles up the corridor to the east, is building a vast shopping mall, which is going to be called the El Dorado Hills Town Center. It is on a 200 acre site, and is planned to encompass nearly 2.5 million square feet of retail, commercial, office and R&D space. If the contractors for that project have passed the impact air quality, Highway 50 use and interchange components of California's State Implementation Plan with one analysis and one set of paperwork, permits, etc., then surely the paper work already done for this small Casino at the Shingle Springs Rancheria could be approved so that their work can begin.

3-5 It would be a good thing. Perhaps, even save lives. I have had several senior friends who like to go to casinos, and have driven to Lake Tahoe to gamble, to eat and to have a good time, but who have had fatal accidents while driving on Highway 50 between Placerville and Lake Tahoe. Here, in Shingle Springs there could be such a casino where they could recreate, with no liquor, and no long dangerous drive. It would be a much safer recreational trip for those interested in such activities.

Your consideration and approval for this proposed Shingle Springs Hotel and Casino Project would be appreciated.

Very truly,

Ruth Tausta

Ruth Tausta
Property Owner,
El Dorado, CA.

(Sorry the printer seems to be faiking on this old MAC.)
Please accept this letter as an acceptance of the Draft of (ERA/EA) for the Miwok Shingle Springs Rancheria Reservation interchange @ Hwy 50.
R Tausta

California Department of Transportation
EIR Responses to Comments

Comment Letter #3

3-1 The comment supports the proposed interchange project. The comment is noted and will be included in the record for consideration by the decision-makers prior to a final decision on the interchange project.

3-2 The commenter provides support for the proposed interchange and the Tribe. The comment is noted and will be included in the record for consideration by the decision-makers prior to a final decision on the interchange project.

3-3 The comment points out the current restrictions existing on Reservation Road leading into the Rancheria, and presents personal opinions as to why those restrictions exist. The comment is noted and will be included in the record for consideration by the decision-makers prior to a final decision on the interchange project.

3-4 The commenter suggests that if the EIR for the 200 acre, 2.5 million square feet of retail and office approved in El Dorado Hills (Town Centers East and West) analyzed issues related to air quality, U.S. Highway 50 use, interchange, and the State Implementation Plan, and was approved by the El Dorado County Board of Supervisors (in 1995), then the environmental documentation prepared for the proposed Shingle Springs Interchange, a much smaller project, should be approved so that work can begin. The comment is noted and will be included in the record for consideration by the decision-makers prior to a final decision on the interchange project.

3-5 The commenter notes that it would be safer for people to travel to the Shingle Springs Rancheria to gamble in a non-alcoholic environment, than to have people travel U.S. Highway 50 between Placerville and Lake Tahoe. The comment is noted and will be included in the record for consideration by the decision-makers prior to a final decision on the interchange project.

Caltrans

COMMENT SHEET
Shingle Springs Rancheria Interchange Project
U-S Highway 50, El Dorado County

COMMENTS

This public meeting is held to recive public comments on the EIR/EA. As such, no formal presentation will be provided by Caltrans or BIA staff. All comments regarding the adequency of the EIR/EA should be directed to the Court Reporter or submitted in writing on this comment form. If you submit a writen comment on this comment form, please leave your name and address with the court reporter. Alternatively, writen comments can be mailed to the following:

Department of Transportation (Caltrans)
Office of Environmental Management
Attn: Che McFarlin, Environmental Specialist
2800 Gateway Oaks Drive, Ste. 100
Sacramento, CA 95833
Email: Che_McFarlin@dot.ca.gov

The comment period for the EIR/EA ends June 20, 2002.

Name Cheryl Tisa Phone/Fax 791-1135
Organization Barbara Lee & Assocs. - Real Estate
Address 3975-C Douglas Blvd
City/State/Zip Roseville, CA

Comment: The E.I.R. states there are no alternatives to access the Rancheria other than the alternative Hwy 50 interchange designs.

I do not believe this is true. Mr Anderson owns 4/5 acres extending from the Rancheria to Greenstone Rd on which he has designed (engineered) a r.o.w. access. The access follows approximately a ~~pro~~ existing R.O.W design on a County Recorded Sub Division MAP - Recorded May 29, 1974.

4-1

This ~~road~~ access road would be less intrusive, would cost approx. 10 million less to build and put control back with

(If necessary, please continue your comments on the reverse side of this paper.)

the county and LOCAL home owners.
The LOCAL residents would be well buffered since the road traverses 45 acres.

The County could work out an Agreement with the Rancheria for fire and police services which would increase County revenues and with water an issue, the tribe could gain the 9 water meters currently servicing the 9 parcels making up the 45 acres.

4-1 Cont.

This proposal was submitted for consideration to County Council

The following comment is excerpted from the transcript of the May 30, 2002 Shingle Springs Rancheria Public Hearing:

MS. TISA: My name is Cheryl Tisa, C-H-E-R-Y-L, last name, T-I-S-A. I'm with Barbara Lee & Associates Real Estate, on 3975 Douglas Boulevard in Roseville. I'm here representing Mr. Anderson. He has 45 acres in nine parcels, five acres each, just to the east of the Rancheria.

The EIR on display today states there are no alternatives to access the Rancheria other than the alternative Highway 50 interchange designs. We do not believe that's true.

4-1 Cont.

Mr. Anderson owns, again, the 45 acres extending from the Rancheria to Greenstone Road, on which he has -- had designed a right-of-way, an engineered right-of-way to access the Rancheria. The access follows approximately an existing right-of-way design which shows up on a county recorded subdivision map which was recorded May 27th, 1974, one day earlier than the CC&Rs for the subdivision was recorded.

The access road, if built through these 45 acres, would be less obtrusive, would cost the tribe approximately $10 million less to build, and it would also put control of the access back in the hands of the county and the local homeowners.

The local residents would be well buffered, since the road, again, is on 45 acres. The county could work out an agreement with the tribe for fire or police services, which would increase county revenues. And with water an issue in the county, the tribe would gain nine water meters currently servicing the nine five-acre parcels, which make up the 45 acres.

4-1 Cont.

The proposal -- an environmental assessment was done for this proposal, and that report was submitted to County Counsel, but no reply has been received.

That's the end of my statement.

The current environmental report that we are here at the public hearing today for, on Section 2.3 states there are no alternatives to access the Rancheria when, in fact, we believe there is an alternative alternate, and that is going back into the 45-acre and the right-of-way there. It could be graded.

The following comment is excerpted from the transcript of the May 30, 2002 Shingle Springs Rancheria Public Hearing:

MS. TISA: Amending my earlier comments.

I wanted to bring to the attention that on May 29th, 1999, Environmental Science Associates prepared for Shingle Springs Rancheria a -- Shingle Springs Rancheria Roadway and Casino Environmental Assessment Report, dated May 21st, 1999. In that it shows the alternative right-of-way through a 45-acre property consisting of nine parcels all under the same ownership, on which the right-of-way -- or access road to the Rancheria could be built.

4-1 Cont.

The second item to note was on May 29th, 1974, the county approved and recorded -- or the county recorded a subdivision map. This map approved a roadway to access the Miwok tribe lands.

The following day, the CC&Rs for the subdivision to the east of the property were recorded. Since they were recorded one day after the subdivision map, which shows a road being dedicated, the CC&Rs -- the subdivision map supersedes. It was recorded a day earlier. That's it.

California Department of Transportation
EIR Responses to Comments

Comment Letter #4

4-1 The commenter asserts that the alternative route (which would connect through Grassy Run) was not analyzed. The commenter is incorrect. An alternative under CEQA should feasibly attain most of the basic project objectives while avoiding or substantially lessening the potentially significant impacts of the project (CEQA Guidelines § 15126.6). Similarly, under NEPA, an environmental document should only discuss alternatives that are reasonable and that meet the purpose and need of the project (see 40 CFR § 1502.14). Accordingly, both CEQA and NEPA permit alternatives that fail to meet these criteria to be eliminated from detailed study and permit only a brief discussion of the rationale for such elimination as is all that is necessary in an EA or an EIR.

The frontage road alternative advocated by the commenter was considered in the EIR/EA process for the interchange project, but was eliminated from detailed study because it was determined not to be feasible or reasonable, and not to meet the project's objectives. At its nearest point, the Rancheria is just 57 feet from the U.S. 50 right-of-way. Constructing the one-mile long roadway that would be necessary for the frontage road alternative would require acquiring occupied residential property and evicting the current residents. Such action would create a substantial social impact that the proposed project avoids, and the Tribe does not wish to force people to move from their homes as part of this project. Also, the frontage road alternative would leave access to the Rancheria out of the control of the Tribe. This is the current situation resulting from prior access litigation with Grassy Run Homeowners' Association/Community Services District. The frontage road alternative fails to provide unrestricted access to the Reservation, which presently has restricted access, for commercial and economic development purposes. Please see Response to Comment 40-4.

Furthermore, this alternative would not reduce potential environmental impacts. Whereas the proposed interchange access road would be approximately 420-feet long, the frontage road would be approximately one mile long (or nearly twelve times as long as the proposed access road): it would result in more, not less, potential environmental impacts. Specifically, the proposed interchange access road is located so as to avoid habitat of protected species, whereas the frontage road alternative would potentially impact the Slate Creek area, which provides habitat for the California red-legged frog, a federally threatened species, the foothill yellow-legged frog, a federal and state species of concern, and the northwestern pond turtle, also a federal and state species of concern. Because the frontage road alternative would increase potentially significant environmental impacts relative to the proposed project, it was proper to eliminate it from further consideration.

Finally, it would be legally infeasible for the Tribe to use a frontage road through the Grassy Run subdivision for casino, hotel or other commercial purposes. The

U.S. District Court (Eastern District) has previously determined that the Grassy Run Declaration of Covenants and Restrictions precludes all uses of roads through the subdivision for any purpose other than residential. Thus, the frontage road alternative also fails to serve the project objective - providing access to the Rancheria for commercial and economic development purposes - and was properly rejected for this reason as well.

Caltrans

COMMENT SHEET
Shingle Springs Rancheria Interchange Project
U-S Highway 50, El Dorado County

COMMENTS

This public meeting is held to recive public comments on the EIR/EA. As such, no formal presentation will be provided by Caltrans or BIA staff. All comments regarding the adequency of the EIR/EA should be directed to the Court Reporter or submitted in writing on this comment form. If you submit a writen comment on this comment form, please leave your name and address with the court reporter. Alternatively, writen comments can be mailed to the following:

Department of Transportation (Caltrans)
Office of Environmental Management
Attn: Che McFarlin, Environmental Specialist
2800 Gateway Oaks Drive, Ste. 100
Sacramento, CA 95833
Email: Che_McFarlin@dot.ca.gov

The comment period for the EIR/EA ends June 20, 2002.

Name Agnes Fehr Phone/Fax

Organization Sh. Buckeye Ranchers

Address 3351 Grandview Circle

City/State/Zip Shingle Springs, Ca 95682

Comment:

Increased traffic will cause more pollution and traffic congestion.

Nothing about an overpass has ever been mentioned until permission for casino was granted.

5-1 More traffic on Hwy 50 will cause more noise and dust which will become part of my every day living to deteriate.

We all have concerns about our water pressure.

(If necessary, please continue your comments on the reverse side of this paper.)

California Department of Transportation
EIR Responses to Comments

Comment Letter #5

5-1 The commenter generally notes that the proposed interchange project will result in increased traffic, noise, and dust. The commenter notes that the interchange was not mentioned until permission for gaming was granted. Lastly, the commenter also states that they have concerns regarding water pressure. Chapters 5.4, 5.5, and 5.6 of the EIR/EA address the potential traffic, air quality and noise effects of the interchange project, respectively. Chapter 9 addressed the indirect effects of the proposed hotel and casino project. The water delivery issue associated with the hotel and casino is identified as an indirect effect of the interchange project and was fully addressed by the National Indian Gaming Commission (NIGC). Final Environmental Assessment, Section 6.8.1 – Water Supply. Water delivery consists of two options: (1) water delivery from the El Dorado Irrigation District (EID), and (2) water trucking. Water trucking will be used if an agreement is not entered into between the Tribe and EID. With respect to the timing of the overpass, the Tribe has been searching for a solution to its access issues for years, and particularly since the court decision restricting their access. Part of the purpose of the project is to provide the Tribe with access to resolve this situation and to allow the Tribe to pursue economic development. Please see Response to Comment 19-3.

Caltrans

COMMENT SHEET
Shingle Springs Rancheria Interchange Project
U-S Highway 50, El Dorado County

COMMENTS

This public meeting is held to recive public comments on the EIR/EA. As such, no formal presentation will be provided by Caltrans or BIA staff. All comments regarding the adequency of the EIR/EA should be directed to the Court Reporter or submitted in writing on this comment form. If you submit a writen comment on this comment form, please leave your name and address with the court reporter. Alternatively, writen comments can be mailed to the following:

Department of Transportation (Caltrans)
Office of Environmental Management
Attn: Che McFarlin, Environmental Specialist
2800 Gateway Oaks Drive, Ste. 100
Sacramento, CA 95833
Email: Che_McFarlin@dot.ca.gov

The comment period for the EIR/EA ends June 20, 2002.

Name Eloise Mutscha Phone/Fax (530) 677-4340

Organization South Buckeye Rancheros Home Owners Assoc.

Address 3490 Grandview Circle

City/State/Zip Shingle Springs, CA-95682

Comment: I'm very concerned about the environmental impact on our area — the home owners in the area & the county in general — where the proposed Casino + Hotel are concerned. The so-called "indirect impact" — thats the important part. We all know there's not enough water to serve a large casino / hotel complex with the attendant sewage problem.

6-1 The amount of additional traffic on all the roads in our area with people coming from Stockton, Lodi, Sacramento + all points north + south will cause a tremendous increa in air pollution.

The Rancheria certainly doesn't need a 4-lane access to serve 40 families + this whole interchange is meant for only one thing — the Casino + Hotel. It will be a detriment to all of El Dorado County.

(If necessary, please continue your comments on the reverse side of this paper.)

California Department of Transportation
EIR Responses to Comments

Comment Letter #6

6-1 The commenter is concerned with the potential environmental impacts of the proposed project, including potential indirect, water supply, traffic and air quality impacts. The EIR/EA evaluated potential direct and indirect impacts affecting air, traffic and water. Please see Response to Comment 5-1. In addition, the NIGC EA analyzed these as direct impacts of the casino, and the EIR/EA on the interchange incorporated by reference the discussion in the EA. The EIR/EA also analyzed potential air quality impacts resulting from additional traffic. Based on these analyses, the EIR/EA concludes that impacts in all these areas are less than significant or will be mitigated to a less than significant level.

The commenter objects to the EIR/EA's treatment of impacts of the hotel casino as indirect because "that's the important part."

The comment confuses the definition of the "project" under consideration by Caltrans/BIA. The proposed project is the construction of an interchange and access road to connect the Shingle Springs Rancheria to U.S. Highway 50 and provide the Reservation, which presently has restricted access, with access to allow economic development. When completed, the interchange/access road will connect U.S. Highway 50, over the Department of Transportation ("Caltrans") right-of-way, with the BIA's Indian Reservations Road ("IRR") system. The entire interchange will be constructed within the Caltrans right-of way over the federal 5.6-acre parcel that is contiguous to the Rancheria. Caltrans and BIA, have prepared a joint environmental document, "BIA for NEPA and Caltrans for CEQA", the EIR/EA that analyzes the impacts of the interchange project. Caltrans is the lead agency for CEQA and BIA is the lead agency for NEPA. The EIR/EA tiers from (under NEPA), and incorporates by reference (under NEPA and CEQA)the NIGC EA/FONSI that analyzed the effects of the proposed Shingle Springs hotel and casino, entry to which will be provided by the interchange and access road.

The interchange EIR/EA includes its own complete cumulative impacts, growth inducing and secondary effects analyses that consider the casino project together with the interchange project. (EIR/EA at Chapters 6, 7, 9). Therefore, the interchange EIR/EA does not ignore the potential impacts of the hotel/casino project, rather it fully analyzes the potential impacts of that project as they might relate to the interchange project. The EIR/EA classifies potential impacts of the casino and hotel as indirect impacts of the interchange project. This classification is based on the definition of such impacts in NEPA and CEQA. Under NEPA and CEQA, a direct effect of a project is an impact that is caused by a project and occurs at the same time and place. (CEQA Guideline 15358(a)(1); 40 CFR §1508.8(a).) An indirect effect of a project is an effect that is "caused by" the project or action and is a reasonably foreseeable consequence thereof, but which is either later in time or farther removed in distance. (CEQA Guideline

15358(a)(2); 40 CFR §1508.8(b). Under both the CEQA and NEPA definitions, indirect effects include changes in land use patterns that are induced by the project or action in questions. Thus, the interchange EIR/EA properly classified the potential impacts of the hotel/casino as indirect impacts, and in this manner as well, the EIR/EA appropriately considers the potential impacts of the hotel/casino project.

The comment also raises concerns about traffic. With regard to visitors coming into the proposed casino/hotel via the proposed interchange, the EIR/EA presents the assumptions for trip distribution and trip assignment used in the traffic analysis supporting the EIR/EA's conclusions. (p. 5.4-15.) Please also see Table 5.4-7, -8, -9, and -10 of the EIR for additional trip distribution and assignment assumptions.

COMMENT SHEET
Shingle Springs Rancheria Interchange Project
U-S Highway 50, El Dorado County

COMMENTS

This public meeting is held to recive public comments on the EIR/EA. As such, no formal presentation will be provided by Caltrans or BIA staff. All comments regarding the adequency of the EIR/EA should be directed to the Court Reporter or submitted in writing on this comment form. If you submit a writen comment on this comment form, please leave your name and address with the court reporter. Alternatively, writen comments can be mailed to the following:

Department of Transportation (Caltrans)
Office of Environmental Management
Attn: Che McFarlin, Environmental Specialist
2800 Gateway Oaks Drive, Ste. 100
Sacramento, CA 95833
Email: Che_McFarlin@dot.ca.gov

The comment period for the EIR/EA ends June 20, 2002.

Name John Sabatelli Phone/Fax 677-1799

Organization Citizen

Address 4721 CASA DR

City/State/Zip Shingle Springs

Comment: I am all for it. When are you going to open it. I've waited 20 years for it.

7-1

(If necessary, please continue your comments on the reverse side of this paper.)

California Department of Transportation
EIR Responses to Comments

Comment Letter #7

7-1 The comment provides support for the proposed project. The comment is noted and will be included in the record for consideration by the decision-makers prior to a final decision on the interchange project.

COMMENT LETTER #8

COMMENT SHEET
Shingle Springs Rancheria Interchange Project
U-S Highway 50, El Dorado County

COMMENTS

This public meeting is held to recive public comments on the EIR/EA. As such, no formal presentation will be provided by Caltrans or BIA staff. All comments regarding the adequency of the EIR/EA should be directed to the Court Reporter or submitted in writing on this comment form. If you submit a writen comment on this comment form, please leave your name and address with the court reporter. Alternatively, writen comments can be mailed to the following:

Department of Transportation (Caltrans)
Office of Environmental Management
Attn: Che McFarlin, Environmental Specialist
2800 Gateway Oaks Drive, Ste. 100
Sacramento, CA 95833
Email: Che_McFarlin@dot.ca.gov

The comment period for the EIR/EA ends June 20, 2002.

Name Pauline Sabatelli Phone/Fax 530-677-1799

Organization Citizen

Address 4721 La Casa Drive

City/State/Zip Shingle Springs, Ca 95682

8-1 *Comment:* I have lived here 20 years, and at the time of my arrival I was looking forward to seeing the Indian Casino open for pleasure and also to benefit the Miwok Tribe. This delays has been unfair.

(If necessary, please continue your comments on the reverse side of this paper.)

California Department of Transportation
EIR Responses to Comments

Comment Letter #8

8-1 The comment provides support for the proposed hotel and casino. The comment is noted and will be included in the record for consideration by the decision-makers prior to a final decision on the interchange project

Caltrans

COMMENT SHEET
Shingle Springs Rancheria Interchange Project
U-S Highway 50, El Dorado County

COMMENTS

This public meeting is held to recive public comments on the EIR/EA. As such, no formal presentation will be provided by Caltrans or BIA staff. All comments regarding the adequency of the EIR/EA should be directed to the Court Reporter or submitted in writing on this comment form. If you submit a writen comment on this comment form, please leave your name and address with the court reporter. Alternatively, writen comments can be mailed to the following:

Department of Transportation (Caltrans)
Office of Environmental Management
Attn: Che McFarlin, Environmental Specialist
2800 Gateway Oaks Drive, Ste. 100
Sacramento, CA 95833
Email: Che_McFarlin@dot.ca.gov

The comment period for the EIR/EA ends June 20, 2002.

Name Stan Stailey Phone/Fax 530-677-2193
Organization RESIDENT/TAXPAYER/VOTER/AMERICAN
Address 4527 HILLWOOD DR.
City/State/Zip SHINGLE SPRINGS CA 95682

Comment: It is virtually impossible to come to this forum, review thousands of pages of documents and determine the adequacy of the EIR/EA. The simple errors* in the above makes me question the reliability of the other work. The traffic/noise studies seem flawed and based on erroneous asumptions of human behavior, I've been through draught in this county when we lost crops and landscaping for lack of water. This interchange is to service the proposed casino. Definitely a negative impact on a rural community

9-1

(If necessary, please continue your comments on the reverse side of this paper.)

California Department of Transportation
EIR Responses to Comments

Comment Letter #9

9-1 The comment generally addresses perceived flaws in the public meeting/public comment process and in the traffic and noise studies without providing examples of how the public meeting procedures and studies were flawed.

A number of public workshops were conducted by Caltrans and public hearings regarding IRR designation and air quality conformity conducted by BIA.

As part of the Project Study Report process, Caltrans held three public map display meetings to allow interested members of the public to review and comment on the interchange alternatives. The meetings were held at the Diamond Springs Fire Station, deemed to be the most suitable local site for accommodation of the expected amount of attendees. The meetings were advertised in local papers through paid advertising, as well as publicized through press releases. The Sacramento Bee ran an article in the "Neighbors" section on April 1, 2001 to publicize the meetings and process. The meetings were well attended, although it is noted that many of the people attended more than one meeting; likewise, many people completed more than one comment card. Pertinent data regarding the maps displays is as follows:

Meeting Date	# Attendees	# Comment Cards received
March 28, 2001	110	40
April 5, 2001	80	50
April 10, 2001	150	20

The map displays included exhibits on the interchange access alternatives, including geometric layout and photo-realistic views comparing the alternatives. There also was a station showing the Rancheria site and possible location of development on the site. No further details were provided for the casino development, as the preliminary plans had not been prepared.

The modeling and analysis in the EIR/EA is based on detailed traffic models approved by Caltrans for estimating potential project impacts. The results prepared by the consultants provide the most accurate assessment possible of expected impacts as a result of the project.

The commenter also provides general statements regarding drought, purpose of interchange, and negative impact to the rural community. No examples of document deficiencies were provided; therefore, no additional response is necessary. The comment is noted and will be included in the record for consideration by the decision-makers prior to a final decision on the interchange project.

COMMENT LETTER #10

COMMENT SHEET
Shingle Springs Rancheria Interchange Project
U-S Highway 50, El Dorado County

COMMENTS

This public meeting is held to recive public comments on the EIR/EA. As such, no formal presentation will be provided by Caltrans or BIA staff. All comments regarding the adequency of the EIR/EA should be directed to the Court Reporter or submitted in writing on this comment form. If you submit a writen comment on this comment form, please leave your name and address with the court reporter. Alternatively, writen comments can be mailed to the following:

Department of Transportation (Caltrans)
Office of Environmental Management
Attn: Che McFarlin, Environmental Specialist
2800 Gateway Oaks Drive, Ste. 100
Sacramento, CA 95833
Email: Che_McFarlin@dot.ca.gov

The comment period for the EIR/EA ends June 20, 2002.

Name Jane Stailey Phone/Fax 530-677-2193

Organization Homeowner Tax payer

Address 4527 Hillwood Dr.

City/State/Zip Shingle Spgs, CA 95682

Comment:

10-1 I'm absolutely opposed to the casino project. The increase in traffic and crime will ruin the county. In drought years, our landscaping died and we saved every drop of water possible. What will we do in future drought years, with the casino + hotel using so much?

The lights of the casino + hotel will ruin the night sky. Where in El Dorado County will the minimum wage workers be able to afford to live?

(If necessary, please continue your comments on the reverse side of this paper.)

California Department of Transportation
EIR Responses to Comments

Comment Letter #10

10-1 The comment opposes the casino, raising questions of traffic, crime and water use. The comment does not address the interchange project. The comment addresses the indirect effects of the hotel and casino project. General comments were made about traffic, crime, drought, light, and affordable housing. The environmental effects were addressed in detail in the hotel and casino EA approved by the NIGC in January 2002. The interchange EIR/EA incorporates the analysis of the EA into the indirect effects section of the EIR/EA (Chapter 9). The commenter does not provide information concerning the adequacy of the environmental analysis of the proposed interchange project; therefore, no additional response is necessary. The comment is noted and will be included in the record for consideration by the decision-makers prior to a final decision on the interchange project.

COMMENT LETTER #11

COPY

EL DORADO COUNTY
OFFICE OF
THE COUNTY COUNSEL

COUNTY COUNSEL
LOUIS S. GREEN

CHIEF ASS'T. COUNTY COUNSEL
EDWARD L. KNAPP

PRINCIPAL ASS'T COUNTY COUNSEL
PATRICIA E. BECK
THOMAS D. CUMPSTON

DEPUTY COUNTY COUNSEL
CHERIE J. VALLELUNGA
THOMAS R. PARKER
JUDITH M. KERR
REBECCA C. SUDTELL
PAULA F. FRANTZ
JOHN I. JEFSEN

COUNTY GOVERNMENT CENTER
330 FAIR LANE
PLACERVILLE, CALIFORNIA
95667
(530) 621-5770
FAX# (530) 621-2937

Legal Assistants
RUDY LIMON
JOHN F. MARTIN

May 16, 2002

CalTrans
c/o Che McFarlin
District 3 Office of Environmental Management
2800 Gateway Oaks Drive
Sacramento, CA 95833

Re: Draft EIR/EA for US Highway 50 Shingle Springs Interchange Project

Dear Mr. McFarlin:

This will confirm your voice mail message to me of this date, stating that CalTrans mailed copies of the above-named environmental document to this office and to the County Planning Department yesterday, in response to my call to Gregoria Garcia of your office yesterday; that the EIR consultant is mailing a copy of the document to Craig Mc Kibbin of the County Department of Transportation today, in response to Mr. Mc Kibbin's request; and that copies of the document are located at various libraries in El Dorado County.

11-1 While I appreciate the prompt response to my and Mr. Mc Kibbin's requests, I am quite surprised they proved necessary. After all, the project is located within El Dorado County, it is a matter of enormous public interest and controversy, and the County government has taken every opportunity afforded it to be involved in the project for approximately five years. Moreover, Mr. Mc Kibbin has been faithfully attending the Project Development Team meetings for at least a year.

In light of the situation, how could CalTrans fail to deliver sufficient copies of the document to the County government immediately upon its release? How could Mr. Mc Kibbin, as a participant in the Project Development Team meetings, not be provided a copy? Indeed, a County citizen was informed by Mr. William Allan of the Bureau of Indian Affairs on May 3 or May 6 that it was unnecessary for her to generate copies of the document for the County, because CalTrans was taking responsibility for mailing copies to the County.

Instead, it now appears that we will not have copies to review until May 17 or May 20, at the earliest. This delay has consumed *one-third* of the time available for the County to generate and compile its comments on the document. It would be no answer to say that copies are available at the library. It is obviously infeasible for the County to perform the detailed analysis necessary by sending employees to the reference section of the local library.

11-1 Cont.

Once we finally receive the document, we will be in a position to determine the appropriate scope and timing of our comments. Please be advised, however, that this delay in receiving the document may well make it necessary for the County to request an extension of the public comment period. In light of the circumstances and of the tremendous importance of this project, and the casino it will facilitate, to El Dorado County's future, I sincerely hope that any such request will receive favorable consideration.

In the future, please ensure that this office, Planning, DOT, and Environmental Management timely receive all notices and documents relating in any way to this project or its environmental review.

Very truly yours,

LOUIS B. GREEN
County Counsel

By _____
Thomas D. Cumpston
Principal Ass't. County Counsel

cc: Board of Supervisors
Conrad Montgomery, Planning Director
Matt Boyer, Director of Transportation
Jon Morgan. Director of Environmental Management
Sen. Thomas "Rico" Oller
Assemblyman Tim Leslie
David Rosenberg, Office of the Governor
William Allan. Bureau of Indian Affairs
Brigit Barnes, Esq. ✓

TDC:km
casinoeirratetr.wpd

MORRISON & FOERSTER LLP
ATTORNEYS AT LAW

SAN FRANCISCO
LOS ANGELES
DENVER
PALO ALTO
WALNUT CREEK
SACRAMENTO
CENTURY CITY
ORANGE COUNTY
SAN DIEGO

425 MARKET STREET
SAN FRANCISCO, CALIFORNIA 94105-2482
TELEPHONE (415) 268-7000
TELEFACSIMILE (415) 268-7522

NEW YORK
WASHINGTON, D.C.
NORTHERN VIRGINIA
LONDON
BRUSSELS
BEIJING
HONG KONG
SINGAPORE
TOKYO

June 4, 2002

Writer's Direct Contact
(415) 268-6718
MZischke@mofo.com

By Telefacsimile

Che McFarlin
Office of Environmental Management
Caltrans District 3
2800 Gateway Oaks Drive
Sacramento, CA 95833

William C. Allan
Environmental Protection Specialist
Pacific Region, Bureau of Indian Affairs
2800 Cottage Way
Sacramento, CA 95825

Re: US Highway 50/Shingle Springs Interchange Project - Response to May 16 Letter from El Dorado County

Dear Messrs. McFarlin and Allan:

As CEQA counsel for the Shingle Springs Rancheria, I have received and reviewed a copy of the May 16 letter from Tom Cumpston of the El Dorado County Counsel's office addressed to Mr. McFarlin. This letter indicates that the County may request an extension of the comment period for the interchange EIR/EA. In brief, Mr. Cumpston's letter does not present any basis for extending the comment period on the EIR/EA. The Tribe respectfully submits that no such extension should be granted if the County decides to request one.

11-1 Cont.

First, there is no basis under CEQA or NEPA for extending the comment period. Mr. Cumpston's letter states that the County may seek an extension because they did not receive a complete copy of the EIR until May 17 or May 20. CEQA, however, requires lead agencies to provide a copy of the notice of completion of an EIR to other public agencies, and does not require the lead agency to distribute a copies of an EIR itself. CEQA Guideline 15085-15087. The County was provided with the notice, as shown on the mailing list to which the notice of completion was sent. The responsibility to request a copy of an EIR rests with an interested party such as the County. A CEQA lead agency does not have any obligation to provide a copy of an EIR to an interested

MORRISON & FOERSTER LLP

11-1 Cont.

agency until that agency requests a copy. Further, under NEPA, there is no obligation to publicly announce preparation of an environmental assessment or to invite upon an EA. There is thus no legal basis for seeking a delay in the comment period based on the County's failure to request a copy of the EIR/EA.

Also, the County had been advised well in advance when the EIR would be available. Mr. Craig McKibbon of the County transportation department has regularly attended Caltrans project development team meetings, as Mr. Cumpston notes in his letter, and the minutes of the April 19 meeting indicate Mr. McKibbon was present. At the April 19 meeting, the EIR schedule was discussed and everyone present was advised that the EIR would be available as soon after April 29 as Caltrans approved the document for circulation, and that the public hearing would be May 30. The EIR/EA was also available on the Caltrans website when the notice of completion was sent to the County. Also, as Mr. Cumpston's letter acknowledges, Caltrans and BIA promptly responded when Mr. Cumpston and Mr. McKibbon requested copies of the EIR.

Thank you in advance for your consideration.

Very truly yours,

Michael H. Zischke / JL.

Michael H. Zischke

cc: Jody Lonergan, District Director, Caltrans
Steve Hetland, Caltrans

California Department of Transportation
EIR Responses to Comments

Comment Letter #11

11-1 This comment consists of letters to and from El Dorado County regarding copies of the EIR/EA and the comment period. The first letter is a letter from El Dorado County, and the second is a response from legal counsel for the Tribe.

In response to the first letter from the County, copies of the EIR/EA were delivered to the County. The County did not request an extension of the comment period as the letter indicated the County might, so no response is made on that point.

The letter from the Tribe's legal counsel states that the comment period should not be extended. As noted, the County did not request such an extension.

In response to these letters, the Lead Agencies note that they have complied with all of the NEPA and CEQA notice requirements. The County also submitted substantial and detailed comments on this EIR/EA.

() To: che_mcfarlin@dot.ca.gov
05/29/02 12:39 PM cc:
Subject: Shingle Springs

Below is the result of your feedback form. It was submitted by
() on Wednesday, May 29, 2002 at 12:39:31

12-1

S1: My husband is a lifelong resident and I have resided 49 years in Eldorado County. We both want the decendents of the native people of this area to be able to create for themselves a livelihood and possibly wealth for the tribe. While building Highway 50, the State of California left the rancheria landlocked. That was an oversite that should have been corrected long ago. I fault the state for the the Grassy Run strife and bitterness.

All of the opposition to this project has been by folks who do not want a gaming facility in their backyard, yet they will travel to Nevada and spend money which will enrich another state rather than their own county. The benefits to this county will far out weigh costs to law enforcement, fire protection, water and sewer considerations.

As far as environmental concerns go, those objecting will find any excuse to halt construction of any kind in a place that they have adopted, but do not want other potential residents to have the same opportunity.

T6: Sydney and Carl Perryman

T2: sydp@directcon.net

T4: 4760 Chaparral Dr. Placerville, CA 95667

T42: 530-622-3731

B1: Submit

California Department of Transportation
EIR Responses to Comments

Comment Letter #12

12-1 The comment presents a favorable opinion regarding the proposed hotel and casino project, and also provides information regarding conflicts between the Tribe and surrounding community. The comment is noted and will be included in the record for consideration by the decision-makers prior to a final decision on the interchange project.

Denise Vaughan
Graphics and Website Design
NR Env. Training Coordinator
Phone 530-741-6038
Fax 530-741-4457
----- Forwarded by Denise Vaughan/D03/Caltrans/CAGov on 05/13/02 02:56 PM -----

"Caldwell" <caldwell@directcon.net>
05/13/02 02:52 PM

To: <denise_vaughan@dot.ca.gov>
cc:
Subject: Shingle Springs Rancheria

13-1 What good does it do to voice our objections? The people of El Dorado County don't want gambling here but nobody listens or gives a damn.
Bob Caldwell

California Department of Transportation
EIR Responses to Comments

Comment Letter #13

13-1 The commenter believes that government agencies have not considered the desires of the people of El Dorado County. All comments on the EIR/EA have been carefully reviewed by Caltrans and the BIA. The commenter does not provide information concerning the adequacy of the environmental analysis, therefore, no response on that issue is necessary. This comment is noted and will be included in the record for consideration by the decision-makers prior to a final decision on the interchange project.

The following is a list of meetings, workshops and hearings which provided an opportunity for citizens and/or representatives of El Dorado County to participate in the proposed project:

Caltrans held three public workshops in 2001, and monthly PDT meetings. The BIA held a public meeting with full public noticing for the inclusion of the interchange into the IRR System on February 19, 2002. This public meeting was also held to receive public input regarding the results of the Project Level Conformity analysis conducted for the inclusion of the project into the MTP. The BIA and Caltrans then held a joint-public meeting to discuss public comments to the EIR/EA. A public hearing will also be held by the CTC to review the break in access prior to final action.

See also Hotel/Casino EA, Section 1.4 – Public Consultation. Please see Response to Comment 9-1.

() To: che_mcfarlin@dot.ca.gov
cc:
05/11/02 09:39 AM Subject: Shingle Springs

Below is the result of your feedback form. It was submitted by
() on Saturday, May 11, 2002 at 09:39:44

14-1 S1: I think it is a good thing to have this new on and off ramp for Highway 50. I have never felt that it was fair to have the indian reservation land locked. This is a fair and equitable solution for all parties concerned.

B1: Submit

California Department of Transportation
EIR Responses to Comments

Comment Letter #14

14-1 The comment represents a favorable opinion regarding the interchange project. The comment is noted and will be included in the record for consideration by the decision-makers prior to a final decision on the interchange project.

The following comment is excerpted from the transcript of the May 30, 2002 Shingle Springs Rancheria Public Hearing:

MS. SNELLING: My name is Pat Snelling, S-N-E-L-L-I-N-G, 4294 Wabasso Lane, Garden Valley, California, 95633.

I have gone to these meetings month after month, and it's always the same people with the same rhetoric. They're so focused on the casino, they have totally forgotten about something so much more important. I'm talking about common decency to other human beings.

Under your guidelines for the Environmental Impact Report, a section called, "Significant Environment Impact," there is a subsection called,
15-1 "Health and Safety." No one in this community is willing to talk about the health and safety factors caused by the Grassy Run Subdivision. The only access to the Rancheria goes through Grassy Run. This subdivision, in their efforts to stop the casino, put excessive restrictions on the Rancheria. Please understand these restrictions are only for the Rancheria and not the residents of Grassy Run.

I have enclosed pictures 1 through 5 to show the bridge on the only route in or out. You can see that they have to -- you can see what they have to do to

get past the bridge over to their own property. The Rancheria offered to rebuild the rails on this bridge at their own expense, but Grassy Run refuses to let them do it.

If you drive by the bridge, you can see the welding scars left when one of the residents cut it down on a previous house -- that sounds confusing. They cut the rails down bringing in a previous house. He said he couldn't stand to watch such craziness.

The association threatened him with a steep fine if he didn't weld it back up before the next section of the house went through.

15-1 Cont.

I think you can see in these pictures where young men are under the truck. This truck is moving over the wooden planks. The boys have to wait until the tractor tires clear the planks, then the boys spread these planks out so the trailer tires can go up them.

When the Rancheria is bringing a house in, no one can get in or out for hours. So someone from the fire department has to wait on the Rancheria side until all the house sections clear the bridge. And believe me, the fire department was very upset about this.

On this occasion it was a good thing that they were there, because a 90-year old woman went into shock. The fire department's paramedic called for an ambulance.

You will see in pictures 6 and 7 where she is brought out to the bridge in the back of a blue pickup, and then the ambulance took her to the hospital.

I cannot figure out how this could be acceptable here in El Dorado County where one group of people can degrade another group of people like this. This was something I saw in Mississippi in the '60s. I thought we were beyond this.

I asked every county board member, Senator Oller and Assemblyman Leslie to stop this insanity. Each one said it was not their jurisdiction. You know, they wouldn't even go on the record to say it was wrong for fear of voter retaliation. To me that is very alarming.

15-1 Cont.

What has happened to us as a people? This is not about watershed or air quality. This is about children and young men in danger of being maimed or killed.

Normally I don't take a stand one way or the other, but on this occasion it is different. If you do not approve this interchange, the Indian community will be left to us as a community that has somehow lost track of their values, and there isn't a single government official who will step up to the plate and say this is wrong. And that's what scares me.

Comment Letter #15

15-1 The commenter asserts that there are current health and safety issues associated with the use of the existing transportation system to and from the Rancheria. The commenter also provides opinions regarding the history of the access issue and the relationship between the Tribe and the Grassy Run Homeowners' Association, and provides pictures of the bridge showing the current access difficulties of the Tribe. The commenter does not provide information concerning the adequacy of the environmental analysis. The comment is noted and will be included in the record for consideration by the decision-makers prior to a final decision on the interchange project.

The following comment is excerpted from the transcript of the May 30, 2002 Shingle Springs Rancheria Public Hearing:

MR. GRISWOLD: Ike Griswold, G-R-I-S-W-O-L-D. 5450 Reservation Road, Placerville, California.

My question is: There is a table in the documents that were handed out February 19th that shows a road along Highway 50 that says it's BIA ownership land inventory, BIA and road inventory, and it states in the paperwork that that particular road will be built in conjunction with the interchange, and that it will be used for constructing the casino while the interchange is being put in.

16-1

And my question is, is I live there. The road is mapped through my property, and I would like to know what is going on?

I talked to the BIA gentleman out there; he knows nothing about it, yet it is on the documents. I mean, there's no question. He doesn't know what I'm talking about. I'm going, "It's right there. It's on page 1 of the document." It states Table -- Table A-2 and Figure B-2, I'm pretty sure, and right on the second paragraph -- or third paragraph of the deal it talks about that document. Yet BIA supposedly doesn't know anything about that. And I want to know what's really happening.

16-1 Cont.

What is Table 2
Fig: B2 BIA Inventory
is this road to Be Put in
so they can start Construction.
it is also #NO 4 on T2
B2

IKE Griswold
5450 Reservation Rd
677-8811

Comment Letter #16

16-1 The commenter was concerned about a portion of present IRR inventory. The commenter may be referring to the February 19, 2002 BIA hearing to take comment on the Tribe's proposal to modify the IRR System at the Shingle Springs Rancheria, pursuant to 25 CFR § 170.16. This comment is not responsive to the environmental issues reviewed in the EIR/EA; however, BIA provides the following response.

BIA recommended adoption of the proposed Interchange and the connecting road so as to fulfill its trust responsibility to tribes that it is mandated to preserve. To enable it to carry out its trust responsibilities, 25 CFR § 170.7 allows BIA to enter into agreements with state agencies for the benefit of tribes. Additionally, tribes may contribute financially and otherwise to BIA projects undertaken for their welfare, as provided at 25 CFR § 170.6(a). Finally, because of the sovereignty of tribes and the United States' unique relationship with tribes, local governments have no regulatory authority over tribal construction, provided at 31 USC § 6506. Pursuant to BIA's agreements with the California Department of Transportation ("Caltrans"), these agencies prepared the EIR/EA and upon review and approval will jointly participate in the construction of the proposed interchange. Upon completion of the Interchange, the Interchange will be maintained by the Tribe under a Self Determination Contract pursuant to P.L. 93-638, 25 U.S.C. § 450, or other regulatory agreement as approved by BIA and the Tribe. The proposed Interchange itself is already identified as Federal Route 315, to become a part of the IRR Inventory.

The commenter states that the IRR adoption includes a road across his property. It doesn't. The commenter's address on "Reservation Road" is within the Grassy Run subdivision, over which Tribal members and Grassy Run homeowners presently travel to reach the reservation. It is correct that the existing Reservation Road was originally built with federal funds earmarked for the benefit of the Tribe. The fact that the Tribe cannot now use this roadway for unrestricted access is part of the reason for the interchange project. Once the interchange is constructed, Reservation Road will serve only as secondary emergency vehicle access route from the hotel/casino.

The following comment is excerpted from the transcript of the May 30, 2002 Shingle Springs Rancheria Public Hearing:

MR. NICKSON: My name is Dennis Nickson, N-I-C-K-S-O-N. 3710 Lakeview Drive, Shingle Springs.

In my opinion -- I'm against the Rancheria. Frankly, I'm against the notion of sovereign immunity for five generations of Indians back, and I think that socially that this would be a great disservice to the neighborhood and the county, and it will absorb all the infrastructure. They won't pay their share of fees to mitigate the impacts. They will absorb all the highway, water, sewer and other infrastructure. There is no accommodation for the Rancheria in the General Plan EIR. There's literally no notion of how we are going to accommodate their employees' housing. This county right now has a median price of 300,000 for a home, and I rather doubt that a bunch of 40 or $30,000 a year employees are going to be able to afford any of that.

17-1

So that this is an unnecessary development, an unfair imposition to the neighborhood. That they will be immune from lawsuits. If somebody trips and breaks a leg in their casino, they can't be sued. I think that sovereign immunity has gone wildly too far. And really to put some equity back in the situation, we ought to go

back on a federal level, readdress that notion of sovereign immunity, because every Indian that I'm aware of alive today wasn't part of the war 150 years ago. They have had the same opportunities of every other American; they should have taken advantage of it.

17-1 Cont.

So I'm firmly against the Rancheria. I think that they should do a full-blown EIR, accommodate and pay for the housing, the impacts. They should follow construction codes like everybody else. They should pay the same fees as everybody else. And they should be subject to civil lawsuits just like everybody else.

That's all I have for you.

California Department of Transportation
EIR Responses to Comments

Comment Letter #17

17-1 The comment does not address the interchange project. The comment generally addresses the indirect effects of the hotel and casino project. General comments were made about water, sewer, employee housing, construction codes, and "other infrastructure." The commenter also notes that there is no accommodation for the Rancheria in the County's General Plan. The detailed environmental effects of the proposed hotel and casino project were addressed within the hotel and casino EA approved by the NIGC in January 2002. The interchange EIR/EA incorporates the analysis of the EA into the indirect effects section of the EIR/EA (Chapter 9). The Rancheria is not included within the County's General Plan because the County does not have land use jurisdiction over the Rancheria.

With respect to the comment regarding civil lawsuits, the Tribe is not generally subject to suit in state courts. However, injuries which may occur as a result of motor vehicle accidents on the interchange may be compensable under certain circumstances. The Shingle Springs Interchange will be designed and constructed under the auspices of the IRR Program of the Bureau of Indian Affairs. The interchange will be built and maintained by the Tribe under a Self Determination Contract pursuant to Title I of P.L. 93-638, 25 U.S.C. § 450, or other regulatory agreement as approved by BIA and the Tribe. Under this law and its accompanying regulations, the Federal Torts Claim Act coverage is extended to Self-Determination Contracts. P.L. 93-638 § 102(c), 25 U.S.C. § 450 f (c), 25 CFR 900 Subpart M. To the extent that Federal Torts Claim Act coverage is not sufficient to fully cover risk attendant to a Contract, the Department of the Interior must obtain or provide liability insurance. Neither the Tribe nor its insurer may assert sovereign of immunity for any damages up to the amount of private or FTCA coverage.

In addition, should the damages suffered on the interchange be somehow not attributable to the design construction or maintenance of the interchange, but from activities related to gaming operations, the commenter is advised to contact the Tribe regarding its obligations to provide insurance regarding its gaming operations. The State – Tribal Compact specifically requires that the liability insurance policy of no less than 5 million dollars be in place for such occurrences.

The following comment is excerpted from the transcript of the May 30, 2002 Shingle Springs Rancheria Public Hearing:

18-1 MS. SABATELLI: John and Pauline Sabatelli. 4721 La Casa Drive. We want the casino open. We have waited 20 years for it, since we built our home here. And those Indians are deserving of having their business open. And the traffic is already destructive, anyway, so it can't hurt it no more.

Thank you.

California Department of Transportation
EIR Responses to Comments

Comment Letter #18

18-1 The comment represents a favorable opinion regarding the proposed hotel and casino project. The comment is noted and will be included in the record for consideration by the decision-makers prior to a final decision on the interchange project.

The following comment is excerpted from the transcript of the May 30, 2002 Shingle Springs Rancheria Public Hearing:

MR. CLOUGHER: Michael Clougher, C-L-O-U-G-H-E-R: 3001 Shingle Springs Drive, Shingle Springs, California. 95682.

19-1 Okay. I need some clarification on some things. First thing, I'm confused because we get information in the local paper that says Highway 50 is going to be a schedule F work -- or a travel stoppage within a couple of years, and I want to know if when they -- this EIR, whatever it was for this off-ramp was figured out, if that was taken into effect.

I don't -- I couldn't see anything in the document that I understood that told me that they had that much traffic on the freeway, and it's my understanding that the -- when that goes in, there will be a commercial development out there that will bring in one -- have one-third of the gaming tables that's presently at South Lake Tahoe, and I'm concerned about the traffic and the additional traffic to it, and I want to know if those things have been figured in.

19-1 Cont.

Second, I see -- I see things out there that say there's supposed to be overpass and an underpass onto the Rancheria at Artesia Road, and I don't -- in talking to the gentleman out there, I'm told that there's not going to be an overpass or an underpass at Artesia Road now because there's been developments that are going to make that a moot point. I want to know what they are talking about and what this plan might be.

19-2

The third item. Since I live at the end of the waterline that comes down Artesia Road, and at the present time I get poor quality water at times and very low pressure at times, and since I've been told by E.I.D. for many years that the Rancheria had one single-family hookup, and I find out two weeks ago that they have been approved for 40 single-family hookups, I want to know what that will do, plus any construction

19-3

that's going down there will do to the waterline that supplies my home and my neighbors.

19-3 Cont. I didn't see anything out there that indicated it, and the two people -- the two engineers I talked to were -- had no knowledge of a waterline coming down Artesia Road.

If the Bureau of Indian Affairs as part of this project acquires -- has acquired the property that the off-ramp is going on, that five acres and the adjacent two parcels to the east of it, on Artesia Road, what have they done about contacting North Buckeye Rancheros Road Association about the easement of Artesia that they are responsible for?

19-4 And since -- I have a question because in earlier court cases other properties that were in the process of being acquired by the Rancheria were not allowed to have easements onto North Buckeye Rancheros Road, and it would seem that three parcels of land here would be North Buckeye's easements that they are responsible for that the Rancheria would be using.

It's my understanding that on the south side of Highway 50 a railroad easement is -- there's a railroad easement there that hasn't been given up, and I want to know if this interchange impedes upon that easement at all. I've been told that the easement goes all the way to the edge of the highway's easement.

I think that will do it. Thank you.

California Department of Transportation
EIR Responses to Comments

Comment Letter #19

19-1 The commenter is concerned about the amount of traffic that would be brought in by the commercial development planned on the Rancheria. The comment questions whether the traffic study contained within the EIR/EA assumed LOS F in a couple of years. The traffic analysis did study current and cumulative (or future) conditions with and without the proposed interchange. The levels of service described for the off-ramp of the new interchange are the levels of service expected with existing and cumulative volumes along a 4-lane freeway. Other portions of U.S. Highway 50 are likely to experience LOS F in the near term with or without the casino, however this deficiency will be mitigated with the eventual widening of U.S. Highway to a 6-lane facility west of South Shingle Road-Ponderosa Road. The Interchange project will contribute its "fair share" to that mitigation. Table 5.4-19 and Table 5.4-28 of the EIR/EA present the current and cumulative conditions on various segments of U.S. Highway 50 with and without the proposed interchange, respectively. The most congested segments of U.S. Highway 50 under existing without project conditions are from the County Line to El Dorado Hills Boulevard/Latrobe Road (LOS D) and El Dorado Hills Boulevard/Latrobe Road to Bass Lake Road (LOS D). Under the cumulative without project conditions, the most congested segment is from the County Line to El Dorado Hills Boulevard/Latrobe Road (LOS F).

19-2 The comment questions if there is going to be an overpass or underpass at Artesia Road. The commenter also notes that there are "developments that are going to make that moot." The proposed project, as analyzed in the EIR/EA, is to have an overpass at Artesia Road. No other plans have been presented to Caltrans for the crossing of Artesia Road.

19-3 The NIGC EA prepared by the NIGC thoroughly evaluated water supply issues. The EA has been incorporated into the EIR/EA. Water for the project will be supplied either by the El Dorado Irrigation District (EID) or from an independent secondary source. Both are environmentally satisfactory. The EIR/EA also evaluated the potential air quality impacts of delivering water by truck. The Tribe has advised the Lead Agencies that the commenter's factual understanding is incorrect. At present 29 residents plus the Tribal Community Center and the Tribal Utility District are serviced with water through permanent hookups with EID. Additionally, the Tribe has two temporary residential "construction hookups". However the commenter is correct that based on recent engineering analysis prepared by the Tribe's engineers and confirmed by EID, a water pressure problem exists current exists in the EID Zone 7 delivery system. If water is supplied by EID, the Rancheria will construct system improvements to alleviate the pre-existing low pressure conditions. Any changes to the existing water delivery system will be consistent with applicable state and local requirements to ensure delivery of water at adequate pressure and meeting all required federal, state and local water quality standards. Based on the above, the EIR/EA

concluded that impacts to water quality as a result of the project would be less than significant.

The commenter is also concerned about the effect of the Tribe's existing contract with EID and BIA which allows for the provision of water to the Rancheria as approved in 1988. The commenter misunderstands the nature of review conducted by this EIR/EA. The EID/BIA/Tribe 1988 agreement does not distinguish between water uses for tribal members and commercial uses. To the extent that this comment is intended to indicate that Caltrans/BIA should be considering the provision of water to the Rancheria as part of the EIR/EA, the comments confuses the definition of the "project" under consideration by Caltrans/BIA.

The EA for the hotel/casino identified water sources for the Tribe. The hotel/casino EA also provides for the trucking of water for the purposes of the commercial project. Final Environmental Assessment, Section 6.8 – Public Services, Subsection 6.8.1 – Water Supply. The traffic analysis for this EIR/EA has considered the effects of the number of water trucks required. Therefore, the issue of the Tribe's water needs, as these needs impact environmental consideration of the project under consideration, have been evaluated.

19-4 The commenter is asking whether an easement will be requested of the North Buckeye Rancheros Road Association for the preservation of water service across Artesia Road. The scope of the comment does not address the environmental effects of the project. The project under consideration in the EIR/EA is the proposed interchange to be constructed under the authority of Caltrans/BIA. Nevertheless, and to explain the anticipated construction procedure, the waterlines in Artesia are located underground within public utility easements identified on Parcel Map 19/81, and deed reservation Book 1488 at page 288 El Dorado County Records. Since the waterlines are public utility easements, and do not interfere with the purposes of the North Buckeye Rancheros CCRs, any temporary relocation which may be required during construction of the interchange will be negotiated between BIA/Caltrans and the relevant public utilities. The design of the interchange anticipates a raised roadway, therefore once construction is complete it is expected that the permanent location of the utilities will be returned to their original location.

The commenter questions whether or not the proposed interchange would "impede upon the easement" of the railroad. The project has been designed fully within the Caltrans right-of-way, including offset from improvements to right-of-way lines so that construction activities are fully maintained within Caltrans right-of-way. Construction methods and techniques have been developed to minimize impacts as well.

There has been extensive geologic and geotechnical investigation for purpose of specific design and construction techniques recommendations to assure that effects to existing cut slopes will be minimized.

The commenter appears to believe that the proposed interchange design interferes with private easement rights in favor of North Buckeye Rancheros. The North Buckeye Rancheros CCRs provide: "Building Restrictions, Section 1 – Uses and Improvements: (a) Easements and roads within the existing property, are reserved for the construction, maintenance and operation therein or thereon of pipes, conduits, ditches, and appurtenances, for the purpose of providing drainage, paths, riding trails and roads or public services and facilities. No interference shall be made with the free use of such easements for the purposes for which they are intended. No private fences are to be placed upon said easements." As stated above, the deed identified above -identified two easements, one for non-exclusive road purposes, and one for public utility purposes. Since, as the commenter is aware, all three parcels are located at the end of Artesia Road, which ends in a cul-de-sac are owned by or under the control of the Shingle Springs Band or the Department of the Interior, there is no benefit or burden to North Buckeye Rancheros affected by the proposed construction of the Interchange.

The following comment is excerpted from the transcript of the May 30, 2002 Shingle Springs Rancheria Public Hearing:

MR. ANDERSON: Chris Anderson, 9164 Jordan, J-O-R-D-A-N, Avenue, Chatsworth, California, 91311.

I'm responding to Section 4.3.3 of the EIR document that is on display today for the public to look at. It talks about an access that has been deemed not an alternative for the tribe, which is a frontage road that goes parallel along Highway 50.

I have in front of me a document prepared by ESA Services dated May 21st, 1999, which deals solely with that frontage road that is referred to in 4.3.3. In this document it indicates that that -- the road proposed -- that frontage road that is proposed is a viable option to the tribe, as represented in this document.

20-1

The -- it indicates in 4.3.3 that the tribe has concerns about condemning the land and having the people that live in those homes, in the Grassy Run District, having them forced out of their homes to be able to use that land for access.

Currently the homes are occupied -- all homes within these nine properties, if there is a home located on the property, are occupied by tribal members. So I don't understand the concern about relocating the tribal members in an effort to utilize this particular access.

This access was approved back in 1974 by the county. The date is May 29th, 1974. The county recorded the subdivision map with this road designed into the subdivision. It was never created, but it is on the actual map that was approved by the county.

The following day the homeowners' CC&Rs were created and approved and put on record, May 30th, 1974, which I can presume the CC&Rs do not allow for access across these properties to go to the reservation. But being as though the map was recorded the day before, the CC&Rs do not currently apply, as far as not allowing this road to be created across these properties.

These properties were purchased on behalf of the tribe back in '97 and '98 for this access, following the recorded subdivision map, following the construction of that and purchasing the properties on which this road is designed to be on.

20-1 Cont.

So my concerns are that these -- this particular access has not been considered as an alternative access for the tribe. This document has been delivered to El Dorado County Counsel for their review, and we would like Cal Trans to respond as to why this was not considered as an alternative access when, in addition to that, Irene Itamura was made aware of this, who was the area director previous to the new area

director. She was very interested in this access so it would not disrupt the aesthetics of the surrounding area. She never understood why this was not brought forward as an alternative access. And the same opinion applies today.

The various people on the board of Cal Trans are wondering why this access is not being brought forward, because it is less intrusive on the area, it does not require exceptions being made to off-ramps less than two miles apart from each other, and everything else that has been created to try and put an off-ramp into this area.

20-1 Cont.

So I would be -- I'd like to have a formal response to this -- these issues and will be submitting a copy of this report also to Cal Trans for their review.

California Department of Transportation
EIR Responses to Comments

Comment Letter #20

20-1 Please see Response to Comment 4-1.

The following comment is excerpted from the transcript of the May 30, 2002 Shingle Springs Rancheria Public Hearing:

MR. MASTERSON: Robert Masterson; I live at 6241 Chablis Drive in Shingle Springs.

And I have a few questions, comments regarding the Environmental Impact Report. One is why was the
21-1 Census Tract 309.02 chosen as the project area? The selection of this project area excludes the portion of Shingle Springs south of Highway 50. I think this selection of the project area has biased the socioeconomical and cultural analysis that's presented

in the EIR.

21-1 Cont. I would like clarification as to why this area was chosen and, for lack of a better word, justification for why the area was not expanded to the south of Highway 50 to include at least the business and historic areas and residential areas of Shingle Springs.

21-2 I have a question regarding the calculation of the Bypass Table 5.4-11, passerby capture percent by trip type. The 38.8 percent intuitively seems high, particularly the part of diverted trips associated with the employees.

21-3 There seems to be a two-edged sword here that is not really considered in the document. These employees will be typically low wage people. The question is either they are going to live in El Dorado County and impact the affordable housing situation within the county or they are going to be on the road traveling. The affordable housing situation of these employees did not seem to be adequately addressed; that is, the impact of that, or they were understated in the traffic analysis here. And I'd like clarification regarding these calculations and the potential impact of employees' only affordable housing regime within the county.

21-4 Regarding Table 4 -- I'm sorry, 5.4-18 and 27.

18 is the existing local roadway impact summary, and 27 is the cumulative local roadway impact summary. I realize that these roads that are listed here are those only that are impacted 2 percent or greater.

I would like clarification how Buckeye Road and Pleasant Valley Road are included in the list at 29.4 percent and 3.1 percent in existing, 12.6 and 2.7 percent on the cumulative, but yet the section of Mother Lode between Ponderosa Exit and Pleasant Valley are judged to be impacted less than 2 percent. Logically, that does not fit. And I would -- I would like clarification.

21-4 Cont.

Greenstone Road is another feeder to Mother Lode, and it's on here with an increase of 34.9 percent, but yet Mother Lode is not.

21-5

I realize that it is based on a relative percentage increase, and the percentage increase may, in fact, be less than 2 percent, but the impact is, nevertheless, severe.

In Section 5.4-5, cumulative plus project ramp merge/diverge operation, it seems that without the addition of an auxiliary eastbound lane between the interchange and the East Shingle Springs Drive, the interchange will operate at level D or worse.

21-6

It seems to me that the simple addition of

21-6 Cont.

another lane between those two exits -- read back that last part.

(Record read.)

MR. MASTERSON: -- will not adequately address this issue as stated in the document. I would like to have additional clarification of how this will mitigate the level E and F scenarios that are presented without the lane.

And that's probably all I have got at the moment. I will just have to write up some more stuff.

Comment Letter #21

21-1 The commenter questions why Census Tract 309.02 was chosen as the project area, and states that the socioeconomic and cultural impacts were understated by choosing that census tract. The Study Area was not selected on the assumption that no project impacts are possible south of U.S. Highway 50. Rather, the Study Area was selected based on the guidelines contained in Caltrans' *Environmental Handbook Volume 4 Community Impact Assessment*. The handbook states that delineating will "generally encompass community facilities, school districts, census tracts, and community planning areas." Considering the nature of the project, project design, issues identified during project scoping, and the entirety of the guidance contained in the Caltrans handbook, the Census Tract made the most sense and presented the least practical application problems. The area of analysis chosen for the cultural resource analysis was not based on the census tract boundaries, rather, it was based on the potential area of direct or indirect impacts from the construction and operation of the proposed interchange. Therefore, the socioeconomic and cultural resource impacts are not understated as claimed by the commenter.

21-2 The commenter questions the calculations in Table 5.4-11, "Passer-By Capture Rate-Trip." The commenter questions the use of 38.8% as "intuitively high". The assumed passer-by capture rate of 40% was established in coordination with Caltrans traffic engineering personnel. This rate was based in part on information provided within an early draft of the Environmental Assessment which used information from the Urban Systems Marketing Study, in which it was concluded that as much as 57.7% of the trips generated by the casino would be due to diversions and intercepts of existing traffic traveling along U.S. Highway 50. Recognizing that use of a 58% passer-by capture rate may be too aggressive for this analysis, a more conservative rate of 40% should be used. Please see Response to Comment 39-10 and 27-18.

21-3 The EIR/EA does discuss the availability of housing, and demonstrates that there is more than sufficient housing available in the County to provide for the employees of the casino, even if all of the employees require new housing. See page 6-2. It is expected, however, that many employees of the casino will be existing County residents. Based on the existing median income in the County of approximately $35,000, the employees of the casino are not expected to generate a substantial demand for a different type of housing than is currently available considering the region as a whole.

As noted in the Final Environmental Assessment developed for the hotel and casino, El Dorado County has for the past several years experienced steady employment growth in the hotel and lodging and eating and drinking sectors (EA, page 3-26). In addition, the number one category of employer in El Dorado County is restaurants and bars (EA, page 3-25). Thus, in terms of employment

trends and related housing impacts, the casino that is an indirect result of the interchange evaluated in this EIR/EA does not introduce a new type of worker into the County; instead this additional employment is consistent with existing trends. Accordingly the casino is not expected to have an impact due to generation of lower value housing.

The analysis presented in Section 6.2 of the EIR/EA is for indirect, growth inducing impacts resulting from the proposed interchange project. It is too speculative to determine how many future casino workers will seek purchasing a house vs. renting, how many already live in a house or apartment and would not relocate, and how many are part of a two-income household and could afford a higher rent/purchase price. The analysis presented represents a worst-case assumption (which is more conservative than the requirements of CEQA) that all 1,500 employees will seek housing. As shown in the analysis, adequate housing either exists or will soon exist in El Dorado County if the worst-case assumption occurs. The analysis need not show that all workers could be accommodated within the Shingle Springs and/or Placerville areas. The traffic analyses were distributed using the County's travel forecast model, which distributed employee traffic volumes to U.S. Highway 50 as shown in Table 5.4-8 of the EIR/EA. This shows that employees were assumed to live in various places aside from just the Shingle Springs and Placerville areas.

21-4 The comment questions why Mother Lode Road between Ponderosa and Pleasant Valley is impacted less than 2%, while Buckeye Road and Pleasant Valley Road are impacted by percentages ranging from between 3.1% and 29.4%. The comment is correct when noting that higher vs. lower percentage values for increases in project traffic is based on a relative percentage increase. For a roadway such as Buckeye Road, when 59 daily project trips are added to a low existing daily volume of 201 vehicles, the net increase is 29.4%. However, along Mother Lode Road east of Greenstone Road, when 279 daily project trips (which is almost 4 times the amount added to Buckeye Road) is added to a high existing daily volume of 10,001 vehicles, the net increase is significantly less at 2.8%.

21-5 The comment questions why Greenstone Road, which is a feeder to Mother Lode Road, has an increase of 34.9%, but the percentage increase along Mother Lode Road is less than 2%. As described on pages 11-12 of the Transportation/Circulation Technical Study of the EIR/EA, El Dorado County standards of significance were used to identify project impacts, thus roadways which do not experience an increase in traffic over 2% with the addition of traffic are defined as not being "impacted" by project traffic. Mother Lode Road west of Buckeye Road only experiences an increase of 0.3% over existing and cumulative volumes, thus the road is not impacted per El Dorado County standards of significance. Although Mother Lode Road east of Greenville Road would be "impacted" by the project due to a 2.8% increase over existing volumes, and 2.5% increase over cumulative volumes, as stipulated in the El Dorado County

standards of significance utilized, the roadway is not "significantly impacted" unless the addition of project traffic causes the level of service to degrade from LOS E to LOS F operation. Since the roadway will remain at LOS E for both existing and cumulative conditions with the addition of project traffic, the project does not "significantly impact" the roadway, and thus no mitigation is required per the per El Dorado County standards of significance.

21-6 The comment questions why the addition of an auxiliary lane between the new interchange and Shingle Springs Rd will mitigate LOS E/F operation. The traffic operations and levels of service along the EB lanes of U.S. Highway 50 will improve with the provision of an auxiliary lane since there is more room for vehicles to conduct merge/diverge movements.

The following comment is excerpted from the transcript of the May 30, 2002 Shingle Springs Rancheria Public Hearing:

MS. SOLDANO: My name is Marion Soldano, S-O-L-D-A-N-O. 6721 Settler's Trail, Latrobe, California. They call it sometimes Shingle Springs. 95682.

And what I'd like to voice my opinion on is for alternative No. 2 exit. And the reason is because the other one, with a red light to me it would block -- it
22-1 would disrupt the flow of traffic, and it could impact on Highway 50. Example, if they have some kind of big gathering, pow wow, or a concert, or something, and this way if there was no light at the top, alternative two you have smooth flowing, you know, four directions.

And that's it. And I hope it goes in. It's been a long time. In fairness to all people, it should go in. Thank you.

Comment Letter #22

22-1 The commenter provides support for one of the alternatives analyzed in the EIR/EA. The diamond interchange alternative contains signals at the top of the ramps. The analysis shows that the selection of this alternative, with the signal, will not result in an impact to traffic on U.S. Highway 50. The comment is noted and will be included in the record for consideration by the decision-makers prior to a final decision on the interchange project.

The following comment is excerpted from the transcript of the May 30, 2002 Shingle Springs Rancheria Public Hearing:

MR. DANGERFIELD: My name is Ron Dangerfield, 4848 Artesia Road, Shingle Springs.

My main concern is that there has been no analysis of the human impact, the people that live directly next to this interchange. There's a five-acre parcel that's being taken over, evidently, by the BIA and the state that used to be home to friends of my kids, and now they are going to have a freeway running through it.

23-1

Nobody has come to our neighborhood and talked to the neighbors personally about this project or what kind of impact it's going to have. There's all kinds of numbers on paper, figures about how much smog there's going to be, and various other things, but nobody's analyzed the human impact.

Real estate agents don't even want to list my property until this is settled, and they are painting a real negative picture, because what I would like to do is get my family out of there. And these out-of-state gaming interests have bought parcels right around my home for the purpose of this interchange, and I'm

23-2

23-2 Cont. worried about, you know, the future environment for my family.

23-3 Since it's a sovereign nation, there's no controls really over noise. People complain about the concerts at Cal Expo. They are not going to be able to call the police about noise coming from a sovereign nation. There's no controls over this group.

23-4 I guess I'm wondering how this public right-of-way that Cal Trans is using for this interchange, how does this benefit the public, the use of this public right-of-way, when the entire community and the government, local government, is against this project? And they are going to use this public right-of-way to somehow benefit the people. The people that are going to benefit from this project are a handful compared to people that are going to suffer from this project.

I would think that greater public good needs to be weighed by the majority has to benefit. And in this case, it appears the federal government, in particular the BIA and Cal Trans now, is working against the people. And it's disheartening to pay taxes to organizations that we thought were helping people but now are actually destroying people's lives.

It's kind of -- to me it's like eminent

domain. They are cutting through your neighborhood with this project. We have a rural residential neighborhood, and they are cutting through it without giving everybody a chance, you know, to bail out or without compensating people for their losses. I would gladly get out of there if somebody would just pay me fair market value for my house, but there's no way we could get out of there. And it's only going to get worse.

23-4 Cont. I have lived there for -- since 1986 and thought it was going to be the last home I ever bought. And now it's....

I don't know if I mentioned the fact that people -- there's a small number that are going to benefit from this. They have roads going to their residences, or if they want to live on the Rancheria, their roads are much better than the roads that are in my homeowners' association. There's never been an access problem to get to somebody's home. Their access was much better. As far as I know, they don't have to

23-5 pay to maintain their roads, like everybody else around them does, which is quite expensive.

There's no problem for people getting to their homes, because I could sympathize if it was about getting to their home or about getting to some land that they wanted to live on, but this is about big money,

it's about a handful of people becoming multimillionaires, and everybody else losing.

I am also concerned about what kind of precedence this sets to be able to put interchanges in anywhere in the state, anytime anybody wants to do something, whether it's an Indian reservation or whether it's, you know, somebody's business.

23-5 Cont.

I mean, why couldn't anybody, if this goes through, be able to say, yeah, we want an interchange. I mean, my property is landlocked from economic development because I don't have an interchange to my house, and I guess I could say that's unfair, but I also have to live in society, and I have to do and treat other people fairly. And those are the rules that we are all supposed to live by. And I don't see the BIA abiding by those rules of human kind.

THE SECRETARY OF THE INTERIOR

WASHINGTON

AUG 20 2001

Honorable John T. Doolittle
House of Representatives
Washington, D.C. 20515-0504

COPY

Dear Mr. Doolittle:

Thank you for your letter advising me of your deep concerns regarding the application of the Miwok Shingle Springs Tribe to acquire in trust five acres of land located in Shingle Springs, California.

You probably are aware that the decision to place land into trust for the benefit of a tribe is committed to my discretion or that of my designee. In the State of California, the authority to take land into trust has been delegated to the Regional Director, Pacific Region, Bureau of Indian Affairs. I am forwarding your letter to the Regional Director at 2800 Cottage Way, Sacramento, California 95825.

Presently, the Miwok Shingle Springs Tribe possesses an easement that limits the Tribe's ability to develop its existing trust land. In order for the Tribe to derive the benefit of its ownership of the land, the Tribe must acquire land on which to construct an access road that will enable the Tribe to seek opportunities that are available to all of the Nation's Indian tribes.

Please be assured that all trust acquisitions are processed in compliance with the land acquisition regulations found in Title 25, INDIANS, Code of Federal Regulations, Part 151, and must comply with specific laws and regulations including the National Environmental Policy Act. The decision to take land in trust is made only after an exhaustive and deliberative review of all relevant facts, laws, and regulations. The process is often very lengthy and typically results in a large volume of information and documentation, which is carefully reviewed. Written comments from the State and local governments as to the acquisition's potential impacts on regulatory jurisdiction, real property taxes and special assessments are issues that must be addressed in an Indian tribe's application.

You may be certain that your letter and your comments will become a matter of record and will be taken into consideration upon formulation of a decision on the Tribe's application. If I can be of further assistance, please let me know.

Sincerely,

Gale A. Norton

Gale A. Norton

RECEIVED

AUG 28 2001

SHINGLE SPRINGS RANCHERIA

cc: Chairman, Miwok Shingle Springs Tribe

United States Department of the Interior

OFFICE OF THE SECRETARY
WASHINGTON, D.C. 20240

JUN 2 0 2002

The Honorable John T. Doolittle
House of Representatives
Washington, D.C. 20515-0504

Dear Mr. Doolittle:

Thank you for your letter of April 10, 2002, to Secretary Norton. Your letter was referred to my office for response. You express dissatisfaction with actions taken by the Bureau of Indian Affairs (BIA) to provide legal access to land held in trust by the United States for the use and benefit of the Shingle Springs Band of Miwok Indians.

You explain that the BIA in coordination with the California Department of Transportation (CalTrans) is planning to construct a new interchange on Highway 50 which will allow the Band to use their trust land for gaming purposes. You do not approve of the BIA's action to assist the Band gain access as it furthers the Band's gaming goal. Further, you request that the Department of the Interior take action to prevent the BIA from sponsoring or advancing the development of an interchange on Highway 50.

As you are keenly aware, one of the fundamental property rights and principles associated with land ownership is the ability to use the land. The Band has not been able to use its land except on a very limited basis. The Band's attempts to secure legal and unrestricted access have not met with fruition due to opposition from the adjacent homeowner's association. Thus, the Band was compelled to examine other avenues to address their need for improved access to the land.

The involvement of the BIA in this matter is to assist the Band in gaining legal, unrestricted and viable access. The purpose for which the land will be used is not a consideration in providing assistance for the development of access. Indian tribes, as other local governments, consider the impacts of increased traffic on the public and not just tribal populations. In the development of access to their lands, the Band in accordance with existing transportation planning practices is complying with a statewide planning process that requires the coordination of such projects with other federal, state and local agencies.

The access and gaming issues are two separate and distinct issues and we believe that it would be inappropriate for the BIA to withhold support for the Band's desire to provide access to this land on the sole basis that they might later pursue an avenue for economic growth that is authorized by Congress. In order to ensure that there is not an appearance of unfair or discriminatory treatment on the part of the Federal government, the BIA will process the Band's access request and adhere to the

procedural process established for requests for roads. The Band has demonstrated the need for the access and the BIA is responding to that need in conformity with the Federal government's mandate to assist Indian tribes achieve self-determination.

In the event the Band elects to develop the land for gaming, it would be required to comply with all of the requirements of the Indian Gaming Regulatory Act (IGRA), 25 U.S.C. §2701, including the approval of gaming agreements. The Band will also be required to comply with all of the requirements of the National Environmental Policy Act, 42 U.S.C. 3 4371 et. seq., by analyzing all environmental issues associated with the development of the land for a gaming establishment. Matters associated with the Band's use of the land for gaming will be subject to the review and acceptance by the BIA and the National Indian Gaming Commission. Failure of the Band to satisfy all of the prerequisite requirements for the establishment of a gaming facility would be a violation of the IGRA.

We appreciate your continued interest in Indian affairs and trust that this letter provides you with a better understanding of the BIA's role in this matter. Should you have additional questions, please feel free to contact us.

Sincerely,

Neal A McCaleb

Assistant Secretary - Indian Affairs

cc: Honorable Nick Fonseca, Chairman, Shingle Springs Rancheria, P.O. Box 1340, Shingle Springs, CA 95682
Regional Director, Pacific Region

California Department of Transportation
EIR Responses to Comments

Comment Letter #23

23-1 The commenter states that there has been "no analysis of the human impact." The EIR/EA is required to and does analyze effects on physical environmental effects that would result from the construction and operation of the proposed interchange - see EIR/EA Table of Contents for categories of environmental issues addressed. The commenter is not clear with regards to the alleged deficiencies of the EIR/EA. The comment is noted and will be included in the record for consideration by the decision-makers prior to a final decision on the interchange project.

The federal 5.6-acre parcel which is the site of the proposed interchange, together with the two parcels immediately to the east have been purchased by the Tribe under normal commercial negotiations. The Tribe has advised the Lead Agencies that they sent invitations to both North Buckeye and South Buckeye Rancheros Homeowners' Associations beginning January 2001 and have called these associations at least once a month since then to schedule presentations. As of the date of this response, neither association has responded to the Tribe's invitation.

23-2 The comment focuses on the current state of affairs as it relates to property values and perceptions about land values and the "future environment" for the commenter's family. The comment regarding land values is speculative and is a non-environmental comment; therefore, no response is necessary. The EIR/EA presents an analysis of the construction and operational impacts for the proposed interchange, including existing and cumulative impacts. The Casino EA also contains a list of mitigation to reduce impacts on neighboring property owners. (Hotel/Casino EA, Section 6.0) Chapter 7 of the EIR/EA presents an in depth, detailed discussion of Cumulative Impacts. The comment is noted and will be included in the record for consideration by the decision-makers prior to a final decision on the interchange project.

23-3 The impact of noise from the interchange, compared with the surrounding noise derived from ordinary freeway traffic has been analyzed in this EIR/EA. See Chapter 5.6 – Noise and Vibration. To the extent that mitigation is determined to be necessary, such mitigation may be required by the BIA as lead agency for NEPA and Caltrans as lead agency for CEQA pursuant to the terms of the Highway Development and Encroachment Agreement. The Tribe has agreed, pursuant to the terms of the Off-Reservation Environmental Impacts Ordinance adopted by the Tribe, to voluntarily pay funds to mitigate specifically identified off-reservation impacts. With regard to anticipated complaints to future noise violations, it needs to be pointed out that the EA for the hotel casino does not show plans for an outside amphitheatre or special events location. Therefore, unreasonable levels of noise, occurring during the evening hours are not reasonable, foreseeable, nor are they anticipated.

The commenter raises concerns about the sovereign nature of the Tribe, and concludes that because of this nature, the neighbors will have no basis upon to ask for local police or county authorities' assistance. This comment highlights a common misapprehension about the obligations of the Tribe in relationship to this project. With regard to the use of El Dorado County police to adjudicate disputes with the Rancheria, the commenter is correct that the sheriff's department has limited jurisdiction with regard to tribal matters. P.L. 83-280 "was designed to address the conduct of individuals rather than abrogate the authority of Indian governments over their reservations....Notably, the statute makes no mention of jurisdiction over Indian Tribes." Thus, P.L. 83-280 extends California jurisdiction to individual Indians and not to Indian tribes. *Bishop Paiute Tribe v. County of Inyo*, 291 F.3d 549, 556-557 (9th Cir. 2002) [citing to the U.S. Supreme Court in *Bryan v. Itasca County*, 426 U.S. 373, 379 (1979)]. Therefore, if a legitimate dispute occurs between the commenter and a tribal member, the local authorities can be contacted.

Since the interchange in question will be built entirely off the Shingle Springs Reservation, there will be no possibility of jurisdictional confusion or danger to the public as raised by the commenter.

23-4 The commenter questions the benefit of construction of the proposed interchange to the people, compared to the detriment the commenter perceives to the surrounding neighbors. The Lead Agencies assume the commenter means the people of California. The EIR/EA considers and addresses all direct and indirect impacts of the construction of the interchange. The EIR/EA is the latest in a series of design and environmental analyses, engaged in by the Lead Agencies to assure that the location of and the design of the interchange created the least possible impact on the surrounding neighbors. Three public design review workshops were held out in the community to discuss the design of the interchange. In addition, a jointly sponsored (BIA/Caltrans) public hearing was held on the EIR/EA. BIA has conducted two additional public hearings to take comment on its review of air quality conformity and to recommend inclusion of the interchange into the IRR Program.

The fundamental purpose of the preparation of this EIR/EA is to inform public agency decision makers, in this case, the Lead Agencies, and the public of the potentially significant environmental effects of a project and to identify ways to minimize or avoid those effects. All identified direct and indirect environmental impacts, have been evaluated in the EIR, and mitigation has been proposed, which if adopted will reduce these identified impacts to the level of insignificance. 14 Cal. Code Reg. § 15121(a).

The Department of the Interior has taken the position that resolving the Tribe's access issues is a priority for the Department. However, the Tribe and the Lead Agencies have identified an interchange design, which is intended to preclude

impacts on the neighbors to the full extent practical. This is why the design provides access only to and from the Rancheria, without any engineering way to "ramp off" to neighboring communities. This is also why the interchange design preferred by the Tribe is the "flyover".

23-5 The commenter claims that the Tribe presently has adequate access. The Department of Interior has determined that, contrary to the commenter's analysis, access to the Rancheria is severely impacted. See attached August 20, 2001 Letter from Department of the Interior; and June 20, 2002 letter received from Department of Interior-BIA.

The following comment is excerpted from the transcript of the May 30, 2002 Shingle Springs Rancheria Public Hearing:

MR. EVERT: Jimmy Evert. E-V-E-R-T. 410 Durock Court.

24-1 All I want to say is that I am in favor of letting these people have their way and build their interchange and their gambling casino.

That's about all that I want to add to it. I wish that these people would quit fussing at them.

All right. Thank you.

Comment Letter #24

24-1 The commenter states that he is in favor of the proposed interchange. The comment is noted and will be included in the record for consideration by the decision-makers prior to a final decision on the interchange project.

COMMENT LETTER #25

Department of Toxic Substances Control

Edwin F. Lowry, Director
8800 Cal Center Drive
Sacramento, California 95826-3200

Winston H. Hickox
Agency Secretary
California Environmental
Protection Agency

Gray Davis
Governor

May 28, 2002

Ms. Karen McWilliams
Environmental Planner
Caltrans, District 3 – Sacramento
2800 Gateway Oaks Drive, Suite 100, MS -19
Sacramento, California 95833

DEPARTMENT OF TOXIC SUBSTANCES CONTOL COMMENTS ON THE ENVIRONMENTAL IMPACT REPORT / ENVIRONMENTAL ASSESSMENT, SHINGLE SPRINGS INTERCHANGE PROJECT, MAY 2002, SCH# 20011072018

Dear Ms. McWilliams:

Thank you for the opportunity to review and comment on the Environmental Impact Report / Environmental Assessment for the Shingle Springs Interchange Project, May 2002. The Department of Toxic Substances Control (DTSC) has reviewed Chapter 5, Environmental Setting, Impacts, and Mitigation Measures. The DTSC's comments are included in the enclosure.

If you have any questions regarding the comments, please contact me at (916) 255-3591.

Sincerely,

Randy S. Adams, CEG
Hazardous Substances Engineering Geologist

Enclosure (1)

cc: Ms. Katie Shulte Joung
State Clearing House
1400 10th Street, Suite 108
Sacramento, California 95814

The energy challenge facing California is real. Every Californian needs to take immediate action to reduce energy consumption. For a list of simple ways you can reduce demand and cut your energy costs, see our Web-site at www.dtsc.ca.gov.

Printed on Recycled Paper

cc: Mr. Bill Allen
U.S. Bureau of Indian Affairs
Pacific Region
2800 Cottage Way, Room W-2820
Sacramento, California 95825

Mr. Ken Tipon
Department of Toxic Substances Control
CEQA Tracking Center, OLC/PAEC
1001 "I" Street
P.O. Box 806
Sacramento, California 95812-0806

Mr. Richard Boyd, Manager
Environmental Emissions / Evaluation Section
California Air Resources Board
P.O. Box 2815
Sacramento, California 95812-2815

DEPARTMENT OF TOXIC SUBSTANCES CONTROL COMMENTS ON THE ENVIRONMENTAL IMPACT REPORT / ENVIRONMENTAL ASSESSMENT, SHINGLE SPRINGS INTERCHANGE PROJECT, MAY 2002

Chapter 5.0, Environmental Setting, Impacts, and Mitigation Measures

Mitigation 5.5-2, 5.5-2, Asbestos Emissions

Prior to and during construction, a California Registered Geologist should conduct a survey of the project area to identify and map any asbestiform minerals occurring in rock outcrops and slopewash/soil. Rock/soil potentially containing asbestiform minerals which requires excavation/grading for this project should be managed by:

1) Avoiding the excavation/grading of rock/soil known to contain significant asbestiform minerals, when practical;
2) Consistent wetting of rock/soil containing asbestiform minerals during excavation/grading by equipment;
3) Controlling and/or limiting blasting of rock containing asbestiform minerals, when practical;
4) Avoiding the crushing of excavated rock containing asbestiform minerals;
5) Prohibiting the use of rock containing asbestiform minerals as aggregate/road surfacing;
6) Segregating excavated rock/soil containing asbestiform minerals from other excavated rock/soil; 25-1
7) Covering any interim stockpiles of excavated rock/soil containing asbestiform minerals with tarps;
8) Using excavated rock/soil containing asbestiform minerals as fill below finished grade;
9) Covering all exposed cuts containing asbestiform minerals with nonasbestos material; and
10) Following Office of Safety and Health Administration monitoring and personal protection for workers.

Impact, 5.11-3, Exposure of Individuals to Asbestos Containing Dust

Sampling and testing for asbestos should be conducted in areas suspected of containing asbestiform minerals in accordance with California Air Resources Board regulations and guidance. If asbestiform minerals are identified in the project construction area, air monitoring should be conducted at the project perimeter, particularly if the project is near residences, parks, schools, or other potentially sensitive users.

Comment Letter #25

25-1 The commenter, State Department of Toxic Substance Control, proposes to modify the existing impact description of asbestos emissions and asbestos containing dust (Impact 5.11-3). The comment appears, however, to pertain to Mitigation Measures 5.5-2 and 5.11-3 (on the same topic) instead. Mitigation measure 5.5-2 should include:
Prior to and during construction, a California Registered Geologist should conduct a survey of the project area to identify and map any asbestiform minerals occurring in rock outcrops and slopewash/soil. Rock/soil potential containing asbestiform minerals which requires excavation/grading for this project should be managed by:

1) Avoiding the excavation/grading of rock/soil known to contain significant asbestiform minerals, when practical;
2) Consistent wetting of rock/soil containing asbestiform minerals during excavation/grading by equipment;
3) Controlling and/or limiting blasting of rock containing asbestiform minerals, when practical;
4) Avoiding the crushing of excavated rock containing asbestiform minerals;
5) Prohibiting the use of rock containing asbestiform minerals as aggregate/road surfacing;
6) Segregating excavated rock/soil containing asbestiform minerals from other excavated rock/soil;
7) Covering any interim stockpiles of excavated rock/soil containing asbestiform minerals with tarps;
8) Using excavated rock/soil containing asbestiform minerals as fill below finished grade;
9) Covering all exposed cuts containing asbestiform minerals with nonasbestos material; and
10) Following Office of Safety and Health Administration monitoring and personal protection for workers.

Mitigation measure 5.11-3 should include:
Sampling and testing for asbestos should be conducted in areas suspected of containing naturally occurring asbestos (asbestiform) in accordance with California Air Resources Board (ARB) regulations and guidance and the California Office of Safety and Health Administration (Cal/OSHA) issues and regulations addressing worker safety. If asbestiform minerals are identified in the project construction area, air monitoring should be conducted at the project perimeter,.particularly if the project is near residences, parks, schools, or other potentially sensitive users. The EIR/EA preparers have included the above modifications.

May 24, 2002

Mr. Ronald M. Jaeger
Regional Director
Pacific Region
Bureau of Indian Affairs
2800 Cottage Way
Sacramento, California 95825

Dear Mr. Jaeger:

Please consider these comments when making final decisions on the Shingle Springs Rancheria Interchange Project.

After reading the Draft Environmental Impact Report/Environmental Assessment (DIR/EA), my husband and I continue to feel very negatively about the Interchange Project. 26-1

If the interchange was being done out of the concept of giving the tribe more complete access to their property, then we would be in favor of the project. However, the interchange is being established to accomplish not only access, but provide the tribe an opportunity to build a hotel and casino. We believe they should have access to their land, but not for the purposes of establishing a hotel and casino.

26-2 What concerns us is that this project will probably get the go-ahead and we'll have another interchange on Highway 50. After that the casino will be built and we truly believe that our quality of life will be affected by the added traffic and noise on Highway 50. What we did to the Indians 150 years ago was an awful tragedy, but we just don't know why they can't assimilate like everybody else. There has been persecution of every race and culture on this earth, but does every culture have their own sovereign nation? 26-3 The tragedy is that regular ole' folks who want to live in the foothills keep getting city problems thrusted upon them.

26-4 So, our vote remains "NO" on the interchange. I believe that you and all of the other officials in voting capacity will take public comments and vote the way the public wants. We only hope that the final decision will be "NO" for this project.

Yours truly,

Linda M. Madden
P. O. Box 1393
Shingle Springs, CA 95682

Gary Miles

Comment Letter #26

26-1 The commenter stated opposition to the proposed interchange project because it would provide access to the Rancheria, thereby allowing for the development of a hotel and casino. The foreseeable consequence of the proposed interchange, as fully disclosed within the EIR/EA, is the construction of a hotel and casino that has recently been approved by the NIGC. The environmental effects of the hotel and casino were analyzed in the hotel and casino EA approved by the NIGC in January 2002. This NIGC EA is incorporated by reference in the EIR/EA. The commenter does not provide information regarding the adequacy or inadequacy of the EIR/EA, therefore, the comment is noted and will be included in the record for consideration by the decision-makers prior to a final decision on the interchange project.

26-2 The commenter states that they believe that their quality of life will be affected by the traffic and noise; however, no information is presented regarding the adequacy or inadequacy of the EIR/EA. The comment is noted and will be included in the record for consideration by the decision-makers prior to a final decision on the interchange project.

26-3 The commenter provides their opinion regarding Native Americans that requires no response.

26-4 The commenter concludes by saying that their "vote" is no for the interchange and that they hope the officials will also vote no on the project. The comment is noted and will be included in the record for consideration by the decision-makers prior to a final decision on the interchange project.

COMMENT LETTER #27

() To: che_mcfarlin@dot.ca.gov
06/05/02 09:19 PM cc:
Subject: Shingle Springs

Below is the result of your feedback form. It was submitted by
() on Wednesday, June 5, 2002 at 21:19:09

S1: In the EXHIBTS section, the figure labled 2-2 is just a copy of 2-1. How can I get Figure 2-2?

Don Jassowski
dmjass@innercite.com
(530)622 9489
P.O. Box 3069
Diamond Springs, CA 95619

T5: Donald M. Jassowski

T2: dmjass@innercite.com

T4: 3260 Costalotta Drive, Placerville CA 95619

T42: (530) 622 9489

B1: Submit

() To: che_mcfarlin@dot.ca.gov
06/18/02 10:36 PM cc:
Subject: Shingle Springs

Below is the result of your feedback form. It was submitted by () on Tuesday, June 18, 2002 at 22:36:08

S1: Comments on

Shingle Springs Interchange Project Draft EIR

Submitted by: Donald M. Jassowski
Phone: (530) 622 9489
e-mail: dmjass@innercite.com
Physical address: 3260 Costalotta Drive, Placerville, CA 95667
Mailing address: P.O. Box 3069 Diamond Springs CA 95619

These comments are based on the text downloaded in PDF format on 6-2-02 ("5-09-02 update"), the Exhibits of that date, and subsequent updates to them.

Only major issues that directly concern the Interchange draft EIR are presented here. Minor issues involving approach, technique, grammar, spelling and typos have been documented and are available for use in preparation of the final EIR, if desired.

27-1

1. Interference with the existing railroad right-of-way and potential for interfering with future uses of the existing rail system. There is no discussion of the effect on the rail system of the cut that is required for the interchange on the south side of Hwy. 50. The concern here is related to:

· The Hwy. 50 right-of-way is obviously already restricted to less than that in other areas of the freeway, because of the existing rail system right-of-way.
· The fly-over bridge position is very tightly constrained by the need to connect to the Rancheria through a specific 5 ac. parcel and therefore has a limited ability to avoid the rail system/freeway right-of-way "choke point".

The concern is that either the interchange design is compromised to fit the tight constraints or that the railroad system will be degraded, perhaps on the erroneous basis that it is "not in use now" and therefore is not a problem. If the rail system were compromised, this could have a significant effect on future transportation system development for Sacramento-Placerville travel. How has this issue been addressed?

27-2

2. Section 2.2.6 Growth Inducement, 5.1.3, Indirect Impacts, 5.2.6, Ordinances, and 6.2, Setting and Potential Growth Inducing Effects.
The draft EIR states that the only growth impacts caused by the interchange that need be considered are those associated with the hotel and casino. However, the interchange opens up the whole 165 ac. parcel to unlimited growth, not just the 43.9 ac. planned for the casino/hotel. There appear to be no limitations on the extent to which the site can be developed, other than what will physically fit there, considering that the first installment is a 5-storey, 250-room hotel and a 238,500 sq. ft., 115 ft high casino, and there are virtually no water, sewage, or power limitations for the Rancheria.

According to section 5.9-2 the Shingle Springs Rancheria has 18 members who live on site and an enrollment of 334 individuals. What is to limit these, and other individuals, from moving to the site? In addition, in light of recent State tax decisions (non-collection of CA Sales Tax from Rancheria businesses), what is to prevent the rest of the site from becoming a "duty-free" commercial sales area, with a significant increase in traffic?

The EIR must address the potential for further development of the Rancheria in

27-2 Cont.

addition to the hotel/casino and its effect on interchange and freeway operation to serve this development.

27-3 3. In Table 5.4-3 the distance between E. Shingle Springs and Greenstone is given as 1.89 miles. This would place the Rancheria interchange at less than a mile from at least one of those interchanges. Is this short spacing normal for Caltrans freeway design? Does Caltrans have minimum interchange spacing criteria? What impact does spacing have on traffic attempting to enter the freeway from the existing interchanges through steady traffic attempting to exit at the new interchange? Shouldn't this be an issue that is discussed as part of effects on Hwy. 50 traffic flow?

27-4 4. Figure 5.2-2 Study Area. On what basis was the study area chosen? The map included in the Public Notice indicates "Project Study Limits" although this is clearly only the project (interchange) limit. Figure 5.2-2 indicates a larger "study area" limit; however, it completely ignores any area to the south of Hwy. 50. In fact, the map shows the southeast side of the interchange outside the study area. The study area should be chosen to include a larger area around all sides of the interchange. How is the study area for a new freeway interchange determined normally?

27-5 5. Section 5.2.5 "The BIA will make the proposed interchange a part of the IRR system once the facility is constructed." Is this a normal procedure for Caltrans? What other instances are there where this has been done by Caltrans? Who takes care of operation and maintenance of the interchange when it is part of the IRR system?

27-6 6. Section 5.2.6 "It is anticipated that the 5+- acre parcel would be assigned unclassified status by the county if the proposed interchange is accepted into the IRR system and converted to Federal trust status." Has the County of El Dorado in fact agreed to this? This is not consistent with 5.2.5 [see item 5., above], in which the interchange becomes part of the IRR after construction. Won't the parcel require acceptable zoning [unclassified] status before Caltrans uses it for the interchange?

27-7 7. Section 5.2.9 Assessment. "The proposed interchange is not inconsistent with the El Dorado County General Plan, as the parcel would no longer be under county jurisdiction". This should read: "the proposed interchange is not consistent with the El Dorado County General Plan". The possible steps to make it consistent can then be suggested.

27-8 The plan for the western end of the Greenstone Area, of which this parcel is a part (and which the Rancheria was a part, based on the Greenstone Area Plan Rezoning, and draft Environmental Impact Report, June, 1984), was to maintain the rural nature of the area. Commercial or high density residential development was to be limited to the very western end of the Greenstone Area and the El Dorado Interchange. Hwy. 50 west, beyond the El Dorado interchange and to the western boundary of the Rancheria (also the western boundary of the Greenstone Plan) was to be non-commercial, zoned 5 ac. or larger. In particular, the Greenstone interchange would remain undeveloped. This appears to be ignored in the Interchange draft EIR. Several sections of the Interchange draft EIR attempt to basically paint the whole of Hwy. 50 from El Dorado Hills to Placerville as an esthetically unpleasant, highly developed section of typical, ugly freeway with limited natural habitat. (Table 2-1, Section 5.7-5, and page 5.8-5, among others). The reasoning is clearly "its all messed up now, an interchange for a casino and hotel will fit right i! n." Why isn't the area to be effected, between Greenstone interchange and South Shingle interchange, described in the EIR? Why are the areas of freeway at North Shingle and Missouri Flat considered pertinent and described in detail?

27-9 A review of Hwy. 50, traveling east from the Shingle Springs exit shows oak wooded and pine forested land with few commercial or residential developments, most of which are unobtrusive and blend in with their surroundings.

Leaving the east bound Shingle Springs on-ramp, on the south side of Hwy. 50 one passes the rear of Shingle Springs businesses, then wooded areas, with no development and a minimum of non-natural features, other than those

27-9 Cont.

associated with the freeway, and a pleasant forested hill, at which point one reaches the South Shingle Interchange. On the north side of the freeway, the only commercial features between the Shingle Springs interchange is a campground, which is nearly hidden from view to the freeway, and the entrance to a winery, an agricultural use. Between The South Shingle Interchange and the Greenstone Interchange, there are no apparent commercial developments on either side, except for a brief view of the cut for the railroad right-of-way on the south side, and a rather large white tent on the north side, on the Rancheria. The rest of the property is either undeveloped, ranches or a few single-family homes on acreage.

There is no development at the Greenstone Interchange. The only visual impact is a sign advertising log cabin home construction, on the site of a log cabin home built south of Hwy. 50 off Greenstone Road. There is a church on the Grassy Run road to the north, not visible from the freeway.

No development is seen between the Greenstone Interchange and the El Dorado Interchange, with the exception of businesses at the El Dorado interchange north and south of the freeway; there are distant views of either ranches or single family homes on acreage.

Obviously, the proposed project will not be consistent with El Dorado County's past, present, or planned uses for the area. The Interchange EIR must address this and not attempt to gloss it over or hide the inconsistency.

27-10 8. Table 2-1, 5.4-2 Why is the worst level of service, LOS F, considered as the threshold for determining an impact on Hwy. 50 and interchange operation? Is this mandated by law? Does it meet normal freeway design criteria ?

27-11 9. Table 2-1, 5.4-5 (and numerous other sections throughout). Saturday is used as the day to calculate peak weekend traffic. On Hwy. 50 isn't Sunday PM the peak for weekend westbound traffic, caused by returnees from Lake Tahoe to Sacramento and points west. Is Saturday used because it's the standard weekend day used by Caltrans? Shouldn't the EIR use the correct input for the project being studied? Does it change any of the conclusions?

27-12 10. Table 2-2, 5.4-8 Ramp Metering. Since LOS D cannot be maintained on Hwy. 50 at the Rancheria Interchange without ramp metering, comment #2 above is especially pertinent. Will the ramp metering allow for any significant growth on the 165 ac. Rancheria beyond the hotel/casino?

27-13 11. Table 5.6-3 Predicted Traffic Noise Levels. Where are receivers 1 through 10 for this table located? [These are different locations than sites 1 through 4 in Table 5.6-1 and Figure 5.6-1.]

27-14 12. Section 5.7-2 Wetlands and Waters of the U.S. "No seasonal wetlands occur on the interchange project site." Exhibit 6, Surficial Hydrology, of the draft Greenstone Area Plan, 6/1984 shows a +-0.5 ac. portion of the five ac parcel as being a "wet area". Is this no longer the case?

27-15 13. 7.3.6 Visual Resources. "…the County has approved commercial developments right up to the right-of-way of Hwy. 50". This is not true in the Greenstone Plan area, where the plan specifically limits commercial development. Exhibit 9, Long Term Plan Land Use, Greenstone Area Plan shows the whole area west of the El Dorado Interchange development as being Low Density 1 dwelling unit / three acres.

27-16 14. Table 5.3-2 Active and Potentially Active Regional Faults. This table does not mention the two nearby faults described in Exhibit 4, Greenstone Area Plan. One runs approximately north-south at the Greenstone Interchange and along Greenstone Road to the north. The other runs east-west near Green Valley road. The first is approximately one mile from the center of the Rancheria interchange; the second is about 2.5 miles from the Rancheria interchange. The two faults are considered inactive, with low probability of activity (ibid., page 16). Were these faults reviewed in the Interchange study?

27-17 15. With regard to the overall Rancheria Interchange Project, are any State

27-17 Cont. of California or Federal funds involved in the planning, preliminary design, document preparation (such as the draft EIR), construction and maintenance? If so, what are the budgets for these tasks, including expenditures to date and planned at completion?

27-18 16. Section 5.4-3, page 5.4-15. "For this traffic analysis, it was conservatively assumed that 40% of peak hour trips generated by the proposed casino project would be trips which are already assumed to exist within existing (and future projected baseline) US-50 traffic volumes during peak hours." First, the meaning of "conservative" is unclear. If none of the trips were existing (all new to casino), the load on US-50 would be greatly increased over what is used in the study. What effect would that have on the results? On the other hand, obviously some traffic otherwise destined for Stateline will terminate at the casino. A 40% change in any parameter of this kind is immense. Have the off-site effects of this change been assessed (e.g. in Section 5.9.2, page 5.9-2, where Hwy. 50 is described as a large economic asset to the county)? Clearly the casino will effect businesses east on US-50, much like the mud slides which have periodically blocked the highway between Po!
llack Pines and Kyburz, stopping traffic to and from Stateline. Good data should be available for this off-site effect; has it been considered?

27-19 17. Section 7.2.3 El Dorado General Plan, page 7-3. Wouldn't the land use maps for the County General Plan require substantial changes to remove the 5 ac. parcel from its present zoning?

27-20 18. Page 5.4-22 Standards of Significance—Freeway Mainline and Freeway Ramps. "At the direction of Caltrans staff, the concept level of service for freeway mainline and freeway ramp merge analysis is LOS E…" Who made this direction, and under what authority? Is this how California's freeways normally are designed?

27-21 19. Section 5.2.9 "Regardless of current or future land use designations or compliance with land use plans, the actual proposed use would result in few, if any, land use conflicts due to the rural residential nature of the area…" Doesn't this say that no matter what the plan is and no matter what is done in the area, there would be no conflicts? How do you rationalize that? Following that logic, one could do anything, anywhere, especially if it's in a rural area, at least on the level of installing a freeway interchange, a 250 room hotel, and a 238,500 sq. ft. casino.

27-22 20. Section 4.2 Eastbound Auxiliary Lane. The plan is to add this lane in the median. Does this mean the high-speed eastbound inner lane will jog over after the South Shingle Interchange bridge and then jog back at the Rancheria Interchange after 0.9 miles? Isn't this an unusual design for a freeway, and won't it lead to major traffic flow problems? How much length along the freeway would normally be required for such a maneuver? Unless the bridge at South Shingle Interchange is widened by one lane (not mentioned in the EIR), the jog must start east of this point. To be effective, won't the present low-speed lane have to jog over also (after all, the goal is to provide a long east-bound exit lane for the new interchange, not to open up an intermediate lane). Will there be any length left for the exit lane after the jog-over has been allowed for? Have this been considered in the LOS calculations?

T6: Donald M. Jassowski

T2: dmjass@innercite.com

T4: 3260 Costalotta Drive, Placerville CA, 95619/MAIL: POB 3069 Diamond Sprgs, CA 95619

T42: (530) 622 9489

Comment Letter #27

27-1 The commenter questions whether the interchange design would impact the railroad right-of-way. The interchange has been designed to fit entirely within Caltrans' right-of-way and the federal 5.6-acre parcel connecting to the Rancheria. The eastbound off-ramp has been designed using appropriate ramp design speeds and operations in conformance with Caltrans Highway Design Manual, and fits within the Caltrans right-of-way, with offsets to maintain integrity of the existing cut slopes. Additionally, this design does not encroach onto the rail corridor, and therefore does not compromise the future use of the rail corridor.

Blackburn Consulting Inc. (BCI) has conducted a thorough geologic and geotechnical investigation of this site. Based on this investigation, BCI has made recommendations regarding construction methods and techniques to minimize impacts to existing cut slopes, including those outside of the state right-of-way.

Based on the geotechnical review, no significant impacts are expected to the railroad. Per established Caltrans protocol, qualified field inspection personnel will review construction activities to assure no damage outside of Caltrans right-of-way, including the subject railroad right-of-way.

27-2 The commenter expresses concern that the entire Rancheria will be opened to "unlimited" development and states that the EIR/EA must "address the potential for further development" on the Rancheria. CEQA requires that reasonably foreseeable projects be evaluated. The Tribe has advised the Lead Agencies that no additional development, beyond that identified in the Tribal Land Use Plan, is presently contemplated. As the Tribe currently has no plans to proceed with further development on the Rancheria, there is no requirement to evaluate impacts other than those already discussed in the EIR/EA. As such, any future development is purely speculative.

The comment seeks information as to whether the Tribe is limited in the number of tribal members who would live at the Rancheria, and asks whether the entire Rancheria can be turned into a commercial "duty-free" zone. These issues are not related to the scope of investigation required by the EIR/EA because they do not seek to examine environmental effects from the proposed interchange; nevertheless the Tribe has advised the Lead Agencies that the Tribal Council has the right to amend its land use plan as it sees fit, subject to certain obvious physical restraints. The Tribal Council has an obligation to provide housing for the Tribal members who wish to live on the Rancheria. To the extent that future developments occurring on trust land increase traffic impacts off-reservation, the Tribe has voluntarily committed, pursuant to its Off-Reservation Environmental Impacts Ordinance, to mitigate the off-reservation impacts of its anticipated

commercial development. Mitigation mechanisms exist through the Tribe's P.L. 93-638 contract, or other regulatory agreement as approved by BIA and the Tribe, to expand contributions to reflect increased traffic.

27-3 The comment relates to the appropriateness in interchange spacing. Caltrans specifies interchange spacing requirements through Design Bulletin 77. The minimum spacing between interchanges shall be 1.5 km (0.93 miles) in urban areas, and 3.0 km (1.86 miles) in rural areas. Interchange spacing on U.S. Highway 50 in El Dorado County varies from 1.24 km (0.77 miles) to 3.82 km (2.37 miles). Requests for exceptions to interchange spacing standards must be made in writing in accordance with the Caltrans standard procedures for requesting exceptions to any design standards. A Fact Sheet was prepared for this project and subsequently approved by Caltrans.

The traffic operations analysis results, as presented in Section 5.4 of the EIR/EA, included ramp merge/diverge level of service analysis, which was based on the specific physical characteristics of the proposed facility, including consideration of interchange spacing. Ramp merge/diverge, by definition is the analysis of operations for traffic entering and exiting the traffic flow.

27-4 The comment relates to the project study limits and how the study limits were delineated. The "Study Area Map" referenced in the comment (Figure 5.2-1) was identified for purposes of the community impact assessment. The Study Area Map was not selected on the assumption that no project impacts are possible south of U.S. Highway 50. The Study Area was selected based on the guidelines contained in Caltrans' *Environmental Handbook Volume 4 Community Impact Assessment*, which specifies that a study area must be selected for all community impact analysis and contains instructions on how to delineate the Study Area. The handbook states that delineating will "generally encompass community facilities, school districts, census tracts, and community planning areas". Considering the nature of the project, project design, issues identified during project scoping, and the entirety of the guidance contained in the Caltrans handbook, the Census Tract made the most sense and presented the least practical application problems. The "Project Study Limits" referred to in the public notice is the immediate area encompassing the project site that will be directly affected by the construction of the interchange.

The design of the interchange would severely restrict connections to lands south of U.S. Highway 50, absent major reconstruction of the interchange. Interchange design considerations limiting impacts of the proposed shingle springs Interchange are listed below:

- The superelevation of the eastbound connector ramp (i.e. cross slope towards left) makes construction of a widened overcrossing

difficult, as widening of the structure would introduce a severe crown on the bridge surface, which would not meet standards.

- Connection from the south, over U.S. Highway 50, then to westbound U.S. Highway 50 would require an additional westbound on-ramp; however, due to conflicts with the westbound ramps proposed with this project, these westbound ramps would need to be reconstructed, and/or another level to the interchange would be required so that separation of movements is maintained.
- Either new or reconstructed ramps would be required for westbound off-ramp and eastbound on-ramp movements for an interchange serving areas south of U.S. Highway 50; new ramps most likely would be located too close to Greenstone to maintain weaving operations.
- The eastbound off-ramp would need to be widened at the retaining wall; it is unlikely that decision site distance would be achieved to allow connection to the south (i.e. a distance of 230 m (750 feet) would be required from the ramp nose to the branching point). There is only 160 m to the proposed connector structure.

27-5 The commenter questions whether placement of the interchange into the IRR System is normal and who takes care of operations and maintenance of the interchange once said interchange becomes a part of the IRR System. At 25 CFR § 170.11, the BIA regulations establish the criteria by which Tribal leaders and the BIA Superintendent determine the necessity for a hearing relative to the IRR and construction of new IRR roadways. The Tribe and the BIA Superintendent for this area determined that a hearing was, in fact, appropriate and proceeded with public notice as required by the BIA's regulations at 25 CFR Part 170. Over 100 non-Tribal members attended the hearing conducted by the Department of the Interior February 19, 2002. Because the proposed project, the subject of the IRR determination, is also considered regionally significant under applicable environmental protection laws and regulations, and because the Clean Air Act and the U.S. Environmental Protection Agency's ("USEPA") rules and guidance allow for concurrent hearings (*i.e.*, a hearing required for a related purpose, in this case the IRR expansion at the Shingle Springs Rancheria), BIA appropriately coupled the hearing on the project conformity determination for the interchange with U.S. Highway 50 with the IRR hearing, and allowed for the lengthier pre-hearing notice required at 40 CFR 51.102.

The Tribe has been in contact with and worked with all of the agencies with an interest in this project, including El Dorado County. The Transportation Department and El Dorado County Transportation Commission have attended monthly meetings since at least April 2001 to review design and environmental issued related to the propose project.

BIA has a trust responsibility to tribes that it is mandated to preserve. To enable it to carry out its trust responsibilities, 25 CFR § 170.7 allows BIA to enter into agreements with state agencies for the benefit of tribes. Additionally, tribes may contribute financially and otherwise to BIA projects undertaken for their welfare, as provided at 25 CFR § 170.6(a). Finally, because of the sovereignty of tribes and the United States' unique relationship with tribes, local governments have no regulatory authority over tribal construction, provided at 31 USC § 6506; however BIA pursuant to its P.L. 93-638 contract, or other regulatory agreement approved by BIA and the Tribe, supervises the design, construction and maintenance of the interchange.

As per the terms of the Highway Development and Encroachment Agreement between the BIA as lead agency for NEPA and Caltrans as lead agency for CEQA for this project, BIA will execute a maintenance agreement for the interchange. The proposed interchange has already been designated a federal highway, Route 315, in compliance with the request of the District Superintendent.

27-6 The commenter questions the timing of events related to the IRR, Federal trust, and County zoning. The Federal Government will take title to the property in question by virtue of its IRR designation. The County would not then have land use jurisdiction over the parcel.

27-7 The commenter states that the proposed interchange is not consistent with the El Dorado County General Plan. The General Plan does not apply to the location of the freeway interchange. Please see Response to Comment 27-19.

27-8 The commenter presents information purportedly from the Greenstone Area Plan (1984) and questions why the area from the Greenstone interchange to Shingle Springs interchange was ignored. The commenter also claims that the EIR/EA paints a picture of the area from El Dorado Hills to Placerville as an area that is "esthetically unpleasant, highly developed section of typical, ugly freeway with limited natural habitat." Please see Response to Comment 27-19.

The Visual Resources Section of the EIR/EA (Section 5.8) provides setting information from El Dorado County line to Placerville. Appendix J of the EIR/EA provides pictures of the existing interchanges along this stretch of highway, as well as location maps. On Page 5.8-1 of the EIR/EA, the EIR/EA states that "The intent is to provide information about the type of interchanges that have been constructed and associated land uses surrounding these facilities." Section 5.8.2 also provides a discussion of existing views leading to the interchange site, and existing views from the interchange site. The Setting discussion also provides figures showing the makeup of land uses in the project vicinity that extends from the Greenstone interchange to the existing Shingle Springs interchange (Figure 5.8-1). Figure 5.8-2 also provides a panoramic view surrounding the project site, while the associated discussion describes the view

from the interchange site. Therefore, the setting discussion of the Visual Resources section of the EIR/EA presents information that does include the stretch from Greenstone interchange to the Shingle Springs interchange.

27-9 The commenter presents a description of the existing land uses from the existing Shingle Springs interchange to the El Dorado interchange. The commenter then claims the proposed interchange will not be consistent with El Dorado County's past, present, or planned uses for the area. The comment concludes that the EIR/EA must not gloss over the inconsistency. As stated in Response to Comment 27-8, an adequate description of the visual setting is presented in Section 5.8 of the EIR/EA.

27-10 The comment questions the choice of significance thresholds. With the advent of congestion management plan (CMP) standards, Caltrans set Concept Level of Service (LOS) standards on County-route specific basis. The District 3 System Management Plan defines the concept level of service as "the lowest level of service which is considered acceptable on the state highway network". The plan further indicates, "physical restrictions and socioeconomic, environmental, and financial constraints often compel less than a desirable level of service for certain segments."

Similarly, Caltrans maintains a Transportation Concept Report ("TCR") for each facility in the District; the concept details expected improvements over a 20-year life, as well as the expected level of service. The April 1998 Transportation Concept Report for U.S. Highway 50 indicates that for El Dorado county west of Placerville, the concept level of service is also "E."

In the CEQA context, thresholds of significance such as LOS standards are not mandated, but are recommended. (CEQA Guidelines 15064.7, 15064(h).) Nonetheless, as a policy matter, Caltrans has determined that the TCR concept LOSs should also serve as thresholds of significance for CEQA. This is logical and internally consistent within Caltrans' decisionmaking structure. For this section of U.S. Highway 50, therefore, the threshold for determining significance of a potential impact is "E" because that is the concept level of service. For Highway 50 in Sacramento County, the Concept Level of Service is "E" for year 2020 conditions, therefore the threshold of significance is also LOS F.

The comment also asks whether the use of concept LOS as thresholds of significance meets "normal freeway design criteria." Freeways are not designed for a particular LOS. Instead LOS is a function of the freeway design. Thus, the use of concept LOS as thresholds of significance cannot meet, or not meet, normal freeway design criteria.

27-11 Caltrans typically requires analyzing impacts for weekday peak hours (morning and evening), which were analyzed for this project. However, because marketing studies indicate that Casino-generated traffic would be greatest on Saturday afternoons, that scenario was evaluated as well.

27-12 Accommodation of traffic is a function of specific land uses, plus location and loadings. The interchange has been designed to accommodate the proposed Rancheria land uses. Analysis of ramp metering or other improvements and their respective ability to accommodate growth are not necessary because it is not anticipated that these measures will be needed since significant growth is not expected on the Rancheria beyond the hotel/casino project. Please see Response to Comment 27-2.

27-13 The figure the commenter refers to is located within Appendix X to the EIR/EA. This figure shows the location of receptors identified in Table 5.6-3 of the EIR/EA.

27-14 The commenter questions the conclusion within the EIR/EA regarding lack of seasonal wetlands on the project site. The basis for this question is apparently the Greenstone Area Plan (1984). The wetland survey conducted for the interchange project concluded that 0.057 acres of "waters of the U.S." would be permanently impacted by the construction of the Proposed Project. No jurisdictional wetlands exist within the boundaries of the project site. The U.S. Army Corp of Engineers verified the wetland delineation on April 16, 2002. Please see Chapter 5.7 Biological Resources for a discussion of Wetlands and Waters of the United States.

27-15 The commenter states that the statement regarding County approval of commercial development along U.S. Highway 50 in the indirect impacts discussion for visual resources is not true for the Greenstone Plan. The partial statement "... the County has approved commercial developments right up to the right-of-way on U.S. Highway 50", which appears on page 7-7 of the EIR/EA addresses what the County has approved , as opposed to what land use plans have as goals. It is a fact that El Dorado County has approved commercial development right up to the Caltrans right-of-way.

27-16 The commenter questions why two nearby inactive faults were not described in Table 5.3-2 of the EIR/EA. The title of Table 5.3-2 of the EIR/EA is Active and Potentially Active Regional Faults. Inactive faults were not described within this table because they are in fact inactive and their potential to become active is not reasonably foreseeable. Therefore, inactive faults are not treated as being potentially significant and need not be addressed within the EIR/EA.

27-17 The commenter seeks information on the use of federal or state funds associated with the design, environmental review and construction of the project. These

questions are unrelated to foreseeable changes to the physical environment and are therefore beyond the scope of this document. Nevertheless Lead Agencies provide the following response:

Pursuant to the terms of the Highway Encroachment and Development Agreement, all costs incurred by Caltrans will be reimbursed by BIA. BIA has entered into a P.L. 93-638 agreement with the Tribe, or will enter into another regulatory agreement approved by BIA and the Tribe, whereby the Tribe has agreed to reimburse BIA for all costs associated with the development of the interchange.

27-18 The commenter notes that the study stated that "it was conservatively assumed that 40% of peak hour trips generated by the casino would be [pass-by trips], and states that the meaning of "conservative" is unclear. The assumed passer-by capture rate of 40% was established in coordination with Caltrans traffic engineering personnel. This rate was based in part on information provided within an early draft of the Environmental Assessment which used information from the Urban Systems Marketing Study, in which it was concluded that as much as 57.7% of the trips generated by the casino would be due to diversions and intercepts of existing traffic traveling along U.S. Highway 50. Recognizing that use of a 58% passer-by capture rate may be too aggressive for this analysis, a more conservative rate of 40% was. See also Response to Comment 39-10.

The commenter also asks that if none of the trips were existing (all new to casino) what effect would that have on the results? An analysis was not performed to test levels of service assuming 0% pass-by capture since it is an unreasonable assumption. However, if assumed, higher volumes would result in worsened levels of service. A sensitivity analysis was performed to establish the passer-by capture threshold where additional potential impacts other than those identified within this traffic study might be created. This sensitivity analysis shows that as long as the passer-by capture rate is no less than 29%, that no additional peak hour impacts than those identified within this traffic study would be created.

The commenter also asks if the off-site effects along U.S. Highway 50 have been assessed. The casino is not expected to have a significant impact on businesses east of the project. Please see Response to Comment 51-11.

27-19 The project will be entirely on state or federal land and thus is not subject to County policies or plans. There is no requirement to rezone or re-designate the five-acre parcel on which the interchange would be built because an interchange is not inconsistent with the current zoning or land use designation. General plans and zoning govern uses whereas an interchange is an infrastructure facility. Therefore, there can be no inconsistency and no re-designation is necessary.

27-20 Caltrans District 3 System Management Plan is a policy document outlining Caltrans' strategies for long term (20 year horizon) goals and objectives relative to improving mobility in the region. As part of this document, Caltrans discusses operating standards. With the advent of congestion management plan (CMP) standards, Caltrans set Concept Level of Service (LOS) standards on County-route specific basis. The System Management Plan defines the concept level of service as "the lowest level of service which is considered acceptable on the state highway network". The plan further indicates, "physical restrictions and socioeconomic, environmental, and financial constraints often compel less than a desirable level of service for certain segments."

For this section of U.S. Highway 50, the "concept level of service" is "E". Similarly, Caltrans maintains a "Transportation Concept" for each facility in the District; the concept details expected improvements over a 20-year life, as well as the expected level of service. The April 1998 Transportation Concept Report for U.S. Highway 50 indicates that for El Dorado county west of Placerville, the concept level of service is "E". Sacramento County Concept Level of Service is "E" for year 2020 conditions. Please see Response to Comment 27-10.

27-21 This comment appears to misconstrue the statements in the fourth paragraph of section 5.2.9 of the EIR/EA. That paragraph, part of the assessment in the EIR/EA of land use impacts, first states that there are no applicable County policies or plans because the project will be entirely on state or federal land and thus is not subject to County policies or plans. The paragraph then states that, apart from current plan designations, the proposed use evaluated in the EIR/EA would result in few, if any, land use conflicts due to the rural residential nature of the area and the large parcel sizes that buffer surrounding properties. Thus, the conclusion that there are minimal land use conflicts, if any, is based upon the nature of the area and the parcel configuration.

27-22 Lanes are numbered 1, 2, 3, with numbers increasing from the median towards the outside shoulder. As proposed, a portion of the existing median area will be paved adjacent to the eastbound traveled lanes; the no. 1 eastbound lane will transition into this newly paved median area, and the no. 2 eastbound lane will similarly transition into what is currently the no. 1 lane. Thus the eastbound South Shingle Road eastbound on-ramp will enter onto the outside (no. 3) lane, creating an auxiliary lane (exit only) to the proposed interchange. After the exit, the number 1 and 2 lanes will transition back to the existing alignment.

Caltrans Highway Design Manual Topic 206 addresses pavement transitions; the recommended length of transition is 2/3 x W x V, where "W" is lane width in meters, and "V" is design speed in km/hour. The proposed lane "shifts" are 3.6 m (12 feet) as measured perpendicularly to the direction of travel, with transition taking place over a length of approximately 260 m (850 feet) long; this transition exceeds standards for 120 km/hr (75 mph) design speed, which is a typical design

speed for a freeway facility. The bridge at South Shingle Road does not need to be widened, as the transitions are adequately accommodated without doing so.

The "exit lane" referred to by the commenter is in fact the auxiliary lane, with a total length of approximately 488 m (1600 feet); the length of the auxiliary lane was considered in the interchange merge/diverge level of service calculations.

COMMENT LETTER #28

STATE CAPITOL
P.O. BOX 942849
SACRAMENTO, CA 94249-0004
(916) 319-2004

DISTRICT OFFICE
3300 DOUGLAS BLVD., #430
ROSEVILLE, CA 95661
(916) 774-4430

RECEIVED
JUN 5 PM 2:
JUN 20

Assembly
California Legislature

TIM LESLIE
ASSEMBLYMEMBER, FOURTH DISTRICT

COMMITTEES:
RULES
AGRICULTURE
BANKING & FINANCE
TRANSPORTATION
WATER, PARKS & WILDLIFE

Reg Dir
Dep Reg Dir
Reg Adm Ofcr
Route
Response Required
Due Date
Memo Ltr
Tele

June 4, 2002

Ronald M. Jaeger, Regional Director
Pacific Region, Bureau of Indian Affairs
2800 Cottage Way
Sacramento, CA 95825

Subject: Comments on the Shingle Springs Interchange Project EIR/EA

Dear Mr. Jaeger:

As my staff testified at the February 19th workshop, I again urge the Bureau of Indian Affairs to require a full Environmental Impact Statement on the Shingle Springs Interchange Project.

Many of my constituents have expressed great dismay with this project and are perplexed at how the agencies involved can proceed at such a rapid pace despite the community's concern. I too share their perplexity and have gone to great lengths to understand the urgency apparently driving this project. Although I have personally met with you, your colleagues in Washington D.C., the Director of Caltrans, and the Governor's Office, I have yet to understand the speed this project commands. In addition, my staff and I have invested numerous hours contacting those involved with the hands-on aspects of this project, sorted through volumes of documents, and have attended various hearings and workshops. As you are well aware, the community has made an outstanding effort to participate in this effort as well by submitting comments and attending public forums. Yet no amount of public participation seems to influence the decision making process at all. 28-1

Part of the problem, I believe, stems from the fact that the interchange is treated as a separate project from the casino and hotel. The community thinks holistically. They ask not, "how will the hotel and casino affect my neighborhood" and separately, "how will the various interchange designs affect this area". The residents are rightly concerned about how this project *as a whole* will influence and shape the community. Accordingly, most of the comments offered do not focus specifically on taking land into trust, air-quality models, trip generation calculations, or other technical issues. As a result, many

people feel that these comments are quickly dismissed due to their holistic or unscientific nature.

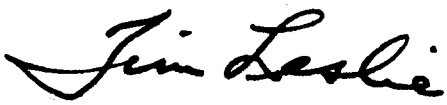
Furthermore, in order to dispute data such as traffic or air quality estimates on the interchange project, one must by necessity refer to the gaming traffic generated by the casino. However, this option has also been cut short because your office suggested, and the NIGC corroborated that the "hotel and casino complex is not expected to result in significant environmental impacts..." (Final EA, Shingle Springs Rancheria, December, 2001). While section 1.3 of the interchange EIR/EA clearly states that the traffic, noise, and air quality analyses were prepared with consideration of the operation and effects of the casino, any meaningful dialogue on these issues is at this point impossible because the casino has already been approved at your behest.

28-1 Cont.

The inherent flaw with the interchange EIR/EA, as is the flaw with the other fragmented studies we have seen on this issue, is that it does not adequately address the cumulative impacts to the community and the environment. Analyzed in piecemeal fashion apart from other issues, any potential impact will not appear very compelling. Taking a step back and analyzing the project from a broader, more common sense perspective might reveal significant problems. For example, after mitigation measures are enacted, table 2.1 lists forty-eight "less than significant" impacts associated with the Flyover Design, and fifty similar impacts with the Diamond Design. These impacts are supposedly only associated with the interchange aspect of the total project. Numerous "less than significant" impacts resulting from the interchange, in addition to the impacts associated with the casino must cumulatively result in a substantial impact. Death from a thousand paper cuts is what the community fears.

This project deserves enhanced environmental scrutiny. Moreover, the public deserves to have enhanced environmental scrutiny on this project. Again, please consider signaling to the community that the government is responsive to their legitimate concerns by requiring an Environmental Impact Statement that addresses the holistic effects of this project. If, in the end no significant impacts are detected, or those that are have been detected are appropriately mitigated, everyone will be assured that this project was birthed out of a fair, open, and honest process.

Sincerely,



TIM LESLIE
Assemblyman, Fourth District

TL: ma

cc: Gale A. Norton, Secretary of the Interior
Neal A. McCaleb, Assistant Secretary, Bureau of Indian Affairs
Wayne R. Smith, Deputy Assistant Secretary, Bureau of Indian Affairs

Comment Letter #28

28-1 The commenter, a member of the California Assembly, wrote to request that a full Environmental Impact Statement (EIS) be prepared. He expressed "perplexity" concerning the speed with which the project was moving. He asserted that many of his constituents had expressed dismay over the project. The commenter further asserted that the interchange was being treated as a project separate from the hotel and casino, while the residents were interested in the whole of the project. The commenter noted that the Interchange EIR/EA accounted for traffic, noise, and air quality impacts of the casino, but felt that since a FONSI had been executed by NIGC on the hotel and casino development, a "meaningful dialogue" on these issues was impossible. He expressed the view that EIR/EA failed to examine cumulative impacts. The commenter concluded by requesting an EIS to address the "holistic effects" of the project. If in the end, he further concluded, no significant impacts are detected, or those that have been detected have been appropriately mitigated, "everyone will be assured that this project was birthed out of a fair, open, and honest process."

It has been the purpose of this EIR/EA to address precisely those issues which concerned the commenter, and the NEPA/CEQA process employed here has taken a "holistic" view of the interchange along with the hotel and casino, so as to create a record upon which the decision-makers could conclude that there were no significant impacts or that those which have been identified have been mitigated, or that if there were significant impacts, that an EIS is warranted.

While, as explained above and as acknowledged by the commenter, the EIR/EA does consider the noise, air, and traffic impacts of the interchange plus the hotel and casino, it may be that the source of some of the data and analysis has confused the commenter. In this case the Federal agency with jurisdiction over the gaming management contract between the Tribe and the gaming management company had, in connection with evaluation of that contract (a major Federal action under NEPA) already evaluated the environmental impacts of the casino and adjacent hotel. Under NEPA it is considered not only appropriate but desirable to avoid "reinventing the environmental wheel" by reevaluating the environmental impact of an action that has just been evaluated in another NEPA document. The second NEPA document may "incorporate by reference" the earlier NEPA document (or relevant parts of it). This is what happened here. The current EIR/EA both incorporates by reference and tiers from (under NEPA) and incorporates by reference (under NEPA and CEQA) the earlier EA. BIA was a cooperating agency in the preparation of the earlier NIGC EA, so as a practical matter some of the same Federal personnel were involved in the preparation of both documents. Please see Responses to Comments 36-1 and 36-2.

In this particular case, one additional factor played a part. Indian reservations are sovereigns concerning which Federal agencies may have some limited jurisdiction

but over which state and local authorities do not have jurisdiction. Pursuant to the Congressional enactment creating the NIGC, that agency has approval jurisdiction over the casino and hotel on the Shingle Springs Rancheria. The state and local agencies have none. For that reason it was appropriate that an EA be prepared by a Federal agency under a Federal law evaluating the environmental impact of the on-reservation proposal. It would have been inappropriate for a state or local agency to be in the position of evaluating such on-reservation impacts. By way of contrast, the interchange involves a highway and right-of-way, U.S. Highway 50, which is under the jurisdiction of a state agency, Caltrans. Since BIA was also involved in the approval of the interchange, it was appropriate that the environmental documentation comply with both the state law, CEQA, and with the Federal law, NEPA. Then, as stated above, specifically to anticipate the concerns expressed by the commenter, this subsequent EIR/EA incorporated by reference and was tiered from the earlier EA such that the analysis in the former documents was recognized and incorporated in the latter document. Substantively, the process followed insured that the current EIR/EA evaluates the cumulative impacts of air, noise, and traffic (as well as other impacts) of the casino and hotel as well as the interchange.

June 2, 2002

Caltrans
c/o Karen Mc Williams, District 3
Office of Environmental Management
2800 Gateway Oaks Drive
Sacramento, CA 95833

Dear Ms. Mc Williams;

The following are written comments concerning the Environmental Impact Report /Assessment of the proposed new interchange on U.S. Highway 50 in El Dorado County, California, regarding a proposed Casino in the Shingle Springs Rancheria dated May 2002.

I have reviewed this Report/Assessment with an attitude as to what is just and environmentally sound for this rural residential area and all the people living in it, whether they live on the Rancheria or not.

29-1 *This EIR is an example of a Federal Agency "Bureau of Indian Affairs" over stepping its authority and proposing a major interchange to a 160 acre area for a massive casino, hotel, entertainment center. This is being done over the veto, on two occasions, of the Governor of California. The El Dorado County Board of Supervisors has also rejected this project on several occasions. There are serious question as to why the California Department of Transportation is cooperating with the BIA under these circumstances. This is Big Government over-riding the wishes of the many for the questionable benefit of the few. How the EIR/EA can conclude that the potential Environmental Impact is less than significant is a farce. Some of these Environmental Impacts will be reviewed later in this paper.*

29-2 *The irony is, the greatest environmental impact will be in the Shingle Springs Rancheria itself. The Rancheria developed a land use plan for a rural residential area consisting of 40 residential parcels. In 1988 the Rancheria asked El Dorado Irrigation District for water for residential use only. The water application was approved as requested, with no water provided for commercial use. Based on the Rancherias' land use plan, the BIA developed one of the best residential developments in the area from an infrastructure point of view. Underground water, electrical, and phone lines were installed to each parcel. Later BIA did major grading and installed a very high quality hot mix asphalt 30-foot wide roadway system according to the Rancheria's land use plan. Around 1996-1998 the Rancheria officials decided to change the existing land use plan to include 50 acres for commercial development out of their rural residential area. This was done without the approval of any state or local agency because of the Rancherias Sovereign Nation status. The BIA has disregarded the millions it has spent to develop the residential*

29-2 Cont. *Rancheria and has blindly persued a commercial development. This commercial development will have a major environmental impact on the Rancheria and surrounding rural residential area.*

29-3 *Contrary to the EIR (see page 5.2-2) the parcel where the "Casino" will be constructed is not vacant land but on developed residential parcels paid for by BIA.*

29-4 *On page 5.2-8 According to the EIR, the Projects' impacts are considered significant if they result in significant land use conflicts. BIA stated there are no significant land use conflicts based on the current Rancheria land use plan. The Rancheria simply changed the land use plan. All other US/County government related land use agencies have had no opportunity to review these changes and how they may impact the surrounding areas. The courts need to address this policy of a few Rancheria leaders having such power over land use and environmental concerns. How can the citizens of the United States be expected to accept hundreds of individual Sovereign Nations within our boarders that do not adhere to the laws required of U.S. citizens? What is to prevent the Rancheria leaders from changing the new land use plan again, making a total of 100 acres commercial, which might include casino expansion, car dealerships, Wal-Mart type developments, gas stations, etc. All these enterprises would operate tax free with great advantage over U.S. enterprises that must pay taxes.*

29-5 *5.2.9 Assessment: The EIR states that the Proposed Project for the interchange would occur entirely within land under federal, state, or tribal jurisdiction. There are no applicable County plans, policies, or regulations that would apply.*

RESPONSE: The interchange project is on land recently purchased from a North Buckeye Ranchero Association member. The land is zoned 5 acre residential and therefore should fall within the jurisdiction of applicable County plans, policies, and regulations.

WHY IS THE BIA NOT REQUIRED TO GO THROUGH THE PROPER PROCESSES AS WOLULD BE REQUIRED BY ANY OTHER PROPERTY OWNER/BUSINESS? The property was purchased by others (an outside gaming business) for the Rancheria, not by members of the Shingle Springs Rancheria. It was then accepted as part of federal, or tribal lands to circumvent the proper County plans, policies, and regulations.

29-6 *5.4-15 Daily Trip Distribution and Assignment states there will be 9918 total trips on the average weekday that would include 20 bus trips and 20 delivery trips.*

RESPONSE: These trips are on a weekday basis, how many more trips are there going to be on a weekend? The impact of this volume of traffic would have a major impact on noise and air pollution causing environmental changes to this rural residential area. Additionally, Highway 50 is already impacted daily by traffic coming out of Sacramento so the current highway infrastructure is not adequate to address the needs at this time.

29-6 Cont. *Again, I am very concerned that the 24-hour use of this interchange and Casino Complex will be a MAJOR NEGATIVE IMPACT on this rural residential area.*

29-7 *5.6-2 Construction Equipment Noise: The EIR states there will be night time operations and noisy equipment which could result in annoyance or sleep disruption for nearby residences. Blasting activities may also disturb nearby residences. The EIR states that mitigation will result in less than significant impact.*

RESPONSE: How can mitigation solve the major impact of this action to the environment and tranquility of this rural residential area? There is also no mention of the disruption to the wild life that is such an important part of this rural residential area.

29-8 *5.7-5Cumulative Environmental Impact: The EIR states there is less than significant impact on the Environment.*

RESPONSE: The EIR makes no mention of the extreme potential for wild fires in this area due to the 9918 additional trips each weekday into this Oak Woodland/Chaparrals area. The Oak woodlands and Grassland areas are very susceptible to wild fire in the extremely dry summer months. The Environmental Impact of the Interchange/Casino project does not even acknowledged this dangerous potential hazard of a devastating wildfire. The Sovereign Nation status of the Rancheria will exempt it from any responsibility due to wildfires that would spread from the Rancheria to its neighbors. Is it fair for the taxpayers of this area and state to shoulder the burden of this possible disaster?

29-9 *5.11-4 The EIR states exposure due to wildfires is less than significant.*

RESPONSE: There is no mitigation that can address the extreme potential of wildfire. See Response 5.7-5 above.

29-10 *5.9-3 Minority and/or low-income populations The EIR states none required.*

RESPONSE: There will be 1500 employees employed by the Casino/Hotel operation. These employees will be paid low salaries and many will not receive health benefits. The impact of this low salary level of employee will impact the social services of El Dorado County again with no commitment from the Rancheria to share this burden.

29-11 *In summary, I feel that there are many issues in this MAY 2002 ENVIRONMENTAL IMPACT REPORT/ENVIRONMENTAL ASSESSMENT THAT ARE QUESTIONALBE AND DO NOT ADDRESS ADEQUATEDLY THE RIGHTS/POLICIES OF THE RANCHERIA VERSUS THE RIGHTS OF THE LOCAL, COUNTY AND STATE CITIZENS AND POLITICIANS WHO HAVE TIME AND TIME AGAIN NOT*

SUPPORTED THIS PROJECT BECAUSE IT DOES NOT FIT WITH THE DEVELOPMENT OF THIS RURAL RESIDENTIAL AREA.

29-11 Cont.

I would like to recommend further consideration be given to the issues raised in this Environmental Review.

I appreciate the opportunity to respond to this EIR and would appreciate a reply concerning those issues I have addressed.

Sincerely,

Johnie W. Bramble

Johnie W. Bramble
4900 Artesia Road
Shingle Springs, CA 95682

California Department of Transportation
EIR Responses to Comments

Comment Letter #29

29-1 These comments opposing the EIR/EA process are noted and will be included in the record for consideration by the decision-makers prior to a final decision on the interchange project. In response to the factual assertions in the comment, the Governor has not vetoed this project, and the County Board of Supervisors does not have authority over this project. The BIA has evaluated this project pursuant to its trust responsibility for tribes, and Caltrans is properly evaluating this project in its role as CEQA lead agency.

The Commenter generally objects to the Department of the Interior [BIA] proposal to provide unfettered access to the Tribe, claiming that such proposal is an improper use of its authority, in light of the governor's veto of two bills having to do with Caltrans' authority to enter into agreements with Tribal governments, and further, in light of the stated opposition of the Board of Supervisors of El Dorado County. None of these comments address the impact of the proposed project upon the environment.

As stated by Assistant Secretary for Indian Affairs Neal Al McCaleb on June 20, 2002 in response to similar concerns: the land upon which the Tribe resides "is held in trust by the United States for the use and benefit of the Shingle Springs Band of Miwok Indians." As trustee for the Band, the Unites States has determined that "the Band has not been able to use its land except on a very limited basis. The Band's attempts to secure legal and unrestricted access have not met with fruition due to opposition from the adjacent homeowner's association. . . . The Band has demonstrated the need for the access and the BIA is responding to that need in conformity with the Federal government 's mandate to assist Indian tribes achieve self-determination."

The proposed project is the construction of an interchange and access road to connect the Shingle Springs Rancheria to U.S. Highway 50 and provide the Reservation with access to allow certain economic development on the Rancheria. When completed, the interchange/access road will connect U.S. Highway 50, over the Department of Transportation ("Caltrans") right-of-way, with the existing BIA's IRR System located on the Rancheria. The entire interchange will be constructed within the Caltrans right-of-way and on the federal 5.6-acre parcel that is contiguous to the Rancheria.

Caltrans has not contracted with the Tribe. Instead, Caltrans and BIA have entered into a Highway Development and Encroachment Agreement, which provides for joint review of design and environmental and construction issues, and through which Caltrans will be reimbursed by BIA for all costs incurred as part of the supervisory functions. Future encroachment and maintenance agreements are anticipated to be negotiated of the cooperative process.

29-2 These comments regarding the potential environmental impacts of the proposed project on the Rancheria are noted and will be included in the record for consideration by the decision-makers prior to a final decision on the interchange project. The potential environmental impacts of the hotel and casino project have been evaluated in the completed NIGC EA/FONSI. The BIA is acting on this project in response to the Tribe's request and pursuant to its trust responsibilities to the Tribe.

The commenter objects to modifications by the Shingle Springs Band of its land use plan applicable to the Rancheria, subject to the sovereign authority of the Tribe, and further objects to the uses of water from EID, and objects to approval of the modifications of the Tribe's Land Use Plan, especially as it applies to the commercial designations for the hotel and casino. California Government Code §12012.25 specifically limits CEQA by providing, "In deference to tribal sovereignty, neither the execution of a tribal-state gaming compact nor the on-Reservation impacts of compliance with the terms of a tribal-state gaming compact shall be deemed to constitute a project for purposes of the California Environmental Quality Act of the Public Resources Code." Therefore, while a CEQA analysis is proper for the proposed interchange because of Caltrans' role, and construction of the interchange over the Caltrans right-of-way, the CEQA analysis should not contemplate on-Reservation impacts of the Compact, including modifications of the Tribal Land Use Plan by the Tribal Council, except where such impacts are considered indirect impacts of the proposed interchange on the physical environment. In addition, the construction of the hotel and casino and the execution of the gaming management contract are purely federal endeavors. The impacts have been analyzed and mitigated by the NIGC in its EA/FONSI. The NIGC has full authority to enforce the mitigation of the NIGC EA, and the EIR\EA because the mitigation proposed in the FONSI have been incorporated by reference. [See NIGC FONSI, page 4].

There is no provision in federal law which requires the Tribe to permit the participation of non-Tribal members, or permit comment by non-Tribal members to its internal land use plan.

The commenter's statements regarding the status of the EID agreements for water -delivery to the Tribe have been examined and been found to be inaccurate. BIA was a signatory to the EID agreement the commenter mentions. No restrictions of any nature on the amount of water or the uses to which the water were requested by the Tribe and none are contained in the agreement between EID, the Tribe and BIA. The agreement also requires BIA and the Tribe's consent for its modification. Finally, the comments are conclusory, stating that major impacts to neighbors' property will result from the interchange without citing the responding agencies to the specific defects in analysis which need to be corrected.

29-3 The commenter states that "contrary to the EIR/EA (see page 5.2-2) the parcel where the 'Casino' will be constructed is not vacant...." Page 5.2-2 of the EIR/EA does not make such a statement regarding the site for the proposed casino and hotel. The discussion on Page 5.2-2 does address the existing land uses on the 5±-acre parcel located south of the Rancheria. Caltrans can only assume that the commenter mistook the discussion of the 5±-acre parcel for the proposed hotel and casino site. The residence located on the interchange site will be demolished at the beginning of construction.

29-4 The commenter questioned the sovereignty of the Shingle Springs Rancheria and its adoption of the land use plan. In particular, the commenter questioned the BIA's review and reliance upon the land use plan and objected to the Rancheria's self-determination with regard to the land use for the Rancheria.

The purpose of NEPA is to infuse consideration of environmental information into the planning process and decision-making of federal agencies, such as BIA. Tribal government authority is distinct from the responsibilities and authorities of BIA, (30 BIA Manual, Supp. 1, Section 2.6), although the BIA and tribal government are encouraged to work together to assure that meaningful environmental analysis is conducted early in the decision-making process. Compliance with tribal laws must be addressed in the EA as was done in the case of the Shingle Springs interchange EIR/EA where BIA reviewed the Tribe's Amended Reservation Transportation Plan. Where, as here, the tribal government has created a Land Use Plan and Amended Reservation Transportation Plan and the proposed project is consistent with these plans, then the BIA and tribal government have conducted the required coordination. The Tribe need not obtain input from other off-site non-tribal members in the development of their land use plan, and the Tribe may change the plan as it chooses. In that latter regard, the comment is accurate.

There is usually no tax advantage to be gained from non-Indians operating businesses on a reservation. For instance, possessory interest taxes, which are the equivalent of property taxes, are levied against such businesses, with the proceeds going to the State. Further, sales taxes must be collected on on-reservation sales to non-Indians. Non-Indian enterprises are also subject to taxation by the Tribe, potentially subjecting them to double taxation.

29-5 The comment questions why the BIA is not required to go through the same process for project approval for the 5±-acre parcel as would any other property owner/business. It is important to understand the timing of development on the subject parcel to answer the question. The first step will be to take the property into the name of the U.S. for purposes of providing free and open access to the members and residents of the Rancheria. It is only after the property is taken into the name of the U.S. that actual development and modification of the property will occur. As such, the rules and regulations that govern federally approved

projects supercede El Dorado County rules and regulations. Development would need to comply with El Dorado County rules and regulations only if approval and oversight authority resided with the County. However, this is not the case with the proposed interchange project.

29-6 The commenter notes that the project will generate 9,918 trips on an average weekday, and asks how many more trips there are going to be on a weekend. Per Table 5.4-6 on page 5.4-10 of the EIR/EA it can be seen that the casino is projected to generate a total of 14,600 trips on a Saturday (which is anticipated will be the heaviest day of the weekend). This is 4,682 more daily vehicles than on an average weekday. An analysis of U.S. Highway 50 outside of the immediate vicinity of the interchange were analyzed for weekday conditions since traffic volumes along U.S. Highway 50 are significantly less on weekends than weekdays.

Weekend trips are discussed in the EIR/EA as part of the analysis of casino trip generation, beginning at page 5.4-9, and cumulative impacts to U.S. Highway 50 are also discussed in the EIR/EA. BIA has not blindly pursued a commercial development, and the prior EA/FONSI evaluating the casino concluded that impacts of the casino and hotel project could all be mitigated to a less than significant level. The commenter's concerns regarding the scope of the traffic impact will be part of the record to be considered by the Lead Agencies' decision-makers.

29-7 The commenter states that the EIR/EA states that construction activities would occur during nighttime hours. The commenter questions how the mitigation could solve the "major impact of this action to the environment and tranquility of this rural residential area." The commenter also wants to know the noise effects on area wildlife. The commenter does not specifically address why he feels that the mitigation discussion is inadequate. Impact 5.6-2 of the EIR/EA states that nighttime construction activities could result in annoyance or sleep disruption. Impact 5.2-2 also addresses blasting noise that would result for part of the construction period. It is noted within the impact discussion that construction noise is regulated by Caltrans standard specifications Section 7-1.011 "Sound Control Requirements." These requirements state that noise levels generated during construction shall comply with applicable local, state, and federal regulations, and that all equipment shall be fitted with adequate mufflers according to the manufacturers' specifications. Mitigation incorporated into the project includes, but is not limited to, incorporation of Section 7-1.011 "Sound Control Requirements" and Standard Specifications Sections 7.1.10 and 19-2.03 and 5.6.2 – Construction Equipment Noise. With regards to wildlife, impacts do not rise to a significant level because they are temporary and localized.

29-8 Pursuant to P.L. 83-280, the State Department of Forestry and Fire Protection has jurisdiction over wildfires and fire protection on Tribal lands. This project will

improve access to the Rancheria lands and improve the existing ability to respond to any possible fire. The commenter asserts that Impact 5.7-5 of the EIR/EA does not address wild fire impacts resulting from the additional trips each weekday into the "oak woodland/chaparrals" area. Impact 5.7-5 of the EIR/EA addresses the cumulative loss of habitat as opposed to wild fire issues. The additional vehicles traveling on the new interchange will be traveling on a facility removed from direct contact with oak woodland/chaparral habitat; therefore, no impact will occur. The development on the Rancheria was fully addressed within the NIGC Environmental Assessment and was determined not to result in a wildfire impact with the expansion of existing fire protection services.

The comment regarding wildfires on the Rancheria is understood to concern the ability of the Tribe to avoid financial responsibility for injury caused to its neighbors. While the Tribe's sovereign immunity may provide protection from suit involving on-reservation impacts of its endeavors; the Tribe has approved an Off-Reservation Environmental Impacts Ordinance whereby it has voluntarily agreed to participate in mitigation plans applicable to the off-reservation impacts of its proposed development. Additionally, the Tribe carries significant liability insurance to provide for injury to third parties. In sum, if a fire erupted on the Rancheria, from any source, which spread to neighbors, mechanisms exist whereby the Tribe can participate to recompense the injured parties.

29-9 The comment claims that the EIR/EA found wildfire potential to be a less than significant impact. In fact, the EIR/EA found the impact to be significant without mitigation. The EIR/EA found the impact to be less than significant only after the application of mitigation 5.1-4(A). The commenter did not specifically address where the analysis was deficient. The analysis presented in Impact/Mitigation 5.11-4 of the interchange EIR/EA, and within the indirect impact discussion presented in Chapter 9 of the EIR/EA reveals that a less than significant wildfire impact will result after the application of mitigation.

29-10 The commenter seeks to make a connection between casino employees and their employment resulting in an increased social service burden on El Dorado County. In making his point, the commenter refers to Impact 5.9-3. Impact 5.9-3 addresses the interchange's potential impact on minority and/or low-income populations. This impact discussion is focused on the existing populations that live in and around the interchange site that may be affected by the construction and operation of the interchange. The proposed casino and hotel is an indirect impact fully addressed by the NIGC's Environmental Assessment approved in January 2002 and incorporated by reference into the EIR/EA. The commenter does not provide a basis for concluding how newly employed individuals at a commercial facility will result in an increased social service burden to the County. Generally new employment opportunities reduce the need for social services.

29-11 The commenter summarizes points made in Comments 1-10 and concludes by stating that the conclusions in the EIR/EA are questionable. The comment is noted and will be included in the record for consideration by the decision-makers prior to a final decision on the interchange project.

Dr 6/04/02

6201 Union Mine Road
El Dorado, CA 95623

May 21,2002

FINAL

RE: DRAFT Environmental Impact report/Environmental Assessment

FROM: Sigurd Battenberg, Resident, El Dorado County

TO: Ronald Jaeger, Regional Director, Pacific Region, BIA, 2800 Cottage Way, Sacramento, CA 95825

30-1 This letter is to testify that I approve of (1) the reconfiguration of the existing Indian Reservation Roads System located on the Rancheria and encourage BIA and Caltrans to approve, to attest that (2) the BIA and Caltrans could approve adoption of the proposed Interstate 50 Interchange as part of the IRR Program, and to attest that (3) the BIA adopt The Draft Environment al Impact report/Environmental Assessment analysis which has been submitted to all authorities ,to the public, and to the Metropolitan Transportation Improvement Program.

The Shingle Springs Band of Miwok Indians have been doing this paperwork over and over again for years, and the project has been analyzed and approved before by reams of paperwork and permits. It is time for acceptance so that they may begin their project. The Miwoks have had to endure every divisive criticism and obstacle that have been put in their way as to discourage their future use of the Indian Reservation Land. Acceptance of this report may put the project (Hotel and/or Casino) on a positive course of action for the Miwok. Progress, population growth and recreational projects in this area of the county are not going away. Some of it can be delayed, but it will happen. Surely, the El Dorado Hills Town Center Development is an example of what the future will bring. It is also an example that granting permits and passing inspections is possible without any unnecessary amount of paperwork and delay.

Sincerely,

Sigurd Battenberg
Resident, El Dorado

California Department of Transportation
EIR Responses to Comments

Comment Letter #30

30-1 The comment supports the proposed interchange project, as well as the proposed hotel and casino project. The commenter provides some personal opinions regarding the amount of analysis that has been undertaken by the Shingle Springs Band of Miwok Indians. Lastly, the commenter provides an opinion regarding the streamlined nature with which approvals were made for the El Dorado Hills Town Center Development. The comment is noted and will be included in the record for consideration by the decision-makers prior to a final decision on the interchange project.

STATE OF CALIFORNIA

Governor's Office of Planning and Research

State Clearinghouse

ACKNOWLEDGEMENT OF RECEIPT

Gray Davis
GOVERNOR

Tal Finney
INTERIM DIRECTOR

DATE: May 23, 2002

TO: Karen Mcwilliams
Caltrans
2800 Gateway Oaks Drive, Suite 100
MS-19
Sacramento, CA 95833

RE: Shingle Springs Rancheria Interchange Project
SCH#: 2001072018

This is to acknowledge that the State Clearinghouse has received your environmental document for state review. The review period assigned by the State Clearinghouse is:

Review Start Date: May 6, 2002
Review End Date: June 19, 2002

We have distributed your document to the following agencies and departments:

31-1

Air Resources Board, Transportation Projects
California Department of Justice, Attorney General's Office
California Highway Patrol
Caltrans, Division of Transportation Planning
Department of Fish and Game, Region 2
Department of Forestry and Fire Protection
Department of Parks and Recreation
Department of Toxic Substances Control
Native American Heritage Commission
Office of Historic Preservation
Reclamation Board
Regional Water Quality Control Bd., Region 5 (Redding)
Resources Agency
State Lands Commission

ARB
EMFAC 2001
Cyclos
Conversation

The State Clearinghouse will provide a closing letter with any state agency comments to your attention on the date following the close of the review period.

Thank you for your participation in the State Clearinghouse review process.

1400 TENTH STREET P.O. BOX 3044 SACRAMENTO, CALIFORNIA 95812-3044
916-445-0613 FAX 916-323-3018 www.opr.ca.gov

Comment Letter #31

31-1 The Governor's Office of Planning and Research, State Clearinghouse issued a letter identifying the Review Start and End Dates and agencies sent copies of the EIR/EA. The letter concludes by stating that the State Clearinghouse will provide a closing letter with any state agency comments.

Richard B. Holmes
3357 Chasen Drive
Cameron Park CA 95682
(530) - 676-0999
May 15, 2002

Caltrans
c/o Ms. Karen McWilliams
District 3 Office of Environmental Management
2800 Gateway Oaks Drive
Sacramento, CA 95833

Dear Ms. Williams:

Thank you for the opportunity to comment on the Shingle Springs Interchange Project Environmental Impact Report prepared by the BIA and Caltrans. Although we have no major concerns about the proposed interchange itself, we are concerned about the findings within the report associated with the proposed casino.

We note that areas of concern on the CEQA Environmental Checklist are Air Quality (items a and b), Water Quality (items a, c, d, e), Transportation (items a and b). We also note on the checklist Land Use and Planning, Population and Housing, and Public Services which show no impact, but we feel might be otherwise as described below.

Our first concern is with the Air Quality Conformity Finding, as mentioned on page 5.5-13 of the subject document stating that 16 tons of NOx, and 56 tons of PM10 would be emitted, and these are somewhat less than the de minimis thresholds, so no there is impact. This is based on an air quality report prepared by CCS, and talked to W. Shijo at CCS. It is felt that the report flawed in several ways:

32-1 1. Population growth is drastically underestimated. Exhibit 11 of the CCS report shows an assumption of about 19 % growth in dwelling units and 21 % growth in employment from 2005 to 2015. This is inconsistent with current census data showing growth rates of 30-40 % in Placer and El Dorado Counties in the last decade.

32-2 2. Vehicle miles are drastically underestimated. Exhibit 12 shows vehicle miles traveled, with an increase in 20 % from 2005 to 2015. This is not consistent with the real population growth, and that in an expanding urban region, cars travel further on average.

32-3 3. Congestion on Highway 50 is already a serious problem for about 6 hours per day between Folsom and El Dorado Hills. Based on the report, most visitors to the proposed Casino will come via that route, and will add approximately 30 % to the traffic already there. This is not thoroughly addressed in the reports.

32-4 4. Secondary traffic is drastically underestimated. Since El Dorado County is already at full employment, as mentioned in the EA, employees will need to travel from out of El Dorado County, at least initially. This will add to congestion on Highway 50.

32-4 Cont. Also, when employees relocate, the traffic generated by the new arrivals should be considered but apparently hasn't been in the report.

32-5 5. The report does not consider the local El Dorado County area when judging conformity to air quality analyses. The report apparently uses the entire Sacramento region. It is well known (visit the state web site (**www.arb.ca.gov/adam**) that air pollution is much worse downwind from Sacramento in El Dorado and Placer Counties. In fact, pollution in El Dorado County has been significantly worse than downtown Los Angeles in recent years as measured by exceedences of hourly ozone standards. See Figure 1. Air pollution in El Dorado County is now comparable to Pasadena by this measure.

32-6 6. The de minimis standards are apparently for the entire SACOG region, whereas the pollution would primarily impact Shingle Springs and Placerville, based on prevailing winds. Hence, the de minimis standards are probably inappropriate when considering the health of the local citizenry, and applying the broad-area SACOG standard sidesteps the intent of the law for protection of said health of those living in the Placerville area.

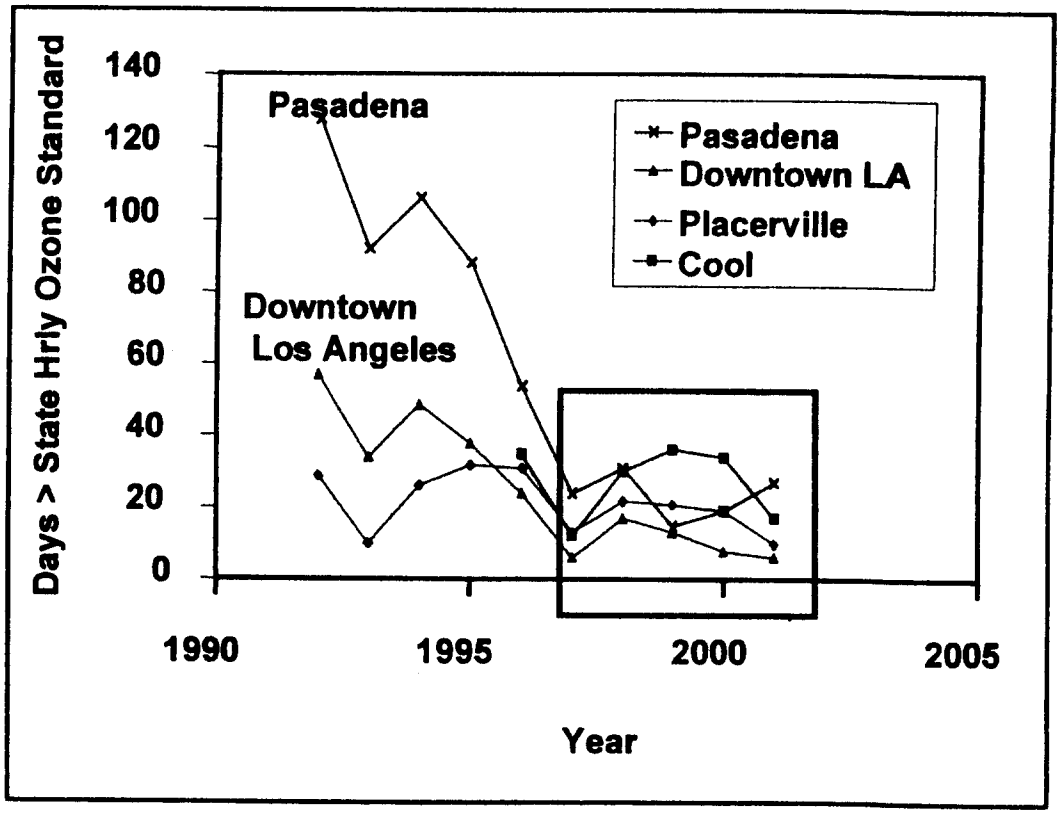


Figure 1. Air Quality in El Dorado County.

32-7 7. The report apparently does not consider pollution arriving in the Sierra Foothills from the Bay Area. Aircraft fliers in the area can attest to the slug of the pollution that lifts up over the Bay Area hills and progresses across and above the Sacramento region to the Sierra foothills.

32-8 8. The model used has not been back-validated to check its predictive power. This is a serious issue in the modeling.

32-9 Our second main concern with is with Land Use, Population and Public Services. The subject report, section 5.2.9, states that the interchange would be placed into the IRR system, and states that the "proposed interchange is not inconsistent with the El Dorado County General Plan, as the parcel would no longer be under County Jurisdiction." To an onlooking citizen such as myself, this appears to be a means to skirt the spirit of existing land use law and existing planning by use of a technicality. This approach apparently is designed to eliminate local citizenry from the decision-making process that directly impacts them. Many of the citzenry came to this area for a quiet, rural lifestyle, and would not be happy with the impact of the casino, including ourselves.

32-10 Furthermore, on page 6-2 of the subject report, it mentions that the 238,500 sq. ft. casino complex…is projected to employ 1500 employees directly." It is mentioned that the current "2725 units are available for renting and/or purchasing." It furthermore mentions that "a total of 13,800 residential units are either approved, under construction, or completed." We are concerned that the housing required by the casino workers and additional generated employment will not be consistent with available housing, so more housing would be generated and of lower value, and a real impact would occur.

1. For example, the median price of a home in Zip Code 95682, Shingle Springs, is $340,000. The median price of a home in Zip Code 95667, Placerville, is $280,000. Both of these prices would be well beyond the means of a casino worker making $50,000 per year (many casino workers would make less).

32-11 2. Based on our personal experience with home ownership in South Lake Tahoe for the past few decades, real estate prices barely increased except recently, and we would attribute this to the casino influence. Casino workers rarely buy homes, and more often rent. Furthermore, when they do rent, they tend to be very destructive of the dwellings they rent.

32-12 3. We would encourage a case study of nearby Stateline Nevada, and the housing of casino workers in nearby South Lake Tahoe, Minden, and Carson City to estimate the types and amount of housing required by the casino workers, generated by casino workers and the secondary employment. Also, we would encourage the study to look at home value appreciation in South Lake Tahoe, to determine if appreciation of local real estate will be impacted. We suspect that there would be even stronger opposition to the casino from nearby communities if the impact on home value were properly ascertained and disseminated.

32-13 It would be a sad world indeed when the world-renowned Sierra Nevada mountain range, often called "The Range of Light," would be lost in a sea of smog due to the negligence

32-13 Cont. of local administrators. Moreover, it could significantly impact our local tourism and influx of wealthier retirees to the area - these are the two dominant sources of revenue in El Dorado County.

32-14 We encourage the Caltrans to act prudently in considering a large casino, one with more floor space than Harrah's Lake Tahoe, one generating 20 % of the gambling revenue of the entire Reno area, according to one comment letter. It is difficult to believe that such a casino would not impact the air quality and land use in an otherwise predominately rural area that already has air quality and congestion problems. Why not consider a casino that is about half the proposed size as an alternative?

Sincerely,

RB Holmes & Sandra Wong

Rich and Sandra Holmes

California Department of Transportation
EIR Responses to Comments

Comment Letter #32

32-1 The commenter questions population growth calculations used for the air quality conformity finding. For purposes of this design alternative, SACOG instructed CCS Planning and Engineering to use the SACMET model. Exhibit 11 of the November 27, 2001, letter report from *CCS Planning and Engineering* on the project-level transportation conformity analysis presents demographic data. The values presented in Exhibit 11 are for the entire SACMET travel model region, not for just Placer County or El Dorado County. Therefore, the amount of growth indicated in this Exhibit reflects an average of both high-growth areas, such as Placer County and El Dorado County, and low-growth areas, such as the Land Park, Arden, and Carmichael communities of Sacramento.

32-2 The commenter says that the 20% increase in vehicle miles shown in Exhibit 12 is too low for an expanding urban region. Exhibit 12 of the November 27, 2001, letter report from *CCS Planning and Engineering* on the project-level transportation conformity analysis presents data on vehicle miles traveled and vehicle trips. The values presented in Exhibit 12 are for the entire SACMET travel model region, not for just areas experiencing urbanization. Therefore, the increase in travel indicated in this Exhibit reflects an average of both urbanizing areas, such as Placer County and El Dorado County, and areas that are already fully-urbanized, such as the Land Park, Arden, and Carmichael communities of Sacramento.

32-3 The comment asserts that U.S. Highway 50 is already a serious problem for 6 hours per day between Folsom and El Dorado Hills, and that the casino will add 30% to those volumes, which is not thoroughly addressed in the report. Casino traffic would not add 30% to existing traffic. Per Table 28b on page 66 of the Transportation/Circulation Technical Study, the Casino is projected to add a maximum of 11.3% to existing traffic volumes on U.S. Highway 50 in the immediate vicinity of the interchange for an average day. Per Table 22 on page 51 of the Transportation/Circulation Technical Study, the Casino is projected to add a maximum of 20% during the AM peak hour, 16.2% during the PM peak hour, and 27% during the Saturday peak hour to existing traffic volumes in the immediate vicinity of the interchange for an average day. Per Figure 6 on page 59 of the Transportation/ Circulation Technical Study, even with these increases, acceptable levels of service will be provided along U.S. Highway 50 in the vicinity of the project with the addition of an eastbound auxiliary lane.

32-4 The comment asserts that secondary traffic is underestimated since El Dorado County is at full employment and employees will need to travel from out of the County, adding congestion to U.S. Highway 50. The EIR/EA and supporting Transportation/Circulation Technical Study used the El Dorado County Regional Travel Model, which was provided by El Dorado County, was used for evaluating traffic, including secondary traffic. The model provides for the number of trips

which travel into and out of the county, thus inter-county employee trips have been addressed. The environmental review for the hotel/casino project concludes based on evidence that substantial relocation of persons will not occur.

32-5 The commenter believes that local El Dorado County air quality, rather than that for the entire SACOG region, should have been considered in the transportation conformity analysis, because transport has reduced air quality in El Dorado County to a point "significantly worse than downtown Los Angeles." Transportation conformity analyses must demonstrate that a proposed project will not exceed vehicle emissions budgets prepared for a given metropolitan planning organization area or region. These emissions budgets are developed in the context of the air quality in the area or region, considering emissions from all types of sources: stationary, area, and mobile. The protocols established for making such analyses were followed in the determination that the vehicle emissions increases associated with the Shingle Springs Rancheria project, which includes existing emissions levels as well as emissions anticipated from known construction projects, do not exceed the emissions budgets in milestone years.

Air quality monitors measuring ozone levels in El Dorado County are part of a system of such monitors in the entire Sacramento ozone nonattainment area. All monitors in the entire nonattainment area must comply with the national and state ozone standards before any part of the area can be found to be in attainment. Therefore, if El Dorado County is indeed impacted by transported ozone as suggested, then it is in the interests of the air quality control district to address transport, most likely in the upwind area that is generating the ozone precursors. In fact, the emissions budgets are developed considering transport of ozone precursor emissions to downwind areas and from upwind areas. In other words, the impact of transport <u>is</u> considered in the budgets, thus the value of the regional analysis. Other than the increased emissions from mobile sources, which are addressed through regional transportation conformity demonstrations, the Shingle Springs Rancheria project will not increase emissions in a manner that will further deteriorate air quality in El Dorado County. That air quality in Los Angeles and Pasadena has improved to the point indicated in the Comment is an indication that the measures implemented by those air quality districts are effective. However, the meteorological and demographic characteristics of those areas are different from the Sacramento area, such that the measures employed in the Sacramento nonattainment area are, appropriately, not necessarily the same as those utilized elsewhere.

32-6 The commenter says that the *de minimis* standards are for the entire SACOG region, while the pollution impact would be limited to Shingle Springs and Placerville. Therefore, the *de minimis* levels relied upon are inappropriate. Because ozone is a pollutant that often affects a broad area, it is necessary to consider the entire nonattainment area when evaluating the impact of a project. The *de minimis* thresholds established in federal regulations anticipate the nature

and characteristics of the pollutant being addressed, in this case ozone, and are for the purpose of protecting air quality generally. *De minimis* thresholds are not established for individual locales for the very reasons noted by the commenter with respect to pollution transport. The applicable thresholds reflect the severe ozone nonattainment status of the entire area, including Shingle Springs and Placerville.

32-7 The commenter states that the analysis does not consider pollution transport from the Bay Area into the Sierra Foothills, as observed by aircraft. The transport of ozone and its precursors is well established and is considered in the establishment of emissions budgets and *de minimis* thresholds. The EIR/EA for the Interchange project based its air quality analysis on these established criteria and guidelines.

32-8 The commenter claims that the model has not been back-validated. It is not clear to which model the commenter is referring, as there are a number of individual models that make up the platform used in a modeling analysis.

If the commenter is referring to SACOG's SACMET traffic model, the term *back-validated* is not *apropos*, as it is not used relative to traffic modeling. In order for the model to have been approved, it had to have been validated, which SACOG has confirmed. SACOG's SACMET travel model is the only travel model approved for use in conformity determinations for the Sacramento area. The Tribe received the SACMET model from SACOG and has provided SACOG with its traffic and emissions modeling data, electronically, as a courtesy.

If the commenter is referring to EMFAC7F, which is the final portion of the transportation conformity modeling platform, this model is the one approved by United States Environmental Protection Agency and the California Air Resources Board for transportation conformity determinations. In order for the model to be approved, it has been tested and its relative accuracy determined to be within federal and state guidelines. In fact, it is the <u>only</u> model that is approved for such evaluations outside the Bay Area in California.

32-9 The comment questions the technicality of stating that the proposed project would not be inconsistent with the El Dorado County General Plan, because the land would no longer be under County jurisdiction. In fact that is exactly the case. Development on the 5±-acre parcel would not occur until the property was brought into the name of the United States of America. Once this action is finalized, subsequent development would need to be consistent with Federal rules/ regulations - not County. This approach is not, contrary to the commenter's assertion, a means to eliminate local citizenry from the decision-making process. Caltrans held 3 public workshops in 2001, and monthly PDT meetings. The BIA held a public meeting with full public noticing for the inclusion of the interchange into the IRR System on February 19, 2002. This public meeting was also held to receive public input regarding the results of the Project Level Conformity analysis

conducted for the inclusion of the project into the MTP The BIA and Caltrans then held a joint-public meeting to discuss public comments to the EIR/EA. A public hearing will also be held by the CTC to review the break in access prior to final action. The comment regarding the displeasure of the "citizenry" is noted and will be included in the record for consideration by the decision-makers prior to a final decision on the interchange project.

32-10 While the comment suggests that housing required by casino workers would not be consistent with available housing, this does not appear to be correct. First, as noted in the Final Environmental Assessment developed for the hotel and casino, El Dorado County has for the past several years experienced steady employment growth in the hotel and lodging and eating and drinking sectors (EA, page 3-26). In addition, the number one category of employer in El Dorado County is restaurants and bars (EA, page 3-25). Thus, in terms of employment trends and related housing impacts, the casino that is an indirect result of the interchange evaluated in this EIR/EA does not introduce a new type of worker into the County, instead this additional employment is consistent with existing trends. Accordingly, the casino is not expected to have an impact due to generation of lower value housing.

The analysis presented in Section 6.2 of the EIR/EA is for indirect, growth inducing impacts resulting from the proposed interchange project. It is too speculative to determine how many future casino workers will seek purchasing a house vs. renting, how many already live in a house or apartment and would not relocate, and how many are part of a two-income household and could afford a higher rent/purchase price. The analysis presented in the EIR/EA represents a worst-case assumption (which is more conservative than the requirements of CEQA) that all 1,500 employees will seek housing. As shown in the analysis, adequate housing either exists or will soon exist in El Dorado County if the worst-case assumption occurs. The analysis need not show that all workers could be accommodated within the Shingle Springs and/or Placerville areas. The traffic analyses were distributed using the County's travel forecast model, which distributed employee traffic volumes to U.S. Highway 50 as shown in Table 5.4-8 of the EIR/EA. This shows that employees were assumed to live in various places aside from just the Shingle Springs and Placerville areas.

32-11 The comment presents a personal opinion regarding the effect casino workers have on real estate using South Lake Tahoe as an example. The commenter also claims that casino workers "tend to be very destructive of the dwellings they rent." This comment is directed at the proposed hotel and casino project and a specific segment of employees, not the proposed interchange project. Furthermore, the effects on real estate prices is speculative at best and need not be considered in the EIR/EA. Casino workers making $50,000 or less per year will be similar to many residents and employees in El Dorado County. Countywide, median household income in the County is $35,058, and median income in the

project area is $48,351. See EIR/EA Chapter 5.9-2. Lastly, the comment regarding the destructive tendencies of casino workers is not environmentally focused and does not warrant a response.

32-12 The commenter desires to have a "case study" of nearby Stateline Nevada to estimate the effects of casino workers on the housing market and property values. The comment does not focus on the proposed project, rather, the comment relates to the hotel and casino facility proposed by the Tribe to be located on the Rancheria. The environmental effects of the hotel and casino were fully addressed by the NIGC under a separate Environmental Assessment that is incorporated by reference into the EIR/EA. The indirect effects of the hotel and casino are included within Chapter 9 of the EIR/EA. The indirect growth inducing impacts of the proposed hotel and casino are located within Chapter 6 of the EIR/EA. As shown within the indirect growth inducing discussion, the County has an existing housing supply (12,339 vacant gross units, 2,725 net units) that could potentially accommodate new employees to the proposed gaming facility. Please see Response to Comment 40-10. In addition to the existing housing supply, a total of 13,800 residential units have either been approved, are under construction, or are completed on the West Slope Region of El Dorado County. The housing analysis presented within the EIR/EA is adequate to treat the indirect growth inducing issue from a CEQA standpoint.

A case study of housing in South Lake Tahoe beyond the scope of what is required to address the environmental issues of the proposed interchange. Studying home appreciation in South Lake Tahoe would not help to evaluate any potential significant environmental impacts of the interchange or the casino. Home prices in South Lake Tahoe have been substantially affected by the supply of housing and regulatory structure in the Lake Tahoe Basin. However, the overall impacts on neighboring communities of tribal gaming in general were evaluated in the 1999 report, *National Gambling Impact Study Commission Final Report*. The report notes, in contrasting the economic impact of casino gambling, and in contrast to other types of gambling, that casino gambling has demonstrated the ability to generate economic development through the creation of quality jobs.

32-13 The commenter mentions that it would be "a sad world" if the Sierra Nevada Mountain range were spoiled due to the negligence of the local administrators. He goes on to state that the project could impact local tourism and the "influx of wealthier retirees to the area." These comments appeared focused on the hotel and casino project - not on the proposed interchange project. The claims that "wealthier retirees" would stay away from El Dorado County and that local tourism would be impacted by the interchange project are speculative. The comment is noted and will be included in the record for consideration by the decision-makers prior to a final decision on the interchange project.

32-14 The comment presents unsubstantiated statistics comparing the size of the proposed casino facility with Harrah's in South Lake Tahoe, and questions why a smaller casino facility was not analyzed. A reduced intensity retail development alternative was included in the NIGC EA, which is incorporated by reference into the EIR/EA. BIA policy specifically recommends analyzing alternative uses (such as retail development) rather than simply analyzing alternatively sized casinos in formulating a reasonable range of alternatives.

COMMENT SHEET
Shingle Springs Rancheria Interchange Project
U-S Highway 50, El Dorado County

COMMENTS

This public meeting is held to recive public comments on the EIR/EA. As such, no formal presentation will be provided by Caltrans or BIA staff. All comments regarding the adequency of the EIR/EA should be directed to the Court Reporter or submitted in writing on this comment form. If you submit a writen comment on this comment form, please leave your name and address with the court reporter. Alternatively, writen comments can be mailed to the following:

Department of Transportation (Caltrans)
Office of Environmental Management
Attn: Che McFarlin, Environmental Specialist
2800 Gateway Oaks Drive, Ste. 100
Sacramento, CA 95833
Email: Che_McFarlin@dot.ca.gov

The comment period for the EIR/EA ends June 20, 2002.

Name Jack Genter Phone/[redacted] (530) 295-9297

Organization Representing Senior Citizens

Address 1525 Cold Springs Road, Space #1

City/State/Zip Placerville, CA 95667

Comment:
Dear Mr. McFarlin:

After careful review of the Shingle Springs Rancheria Interchange Project, I would request that you and the review committee consider the following:

33-1 1. East-West and West-East traffic flow would be expedited by the "Diamond Alternative"; the controlled flow to the freeway greatly improves the safety factor.

33-2 2. Please also consider that a large percentage of the casino patrons will be senior citizens. A portion of these will be handicapped, needing easy access and egress with a minimum of confusion for them.

33-3 3. Especially, let common sense direct your decision.

Respectfully Submitted

(If necessary, please continue your comments on the reverse side of this paper.)

Comment Letter #33

33-1 The comment supports the diamond interchange design, asserting the preferred design is safer. Both alternatives have been coordinated with Caltrans with respect to operations and safety, and are equivalent from an operations and safety perspective. Traffic operations analysis shows that the ramp merge level of service is acceptable in both directions, with no significant difference between the alternatives. Ramp metering would be the appropriate means to "control flow" to the freeway, should future U.S. Highway 50 traffic volumes warrant that consideration. Both alternatives have been designed to accommodate ramp metering.

The Diamond Interchange alternative would "release" traffic through traffic signals, which would result in "platoons" of vehicle entering the freeway, which in effect could result in small duration merge problems, which would not improve safety as asserted. "Controlled flow" to the freeway is best achieved through use of ramp metering, which could be accommodated with either alternative.

33-2 The comment asserts that the interchange design may be confusing to senior citizens. The interchange alternatives have been designed to meet applicable design standards, (Topic 504 "Interchange Design Standards"), as noted in the current Caltrans Highway Design Manual, or as otherwise coordinated with Caltrans design staff. Directional signage will be coordinated through design reviews with both Caltrans and Federal Highway Administration to reduce potential for driver confusion.

33-3 The comment is noted and will be included in the record for consideration by the decision-makers prior to a final decision on the interchange project.

"John P. Bingham"
<boots@cwnet.com>
06/18/02 10:04 AM
Please respond to "John P. Bingham"

To: <Che_McFarlin@dot.ca.gov>
cc:
Subject: Shingle Springs Rancheria Interchange Project

Dear Che McFarlin:

34-1 I live in a quiet residential area that is about to become a busy hub of commerce. My entire life is to changed by this project to put in a freeway connecting ramp from Highway 50 to the Shingle Springs Rancheria. Instead of hearing the birds, I'll hear traffic. Instead of smelling flowers, it will be the diesel exhaust from idling buses. My property value will drop at a time when property in this area is sharply increasing. Do I object to this? Of course I do, as would anyone else so affected.

34-2 Since I feel powerless to halt the project, I think a wall to block the noise is the least that can be done to protect those of us directly affected by this development. Oh, I live on the property next (west) of the land to be transformed. If this must move forward and so dramatically change my life - quality and financially - at least a sound wall can be constructed to minimize the pollution to be created.

34-3 I also request close supervision of the construction company be done to make sure the natural asbestos in the land to be disturbed is not a health hazard to those of us who must live through the construction. While lip service is given to this health hazard, it is real to those of us who must breath the air and the pollutants that will be generated by the construction.

Respectfully,

John and Barbara Bingham
4940 Artesia Road
Shingle Springs
boots@cwnet.com

Comment Letter #34

34-1 The comment states concern with noise, traffic and exhaust. Chapters 5.4, 5.5 and 5.6 of the EIR/EA address the potential noise, traffic and air quality impacts of the proposed interchange project. Also, please see Responses to Comments 5-1, 23-3, and 25-1. The comment is noted and will be included in the record for consideration by the decision-makers prior to a final decision on the interchange project.

34-2 The commenter states that, if the project is to move forward, a sound wall should be constructed between the interchange parcel and the parcel immediately west. As shown in the noise analysis within the EIR/EA (Chapter 5.6), the noise levels generated by the proposed interchange project would not result in a significant impact to the adjacent parcel to the west. Therefore, given the methodology used and standards of significance applied, a noise wall is not required. However, the comment is noted and will be included in the record for consideration by the decision-makers prior to a final decision on the interchange project.

34-3 The comment focuses on the actual implementation of mitigation for asbestos purposes. As required by CEQA, a Mitigation Monitoring and Reporting Plan will be developed for the implementation of mitigation measures. Both Caltrans and the BIA will assure implementation of the mitigation measures identified in the EIR/EA pursuant to the P.L. 93-638 Contract, or other regulatory agreement as approved by BIA and the Tribe, to ensure compliance by the Tribe, its contractors and agents with the mitigation measures as adopted herein.

In addition, mitigation measures will occur as follows:

Mitigation Measure 5.5-2, Asbestos Emissions

Prior to and during construction, a California Registered Geologist should conduct a survey of the project area to identify and map any asbestiform minerals occurring in rock outcrops and slopewash/soil. Rock/soil potential containing asbestiform minerals which requires excavation/grading for this project should be managed by:

11) Avoiding the excavation/grading of rock/soil known to contain significant asbestiform minerals, when practical;
12) Consistent wetting of rock/soil containing asbestiform minerals during excavation/grading by equipment;
13) Controlling and/or limiting blasting of rock containing asbestiform minerals, when practical;
14) Avoiding the crushing of excavated rock containing asbestiform minerals;

15) Prohibiting the use of rock containing asbestiform minerals as aggregate/road surfacing;
16) Segregating excavated rock/soil containing asbestiform minerals from other excavated rock/soil;
17) Covering any interim stockpiles of excavated rock/soil containing asbestiform minerals with tarps;
18) Using excavated rock/soil containing asbestiform minerals as fill below finished grade;
19) Covering all exposed cuts containing asbestiform minerals with nonasbestos material; and
20) Following Office of Safety and Health Administration monitoring and personal protection for workers.

Mitigation Measure 5.11-3, Exposure of Individuals to Asbestos Containing Dust

Sampling and testing for asbestos should be conducted in areas suspected of containing asbestiform minerals in accordance with California Air Resources board regulations and guidance. If asbestiform minerals are identified in the project construction area, air monitoring should be conducted at the project perimeter, particularly if the project is near residences, parks, schools, or other potentially sensitive users. The EIR/EA preparers have included the above modifications. See EIR/EA Mitigation Measures 5.5-2 and 5.11-3.

3790 Green Valley Road
Rescue, CA 95672
June 18, 2002

Caltrans
Attn: Mr. Steve Hetland
District 3 – Sacramento
Sierra Conference Room
2800 Gateway Oaks
Sacramento, CA 95833

Subject: LAFCO comments regarding Shingle Springs Rancheria Interchange Project – Draft Environmental Impact Report (EIR)/Environmental Assessment(EA), May 2002.

Dear Mr. Hetland:

35-1 As you are aware, California Environmental Quality Act (CEQA) requires that a Lead Agency neither approve nor carry out a project as proposed unless the significant environmental effects have been reduced to an acceptable level, or unless specific findings are made attesting to the infeasibility of the altering the project to reduce or avoid environmental impacts. CEQA also requires that environmental documents determine significant or potentially significant impacts.

35-2 I could not find any discussion or reference in the EIR/EA where Caltrans, as the Lead Agency, performed an analysis or commented on any of the factors associated with the project's impacts, or mitigation of impacts with regards to El Dorado Irrigation District's (EID) water conveyance system, or the limited water supply of this County. The project

35-3 EIR/EA completely overlooked any discussion with regards to the ability of the water agency (EID) to serve this project.

35-4 In reference to the Shingle Springs Interchange Project Draft Environmental Impact Report and Environmental Assessment dated May 2002, Appendix A, California Environmental Quality Act Evaluation, Section 1.2 CEQA Environmental Checklist, subsection "Utilities and Service Systems", subparagraph (d), states "Would the project have sufficient water supplies available to serve the project from existing entitlements and resources, or are new or expanded entitlements needed? This condition is annotated "No Impact". For the reasons listed below, I must take exception with this determination and finding.

35-5 In July 1988, LAFCO approved the annexation of the Rancheria project (LAFCO Annexation L-88-05) into El Dorado Irrigation District for the purpose of obtaining "residential water services only" (LAFCO Annexation, Section 6.). The Rancheria

35-5 Cont. Annexation also clearly stated in Section 7. "The service capability shall be limited to that necessary to serve a community of forty residential lots". It is my firm belief that this annexation agreement, with its subject service conditions, is still applicable, valid, and binding to all parties: LAFCO, EID, and the Rancheria.

35-6 Furthermore, based on the most recent County and EID water supply data and reports, there is strong evidence to support there are inadequate County water supplies to serve this project; in doing so, would create a significant, detrimental impact to the entire citizenry of this County as well as existing El Dorado Irrigation District customers.

35-7 I hereby request that further analysis and reconsideration be given this project for the following reasons; first, there is inadequate County water supply to serve this project without a potentially significant impact to all County residents, and secondly, the

35-8 Rancheria casino project is in direct violation to the 1998 LAFCO Rancheria Annexation Agreement with regards to water service.

Sincerely,

Charlie Paine

Charlie Paine

3790 Green Valley Road
Rescue, CA 95672
June 27, 2002

Caltrans
Attn: Mr. Steve Hetland
District 3 – Sacramento
Sierra Conference Room
2800 Gateway Oaks
Sacramento, CA 95833

Subject: Comments regarding Shingle Springs Rancheria Interchange Project – Draft Environmental Impact Report (EIR)/Environmental Assessment(EA), May 2002.

Dear Mr. Hetland:

In the beginning of the subject line of my letter dated June 18, 2002 pertaining to the Caltrans Shingle Springs Interchange EIR/EA, the word "LAFCO" was inadvertently inserted by a my word processing template. Regrettably, I did not catch this error.

Could you please incorporate this letter with my previous letter to assure readers that the comments I made on June 18th relating to this project were my own personal comments, and in no way had any connection whatsoever with LAFCO. I appreciate your assistance in assisting me to clarify any misinterpretation or misunderstanding.

Sincerely,

/s/

Charlie Paine

Cc: LAFCO Executive Officer
Ed Jacoby, Mountain Democrat

California Department of Transportation
EIR Responses to Comments

Comment Letter #35

NOTE: Please note for the record that originally Mr. Paine's letter identified the comments as coming from El Dorado LAFCO. By letter dated June 27, 2002 Mr. Paine subsequently advised Caltrans that his comments were exclusively personal in nature and did not represent LAFCO.

35-1 The comment identifies CEQA requirements for a lead agency. Caltrans is fulfilling and will fulfill its responsibility as a lead agency under CEQA.

35-2 The comment seeks information on Caltrans' review of the project's impacts on EID's water conveyance system, or limited water supply for this county. Caltrans directs the commenter's attention to its specific responses to El Dorado Irrigation Water District, contained in Response to Comment 44. Generally speaking, many of the concerns raised by EID deal with future plans for a Tribal clinic to be located on property unrelated geographically to the proposed project under consideration. EID's concerns were also evaluated in the casino/hotel EA as reviewed by NIGC. The EA, and NIGC's FONSI have been incorporated by reference. Pursuant to the terms of the EA, the Tribe will either utilize existing water delivered to the Rancheria by EID, or truck water to the Rancheria to serve the hotel/casino. The traffic impacts of the second alternative were incorporated into the traffic study for the casino/hotel EA, which has been incorporated in the EIR/EA. See EA sections 2.1.2, 3.8, 4.1, and 5.8.

35-3 The comment appears to be concerned with EID's ability to serve this project, which is the proposed interchange. As the interchange itself will not require the use of any water other than during construction, the comment may be referring to the water needs of the hotel/casino project. Water needs for the hotel/casino project were evaluated in the NIGC EA, which has been incorporated by reference into the EIR/EA. Evidence in the EIR/EA actually demonstrates that there will not be a significant impact as to water supply. The Chairman of the EID Board confirmed on May 16, 2002 that water is in fact available. The NIGC FONSI for the casino/hotel project demonstrates that there will be sufficient water for the project. EID has confirmed on the record before El Dorado LAFCO on May 16, 2002 and again July 24, 2002 that EID has sufficient water supplies for the project. In any case, water from EID is only one of two options for water supply for the hotel/casino project reviewed in the NIGC EA. The current low pressure situation is an existing condition, not an impact potentially caused by the hotel/casino project. Nonetheless, the Tribe has committed to improvements to the water delivery system that will remedy that existing condition should it continue or worsen. These improvements will benefit all water users in EID zone not just the Rancheria. Please also see Response to Comment 36-10.

35-4 The comment challenges the "no impact" determination regarding existing water sources. The reason for the challenge is contained in Response to Comment 35-5.

Additionally, the Tribe has informed Caltrans that it continues to work cooperatively with EID to determine water pressure and availability of supplies to assure future water supply increases. The EID Chairman stated publicly on May 16, 2002 that there is no water supply problem in the Shingle Springs area; rather the delivery problem appears to be water pressure design. The Tribe has proposed to construct and install supplemental water pressurization systems to resolve the pressure concerns. The Tribe's proposal is under consideration.

Because the Tribe has confirmed alternate water delivery sources satisfactory to NIGC, the "no impact" designation is appropriate.

35-5 The commenter states that the annexation document limits the supply of water by the EIR/EA for "residential purposes only" to supply "a community of forty residential lots." Caltrans has reviewed the Annexation Agreement dated October 14, 1987 between the EIR, EA and the Tribe. The Annexation Agreement does not limit the supply of water by the EID to residential purposes only, or specify the number of lots to be served. In fact, the Annexation Agreement commits the EID to provide service to the Tribe on the same as basis as service is provided to other users to whom the EIR/EA provides water.

35-6 Please see Response to Comment 35-3.

35-7 Please see Response to Comment35-3.

35-8 The comment asserts that the Rancheria casino will be in violation of the 1998 LAFCO Annexation Agreement. 1988 LAFCO Annexation resolution contains restrictions not reviewed or approved by the Tribe, or BIA, named and essential parties in the EID Annexation Agreement. Alternative water, outside the jurisdiction of EID or LAFCO, has been contracted for. Therefore, the comment is noted and will be forwarded to decision makers for their consideration. Please see Response to Comment 44-6.

GRASSY RUN HOMEOWNERS' ASSOCIATION

5555 Grassy Run Court
Placerville, CA 95667-9768

Received 6/19/02 @ 1:02 Steve R. Hetland

June 19, 2002

Ms. Karen McWilliams
Mr. Steve Hetland
CalTrans, District 3 - Sacramento
2800 Gateway Oaks Drive
Sacramento, CA 95833

Re: Shingle Springs Rancheria Interchange Project

Dear Ms. McWilliams and Mr. Hetland:

The following comments on the Shingle Springs Interchange Project Environmental Impact Report / Environmental Assessment ("EIR") disseminated by the Department of Transportation of the State of California ("CalTrans") are submitted on behalf of the Grassy Run Homeowners' Association ("Grassy Run").

I. TIERING

CalTrans mentions in a number of places that its analysis in the EIR is tiered from the environmental assessment ("EA") issued by the National Indian Gaming Commission ("NIGC") for the hotel/casino project of the Shingle Springs Band of Indians ("Tribe"), and that the analysis from the EA is incorporated by reference. *EIR, pp. 1-6, 1-10, 2-7, 9-1.* Tiering, however, is not appropriate in the instant case because it is contrary to the plain language of the California Environmental Quality Act ("CEQA"), as well as to its intent.

CEQA provides in relevant part:

36-1

> "Tiering" or "tier" means the coverage of ***general matters and environmental effects in an environmental impact report prepared for a policy, plan, program or ordinance*** followed by narrower or site-specific environmental impact reports which incorporate by reference the discussion in any prior environmental impact report and which concentrate on the environmental effects which (a) are capable of being mitigated, or (b) were not analyzed as significant effects on the environment in the prior environmental impact report.

Pub. Resources Code § 21068.5 (emphasis added).

Further explanation on tiering is found in CEQA's implementing regulations:

> Tiering is appropriate when the sequence of analysis is from an EIR prepared for a general plan, policy, or program to an EIR or negative declaration for another plan, policy, or program of lesser scope, or to a site-specific EIR or negative declaration. Tiering does not excuse the lead agency from adequately analyzing reasonably foreseeable significant environmental effects of the project and does not justify deferring such analysis to a later tier or negative declaration. However, the level of detail contained in the first tier EIR need not be greater than that of the program, plan, policy, or ordinance being analyzed.

Cal. Code of Regs., tit. 14 ("CEQA Guidelines"), § 15152(b).

One court has described tiering this way:

36-1 Cont.

> [T]iering is a process by which agencies can adopt programs, plans, policies, or ordinances with EIRs focusing on 'the big picture,' and can then use streamlined CEQA review for individual projects that are consistent with such . . . and . . . are consistent with local agencies' governing general plans and zoning.

Koster v. County of San Joaquin (1996) 47 Cal.App.4th 29, 36, *quoting Remy et al., Guide to the Cal. Environmental Quality Act (CEQA)* (8th ed. 1994) p. 234.

These authorities establish two general threshold requirements for the proper use of tiering that are lacking in the EIR for the interchange.

The first general requirement is that the initial project, or "first tier," must be analyzed using an EIR. *Pub. Resources Code § 21068.5*. Unlike the more focused subsequent projects, or "second tiers," that may be analyzed using either an EIR or negative declaration, there is no statutory authority to analyze the first tier using anything other than an EIR. *Pub. Resources Code § 21068.5*. This requirement is simply not met in the instant case.

CalTrans' EIR purports to tier off of the EA and finding of no significant impact ("FONSI") for the hotel/casino.[1] Using a negative declaration or equivalent document as a first tier document contravenes the plain language of CEQA and the CEQA Guidelines. *Pub. Resources Code §§ 21068.5, 21094; CEQA Guidelines §§ 15152, 15385*. While no court

[1] A FONSI is the National Environmental Policy Act ("NEPA") equivalent of a negative declaration.

has either squarely addressed in a published opinion the issue of using a declaration or FONSI as a first tier or struck down a project on that basis, the plain meaning of the statute is unmistakable. At least one authoritative commentator believes that allowing a negative declaration or FONSI as a first tier document would work a wholesale change in the law. *Remy et al., Guide to the Cal. Environmental Quality Act (CEQA)* (9th ed. 1999), *p. 496.*

The second general requirement for tiering is that the first tier project must consist of a "general . . . policy, plan, program or ordinance." *CEQA Guidelines §15152.* This requirement is further described in case law:

> In practice the first "tier" may consist of a general plan or program EIR, which discusses agency-wide programs, policies and cumulative impacts. The second tier may consist of a specific plan EIR, which discusses a particular region within the agency. The third tier may consist of an ordinary development program EIR, which discusses a particular site.

36-1 Cont.

Koster, 47 Cal.App.4th at 29.

The instant case is quite different from that described above. First, the purported first tier consists of the construction of a hotel/casino. This is a site-specific project that is not analogous to a general plan amendment or agency-wide program or ordinance. Second, the construction of the hotel/casino cannot be the first tier under CEQA because it is no more general or broad than the purported second tier project, i.e. the construction of a highway interchange. Third, the project description in the FONSI for the hotel/casino does not include, even in general terms, the construction of the interchange. In fact, the FONSI for the hotel/casino specifically excluded discussion of the highway interchange.

In sum, the nature of the two projects as well as their relationship to each other contradict any argument that the FONSI for the hotel/casino may constitute a first tier document under CEQA.

II. SEGMENTATION

36-2

The issue of segmentation, in contrast to tiering, arises when a single project is split up into smaller components with the effect of avoiding analysis of the environmental impacts of the total project. *Burbank-Glendale-Pasadena Airport Authority v. Hensler* (1991) 233 Cal.App.3d 577 (for CEQA); 40 C.F.R. 1508.25(a) (for NEPA). The harm created by segmentation is that "a narrow view of a project could result in the fallacy of division, this is, overlooking its cumulative impact

by separately focusing on isolated parts of the whole." *McQueen v. Board of Directors* (1988) 202 Cal.App.3d 1136, 1144.

Accordingly, a "project" under CEQA "is given a broad interpretation in order to maximize protection to the environment." *Id.* at 1143. This ensures "that environmental considerations do not become submerged by chopping a large project into many little ones, each with a potential impact on the environment, which cumulatively may have disastrous consequences." *Burbank,* 233 Cal.App.3d at 592.

A review of a factually analogous case indicates that impermissible segmentation is occurring in the instant case. *See San Joaquin Raptor/Wildlife Rescue Center ("Raptor") v. County of Stanislaus* (1994) 27 Cal.App.4th 713. In *Raptor,* petitioners challenged the county's approval of a residential development project consisting of 633 single-family homes, a commercial area and a park. The construction of the waste water treatment plant was necessary to the development project. But instead of including the treatment plant in the EIR for the development project, the project sponsors chose to analyze the treatment plant in a separate EIR.

The petitioners argued that the EIR for the development was deficient because it failed to include in the EIR's project any reference to the necessary wastewater treatment plant or analyze the environmental impacts associated with the wastewater treatment plant. The court agreed with the petitioners:

36-2 Cont.

> The record strongly supports [petitioners'] assertion that "it is absolutely clear that the housing development cannot go forward without the sewer expansion, . . . Thus the 'total project' includes *both* the housing and the sewer project necessary to serve it." . . . Since the sewer expansion was treated as a separate project and was not considered as part of the development project, ***none of these environmental impacts was identified, much less considered, in connection with the impacts of the development project identified in the FEIR.***

Id. at 731 - 732 (emphasis added).

The court in *Raptor* found the EIR deficient in part because the project applicant had impermissibly chopped up the "total project" into smaller components, thus failing to adequately analyze the environmental impacts of each component in relation to the other (i.e. cumulative impact). The Bureau of Indian Affairs ("BIA") and CalTrans have similarly split the project into discrete sections, i.e. an EA for the hotel/casino and

an EIR for the interchange, and failed to conduct the necessary analysis of cumulative impacts.

The analysis from *Raptor* applies to the instant case. Here, the interchange and hotel/casino projects are simply two components of the total project just as the housing and sewer projects were components of the total project in *Raptor*. While CalTrans purports to include the hotel/casino analysis in the cumulative impacts section of the EIR for the highway interchange, CalTrans concludes that the environmental effects "of the hotel/casino complex have been fully addressed and considered in this separate EA," and "mitigated to a less-than-significant level." *EIR, p. 7-2.* In other words, the effects of the hotel/casino complex are not made part of the cumulative impacts analysis. Under *Raptor*, CEQA requires that the EIR analyze the cumulative environmental impacts of the two components of the total project.

In a similar vein, CalTrans summarizes the effects of the hotel/casino complex in Chapter 9 of the EIR, entitled "Indirect Effects," but CalTrans performs no independent analysis as required by CEQA. *See Citizens Association for Sensible Development of Biship Area v. County of Inyo* (1985) 172 Cal.App.3d 151, 168-169.

36-2 Cont.

The requirement to analyze cumulative impacts is not diminished even if BIA and CalTrans can somehow establish that the hotel/casino and interchange are in fact separate projects. According to the court in *Raptor*:

> Moreover, even assuming the sewer expansion was severable from the development project, the FEIR still does not comply with CEQA. Public Resources Code section 21083, subdivision (b) requires the cumulative effects of two separate projects which are "individually limited but cumulatively considerable" to be addressed in the EIR. Thus, even were the sewer expansion deemed to be a separate "project," Public Resources Code section 21083 requires that the cumulative environmental effects of the development project plus the "expansion project" must be considered in the FEIR.

Raptor, 27 Cal.App.4th at 733.

In other words, CalTrans' EIR for the interchange is not saved even if it can establish that the interchange has a function that is separate from the casino/hotel.

36-2 Cont.

The end result is that CalTrans and BIA have impermissibly segmented the hotel/casino/interchange project in such a way as to limit the impacts analysis, particularly the cumulative impacts analysis.

III. DEFERRED MITIGATION

The EIR for the interchange is deficient because not all mitigation measures concerning the interchange project are fully enforceable as required by CEQA. EIR § 9.2.15, pp. 9-8 - 9-13. CEQA requires that "[m]itigation measures must be fully enforceable through permit conditions, agreements, or other legally-binding instruments." *CEQA Guidelines § 15126.4(a)(2).*

We recognize that NEPA provides a contrary rule. Under NEPA, "a mitigation plan need not be legally enforceable, funded or even in final form to comply with NEPA's procedural requirements." *National Parks & Conservation Assn. v. U.S. Dept. of Transportation* (9th Cir. 2000) 222 F.3d 677. However, since the EIR for the interchange purportedly tiers off the FONSI, the use of impermissible deferred mitigation measures through the FONSI's incorporation into the EIR is subject to challenge. The CEQA Guidelines support this position:

36-3

> Because NEPA does not require separate discussion of mitigation measures or growth inducing impacts, these points of analysis will need to be added, supplemented, or identified before the EIS can be used as an EIR.

CEQA Guidelines § 15221(b).

Put simply, the mitigation measures specified in the FONSI cannot be used in the EIR because they do not comply with CEQA. The mitigation measures do not comply with CEQA in part because they are not legally enforceable. *CEQA Guidelines § 15125.4(a)(2).*

IV. THE EIR/EA IMPROPERLY LIMITS CONSIDERATION OF ALTERNATIVES BY FAILING TO DISCUSS POSSIBLE OFF-SITE LOCATIONS FOR THE TRIBE'S PROPOSED HOTEL-CASINO PROJECT

36-4

In the Executive Summary of the EIR/EA, §2.2.2 at page 2-7, it is stated that "the purpose of the Proposed Project is to provide open access to the Rancheria, which is located on the north side of Highway 50." By that fiat, all discussion of all possible alternatives off the Rancheria are foreclosed. But that ignores the requirement that EIRs discuss "indirect effects" and **their** possible mitigation. It also artificially separates the **purposes** of access from the **procedures** of access. It is inappropriate to

ignore the **primary purpose** of the Proposed Project ("Interchange"), which is the construction of an interchange which will provide a direct route from Highway 50 to the Rancheria **to serve as public access to the hotel-casino project** planned by the Shingle Springs Band of Indians ("Tribe").

For example, the "no action" alternative concludes, without discussion, that the Tribe will be precluded from any economic development if the Interchange is not built. That is simply untrue. While there are bureaucratic and administrative hurdles that would have to be overcome, see e.g. Section 20 of the Indian Gaming Regulatory Act, 25 U.S.C. § 2719, it is by no means impossible for the Tribe to seek to obtain property for its hotel-casino project in, for example, the Industrial Park off of Latrobe Road south of Highway 50. It is entirely likely that most, if not all, of the parties objecting to the hotel-casino project **on the Rancheria surrounded by residential parcels** would have no objection to that project **in an industrial park.**

36-4 Cont.

Such a "no action" alternative would leave the matter of access to the Rancheria in "status quo," i.e., access over the private Grassy Run road system for residential purposes only, while affording to the Tribe the benefits of its desired hotel-casino project in a location appropriate to its surroundings.

V. THE EIR/EA IMPROPERLY AND ARTIFICIALLY LIMITS CONSIDERATION OF CUMULATIVE IMPACTS OF THE PROPOSED PROJECT BY FAILING TO DISCUSS IMPACTS OTHER THAN TO "TRANSPORTATION RELATED IMPROVEMENTS"

In Section 5.1.2 of the EIR/EA, at page 5.1-2, it is stated that "the basis for the cumulative impact analysis within this document is the proposed interchange together with other transportation related improvements within the project vicinity. The roadway network surrounding the project site is assumed to remain the same for Cumulative Conditions as that which currently exists for Existing Conditions."

36-5

By this description of the scope of the cumulative impact analysis in the EIR/EA, that analysis is inappropriately and artificially limited to **transportation related improvements**, excluding all other types of improvements, such as, for example, housing. That, in turn, is (or at least may be) related to the Tribe's "land use" policies, almost none of which have been disclosed. For example, in Section 5.2.4 at page 5.2-7 there is reference to the Rancheria's "Environmental Management Plan," but only two sentences are quoted therefrom. The public is unable to put those

two sentences into context unless the entire document is set forth as an exhibit, which has not been done.

36-5 Cont.

In this way, required environmental disclosures are being hidden by CalTrans' reliance upon the Tribe's "sovereign" status and its resulting right of non-interference with its own land use policies. While the Tribe has that right, the right does not permit a total non-disclosure of those policies, even conceding that interference with them would be impermissible.

VI. THE EIR/EA INAPPROPRIATELY RELIES UPON TRIBAL LAND USE DECISIONS RATHER THAN UPON EITHER AN INDEPENDENT REVIEW AND DISCLOSURE OF THOSE DECISIONS BY THE NIGC'S EA AND RESULTING FONSI, OR ITS OWN INDEPENDENT EVALUATION OF THOSE DECISIONS

36-6

The foregoing deficiency is highlighted by the statement in the EIR/EA, in Section 9.1 at page 9-1, that NIGC's status as the NEPA "lead agency" in the preparation of the hotel-casino project EA which resulted in a FONSI was not based upon the Tribe's land use plan. Instead NIGC's "discretionary" action was expressly necessitated **only** by "approval of the proposed Gaming and Management Contract – not the land use plan." That plan "was previously approved **by the Shingle Springs Tribal Government.**" (Emphasis supplied.) Thus, the issue of compliance with NEPA, insofar as land use (and therefore environmental) issues are concerned, was effectively determined by the Tribe itself, and not by the NIGC which was charged only with reviewing contractor obligations, not tribal obligations! This is circular reasoning, especially where the basis for that tribal "approval" is not disclosed!

The effect of this circular reasoning can be seen in the manner in which the EIR/EA defers to the NIGC EA and FONSI findings, rather than conducting its own independent review of the evidentiary basis for those findings. The statement continually appears in the EIR/EA that "[t]he Final [NIGC] EA found" or "[t]he Final EA stated," with no determination by either CalTrans or BIA in **this** EIR/EA that those findings or statements were justified or supported by evidence. See, e.g., Sections 9.2.12 (at page 9-8), 9.2.14 (at page 9-8), and 9.2.15 (at pages 9-8 and 9-10).

For example, the hotel-casino project, which the EIR/EA recognizes to be a cumulative impact of the proposed interchange access, see Section 5.1.3 at page 5.1-3, will occupy approximately the southwest 25% of the

Rancheria. Persons presently living in that area will be required to move somewhere. There is no discussion of that fact. That fact will, however, impact low-income Rancheria residents. Is the Tribe planning on moving those residents who are displaced by the hotel/casino to other, smaller parcels on the Rancheria? Is the Tribe planning on moving them to off-Rancheria parcels owned either by the Tribe or its backers? Or is the Tribe planning on simply letting those displaced residents fend for themselves?

There is some reference to a downsizing of at least some (how many is not indicated) of the existing four-acre parcels into two-acre parcels. See Section 5.2.6 of the EIR/EA, at page 5.2-8, where it is stated that, with the development of commercial uses in the southwest area of the Rancheria, the single family and multi-family sites on the Rancheria "are sized to be roughly 2-acres and larger." What is the significance of this, with regard to the Tribe's plans for its existing low-income residents?

This parcel downsizing is particularly significant in light of an Environmental Assessment prepared by Visions Enterprises for BIA in December 1992 in connection with the Tribe's adoption of a Land Use Plan, involving forty (40) four-acre parcels, at that time. **That** Assessment concluded that the use of septic systems even for residential development was problematic. It stated, among other things, that:

36-6 Cont.

> "[T]he potential for surface movement is moderate in some areas of the Rancheria. Where the necessary components of steep slopes, unstable geology and certain soil groups exist, compounded by springs or seeps that can lubricate geologic units, there may be potential for rotational or slumping movements of material. In extreme cases, liquid waste from septic system leach fields can cause rotational surface movement by weakening the friction between soil/geologic groups." Section II-1-(c).

And:

> "The major problems which are expected to accompany development are:
>
> 1. Water pollution from failing septic tanks, inadequately treated sewage, residential runoff contaminated by pesticides, fertilizers and petroleum products.
>
> 2. Watershed degradation.

> 3. Alteration of stream channels to make room for roads and building sites. ...
>
> 7. Stream siltation and excessive turbidity in streams, creeks and reservoirs from construction and road building." Section IV-3.

And:

> "Septic tanks are recognized to be the greatest potential source of pollution within the Rancheria. ... [¶] In areas where the soil characteristics have created a history of septic failure, the installation of a sewer system would mitigate the degradation of ground and surface waters. However, sewers alone are not a sufficient safeguard to insure protection of the existing water quality. Potential water quality problems associated with medium or high density residential development include storm drainage, pesticides, fertilizers, petroleum by-products, domestic animal wastes, erosion and siltation during and after construction, and mosquito abatement programs." Section IV-5.

36-6 Cont.

The EIR/EA makes reference to El Dorado County's 1996 General Plan, see, e.g., Section 5.2.3, page 5.2-4. Little reference is made to the fact that that Plan is presently in limbo by reason of an existing judicial injunction against its enforcement. In a fit of unbounded optimism, the EIR/EA states, in Section 7.2.3, at page 7-3, that the Plan is currently being revised, that those revisions could affect development, but that the revisions would not involve substantial changes. There is absolutely no reference to interim policies presently under discussion by the County which may conflict with the 1996 Plan.

This presentation by the EIR/EA is unfounded in at least two areas.

First, one strong area of criticism of the County's planning process generally has been the County's lack of attention to low-income housing. Pages 6-2 and 6-3 of the EIR/EA paint a rosy picture of total available housing within the County, without at all addressing the fact that that housing is primarily mid- to high-end in nature. This is relevant both (i) to the dislocation of Rancheria residents occasioned by the hotel-casino project which is enabled by the Interchange, and (ii) to the lack of nearby housing for employees of that hotel-casino project.

In this regard, in Section 5.9.2 at page 5.9-2, there is reference to median household income for El Dorado County, in comparison with similar figures for (i) the project area and (ii) the nation. This is in support

of a statement that "residents of the study area have higher incomes than residents of the region and the nation." There is no similar reference, however, (i) to median income for the State of California, (ii) to median income of Rancheria residents, or (iii) to median income of anticipated hotel-casino project employees. These omissions could cause one to conclude that only selective figures are being presented, to reach a predetermined result.

36-6 Cont.

Second, the EIR/EA, at Section 5.1.2, pages 5.1-2 and 5.1-3, criticizes the County's traffic model which is a part of its General Plan, but does not suggest a more appropriate model. And the "tiering" method followed in the EIR/EA appears to advance a model which would be internally self-contradictory. For example, the EIR/EA relies upon NIGC's EA and resulting FONSI, which dealt with both the hotel and the casino portions of the hotel-casino project, while at the same time appearing (in Section 5.4.3, at pages 5.4-10 and 5.4-11) to argue that "trip generation rates" should be based only on square footage of the gaming area of the casino, without regard to the square footage of the entire casino facility, much less of the hotel facility. For something that is billed as a "destination resort," that type of narrow calculation is particularly inappropriate.

VII. THE EIR/EA INAPPROPRIATELY AND ARTIFICIALLY LIMITS CONSIDERATION OF CUMULATIVE IMPACTS OF THE PROPOSED PROJECT BY FAILING TO DISCUSS ROAD IMPACTS OTHER THAN TO "ROADS SURROUNDING THE RANCHERIA"

36-7

The "cumulative impact basis" analysis is also inappropriately limited for an additional but related reason. The discussion limits itself to roads **surrounding** the Rancheria, and does not consider the Rancheria's interior internal roads system which would be impacted by the Proposed Project. That system is being augmented by the addition of a new road around the northwest boundary of the Rancheria and a new "utility" road which will bisect a significant number of existing Rancheria parcels. This may (or may not) be related to the parcel-downsizing discussed above, but there is utterly no discussion of it as an "indirect impact" in the EIR/EA.

VIII. THE EIR/EA FAILS TO DISCUSS POTENTIAL IMPACTS WHICH MAY OCCUR DURING THE COURSE OF CONSTRUCTION OF THE INTERCHANGE, DEPENDING UPON THE METHODOLOGY TO BE FOLLOWED

36-8

The EIR/EA makes reference to "indirect impacts" as being "later in time or farther removed in distance, but ... still reasonably foreseeable." See Section 5.1.3 at page 5.1-3. Such impacts are defined as including "the

36-8 Cont.

development of the proposed hotel and casino on the Rancheria." Because the hotel and casino are not "farther removed in distance," however, they must be "later in time." That implies that their construction will not commence until after construction of the interchange has been completed. But that is not expressly stated. It should be, if it is true. If it is not true, there should be a discussion of how access to the Rancheria will occur for hotel/casino construction purposes prior to completion of the interchange, in light of the existing prohibition against use of the Grassy Run roads for commercial purposes. For example, will temporary access to the Rancheria directly off Highway 50 be provided?

IX. THE EIR/EA IS INSUFFICIENTLY SPECIFIC IN DEALING WITH BOTH THE EXISTENCE OF MITIGATION MEASURES AND THEIR ENFORCEABILITY

36-9

Throughout the EIR/EA, mitigation steps are described only in the most general terms, if at all. None of those discussions contain any information as to how any mitigation steps will be enforced. Talk is cheap; the complete absence of any enforcement mechanism, in the context of activity by an entity which enjoys the benefits of sovereign immunity, renders promises of mitigation without specific provision for enforcement of those promises ephemeral.

For example, the "wetlands" and "drainage" discussions in the EIR/EA, as they relate to "the Slate Creek Aquatic System" referenced at page 5.7-5, conceal more than they reveal. There is virtually no reference to runoff down the intermittent creek which exits the northerly boundary of the Rancheria. And while there is considerable discussion of Clean Water Act and Porter-Cologne regulations and permit requirements both generally and within the project area, and while it is noted that "[t]he majority of runoff from the project site drains to Slate Creek," see Section 5.12.2 at page 5.12-2 and see page 5.13-5, there is no specific statement that those requirements apply to Slate Creek as a regulated waterway.

It is made clear, however, in Section 5.13.3 at page 5.13-19, that

> "**Drainage impacts for this project will be considered significant if the additional flows for predetermined storm events exceed the design capacities of existing structures (four culverts and one bridge downstream of the Proposed Project)** .... As it applies to the design capacity of bridges, the additional discharge must not exceed the expected peak flow surface elevation of waters during a one hundred (100) year event or significantly contribute to an existing exceedance. This limit is one (1) foot below the bottom elevation of the bridge. As with culverts, erosion must not

be accelerated at the bridge abutments." (Emphasis supplied.)

It appears to be the assertion that all this will result in "significant mitigable impact to the environment," Sections 5.13.2 and 5.13.3, which, as to Slate Creek, would be mitigated by "a detention reservoir on the Rancheria after construction of the Casino/Hotel." Page 5.13-21. Until the casino/hotel is constructed, mitigation would allegedly occur "by retaining additional flows on-site within the Caltrans ROW [right-of-way] or on the 5.6 acre (2.3 ha) trust parcel." Section 5.13-3, at page 5.13-22. The reader is left to inquire: How?

This vagueness and ambiguity of the "wetlands" and "drainage" discussions is not isolated. For example, in Section 9.2.15 of the EIR/EA at page 9-10, it is stated that "additional transmission lines will most likely be required," that "[t]he Tribe will coordinate with the Pacific Bell Engineering Division," that "[c]ontingent upon coordination with Pacific Bell, the hotel and casino is not expected to impact Pacific Bell's ability to serve the remainder of the County," and that "[t]**herefore, the NIGC found** that the hotel and casino project will result in a less-than-significant effect." (Emphasis supplied.) In short, the present EIR/EA is relying upon a prior FONSI which itself was based only upon "contingent ... coordination" rather than any specific facts, either actual or proposed.

36-9 Cont.

And, as another example, "[t]he Tribal Government **may** enter into a formal service agreement or Memorandum of Understanding (MOU) with the El Dorado County Sheriff's Department that will address criminal issues." (Emphasis supplied.) A "dialog" has been established, with an intent "to continue with regular meetings in an effort to construct an action plan." Section 9.2.15 of the EIR/EA, at page 9-10. "The NIGC has concluded that the above features will assure a less than significant effect." Page 9-11.

In other words, **if** promises of **coordination** and **regular meetings** are complied with, through a **dialog** which **may** result in an MOU and/or **action plan, there will result** no significant impact, according to NIGC. There is nothing firm or specific, much less enforceable, in any of this!

X. THE EIR/EA CONTAINS NO DISCUSSION OF THE TRIBE'S PRIMARY PLAN FOR WATER SOURCE

36-10

The EIR/EA adopts the NIGC's Final EA as its own, for purposes of discussing water availability issues. By doing so, it completely ignores the Tribe's **primary** intention concerning water access, i.e., acquisition from the El Dorado Irrigation District ("EID"). NIGC's **draft** EA had contained a discussion of that possibility, but that discussion was eliminated from its

final EA. The **only** discussion in the final NIGC EA of access to water involved the importation of water to the Rancheria **by truck**.

Now, however, the Tribe has completely changed course. As disclosed in public meetings of both EID and the El Dorado County Local Agency Formation Commission, the Tribe is endeavoring to reach agreement with EID to obtain water service as an EID customer, through EID water transmission lines. Because those lines have limited capacity, the Tribe has proposed the construction of two water holding tanks, with combined capacities of 900,000 gallons, to be supplied by pumping on virtually a 24-hour per day, 7-day per week, basis. The holding tanks would be constructed on a site which, according to the EIR/EA, would be a park (at ground level) and the location of leach fields for wastewater (below ground level). **There is not a word of this "holding tanks" concept or proposal in the EIR/EA, whether as a part of the Proposed Plan or as a rejected alternative!** An EIR/EA which does not even advert to publicly announced proposals which would impact the environment does not comply with the most basic requirements of either NEPA or CEQA!

36-10 Cont.

XI. THE EIR/EA ERRS IN ITS DESCRIPTION OF THE GRASSY RUN ROADS IN A MANNER WHICH, IF CORRECTLY STATED, WOULD SUPPORT THE PROPOSED PROJECT

Finally, the EIR/EA contains a description of the Grassy Run roads, the only existing access to the Rancheria, which should be corrected. It errs, in Section 3.1.2 at page 3-3, in its statement that the current access route to the Rancheria "varies from 23 to 26 feet (7 to 8 m) in width." In fact, the Slate Creek Bridge roadway is only 13 feet wide, and nowhere within Grassy Run does road access to the Rancheria even approach 26 feet in width. If correctly stated in the EIR/EA, these facts would actually support the Tribe's argument, and the conclusion set forth in the EIR/EA, that access to the Rancheria through Grassy Run is not a feasible alternative.

36-11

XII. CONCLUSION

The Grassy Run community supports the Tribe's efforts to obtain direct access from Highway 50 to the Rancheria. BIA has ignored its fiduciary obligation to the Tribe to provide such access for much too long. Provision for such access should have been made when CalTrans offered it to BIA, and BIA rejected the offer, in 1972.

36-12

Support for a long-delayed direct access, however, does not mean that all other considerations should now be ignored. There can be no reasonable dispute that the combination of the Interchange and the Hotel-

Casino Project will have significant impacts upon the environment and the surrounding communities; the only legitimately debatable questions involve the extent of those impacts.

36-12 Cont. NEPA and CEQA are designed to address those questions by taking a "hard look" at them. The existing EIR/EA does not do so.

We thank you for the opportunity to comment on the EIR.

Very truly yours,

GRASSY RUN HOMEOWNERS' ASSOCIATION

P. A. Le Doux, President

California Department of Transportation
EIR Responses to Comments

Comment Letter #36

36-1 This comment is one of several that assert that the EIR/EA improperly used a "tiering" approach for analysis of the indirect or cumulative impacts of the hotel/casino project on the interchange project that is the subject of this EIR/EA. In fact, the interchange EIR/EA properly used both a tiering approach (under NEPA) and an incorporation by reference approach (under NEPA and CEQA).

Various measures exist whereby work previously done may be relied upon under both NEPA and CEQA without repeating that work. These include: 1) incorporation by reference under both NEPA and CEQA (40 CFR § 1502.21, CEQA Guidelines § 15150.), 2) tiering under both laws, and 3) the use of information prepared by others, subject to safeguards of independent review. In short, both NEPA and CEQA permit the use of outside information in environmental documents with certain safeguards to ensure that the information is independently scrutinized by the lead agency. (40 CFR § 1506.5, CEQA Guidelines 15150, 15063(e).)

Tiering is a process which agencies are encouraged to use to eliminate repetitive discussions of the same issues and to focus on the actual issues ripe for discussion. In the Council on Environmental Quality's ("CEQ") words, "Tiering is a procedure which allows an agency to avoid duplication of paperwork through the incorporation by reference of the general discussions and relevant specific discussions from an environmental impact statement of broader scope into one of lesser scope or vice versa." (CEQ, "Forty Most Asked Questions Concerning CEQ's NEPA Regulations," Q. 24c, 46 Fed.Reg. 18026 (Mar. 23, 1981) ("Forty Questions"). Under NEPA, tiering specifically includes incorporation by reference.

As stated, the interchange project EIR/EA both tiers from (under NEPA) and incorporates by reference (under NEPA and CEQA) the NIGC EA. In addition, the BIA independently participated in, reviewed, and incorporated the information included in the NIGC environmental review. The result that the EIR/EA for the Interchange project is a complete document that fully evaluates the direct and indirect impacts of the proposed interchange.

Some comments suggest that it is improper to tier other than from a broader EIS to a more specific one. That assertion confuses the usual with the necessary and applied judgments to the two EIS documents ("broader," "specific") that are entirely unwarranted. As CEQ stated in the guidance quoted above, tiering may be from an EIS of broader scope to one of lesser scope "or vice versa." As such, tiering often takes place, as here, at different stages of an action (40 CFR Sections 1502.20, 1508.28(b)), such as environmental assessments.

As to the question of a challenge to the January 2002 FONSI by the NIGC, that document is not the subject of public comment at this time. At the time this response is prepared, to the best of Caltrans' and BIA's knowledge, there is no legal challenge to the FONSI. Whether or not there is such a legal challenge at some time, the information in the FONSI is appropriately incorporated into this EIR/EA pursuant to the provisions in both CEQA and NEPA for incorporation of other documents.

The principal point, however, is that both NEPA and CEQA encourage the use of data and analysis performed earlier, as long as independently reviewed, to efficiently but carefully expedite environmental processes. In this case, the relationship to the NIGC EA for the casino/hotel project and the current EIR/EA can be characterized as either incorporation by reference or tiering for BIA's purposes under NEPA and characterized as incorporation by reference for Caltrans' purposes under CEQA. Both make use of impact analysis developed where NIGC was the lead agency and BIA was a cooperating agency. And both are consistent with existing law.

36-2 This comment asserts that the EIR/EA is improperly segmenting the project under CEQA, citing in particular the court decision in *San Joaquin Raptor/Wildlife Rescue Center v. County of Stanislaus*. The Lead Agencies disagree with this comment. This EIR/EA includes an analysis of both the interchange that will be approved by Caltrans and accepted in the IRR by BIA, as well as the proposed casino and hotel. The analysis of the casino and hotel is set forth in Chapter 9 of the EIR/EA on indirect effects, and is based the incorporated analysis of the FONSI and EA for the casino and hotel which was previously prepared for the National Indian Gaming Commission (NIGC).

This classification of the casino and hotel impacts as indirect impacts is based on the definition of such impacts in NEPA and CEQA. Under CEQA and NEPA, a direct effect of a project is an impact which is caused by a project and occurs at the same time and place. CEQA Guideline 15358(a)(1); NEPA Regulations, 40 CFR 1508.8(a). An indirect effect of a project is an effect which is "caused by" the project or action and reasonably foreseeable, but which is either later in time or farther removed in distance. CEQA Guideline 15358(a)(2); NEPA Regulations, 40 CFR 1508.8(b). Under both CEQA and NEPA definitions, indirect effects include changes in land use patterns that are induced by the project or action in question.

The holdings in *San Joaquin Raptor* do not establish any CEQA deficiency in this EIR/EA. As this comment correctly notes, the problem in the *San Joaquin Raptor* case was that an EIR/EA for a housing project did not analyze a wastewater expansion that was required for that project to go forward. Here, information on the casino and hotel is included in the EIR/EA in chapter 9 and through the

incorporated NIGC FONSI and EA. Also, *San Joaquin Raptor* did not deal with an EIR/EA by a state agency evaluating a project on tribal lands following approval of an EA for that project by a federal agency. The jurisdictional relationship between the agencies here, and the status of the Tribe, is an additional basis supporting the use of incorporation by reference as was done here.

36-3 This comment asserts that the mitigation measures in the EIR/EA are not enforceable and thus are inadequate under CEQA. The comment also suggests that all of the mitigation measures contained in the EA and FONSI for the casino are inadequate because NEPA does not require enforceable mitigation. The Lead Agencies disagree with this comment, and have concluded based on their review that the mitigation measures set forth in the EIR/EA (as well as in the EA and FONSI to the extent they are relied on) meet CEQA's requirements.

The CEQA Guidelines require an EIR/EA to include mitigation measures, including mitigation measures "proposed by proponents to be included in the project." [CEQA Guidelines § 15126.4(a)(1)(A).] This Guideline also requires the following:

> "Mitigation measures must be fully enforceable through permit conditions, agreements, or other legally-binding instruments. In the case of adoption of a plan, policy regulation or other public project, mitigation measures can be incorporated into the plan, policy, regulation or project design."

NEPA's mitigation requirements are less stringent. The Supreme Court, while emphasizing the importance of mitigation, has declined to rule that NEPA imposes a substantive obligation on agencies to adopt mitigation. (*Robertson v. Methow Valley Citizens Ass'n.*, 490 U.S. 332.) The NEPA regulations, however, indicate that once an agency has chosen to adopt mitigation as part of its decision, it must follow through and implement the adopted measures. (40 CFR §§ 1505.2, 1505.3.)

Consistent with these requirements, the various mitigation measures set forth in this EIR/EA and in the hotel/casino EA and FONSI are enforceable through legally binding instruments. The various measures included in the hotel/casino EA will be binding by reason of NIGC's conditioning of the management agreement and by operation of the Tribe's adopted off-reservation environmental impact ordinance. The cumulative traffic measures set forth in this EIR/EA have been specifically adopted by the Tribe. In addition, the casino is a project of the tribal government, and the interchange is also a public project, and thus under this Guideline it is appropriate to achieve CEQA's required enforceability of mitigation by incorporating mitigation into the project design, as has been done.

In addition, mitigation measures in the EIR/EA can and will be enforced pursuant to the 638 contract, or other regulatory agreement approved by BIA and the Tribe,

for the design, construction and management of the interchange.. This contract must be executed before any physical activity can take place on the project, and it will incorporate the mitigation measures from the EIR/EA as conditions of the contract. Finally, NIGC must approve the Tribe gaming management contract, which will provide the NIGC with certain enforcement authority as to mitigation issues contained in the EA/FONSI for the hotel/casino. Please see Response to Comment 27-2.

36-4 Locations for the proposed hotel/casino project are limited to property owned by the Tribe pursuant to the provisions of the National Indian Gaming Act. The purpose of the interchange project is to provide unfettered access to the Tribe to its trust lands. If, because of some revision in federal law the location of the casino could be changed; the present access restrictions would remain and the interchange would need to be constructed. Consideration of off-Rancheria locations therefore is not feasible. In other words, it is not feasible to provide access to existing tribal lands without providing access where that land is located. Regarding the freeway interchange evaluated in the EIR/EA, there is no other location that would provide access to the Rancheria.

36-5 With respect to the issue of cumulative impacts, please see Response to Comment 6-1. Regarding the tribal land use policies and required environmental disclosures, please see Responses to Comments 36-6 and 36-8.

36-6 Caltrans has independently reviewed the environmental disclosures under CEQA, and BIA has reviewed them as required by NEPA. There is no requirement in either CEQA or NEPA that required tribal land policies be reviewed. In addition, such review would not in any way change the Rancheria's tribal sovereignty. Please see Response to Comment 42-14.

The commenter seeks information regarding the relocation of tribal members presently residing in the area re-zoned by the Tribal Council for commercial development. The commenter seeks information involving internal Tribal decisions, which are beyond the scope of this EIR/EA because the commenter makes no assertion that potential relocation of tribal members will effect any person residing outside the Rancheria. As is noted by the Court in *Brendale v. Confederated Tribes and Bank of Yokima Nation* (1989) 492 U.S. 408, Tribes retain all land use and zoning authority of the land they control. Their land use and environmental documents do not require non-tribal scrutiny. Please see Response to Comment 42-17.

California Government Code §12012.25 specifically limits CEQA by providing,

> "In deference to tribal sovereignty, neither the execution of a tribal-state gaming compact nor the on-Reservation impacts of compliance with the terms of a tribal-state gaming compact shall be deemed to constitute a project for

purposes of the California Environmental Quality Act of the Public Resources Code."

Therefore, while a CEQA analysis is proper for the proposed interchange because of Caltrans' role, and construction of the interchange over Caltrans right-of-way, the CEQA analysis should not contemplate on-Reservation impacts of the Compact, including modifications of the Tribal Land Use Plan by the Tribal Council, except where such impacts are considered indirect impacts of the proposed interchange. In addition, the construction of the hotel and casino and the execution of the gaming management contract are purely federal endeavors. The impacts have been analyzed and mitigated by the NIGC in its EA/FONSI. The NIGC has full authority to enforce the mitigation of the NIGC EA, and the EA and the mitigation proposed in the FONSI have been incorporated by reference. [See NIGC FONSI, page 4].

There is no provision in federal law which requires the Tribe to permit the participation of non-Tribal members, or permit comment by non-Tribal members on its internal land use plan.

The commenter notes that the EIR/EA criticizes the County's traffic model, but does not suggest a more appropriate model. The 1999 version of the County's traffic model has never been approved or adopted. This is true since El Dorado currently does not have an approved General Plan, nor a traffic model from which to establish cumulative traffic volumes. Following consultation with El Dorado County traffic engineering staff, and the traffic consultant currently working on the revised County traffic model, it was determined that while not perfect, the 1999 traffic model would provide reasonable volumes for use in the analysis and uses the best model currently available. To help assure the volumes were reasonable, they were checked against existing volumes to assure reasonable growth had occurred.

The commenter also asserts that the use of trip generation rates for casino gaming area is a narrow calculation and inappropriate to use. As noted on pages 34-39 of the Transportation/Circulation Technical Study, to provide a means of comparison to other available trip generation data, trip generation rates for the proposed casino-hotel were established using various methodologies. Trip generation can be established based on many different measurable aspects of a site, and if a specific variable used to calculate trip generation appears to only take into account a portion of project trips, that is not necessarily the case. Trip rates are established by counting the trips in and out of a comparable site, and then dividing by some measurable variable, which might either be the square footage of the gaming floor area, or the square footage of the entire casino. If the site surveyed is a combined hotel-casino (like the Mystic Lake Casino in Minnesota), and the trip rate was based on the square footage of the casino gaming floor area, the resulting trip generation would include trips to the casino gaming floor area,

restaurants, and hotel even though the rate was based on trips per thousand square feet of only the casino gaming floor area.

The commenter requests information with regard to the size of residential parcels and income on the Rancheria. There is no correlation shown by the commenter between a review of the reasonably foreseeable effects of the interchange and the income co-efficient of tribal members, who may or may not live on the Rancheria. There is no correlation shown by the commenter between a review of the reasonably foreseeable effects of the interchange and modifications to the Shingle Springs residential assignments, an issue exclusively within the purvue of the Tribal Council. Finally, CEQA Guideline 15064(6) excludes consideration of socio-economic impacts in determinations of whether a project contains a significant impact. The EIR/EA considers the direct or indirect environmental impacts of the proposed interchange project.

The commenter seeks information apparently gleaned from the 1992 draft EA originally identified as prepared for BIA but which was neither reviewed by the Agency or adopted. The analysis contained in the 1992 EA was not received by the Agencies or considered during the review of issues effecting the Interchange. The comment is respectfully directed to the analysis of geotechnical, soils and geology prepared by AES Associates for the proposed project dated January 2002, and reviewed by the Lead Agencies. This study is identifies as item 1 in the Shingle Springs Interchange Technical Studies Binder. All proposed mitigation of direct impacts associated with soil instability which may occur during construction has been incorporated in the design and construction specifications of the interchange. The Soils and Drainage information actually considered by NIGC is contained in Appendix F to the EA dated December 2001. To the extent that the comment is intended to superimpose its own value analysis derived from an irrelevant document upon that of the Tribal Council, the commenter is reminded that no state or federal agency has the authority to interfere with Tribal Land Use decisions. BIA's only role is to consult.

To the extent that the real concern expressed here is that the existing septic systems may fail, thereby causing potential underground contamination either to Rancheria residents or neighbors, BIA responds as follows: The waste water treatment system identified for future commercial development and approved for the hotel/casino by NIGC is the HydroScience system described in the Water, Wastewater and Reclamation Study prepared July 2001 by HydroScience Systems, Inc. [Appendix E to Hotel/Casino EA dated December 2001]. Once the system is installed, the Tribal Council intends to discontinue use of individual septic systems on the Rancheria. An NPDES permit is not required for the interchange project or the hotel/casino complex. There is no surface discharge planned. To the extent that the project requires a stormwater permit for construction, Caltrans will obtain one and comply with its terms. With respect to the hotel/casino complex, there will be several stormwater treatment basins

containing oil/water separators and followed by vegetative swales to catch the stormwater before it runs off into Slate Creek. Final Hotel/Casino EA, Sections 4-6 and 4-7 – Water Quality and 6.2.3 – Mitigation Measures. As stated previously, California State Regional Water Quality Control Board ("RWQCB") and other local agencies do not have jurisdiction over Tribal lands. Rather, for purposes of the various environmental laws, it is the USEPA which has jurisdiction

The commenter objects to the failure of the EIR/EA to consider future land use decisions which may be made by El Dorado County as part of its adoption of a general plan. The commenter is respectfully directed to the litigation history of El Dorado County's General Plan, and to consider that the County is now in its sixth year with a adopted plan. The Tribe has formally requested incorporation of the Tribe's land use decisions in the County's proposed land use plan, but no response has been forthcoming. The interchange project is not inconsistent because of its highway related designation. Finally, the IRR designation and title of the United States preclude application of county land use considerations to the interchange.

Lack of provision for low-income housing for employees of the casino. Evaluation of all impacts of hotel/casino development are the purview of NIGC, Under NEPA, socioeconomic impacts are to be analyzed in EIS's, but not in EAs. 40 CFR, Section 1508.8(b). However, BIA makes a "good faith effort" to explain the environmental and socioeconomic effects of the project alternatives that are known and "reasonably foreseeable." The BIA NEPA manual suggests analyses of socioeconomic impacts, even though NEPA and its implemented regulations do not require such a discussion in EAs. Thus the agency has the responsibility to make an informed judgment and estimate future impacts on that basis. The EIR/EA evaluates the indirect effects of the project.

36-7 The commenter seeks information regarding the internal roads system on the Rancheria, and appears to have reviewed an early draft of the amended reservation transportation plan, prior to adoption by the Tribal Council. The Amended Reservation Transportation Plan, as adopted, does not contain a road connecting the northwest section of the Rancheria; and does not contain a utility road. For the reasons stated elsewhere, and with specific reference to the holding of *Brendale v. Confederated Tribes and Bands of Yakima Nation* (1989) 492 U.S. 408, all modifications to internal roads are exclusively the purview of the Tribe, and BIA.

36-8 Construction impacts of both the interchange and the hotel/casino have been discussed in the EIR/EA and mitigation measures will be implemented where applicable. Timing for construction activities will be coordinated to the extent practicable to minimize impacts.

Standard construction protocol includes details within the construction plans for sequencing of construction activities for traffic handling purposes. These plans call for specific sequencing of construction activities as needed to maintain traffic flow or access, or to satisfy other requirements. As part of the construction documents for this interchange, there will be sequencing that will provide for grading and construction of westbound ramps first, with the intent that these ramps would be used only for construction and equipment access to the Rancheria. This advance sequencing could be the first phase of an overall interchange contract, or be advanced through a separate advanced grading contract. The Hotel/Casino construction will commence once access to U.S. Highway 50 is established for these construction purposes.

36-9 Please see Responses to Comments 36-3 and 39-13. The commenter begins by stating that there is no information about how the EA mitigation will be implemented. Please see Response to Comment 36-3. The commenter then uses, as an example related to mitigation enforcement, a number of references to water quality and drainage questions that, in fact, have nothing to do with the mitigation enforcement point being made. A comment is made regarding page 5.7-5 that the "wetlands" and "drainage" discussions "conceal more than they reveal." The intent of the discussion on page 5.7-5 is to characterize the Slate Creek Aquatic System for purposes of the biological resources discussion (Chapter 5.7 is the Biological Resources section of the EIR/EA). Chapters 5.12 and 5.13 provide a full analysis of the water quality and drainage effects associated with the proposed project. It is not clear how these points made regarding the biological resources discussion relate back to mitigation enforceability.

The commenter then questions how water will be retained on the 5 acre parcel if construction of the interchange occurs without the proposed hotel and casino on the Rancheria. The analysis within the interchange EIR/EA concludes that "project runoff does not increase flow in Slate Creek at the Reservation Road Bridge…" (page 5.13-22). The significant avoidable finding in the analysis relates to the impact to Culvert 1, which is on-site. The mitigation measure was included as an additional means to reduce flows at Slate Creek Bridge. The detention of runoff can be accommodated immediately adjacent to the inbound or outbound lanes within the confines of the parcel. No impact to Slate Creek Bridge will occur as a result of post project runoff.

The commenter misapplies the information presented in the NIGC EA with regards to the Pacific Bell transmission lines. The information from the EA is as follows:

The Tribe will work closely with PG&E to ensure that adequate transmission and capacity exist to serve the hotel and casino project (Lerner, 2001). In addition, the Tribe will coordinate with the desired service providers for any additional utilities and/or upgrades of existing utilities. The casino-hotel project will in no

way jeopardize PG&E's ability to serve the remainder of the County (Lerner, pers. comm.).

Additional transmission lines will most likely be required to serve the hotel and casino project. The Tribe will coordinate with the Pacific Bell Engineering Division to ensure that the necessary transmission lines and/or facilities are built to adequately serve the Proposed Action (Fisher, 2001). Contingent upon coordination with Pacific Bell, the hotel and casino is not expected to impact Pacific Bell's ability to serve the remainder of the County. The Proposed Action will result in a less-than-significant effect to electrical, natural gas, and telecommunication.

The Lerner citation in the text is Tony Lerner who works with Pacific Gas and Electric Service Planning. The Fisher citation is for Ron Fischer who is also a Pacific Bell employee contacted for purposes of the environmental analysis. It is appropriate to assume that coordination with Pacific Bell to connect into their system will occur. Pacific Bell would not allow connection to their system unless this was the case. The response from Pacific Bell cited in the NIGC EA and incorporated into the interchange EIR/EA is based on the facts of the project as known at the time environmental analysis was undertaken. This level of analysis is appropriate under CEQA and NEPA.

The commenter then addresses the MOU that "may" be entered into between the Tribe and local law enforcement. This is a voluntary measure included in the NIGC EA since under Public Law 83-280, the State of California and other law enforcement agencies have enforcement authority over criminal activities on Tribal land. Several other law enforcement measures were identified and will be included as conditions on the Gaming and Management Contract approved by the NIGC.

The commenter then goes on to conclude that mitigation is not specific and enforceable due to the points made above. Please see responses above to various issues raised. The mitigation identified, as part of the NIGC EA will be carried forward as conditions of approval on the NIGC approved Gaming Management Contract.

36-10 As discussed in Section 2.1.2 of the EIR/EA, water for the proposed project is expected to be supplied by the EID. If water service from the EID is unavailable, water will be provided by an independent, off-site water supply delivered via truck. Please see Response to Comment 5-1. There is no change of course. Either the Tribe will obtain its water from EID for residential and commercial purposes or it will obtain it from an out-of-county source. The Rancheria has proposed connection to the existing EID system, which would be constructed entirely on Trust land. Therefore, its water pressure proposal does not trigger a new CEQA event. No traffic or air quality analysis of this project is implicated.

36-11 The commentor notes that the Slate Creek Bridge is 13 feet wide, whereas the road on either side of the bridge is 23-26 feet wide. The commentor is correct in stating that the 13-foot wide bridge further impedes vehicular access to the Rancheria."

36-12 The commenter claims support for the Tribe and provides opinions regarding the fiduciary responsibility of BIA. The commenter goes on to again claim a link between the hotel/casino and interchange projects, and that there will be significant impacts on the environment and surrounding communities. The comments regarding the support for the Tribe and fiduciary responsibility of BIA are noted. With respect to environmental impacts, the EIR/EA does identify significant impacts on the environment that will be avoided with the application of mitigation measures.

COMMENT LETTER #37

Omar & Shelley Mills
2729 Holly hills Ln.
Cameron Park, CA 95682

Caltrans
C/O Karen McWilliams
Dist. 3 Office of Envir. Mngt.
2800 Gateway Oaks Dr.
Sacramento, CA 95833

Ms. McWilliams,

37-1 We have been against the interchange being built all along. Even though the interchange is now all that is being considered, we all know that eventually it will lead to other expansion. Having the interchange will affect all the population in and around the Cameron Park/Shingle Springs area. There are several ways that this will happen, first being traffic. It is already almost gridlock during commute hours, especially on Friday evenings. Adding more traffic heading to the interchange will only increase the problem. Secondly, our air quality. We have more than enough polution from the commuters, more traffic will only cause more pollution. Thirdly, and I know this only applies when the expansion occurs, we will have drunk drivers. I know for a fact that the tribe will have a liquor license, hence serve liquor which will lead to drunk driving. Fourthly, the interchange will cause an increase in our shortage of water. We are already being constantly asked to conserve water. With the exchange being built, more homes will be built which will deplete our water even more. Please stop the interchange from being built. We all know that if it is built, it is just the beginning of the problems that will occur when they (the tribe) continue on with their plans. We know that your concern is only with the interchange, which is why we didn't mention our concerns about the long term plans that the tribe has.

Thank you,

Omar & Shelley Mills
2729 Holly Hills Ln.
Cameron Park, CA 95682

California Department of Transportation
EIR Responses to Comments

Comment Letter #37

37-1 The commenter notes that the proposed interchange project will lead to other unspecified expansion and the residents will be affected by increased traffic. The comment asserts that U.S. Highway 50 is already at gridlock during commute hours, especially on Friday evenings, and that adding more traffic heading toward the interchange will only increase the problem. It is clearly stated within the EIR/EA that the proposed interchange will lead the development of a hotel and casino on the Shingle Springs Rancheria [please see Response to Comment 36-1, 36-2] The traffic impacts of the proposed interchange project are fully addressed within Section 5.4 of the EIR/EA. The analysis addresses potential impacts upon the area roadways and U.S. Highway 50. Per Figure 6 on page 59 of the Transportation/Circulation Technical Study, even with project traffic, acceptable levels of service will be provided along U.S. Highway 50 in the vicinity of the project with the addition of an eastbound auxiliary lane for existing conditions.

The comment states that more traffic will result in more pollution. This air quality analysis presented in Section 5.5 fully addresses the air quality effects of the proposed interchange project. Tables 5.5-4 and 5.5-5 present air quality data that shows existing and future emissions with and without the proposed interchange project. The EIR/EA conclusion is that, while emissions will increase with construction and operation of the project, these effects will be less than significant with the application of mitigation measures.

The commenter claims that the "expansion" will lead to additional drunk drivers. This comment is related to the proposed hotel and casino project, not the proposed interchange project. This is not an environmentally related comment. The comment is noted and forwarded to the decision makers for their consideration.

The commenter makes a statement about water depletion supposedly resulting from the hotel and casino project. The comment is focused on the hotel and casino project, not the proposed interchange project. The indirect effects of the proposed interchange project include the hotel and casino project. The indirect effects of the hotel and casino are fully addressed within Chapter 9 of the EIR/EA. The commenter does not make any adequacy/inadequacy claims regarding the EIR/EA; therefore, no additional response is necessary.

Per Figure 6 on page 59 of the Transportation/Circulation Technical Study, even with project traffic, acceptable future levels of service will be provided along U.S. Highway 50 in the vicinity of the project with the addition of an eastbound auxiliary lane for existing conditions. The proposed casino/hotel and Interchange projects will contribute their "fair share" to that mitigation. Please see Response to Comment 51-13.

US 50 RANCHERIA INTERCHANGE

DATE: 06/14/02

TO: CALTRANS C/O KAREN MCWILLIAMS

FROM: CHRIS L. CHRISTENSEN

To Whom It May Concern:

This letter is to provide input into the decision and proposal to build an interchange on US Hwy 50 to provide access to the Shingle Springs Rancheria. I have been a member of the El Dorado County community since 1990, having lived in Placerville, Cameron Park, and El Dorado Hills. Currently I live in Cameron Park and own a home in El Dorado Hills.

I work in Placerville for El Dorado County in the Department of Social Services. I state this so that I may clarify that this letter reflects my personal views and is in no way tied to my job duties, nor does it in any way reflect on my employer. Let me also state that I do not receive any services or benefits through the Shingle Springs Rancheria. I am not a Native American. The views stated are mine as a citizen and taxpayer in El Dorado County.

Please consider this a strong endorsement of the proposal by BIA and Caltrans to approve construction of an interchange to provide access to the Rancheria. Access to their land will provide them with opportunities that are not currently available to them. Many jobs, income, services, and opportunities will soon follow the completion of the interchange. The only viable solution to their "landlocked" situation is an interchange. 38-1

The interchange would benefit the homeowners that live around the Rancheria by diverting current Rancheria traffic off of the main street that services their homes. It would bring to an end a bitter and very prejudiced battle regarding usage of the road and make their roads safer. To not approve the proposal, would continue to tolerate the prejudice of the local opposition to the Rancheria. It would give local politicians a hollow victory over a minority that has long been the victims of local prejudice.

For years, local politicians and certain community members have opposed and organized to thwart this population of Native Americans from pursuing their goals of building and operating a viable business on **their land**. Opponents have expressed outrageous views and have taken extraordinary steps to undermine the Rancheria and it's goals.

Certainly one could make argument for or against such a proposal. But no one can argue that individuals, families, a tribe, and our own local community will be the benefactors of the increase in services, lodging, entertainment, conference facilities, jobs, wages, and taxes that accompany such benefits. All these benefits will be the results of many millions of dollars that the Rancheria will spend on the project.

Not since a deal with Intel was rejected, compelling Intel to locate in Folsom has a project of this scope and impact hit El Dorado County. Wouldn't we love to have Intel in our county now! It will be the same with the Rancheria and its proposed projects. When the community recognizes that there will be more steady jobs, better earnings, and a substantial impact on county revenues, it will be glad that the project went through.

To me the interchange will have a minimal negative impact on the area, environment, and community. By comparison, it will have major positive impacts on the area, environment, and community. Sure there will be concerns to deal with. But they are minimal in comparison to the overall growth, traffic, and water problems that we already face with or without the interchange.

38-1 Cont. There is a great need in our community to develop roads, improve existing interchanges, and work to solution the transportation situation that we already face. This interchange will have a positive impact on our transportation problems. It will provide an exit off the highway and much easier access to and from homes.

May the proposal go through,

Chris L. Christensen

3426 Bristol Court
Cameron Park, CA 95682

California Department of Transportation
EIR Responses to Comments

Comment Letter #38

38-1 The commenter provides his "strong endorsement of the proposal by BIA and Caltrans to approve construction of an interchange to provide access to the Rancheria" and describes the prejudice to which the Tribe has been exposed. The comment is noted and will be included in the record for consideration by the decision-makers prior to a final decision on the interchange project.

MAIDU GROUP of the Mother Lode Chapter
Reply to: 1487 Crooked Mile Court, Placerville, California 95667

19 June 2002

To: Karen McWilliams
Steve Hetland
Caltrans, District 3
Office of Environmental Management
2800 Gateway Oaks Drive
Sacramento, CA 95833

By fax: 916/274-~~6048~~ 0648

Re: Draft Environmental Assessment/Environmental Impact Report
SHINGLE SPRINGS INTERCHANGE PROJECT
May 2002

These comments are submitted on behalf of the Maidu Group of the Mother Lode Chapter of the Sierra Club. The Maidu Group comprises over 1000 members in the counties of Amador and, primarily, El Dorado. Any response should be directed to Alice Q. Howard, Conservation Chair, at the address above. We appreciate the desire of the Native American community to improve its economic status and thank you for this opportunity to comment on this highly controversial project.

PIECEMEALING: The draft EA/EIR argues that the interchange project can be separated from the overall casino/hotel complex project because better access is still needed for the Shingle Spring Rancheria with or without the casino/hotel project. While we agree that better access is desirable (although we do not believe that access through the adjacent subdivision became a problem until the advent of the casino concept), we disagree that the two projects stand alone.

Without the financial backing of the entity that is also financially backing the casino/hotel project, the Shingle Springs Rancheria would not be able to fund construction of the interchange, and the State of California would not be involved in the construction of this single-purpose interchange without this funding source. *Thus the two projects are, indeed, are intimately connected.*

39-1 We would also like the EA/EIR to discuss more fully the fund-sharing arrangement by which construction *and* subsequent maintenance will be carried out. To what extent, if any, will the general taxpayer be burdened?

Piecemealing is not allowable under CEQA or NEPA to reduce or eliminate the significance of impacts of the overall project.

We reiterate our position that a full EIS/EIR should have been conducted on the entire project including both the interchange and the casino/hotel complex.

39-2 **REFERENCES TO THE 1996 COUNTY GENERAL PLAN:** There are many references to this throughout the document. (E.g., p. 5.2-3.) There does not appear to be recognition that it was invalidated as the result of a lawsuit. This circumstance should be acknowledged and corrected throughout this document. Moreover, we think it an inappropriate standard to state that there is no

39-2 Cont. conflict or inconsistency with existing plans, policies, or programs because none of them applies as the Rancheria is non-jurisdictional. A conflict may still exist, even though those plans, policies, or programs may be non-enforceable. The question is whether or not such conflict or inconsistency *exists*, not whether or not those plans, policies, or programs are enforceable. This discussion should be corrected.

39-3 **TIERING OFF THE EIR/EA FOR THE CASINO/HOTEL PROJECT:** The draft EIR/EA for the interchange project itself supports the foregoing argument. It recognizes the close connection to the casino/hotel project by using the environmental documentation of the latter as a programmatic document off of which to "tier". (P. 1-6, last bullet under Sec. 1.3, EIR/EA Assumptions.)

In doing so, the present draft EA/EIR must also partake of the flaws of the earlier document, among the most grievous may be the profound instability of the project description. This is shown by numerous internal inconsistencies in the environmental documentation, as well as by a continuing uncertainty as to basic features of the project, such as even its water supply and its handling of wastewater. The source of the former remains unclear even as these comments are written, while the latter is thought by experts to be likely, as planned, to present an incipient public health hazard likely to require connection to the wastewater treatment system of the local water purveyor, with unanalyzed consequences.

Furthermore, throughout the many analyses presented in the earlier document there is conjecture and conclusory statements unsupported by reasoned analysis.

To claim, as did the FONSI issued in January 2002, that there would be no significant impact on the environment from construction of the casino/hotel project is patently absurd on its face. A full EIS should have been prepared, correcting the numerous deficiencies, to serve as the base document for tiering. Please refer to our comments on the earlier document (dated 15 March 2001 and addressed to William C. Allen), which are incorporated here by reference.

39-4 **PUBLIC INVOLVEMENT IN DEVELOPMENT OF THIS DOCUMENT:** Please discuss what *public* involvement took place in development of the Project Study Report as well as of the present document. Do the same for the Shingle Springs Rancheria Interchange Project Community Impact Assessment mentioned in Section 5.2.

39-5 **TRAFFIC/AIR QUALITY:** These two topics are closely related. Whether or not the dubious traffic projections projected in the EIR/EA for the casino/hotel prove correct (the present document tiers off the earlier document), the vehicle mix must be corrected to what it truly is currently. (Sport Utility Vehicles and other light trucks make up a much greater proportion of the mix now than they did in 1994 and this erroneous mix was used in the forecasting models (Appendix K). These kinds of vehicles are much more polluting than are light cars.) The Federal Highway Administration has agreed to continue to use the old mix through the end of 2002 for regulatory convenience[1]. But this is immaterial. The draft EA/DEIR (and the earlier EIR/EA on the casino/hotel

---

[1] SACOG *Regional Report*, June 2002. Report that after December 31, 2002, "a new air quality model and updated data will be required when preparing future conformity determinations, along with preparation of a new State Implementation Plan for the local non-attainment air basin region. Otherwise a "lockdown" will be imposed

39-5 Cont. complex) should reflect the current reality in addressing likely impacts. Thus a more accurate and realistic vehicle mix must be used and the analyses of Traffic and Air Quality must be redone. This is an important deficiency because the Sacramento Metropolitan Region is now considered a severe non-attainment area for ozone.

39-6 Are the same EPA "de minimus" thresholds used to determine impacts also appropriate when a region is in severe non-attainment already? Explain.

39-7 The revised document should also specify whether, during construction, all equipment shall conform to the new California Air Resources Board's regulations governing diesel engines. "To the extent feasible" (p. 5.5-1) is "weasel wording" that allows total non-adherence to these regulations. The impact of such an action should be discussed. (Following a diesel-engine powered truck on the freeway is readily detectable by even the fairly insensitive human nose.)

39-8 We disagree that whether or not LOS F is reached is an appropriate threshold for determining whether a significant impact is induced. (See pp. 5.4-1 and 5.4-2.) Travelers will experience adverse consequences of induced traffic through increasing congestion before total gridlock is reached. This is an arbitrary standard adopted without substantiation. Moreover, no analysis appears to have been made for traffic induced on weekends by special events held at the casino/hotel complex. It is not appropriate to declare that cumulative conditions will be the same by *assuming* that they will be. This needs reasoned analysis and discussion.

39-9 Construction dust is to be controlled by watering, per the discussion on p. 5.5-1. There should be some substantiation of the expectation that twice daily will be adequate, especially if construction will be occurring during the heat of summer and early fall. As "water sweepers" are only "preferably" to be used, what conditions are expectable if they aren't used and how will these be addressed?

39-10 It is unclear (p. 5.8-2) whether the assumption here relative to an alleged "no change" in cumulative conditions is four lanes in each direction or a total of four lanes (two in each direction). (An assumption in Section 5.1 is that it will remain the latter.) This should be clarified and substantiation given rather than a conclusory statement. It is stated in Section 5.1 (and also Section 5.4, p. 7) that the 1996 general plan traffic volumes were usedand that the target level was taken from Policy 3.5.1.1 of that general plan. But this model was known to be incorrect and the effects of Measure Y have thus been omitted. Please discuss the appropriateness of these assumptions and make suitable corrections.

Rather than merely assume that background traffic will grow at 1 percent per year (p. 5.4-9), the document should discuss what actual growth has been per year. Residential growth has certainly exceeded that figure. It is also unclear here whether "background" traffic refers to the rancheria or Highway 50.

It is also unclear (p. 5.4-13) why a combined casino/hotel complex would draw "significantly less" traffic that a stand-alone casino. This is a conclusory statement offered without substantiation. With the ancillary facilities suggested at various times (restaurants, special events at a convention center, retail facilities, etc.) it could be considered contrary to common sense. Please substantiate this conclusion in the EIR/EA.

The discussion of diversion of traffic from Lake Tahoe (pp. 5.4-13 ff.) is rife with conclusory statements unsubstantiated by reasoned, quantitative analysis ("large percentage", "known propensity", "only a percentage", "a significant percentage", "many...to...existing casinos", etc.). The 40 percent diversion rate is transmogrified from a mere assumption in the end. (Furthermore, later in

39-10 Cont.

this section—see p. 5.4-18—an 8 percent capture rate of "through" traffic is concluded. How do these two figures mesh?) These conclusory statements should be replaced by reasoned analysis. Lake Tahoe is a far more attractive destination than is the Shingle Springs Rancheria. If gambling is the primary attraction, there will likely be many other opportunities from the East Bay itself to West Sacramento and Placer County.

The comments from Sierra Research dated 18 June 2002 and addressed to Tom Cumpston, Deputy County Counsel, are incorporated herewith by reference.

39-11

NOISE: The analysis of noise, apart from that associated with actual construction, will reflect any deficiencies in the analysis of traffic that will be generated. (As the present document says, it tiers off the analysis done in the earlier EIR/EA for the casino/hotel.) Apart from that defect, however, the draft EA/EIR takes Caltrans and Federal Highway Administration regulatory standards to define levels of significance of noise and uses 65 dBA as a threshold value (pp. 5.6-3, 5.6-5, and 5.6-7). Then it takes an increase of 12 dBA as the threshold for determining whether a noise impact will occur. (p. 5.6-6). These standards are not acceptable and the analysis must be redone.

Decibels used to measure noise are logarithmic in nature, i.e., an increase in decibels of 1.0 indicates a ten-fold increase in noise. The DEIR for the County's 1996 general plan used an increase in noise of 3 dB as the threshold of significance (p. V.11-24: "The common practice has been to assume that a minimally perceptible increase of 3 dB represents a significant increase in ambient noise levels.") Specifically for traffic noise, 5 dB was the criterion where the existing outdoor ambient noise was less than 60 dB, 3 dB was the criterion when the existing outdoor ambient noise was between 60 and 65 dB, while 1.5 dB was the criterion when existing outdoor ambient noise was greater than 65 dB.) An increase of 12 dB as a threshold is just not acceptable as a threshold.

Further, while the County used a standard of 60 to 65 dB as a threshold in the1996 general plan DEIR, that same standard cannot necessarily be presumed to continue as the general plan is redone. In urban settings, 65 dB is a typical criterion, but El Dorado County is largely not urban—and certainly not so in the vicinity of the Shingle Springs Rancheria.

Moreover, a 1995 study by the World Health Organization[2] recommended a limit of 50 decibels for constant daytime noise exposure and 45 decibels at night. "Above those thresholds," it said, "most people begin to become annoyed and many suffer ill effects." The Environmental Protection Agency, after a very broad study, in 1974 [3]reached a similar conclusion—that 55 decibels should be an outdoor limit and 45 an indoor one "to protect public health and well-being".

In view of the foregoing, the draft EIR/EA should justify the standards it has chosen to use as thresholds and demonstrate that utilizing them will not cause adverse effects. Mere acceptance of certain existing regulatory standards is insufficient. It is well known that regulations are often far behind scientific knowledge.

---

[2] Berglund, B., & Lindvall, T. (Eds.) *Community noise*. Archives of the Center for Sensory Research, 1995, 2(1), 1-195. Abstract herewith.

[3] EPA/ONAC 550/9-74-994, March 1974. *Information on Levels of Environmental Noise Requisite to Protect Public Health and Welfare with an Adequate Margin of Safety*. Summary herewith.

BIOLOGICAL RESOURCES: What measures will be taken to prevent the introduction of pathogens causing Sudden Oak Death into the area? Concerning loss of wetland area, mitigation appears to focus on erosion and sedimentation into the stream. Nothing is said about culverting or other repair of the channel that will be filled. Please clarify. Revegetation is planned to include both native "and naturalized" species (p. 5.7-1). Why are non-native species to be included at all? And do you seriously intend to replant poison oak? (There is evidence that it spreads under the influence of disturbance.) It is admitted in the draft EIR/EA that oaks and oak habitat will be lost. Despite the status of oaks as a keystone species, important to a wide variety of wildlife, no recognition is given to this loss as a cumulative impact (e.g., p. 7-7). This should be acknowledged and corrected, and loss of oaks should be mitigated for.

39-12

Highway 50 now constitutes a barrier to movement of wildlife in a north-south direction and this interchange will increase the hazard to wildlife attempting it. We have heard anecdotal accounts that, because of the prevalence of oak woodland on both sides of the freeway in this vicinity, there tends to be a concentration in this area of deer attempting such passage. Therefore, please discuss in the EIR/EA any information on deer mortality in this general part of the freeway and how provision might be made for reducing it in the course of construction of the interchange.

WATER QUALITY/DRAINAGE: Although the regulatory climate protecting water quality is well set forth and the intent to adhere to regulations is expressed, no actual mitigation is proposed in Section 5.12, not even adherence to the terms and conditions of the applicable NPDES permit and utilization of Best Management Practices. These do constitute mitigation and adherence to such requirements should be explicated in the EIR/EA (and in the Mitigation and Monitoring Plan). Minor changes to the text would identify these measures as mitigation as they are well discussed.

Though it is stated that a Streambed Alteration Agreement will be needed from the Department of Fish and Game, what kind of alteration will occur is unclear. Under Impact 5.13-2, construction of a new channel is mentioned. Under Mitigation 5.13-2, culvertization is mentioned. Will the streamcourse be culvertized? Will a new channel be dug? If so, where? Will it be lined to prevent erosion with the next flow? Will it be naturalistic and meander appropriately? This streambed is part of the natural drainage system. The EIR/EA should discuss more fully what changes are contemplated and how the natural drainage will be made whole after emplacement of the fill. (One of our members experienced fill placed in an ephemeral streambed upstream from her residence and still is afflicted each winter by sedimentation originating in the stream's cutting a new channel.)

39-13

The capacity of the passage under the bridge across Slate Creek on Reservation Road appears already to be barely adequate(p. 5-13.8). Please discuss more fully the effects of even a slight increase in runoff from the introduction of additional impervious surfaces.

The draft EIR/EA states that 2.7 acres of impervious surface area will be added and concludes that this is a less than significant impact because the capacity of existing culverts is not exceeded. We believe that this is an inappropriate standard. Conversion of natural surfaces to impervious ones contributes cumulatively to increased surface runoff and to lessened groundwater recharge capability. These effects go beyond that on man-made structures (i.e., whether or not the culverts can carry the runoff). They may contribute to increased flows affecting everyone and everything downstream, as well as to effects on local well yields. Moreover, associated with the introduction of vehicular traffic is the introduction into the runoff of pollutants associated with operation of vehicles, and these are discussed in the document. But it is unclear how such pollutants will be removed from surface runoff

before they add to downstream flows. These topics should be addressed in the EIR/EA.

39-13 Cont. We have heard mention of a "pervious concrete" and a "pervious asphalt". Please discuss these materials and how they might be utilized to reduce the increase in runoff and increase groundwater infiltration.

VISUAL EFFECTS: These are said to be less than significant despite the introduction into the viewshed of a major structure. This is absurd!

39-14 Furthermore, nothing is said in the draft EIR/EA about the nature of the lighting and directional signs to be used in connection with the interchange. The draft EIR/EA should discuss these matters and incorporate mitigation measures. Concern has been growing both nationally and internationally about light pollution and loss of dark night skies. El Dorado County and the City of Placerville have both recently passed ordinances governing exterior illumination. The California Energy Commission is currently developing regulations governing exterior lighting. In the past CEC staff has expressed concern at highway signs illuminated from below and unshielded lighting standards (personal communication). Both contribute to light pollution in allowing illumination to be misdirected to where it serves no useful purpose. These defects are easily correctable and the EIR/EA should include appropriate discussion and measures to mitigate this impact.

CUMULATIVE GROWTH-INDUCING EFFECTS: The allusion to not impeding "planned economic growth" (p. 5.9-1, section on Socioeconomic Character) again presumably refers to the 1996 general plan, which has been invalidated. Improper allusions to the 1996 general plan as though it were currently in effect occur throughout the document and should all be corrected. Furthermore, there is no discussion about cumulative growth-inducement arising from the casino/hotel either here or in Chapter 7 (Cumulative impacts). As the casino/hotel would be impossible without the interchange, such a discussion should be part of this document and this oversight should be corrected. 39-15

CULTURAL/HISTORICAL RESOURCES: Construction will be occurring very close to the right-of-way of the old Southern Pacific railroad. Figure 4.1 suggests that the cut required for ramp construction will be braced between it and the right-of-way by a retaining wall. More discussion of this problem should occur. Is it anticipated that no slumping of the intervening terrain will occur? If blasting is needed, how will integrity of in intervening terrain be protected? We think it imperative that the integrity of the right-of-way as it now exists be maintained. 39-16

MITIGATION AND MONITORING PLAN: CEQA requires such a plan though it need not be included in the EIR—and none is presented there. We request, before final action on this document occurs, that such a Mitigation and Monitoring Plan be made available to the public for commenting upon. It is unclear how, for example, whether "outside" regulatory bodies, such as the Regional Water Quality Control Board, will have access to monitor adherence to regulations under the Clean Water Act, to which it is stated the Tribe must adhere (p. 9-4). 39-17

FACSIMILE TRANSMISSION

To: Steve Hetland 916/274-0648
Karen McWilliams
Caltrans

Re: **Draft EIR/EA on Shingle Springs Rancheria Intrchange**

From: Maidu Group, Mother Lode Chapter, Sierra Club
c/o Alice Q. Howard, Conservation Chair
Phone/fax: 530/621-0611

Message:

The two pages herewith were inadvertently omitted from our comments on the above document, faxed to you earlier today. Please attach them to the earlier transmission. Thank you. Sorry for the inconvenience. (Three pages total, including this one.)

Birgitta Berglund
Institute of Environmental Medicine, Karolinska Institute
Department of Psychology, Stockholm University
S-106 91 Stockholm, Sweden

Thomas Lindvall
Institute of Environmental Medicine, Karolinska Institute
S-171 77 Stockholm, Sweden

Center for Sensory Research, Stockholm
1995, B. Berglund & T. Lindvall
ISSN 1400-2817
ISBN 91-887-8402-9

Printed by Jannes Snabbtryck, Stockholm, Sweden, 1995

Berglund, B., & Lindvall, T. (Eds.). Community noise. Archives of the Center for Sensory Research, 1995, 2(1), 1-195.

Abstract. The document critically reviews the adverse effects of community noise, including interference with communication, noise-induced hearing loss, annoyance responses, and effects on sleep, the cardiovascular and psychophysiological systems, performance, productivity, and social behavior. Noise measures or indices based only on energy summation are not enough for the characterization of most noise environments. This is particularly true when concerned with health assessment and predictions. It is equally important to measure and display the maximum values of the noise fluctuations, preferably combined with a measure of the number of noise events, and to assess whether the noise includes a large proportion of low frequency components. For dwellings, recommended guideline values inside bedrooms are 30 dB LAeq for steady-state continuous noise and for a noise event 45 dB LAmax. To protect the majority of people from being seriously annoyed during the daytime, the sound pressure level from steady, continuous noise on balconies, terraces, and in outdoor living areas should not exceed 55 dB LAeq. To protect the majority of people from being moderately annoyed during the daytime, the sound pressure level should not exceed 50 dB LAeq. At nighttime outdoors, sound pressure levels should not exceed 45 dB LAeq, so that people may sleep with bedroom windows open. In schools and preschools, to be able to hear and understand spoken messages in class rooms, the sound pressure level should not exceed 35 dB LAeq during teaching sessions. For hearing impaired children, a still lower level may be needed. The reverberation time in the class room should be about 0.6 s, and preferably lower for hearing impaired children. For assembly halls and cafeterias in school buildings, the reverberation time should be less than 1 s. For outdoor playgrounds the sound pressure level from external sources should not exceed 55 dB LAeq. In hospitals during nighttime, the recommended guideline values for wardrooms should be 30dB LAeq together with 40 dB LAmax. Since patients have less ability to cope with stress, the equivalent sound pressure level should not exceed 35 dB LAeq in most rooms in which patients are being treated, observed or resting. The concern for protecting young people's hearing during leisure time activities warrants provisional guidelines for concert halls, outdoor concerts and discotheques. It is recommended that patrons should not be exposed to sound pressure levels greater than 100 dB LAeq during a 4-hour period. The same guideline values apply for sounds played back in headphones when converted to equivalent free-field level. To avoid hearing deficits from toys and fireworks, performers and audience should not be exposed to more than 140 dB(peak) of impulsive sounds. Existing large, quiet outdoor areas in parkland and conservation areas should be preserved and the background-to-noise ratio be kept low.

Condensed Version of EPA Levels Document

PURPOSE

This publication is intended to complement the EPA's "Levels Document,"* the 1974 report examining levels of environmental noise necessary to protect public health and welfare. It interprets the contents of the Levels Document in less technical terms for people who wish to better understand the concepts presented there, and how the protective levels were identified. In that sense, this publication may serve as an introduction, or a supplement, to the Levels Document.

*"Information on Levels of Environmental Noise Requisite to Protect Public Health and Welfare with an Adequate Margin of Safety."
EPA/ONAC 550/9-74-004, March, 1974.

SUMMARY

On the basis of its interpretation of available scientific information, EPA has identified a range of yearly Day-Night Sound Levels sufficient toprotect public health and welfare from the effects of environmental noise. It is very important that these noise levels, summarized in Table VIII, not be misconstrued. Since the protective levels were derived without concern for technical or economic feasibility, and contain a margin of safety to insure their protective value, they must not be viewed as standards, criteria, regulations, or goals. Rather, they should be viewed as levels below which there is no reason to suspect that the general population will be at risk from any of the identified effects of noise.

Table VIII
Yearly Ldn Values That Protect Public Health and Welfare with a Margin of Safety

EFFECT	LEVEL	AREA
Hearing	Leq(24) < 70 dB	All areas (at the ear)
Outdoor activity interference and annoyance	Ldn < 55 dB	Outdoors in residential areas and farms and other outdoor areas where people spend widely varying amounts of time and other places in which quiet is a basis for use.
Outdoor activity interference and annoyance	Leq(24) < 55 dB	Outdoor areas where people spend limited amounts of time, such as school yards, playgrounds, etc.
Indoor activity interference and annoyance	Ldn < 45 dB	Indoor residential areas
Indoor activity interference and annoyance	Leq(24) < 45 dB	Other indoor areas with human activities such as schools, etc.

Outdoor yearly levels on the Ldn scale are sufficient to protect public health and welfare if they do not exceed 55 dB in sensitive areas (residences, schools, and hospitals). Inside buildings, yearly levels on the Ldn scale are sufficient to protect public health and welfare if they do not exceed 45 dB. Maintaining 55 Ldn outdoors should ensure adequate protection for indoor living. To protect against hearing damage, one's 24-hour noise exposure at the ear should not exceed 70 dB.

Comment Letter #39

39-1 The comment asserts that the EIR/EA is improperly "tiered" from the hotel/casino EIR/EA and that the structure of the environmental analysis for the interchange project improperly segments or "piecemeals" the environmental analysis. Regarding piecemealing, the EIR/EA for the interchange project does not improperly segment analysis of that project and the casino/hotel project for a number of reasons. A detailed response to the tiering and piecemealing comments is provided in Response to Comment 36-1 and 36-2.

First, the EIR/EA for the interchange project incorporates by reference the EIR/EA for the hotel/casino project. Because it incorporates the casino/hotel EIR/EA, the EIR/EA for the interchange project analyzes both the interchange project and the casino project at the project level.

Second, the interchange EIR/EA includes its own complete cumulative impacts, growth inducing and secondary effects analyses that consider the casino project together with the interchange project. (EIR/EA at Chapters 6, 7, 9.) Thus again, the interchange EIR/EA does not ignore the potential impacts of the hotel/casino project, rather it fully analyzes the potential impacts of that project as they might relate to the interchange project.

Third, the EIR/EA classifies potential impacts of the casino and hotel as indirect impacts of the interchange project. This classification is based on the definition of such impacts in NEPA and CEQA. Under NEPA and CEQA, a direct effect of a project is an impact that is caused by a project and occurs at the same time and place. (CEQA Guideline 15358(a)(1); 40 CFR § 1508.8(a). An indirect effect of a project is an effect that is "caused by" the project or action and is a reasonably foreseeable consequence thereof, but which is either later in time or father removed in distance. (CEQA Guideline 15358(a)(2); 40 CFR § 1508.8(b). Under both the CEQA and NEPA definitions, indirect effects include changes in land use patterns that are induced by the project or action in question. Thus, the interchange EIR/EA properly classified the potential impacts of the hotel/casino as indirect impacts, and in this manner as well, the EIR/EA appropriately considers the potential impacts of the hotel/casino project

39-2 The comment states that the references in the EIR/EA's to the County General Plan do not reference the fact that the General Plan was invalidated by a lawsuit. While the comment is technically correct, the point made therein is not relevant here. The County General Plan was set aside as a result of litigation, but the Plan itself was not determined to be invalid. The Plan was set aside because Judge Bond of the Sacramento County Superior Court found that the EIR/EA for the County General Plan was defective. Judge Bond did not "invalidate" the General Plan. In fact, Judge Bond rejected the general planning law challenges in that lawsuit. [*El Dorado County Taxpayers for Quality Growth v. El Dorado County*

Board of Supervisors, Sacramento Superior Court No. 96CS01290 (July 19, 1999).] The 1990 General Plan is the last adopted plan in place.

This ruling, however, does not substantially change the analysis of land use or other issues, because as the EIR/EA notes, the County General Plan does not apply to the project evaluated in the EIR/EA. Instead, that project is subject to state and federal jurisdiction.

This comment also disagrees with the EIR/EA statement that there is no inconsistency with the County General Plan or other policies because those plans or policies do not apply. The requirement to evaluate consistency with plans is set forth in the CEQA Guidelines. CEQA Guideline 15125(d) requires an EIR/EA to discuss any inconsistencies with "applicable general plans and regional plans." Under CEQA, if the plan is not "applicable," it is not required to be discussed in an EIR. This EIR/EA goes beyond what CEQA requires and includes discussion of the County's General Plan policies, even though the Plan is not "applicable." Similarly, under NEPA, even if this were an EIS, only land use plans "for the area concerned" would have to be discussed, and the plan does not extend to these Federal or State lands [40 CFR § 1502.16(c)].

39-3 The general comment that the January 2002 FONSI was based on an EA with deficiencies is so general as to be difficult to respond to. In any case, the January 2002 FONSI is not a final agency action. The FONSI is not subject to public comments at this time. See also Response to Comment 39-1 above.

39-4 The Notice of Preparation (NOP) was distributed for a 30-day comment period beginning on July 5, 2001 and ending on August 6, 2001. The interchange EIR/EA was circulated for a 45-day public review period that began on May 6, 2002 and ended on June 30, 2002. A public meeting was held on May 30, 2002 in Shingle Springs to answer and receive public comments on the Draft Environmental Impact Report/Environmental Assessment. Approximately 56 people attended the 4-hour meeting. See also Response to Comment 9-1.

The Shingle Springs Rancheria Interchange Project Community Impact Assessment mentioned in Section 5.2 of the EIR/EA is the technical study that is the basis for the EIR/EA Land Use discussion. Public involvement for the preparation of this analysis is the same as for the EIR/EA, since essentially all of this information is included in the EIR/EA. No separate public input was undertaken for the Community Impact Assessment, nor is any separate public input necessary.

Additionally, Caltrans has held monthly PDT meetings, open to the public, and attended by El Dorado Transportation Department and El Dorado Transportation Commission employees since early 2001. The BIA held a public meeting with full public noticing for the inclusion of the interchange into the IRR System on

February 19, 2002. This public meeting was also held to receive public input regarding the results of the Project Level Conformity analysis conducted for the inclusion of the project into the MTP The BIA and Caltrans then held a joint public meeting to discuss public comments to the EIR/EA. A public hearing will also be held by the CTC to review the break in access prior to final action.

39-5 The commenter acknowledges that the Federal Highway Administration has recognized that the current data incorporated in EMFAC7F is the most current available and so is to be the data used in any analysis of the impact of traffic on air quality. EMFAC7F, which is the final portion of the transportation conformity modeling platform, is the model approved by the United States Environmental Protection Agency and the California Air Resources Board for transportation conformity determinations. In order for the model to be approved, it has been tested and its relative accuracy determined to be within federal and state guidelines. In fact, it is the only model that is approved for such evaluations outside the Bay Area in California. The commenter is also mistaken when it sites to superseded information regarding the FHWA lockdown. The Shingle Springs Rancheria was incorporated into the base line study in April 2002 by SACOG. Notice of exposure to the EMFAC 2001 standards applies to those projects not approved until January 2003.

39-6 The commenter questions whether the EPA's mobile source thresholds are appropriate in a severe ozone nonattainment area. The mobile sources budget with which the project conforms was established specifically because the Sacramento metropolitan region is a severe ozone nonattainment area. The budget was developed by ARB with input from local air quality control districts and SACOG and included in the state implementation plan. Strictly speaking, then, the budget was not developed by USEPA but rather merely approved by USEPA. The thresholds are local thresholds. Please see Response to Comment 32-5.

39-7 The commenter asserts that diesel engines utilized during construction should conform with the new ARB regulations governing diesel engines. New equipment is subject to the new standards. To the extent practicable, Caltrans will require the use of such new equipment.

39-8 The commenter believes that the traffic analysis does not consider increased traffic associated with weekends and special events. The trip generation estimates for the interchange project include weekend trips. The air quality impacts associated with all levels of trip generation have been analyzed and found to conform with the mobile sources budget established for the area in the state implementation plan. The hotel/casino project does not include a special events forum.

39-9 The commenter requests substantiation that watering will be effective in attenuating construction dust. Appendix E of the EIR/EA contains the air quality

modeling data that substantiates the less than significant conclusion for construction related dust emissions.

39-10 The analysis presented assumed no additional lanes on U.S. Highway 50 between South Shingle Road and Greenstone Road. The four lanes referenced indicated two through lanes in each direction. The Agencies note that their response to assertions that Measure Y policies should be applied to the proposed interchange; and issues regarding inconsistency with the County's General Plan are addressed in Response to Comment 39-2 and Comment 41. The comment asserts that rather than merely assume that background traffic will grow at one percent per year, the document should discuss what actual growth has been per year. The 1% growth rate was limited to the intersections contained within the interchange. All non-casino oriented traffic traveling through the intersections will be traveling to and from the Rancheria exclusively, and not the greater El Dorado County region. Population and traffic growth characteristics associated with the Rancheria will be significantly different than the growth characteristics experienced within non-Rancheria regions of El Dorado County. Therefore, it is reasonable to use historical growth rates experienced within the boundaries of the Rancheria, and no historical growth rates experienced within the remainder of El Dorado County.

The comment asserts that it is unclear here whether "background" traffic refers to the Rancheria or U.S. Highway 50. "Background" traffic refers to non-casino oriented traffic traveling into and out of the Rancheria.

The comment asserts that it is unclear why a combined casino/hotel complex would draw "significantly" less traffic than a stand-alone hotel. The comment missed the crucial last portion of the sentence which read "...and stand alone hotel." Combined land uses typically reduce trip generation due to internal trips. Thus, a combined casino-hotel would draw "significantly" less traffic than a stand alone hotel due to the fact that when combined, a pedestrian need not use his vehicle to travel between the casino and attached hotel. However, when a casino does not have an attached hotel, vehicular trips would be created when persons travel between the casino and their off-site hotel.

The comment asserts that the discussion of diversion of traffic from Lake Tahoe is rife with conclusory statements. The comment is noted and will be included in the record for consideration by the decision makers prior to a final decision on the interchange project.

The comment asserts that the 40% diversion rate is transmogrified from a mere assumption. The assumed passer-by capture rate of 40% was established in coordination with Caltrans traffic engineering personnel. This rate is based in large part on the following facts: 1) the proposed casino is in a unique location along a route with existing heavy gaming oriented traffic, and is unique due to a variety of characteristics, which does not facilitate easy collection of data at

similar facilities since none match the unique location of the proposed casino. Thus, a reasoned approach was used to estimate passer-by capture rate based on a variety of approaches; 2) an early draft of the Environmental Assessment, using information from the Urban Systems Marketing Study, concluded that as much as 57.7% of the trips generated by the casino would be due to diversions and intercepts of existing traffic traveling along U.S. Highway 50. Recognizing that use of 58% passer-by capture rate may be too aggressive for this analysis, a more conservative rate of 40% should be used; 3) The *"Environmental Assessment for the United Auburn Indian Community of the Auburn Rancheria"* (Environmental Science Associates, June 2000) assumed that a minimum of 30% of the trips generated by the casino would be "pass-by" trips. Since this facility is located a few miles off from I-80, it is reasonable that the passer-by capture for a facility located immediately next to a major freeway such as Shingle Springs would attract a higher passer-by percentage rate than 30%. Additional detail regarding the methodology used to establish the 40% passer-by capture rate is available on pages 42-44 of the Transportation/Circulation Technical Study.

The comment notes that an 8% capture rate of "through" traffic is concluded, and questions how this figure meshes with the 40%. The 8% capture of through traffic refers to the percentage of vehicles on the I-15 freeway which were diverted to the Primm area casinos, whereas the 40% pass-by diversion refers to the percentage of casino generated trips which are diverted from the freeway. Thus, the percentages are relative to different types of numbers - highway volumes and casino trips.

39-11 The commenter states that the thresholds of significance for noise are not acceptable, and that the noise analysis must be redone. In addition, significance criteria used in the El Dorado County General Plan are recommended and questions are raised concerning the appropriateness of the basic Caltrans/FHWA noise standard.

In fact, the Caltrans significance criteria were developed with CEQA in mind and, although they appear to be quite permissive, they are based upon the assumption that a change in noise levels is not necessarily significant unless it results in exceeding a noise level which is considered to be acceptable. This approach is consistent with CEQA guidelines indicating that noise may be significant if it results in a substantial permanent increase in ambient noise levels. The question of what constitutes a substantial change is left to the Lead Agency.

The Caltrans Protocol states that a change of 12 dBA L_{eq} is substantial, where the traffic noise level is in the range of 55 dB to 65 dB. (It should be noted that the reference cited by the commenter was intended to apply to noise levels in terms of the Day-Night Level (L_{dn}) or Community Noise Equivalent Level (CNEL), which are weighted to 24-hour average noise levels, rather than to the design hour L_{eq}. There is no consistent relationship between these descriptors, as the differences

depend upon the day-night distribution of sound energy. In the case of the traffic noise from U.S. Highway 50, however, the L_{dn} is typically 1 to 2 dB lower than the design hour L_{eq}.) The EIR/EA presents the predicted changes in traffic noise levels due to Alternatives 2 and 3, as compared to the future No Project traffic noise levels. The predicted changes in future noise levels range from zero to 3 dB, and the resulting noise levels are below the Caltrans criterion of 67 dB L_{eq}. Even if one considers a change of 3 dBA to be potentially significant, that degree of change is not exceeded by the project.

The Caltrans Protocol further states that to determine if a substantial noise increase is a significant adverse environmental effect, consideration must be given to the context and intensity of the substantial noise increase. Context refers to the project setting and uniqueness or sensitive nature of the noise receivers. Intensity refers to the increase in noise levels over the "no build" condition, to the number of residential units affected and to the absolute noise levels. In this case, it is important to realize that ambient noise levels are already elevated; that is, the potentially affected project area is not truly a quiet rural area, and that few residential receivers are potentially affected. Thus, in terms of context and intensity, there is no compelling reason to find that the change in noise levels, whether substantial or not, is significant.

The basic criterion of 67 dB L_{eq} for the design hour establishes the level of noise that Caltrans and the FHWA have determined to be acceptable. This determination was made in consideration of a number of factors, including potential annoyance, costs of noise abatement and mitigation, and the fact that the noise produced by traffic is a cost which must be borne to some extent by society's members.

As noted above, the Caltrans/FHWA criterion of 67 dB L_{eq} is roughly equivalent to 65 dB L_{dn} or CNEL. This is the noise level that is suggested to be the upper limit of acceptability for residential land uses in the California Office of Planning and Research guidelines for Noise Elements of the General Plan. It is also the same value as the Noise Impact Boundary in the California Airport Noise Regulations, and is the FAA's residential land use compatibility criterion for airports. Therefore, there is precedent for the Caltrans/FHWA criterion value in noise compatibility guidelines used for transportation noise sources in California and in the Federal Government.

The commenter suggests that the recommendations of the World Health Organization (WHO) and the U.S. Environmental Protection Agency (EPA) should be considered as criteria for this project. The WHO guidelines are in terms of hourly average noise levels while the EPA "Levels Document" refers to the Day-Night Level (L_{dn}). In both cases, the recommendations are goals intended to protect public health, broadly defined to include general well-being. The EPA recommendation of 55 dB L_{dn} as the level "requisite to protect the

public health and welfare with an adequate margin of safety" was intended to protect the public against hearing loss (when added to allowable occupational noise exposures), slips disturbance, and annoyance. The Levels Document clearly stated that the recommended level was not intended as a noise level standard, as no consideration was given to the economic effects of such a standard. Thus, one may view the recommendations of the WHO and the EPA as goals, rather than criteria.

The proximity of the project site and potentially affected receivers to U.S. Highway 50 results in noise exposures exceeding the WHO and EPA guidelines under the No Project scenario, so that it is not practical to pursue those goals. However, the predicted traffic noise exposures at sensitive receivers in the project area will satisfy the criteria for acceptable noise levels that are applied by other state and federal agencies.

39-12 There are no known occurrences of "sudden oak death" within any interior counties in California. In addition, there are currently no large-scale methods of preventing "sudden oak death" from spreading. The pathogens are spread via air and soil movement (e.g. wind and soil on tires and shoes). The interchange project would not cause any threats to oaks that would be greater than that currently caused by the traffic on U.S. Highway 50 and surrounding roadways.

Culverting of the drainage on-site is discussed in Drainage Section 5.13. Any restoration measures to the streambed will be implemented after consulting with the California Department of Fish and Game for a streambed alteration agreement (see Bio 5.7.3 Permits).

As discussed in mitigation measures, due to the small amount of oak woodland that will be lost, and the revegetation measures Mitigation 5.7-1(B), a less than significant cumulative impact is expected.

It is not anticipated that the interchange will substantially increase the hazard to wildlife attempting to move in a north-south direction across U.S. Highway 50. Portions of the interchange will be elevated above ground level and will not present a substantial barrier to wildlife attempting to cross U.S. Highway 50.

39-13 The commenter points out that the EIR/EA does not propose adherence to the "applicable NPDES permit." The commenter also states that the RWQCB must have access to monitor compliance with the Clean Water Act. The commenter is correct on the point that the EIR/EA does not propose adherence to "the applicable NPDES permit." An NPDES permit is not required for the interchange project or the hotel/casino complex. There is no surface discharge planned. To the extend that the project requires a stormwater permit for construction, Caltrans will obtain one and comply with its terms. With respect to the hotel/casino complex, there will be several stormwater catch basins containing oil/water

separators and followed by vegetative swales to catch the stormwater before it runs off into Slate Creek. Final Hotel/Casino EA, Sections 4-6 and 4-7 - Water Quality, and 6.2.3 - Mitigation Measures.

The commenter also requests additional information regarding the Streambed Alteration Agreement that is cited in the EIR/EA. This Department of Fish and Game Agreement will be necessary for the impacts to an intermittent stream and drainage ditch during construction of the interchange up to the Rancheria. These impacts were not considered significant due to the characteristics of these features and the small area affected by the fill. Therefore a Nationwide 14 permit will be obtained from the ACOE and a 1601 Streambed Alteration Agreement from DFG. The modified channels that will be affected by the access road are located on the 5± acre parcel. Continuation of cross drainage will be accommodated during the roadway design by the placement of culverts under the new roadway.

The commenter questions whether or not the channel will be "naturalistic and meander appropriately." The channel has been significantly modified over the years due to the construction of a stock pond on the 5± acre parcel. Very little, if any, of the "natural" conditions currently exist for this minor drainageway. The channel will be culverted with a metal lined pipe with an apron at the entrance and exit to prevent undercutting and erosion.

The commenter requests an analysis of the effects at slate creek bridge resulting from a slight increase of runoff due to impervious surfaces. Impact 5.13-3 Impacts to Existing Drainage Structures (page 5.13-22) provides an analysis of the runoff effects to the Slate Creek Bridge. The EIR/EA states that "(i)ncreases in peak runoff of ≤ 1 cfs, representing an increase of much less than one percent (1%), are expected to at the…Reservation Road bridge during a one hundred (100) year event. These additions will not alter the performance of the two crossings during the design storm." The TR-55 Runoff Summary presented in Table 5.13-6 shows that the change from existing conditions is negligible at Reservation Road Bridge. The computed runoff in cubic feet per second (cfs) at the bridge is 4,652 under pre-development conditions. The computed runoff is unchanged at 4,652 cfs under post-development conditions based on R-55 modeling. The peak runoff hydrograph computations using HEC-1 modeling reveals a 1 cfs increase occurring at the bridge structure (Table 5.13-5 of the EIR/EA). The results of both modeling methodologies are similar. Therefore, the proposed project will not significantly impact flows under Reservation Road Bridge.

The commenter questions whether or not the project will cumulatively add to drainage and groundwater recharge impacts. As noted above, and more fully in Section 5.13 of the DEIR/EA, the computed runoff associated with the proposed project will be minor and will not add cumulatively to cumulative flows. The commenter states that the increase in impervious surfaces contributes

cumulatively to increased surface runoff and lessened groundwater recharge capability. The technical analysis shows that some runoff will occur with the construction of the project (Tables 5.13.-3, 5.13-5, 5.13-65.13-75.13-8). However, a significant impact is identified if "...additional flows for predetermined storm events exceed the design capabilities of existing structures (four culverts and one bridge downstream of the Proposed Project) or cause surface erosion above background levels..." The EIR/EA (Section 5.13 and Chapter 7) concludes that the increased runoff resulting from the Proposed Project will not result in a significant impact.

39-14 The commenter raises a concern regarding the potential light effects associated with the interchange. Specific lighting for the proposed interchange has not been designed at the time of document production. However, all lighting will be designed to comply with Caltrans standards that require downcast lighting to avoid spillover to adjacent land uses, and to not cause a safety hazard for traveling motorists. Neither Caltrans nor the BIA recognizes the loss of dark night skies as a significant environmental issue as related to this proposed project. The CTC will hold hearings to discuss the various effects associated with the proposal to allow a break in access to U.S. Highway 50. The comment is noted and will be included in the record for consideration by decision makers prior to a final decision on the interchange project.

39-15 Please see Responses to Comments 39-1, 39-2 and 42-9.

39-16 Blackburn Consulting Inc. (BCI) has conducted a thorough geologic and geotechnical investigation of this site, including detailed geologic mapping of the cut slope, 2 borings at the base of the cut slope, and 5 borings east of the cut slope that penetrate the underlying native rock. Based on these borings, mapping, geological research and mapping, and subsequent laboratory analyses, BCI recommended cut slope gradients and slope retention methods, and associated construction techniques, to minimize the potential for slope failures (including those that may extend into the railroad right-of-way). Proposed slope configurations will not decrease current slope stability within the railroad right-of-way. Where retaining walls are required, a soil nail wall will be used which employs drilled and grouted, near horizontal, passive anchors. The soil nail alternative as selected will keep the anchors within Caltrans' right-of-way and minimize construction activities near the railroad right-of-way.

Blasting may be required on portions of the eastbound off-ramp cut. Uncontrolled blasting could cause additional rock fracturing and loss of slope stability, and possibly cause rock within the railroad cut to ravel. Consequently, to reduce the risk of disturbing existing railroad right-of-way, controlled blasting methods will be specified, including vibration monitoring. Controlled blasting includes careful timing, delay intervals, spacing and weight of charge. The

controlled blasting techniques are routinely and successfully practiced on projects where the constraints are tighter than this project.

It should be noted that loose rock will ravel (loosen or fray) over time as a result of natural weathering processes and highway vibrations (as can be seen now on the railroad cuts), including raveling along the railroad cut. Vibrations from heavy construction equipment could cause some raveling of loose rock. However, no significant construction related rock raveling is expected, particularly because of the less disruptive, soil nail wall "top down" construction method.

In summary, no significant impacts are expected to the railroad right-of-way. Blasting contractors must be experienced in controlled blasting techniques. Blasting techniques must be reviewed and monitored by a blasting consultant to confirm that suitable techniques to reduce blasting vibrations and their potential effect on the existing slopes are minimized. Qualified field inspection personnel will review blasted excavations upon completion to determine if potential damage to slopes within the railroad easement has occurred. If damage has occurred, slope reinforcement (nails, dowels, bolts, etc.) will be placed to mitigate potential instability.

39-17 The commenter requests that a Mitigation Monitoring Plan be made available for public review and comment prior to final action. The Lead Agencies will comply with the provisions of CEQA regarding development and adoption of the Mitigation Monitoring Plan at the time project approvals are granted, should that occur.

Mr. Steve Hetland, Project Manger
Ms. Karen McWilliams, Office of Environmental Mgt
State of California - Department of Transportation
Caltrans, District 3
2800 Gateway Oaks Drive, Suite 100
Sacramento, CA 95833
Phone 916 327-6130 FAX ——
Email Steve_Hetland@dot.ca.gov

June 19, 2002

RECEIVED
JUN 2 0 2002
BY:

William C. Allan, Pacific Region Environmental Specialist
U.S. Department of the Interior, Bureau of Indian Affairs
2800 Cottage Way, Room W-2820
Sacramento, CA 95825
Phone —— FAX 916 978-6055

Subject: Draft Environmental Impact Report (EIR)/ Environmental Assessment (EA) for the Proposed Shingle Springs Interchange Project.

Dear Mr. Hetland, Ms. McWilliams, and Mr. Allan,

40-1 General assumptions for the above document was "tiered" and based on the Final EA (NIGC, 2001) and the FONSI (January, 2002) for the Proposed Shingle Springs Rancheria Hotel and Casino Project, Page 1-6. Comments from various community groups have suggested the potential for litigation on the Casino project. If litigation were to occur and prevail, wouldn't that determination invalidate the EIR/EA for the SS Interchange?

40-2 References were made to the El Dorado County/EDC General Plan, yet the General Plan was not identified as a basis for assumptions in this document. Although the EDC General Plan was litigated and determined to be invalid, it is in the process of being revised. The determination for the threshold of Significance on Impacts requiring an EIR and a "required EIS/Environmental Impact Statement" for the Interchange can be substantiated based on the recent El Dorado County General Plan litigation. Many of those significant impacts are key to the Casino/Hotel and Interchange Projects; such as, Traffic, Water, Sewer/ Wastewater Disposal, Air Quality, and Visual/ Scenic Corridor issues.

40-3 Based on the fact that "Traffic" was a Significant Impact in the EDC General Plan, it is therefore a Significant Impact for the Interchange Project. A recent article in the Mountain Democrat dated June 17th, 2002 discusses one of the EDC General Plan traffic studies that will be redone without the Casino to identify impacts and fees (Attachment 1). The controversy over traffic congestion and fees to cover road impacts resulted in a voter approved Initiative, Measure-Y. Also as a result of General Plan litigation, it now recognized that it is unrealistic to expect Highway 50 will go to 8 lanes. This further substantiates Traffic is a Significant Impact "not yet" addressed or mitigated in El Dorado County requiring and EIS/ Environmental Impact Statement. Page 2-8, para 2.2.4 tries to imply the previous Casino/Hotel EA addressed "Traffic" concerns and those comments are in no way related to the NOP information presented for this Proposed Project. This is flawed. All comments are related to both EIRs/EAs: and, still are not mitigated, and are unresolved. El Dorado County is still struggling with Traffic, the impacts and the fees; and, the mitigation is still unresolved. The EDC General

Plan will be key information that will be required in the Interchange (and Casino/Hotel) EIR/ EIS (not an EA) for analysis comparisons.

Another Interchange DEIR/EA assumption is the traffic, noise and air quality analyses were prepared taking into account the operation and effects of the proposed Shingle Springs hotel and casino, pg 1-5. Many conflicts in data and concerns were raised in the Casino/Hotel EA (and the Interchange NOP), which may be subject to litigation. This information should not be relied on by any decision-maker.

40-3 Cont.

A letter from the El Dorado County Board of Supervisors stated; "The size, scope, and nature of this project is unprecedented in El Dorado County and the Surrounding Region". While you can not base an EIR on an invalid EIR, the EDC General Plan is the critical land use plan needed in this review process. Therefore, it is recommended, the Interchange EIR and required EIS/Environmental Impact Statement not be processed until information from the EDC General Plan can be included for analysis.

40-4

Although the Interchange EIR/EA tries to justify "segmenting" the "whole" project, this is arguable. Whether or not the Interchange was adequately included in the Casino/Hotel Project is also arguable. The EIR/EA talks about the required approval and action by the National Indian Gaming Commission (NIGC) with the foreseeable consequence including the construction and operation of the hotel and casino, pgs 2-6 & 2-7. The "foreseeable consequence" is and should be addressing the "whole" project (Hotel, Casino and Interchange) along with growth inducing impacts. Were the EIRs/EAs segmented so that the public cannot see or comment on the impacts of the "whole" project? It should be noted, this "whole" project is 160 acres – four times the size of the controversial Placer County Project of 40 acres. The potential for growth is mind-boggling.

The document also states: "..the interchange is needed with or without the proposed hotel and casino project. pg 2-7" Are we to believe, an Interchange is required to solely serve a 160+ acre residential site with current road access? Isn't this reasoning flawed? Where has Caltrans provided an Interchange for such limited use? This makes the designation of the "No Project/Action Alternative" flawed; and, an impossibility. The document states; "The "No Project/Action Alternative" assumes that no interchange, or other direct access, is provided to the Rancheria pg 2-4." How could the approval of a "No Project/Action Alternative" be justified the way it is described?
The discussion in the DEIR/EA that Caltrans will not be using the rail right-of-way corridor Alternative belonging to El Dorado County because it is a significant historical rail corridor also technically eliminates this Alternative from realistic consideration. The document is not providing well-reasoned Alternatives, and appears to bias/prejudice the approval/ selection of only one proposal. What is the criteria and justification for an Interchange approval by Caltrans for such a limited residential project? - Or - If the "whole project" is considered, what is the Caltrans criteria and justification for approval? Other than for Cities or Counties, where has Caltrans approved such a limited use Interchange - with or without entity ownership? Have their been any short or long term ramifications? Can a project proponent say they will pay for an Interchange and easily get one?

40-5

The EIR/EA states: "The BIA will enter into a cooperative agreement with Caltrans for the construction and operation of the interchange, take the 5.6 acre parcel into the name

of the United States, and designate the interchange (federal portion) as part of the Indian Reservation Road system (IRR) pg 1-5." This raises many concerns.

It is believed the 5.6 acre parcel is not currently within the Tribal Utility District. Is this parcel currently part of any other District or Association? Is a boundary adjustment required by EID, LAFCO or any other agency? Please address resolving any boundary adjustment.

Designating the (federal portion) of the Interchange as part of the Indian Reservation Road system/ IRR raises concerns that are not adequately addressed. Please clarify the federal portion and what does this mean? How does it impact jurisdictional control, responses, health and safety issues, and funding?

The reference to the Cooperative Agreement on pg 1-5 talks about the construction and *operation* of the interchange, while pg 1-9 talks about construction and *maintenance* of the interchange/*access road*. Please clarify what the Cooperative Agreement will cover. Why isn't the Cooperative Agreement provided to allow the public and agencies an opportunity to provide comments? Who is funding what, and has jurisdiction over what, should be identified in the Agreement, as well as identified in a monitoring and reporting program? Is the State funding (or providing up-front funding) for any portion of this project?

40-5 Cont.

The EIR/EA states: "The California Transportation Commission (CTC) will approve the break in access control, pg 1-8." What does this cover? How and when can the public and agencies participate in this process? This is not adequately address in the EIR/EA. Please clarify.

This project exceeds anything previously approved in the County. It should be noted that approved Specific Plans and other large projects require a Development Agreement. The Cooperative Agreement could be viewed as similar to a Development Agreement.

We also request some form of proposed Cooperative Agreement/Development Agreement including at minimum the State, the County, EID (and maybe CDF and the CHP, etc.) be included in the Draft EIR/EIS. This type of document should require public review in the environmental process.

The EIRs/EAs for the Casino/Hotel as well as the Interchange should address the Cooperative Agreements and/or Development Agreement. There are many issues tied to EID and Road Impact Fees that need to be addressed whether or not they are identified in some sort of Development Agreement.

40-6

One example could be a back-up plan for a potentially failed wastewater/septic/disposal treatment system. For the BIA to identify they would apply to EID for support through use of EID's sewer treatment plants is not adequate information. The public would need to know there is a plan, what it is, and that it has been approved. A new source of water and the delivery of water are other concerns.

No "specific" reporting and monitoring program is included in the EIR/EA. The document states: "..mitigation measures have been clearly identified and presented in language that will facilitate establishment of a monitoring and reporting program." This raises

many concerns and prevents the public and agencies from providing adequate comments on "specific" requirements for any monitoring and reporting program. As an example; If the Interchange becomes part of the IRR/ Indian Reservation Road system and there is a Health and Safety issue or a Hazardous Spill, who has jurisdiction?

There needs to be clarification on who/what agency is the responsible agency and has clear jurisdiction/oversight, regulatory authority over the various areas of impact throughout the EA for both projects. Compliance with any and all local, County, State and/or Federal requirements/ laws is of the utmost importance to the residents of El Dorado County and for overall environmental protections.

The responsible jurisdiction and/or any proposed mitigation monitoring programs needs to clearly identify the reporting process, the agency, focal point and telephone number of who to call. This should include everything from groundwater contamination, wastewater disposal, air quality issues, hazardous spills, etc., to noise and/or light and glare complaints.

As an example, a grave Health and Safety concern was raised in the SWRWQCB letter dated 6 Jan 2001. The soils and geological hazards in the project area and region also appear to support these concerns. What response/ action is taken for any spill or discharge into waterways. Currently, doesn't the State have over sight for these events? How would this be handled for the Projects? This raises red-flag concerns that need to be adequately addressed relating, at a minimum, to NPDES Permitting, the Safe Drinking Water Act, the Clean Water Act, the Endangered Species Act, NEPA and the Council on Environmental Quality's (CEQ) NEPA Implementing Regulations.

40-6 Cont.

It is recommend and formally requested any oversight, implementation and monitoring be performed by the various experienced agencies that would normally perform these responsibilities. Our concern is any oversight by the BIA with its limited experience and resources, on a project of this magnitude with potential negative impacts, would short change the overall well being of the public, the environment, and put us at grave Health and Safety risks.

Stephan Volkers' letter (pg 1) points out: "..NEPA, in turn, directs that...(2) Assures for "all" Americans safe, healthful, productive, and aesthetically and culturally pleasing surroundings;...". Protection of these values should be addressed by directing the appropriate local, state or county jurisdiction control over the various potential impacts.

It has been stated and demonstrated that the BIA has unique authority and latitude to act/perform as Dependants of a Sovereign Nation. This raises many concerns when various local, regional, state and federal laws and regulations have been enacted to protect "all" citizens of the United States. Even "Diplomatic Immunity" has limitations that can result in expulsion from the United States. Therefore, given a history of being able to act independently, we request a mechanism be put in place to protect all US citizens in the County of El Dorado.

Additionally, please address how/when memorandums of agreements/ understandings are entered into and coordinated with signature through the Dept. of Interior enforceable by the Attorney Generals office. If this process or another developed process offers the most protection for the overall population, we request that become part of the approval process.

40-7 The DEIR/EA for the Interchange (and Casino/Hotel Project) does not adequately address the economic impacts (benefits and/or losses) of the Projects.

40-8 In conclusion and according to pg 2-7 which states: *"By incorporating by reference and tiering from the NIGC EA and FONSI, the lead agencies recognize that an agency with jurisdiction (NIGC) has evaluated on-reservation environmental impacts in a manner which does not impinge on Tribal sovereignty, as would be the case were a State agency to attempt to regulate on-reservation impacts."* Does this mean a State agency would ignore Health and Safety Risks for "All" U.S. Citizens to grant an approval? Based on the above-submitted comments, how can Caltrans, as the decision-maker, approve a "segmented" project – with a mere reference to a document that has not adequately described, addressed, or mitigated the impacts.

Please note similar comments were previously submitted and may be combined with other comments on behalf of El Dorado County Taxpayers for Quality Growth.

Thank you for the opportunity to comment on this project.

Sincerely,

Jan McKinsey

Jan McKinsey
3433 Fairway Drive
Cameron Park, Ca 95682

1 - Attachment
Copy to Steve Volker

Traffic study includes casino, will be redone without it

By OLIVIA LOY
Staff writer

June 17, 2002

In what required an extended contract with an outside firm, the Board of Supervisors last Tuesday decided to approve an additional study on traffic patterns for the Highway 50 corridor.

Though the study was near completion already "there was a desire to see what the traffic results would be without the (Indian) casino," said Director of Transportation for the county Matt Boyer.

Now, the new study will project and analyze traffic patterns taking the casino out of the equation. The study already performed looked at future traffic patterns with the casino up and running in its proposed location east of Shingle Springs Drive and west of Greenstone Road.

One of the main purposes of the study, and others like it, is to determine the amount of Traffic Impact Mitigation fees developers will have to be assessed to cover the cost of future improvements to the highway, according to Boyer.

In order to reassess the "trip generation studies," the district fee boundaries have to be modified, said Will

see HWY 50, page A-8

HWY 50

continued from A-1

Kempton of Kempton & Smith.

The travel demand model runs, as they are referred to, basically use a computer model that translates future development into traffic related data.

The studies will determine also what improvements should be made to the corridor in order to meet Measure Y standards.

Making the needed improvements is estimated to cost between $60 million and $70 million and will not be completed for another 10 years, said Kempton. He added that the cost figure " is just an estimate. The number is not final."

The county's contract with Kempton & Smith, originally set at $60,000, now totals $78,000.

Though residential and non-residential TIM fees will be assessed differently, said Kempton, the county has not yet concluded how either will be set. But, the delay and additional studies now underway "will not impact the fee structure," he said.

Boyer predicted the project to be finished in another five weeks, so that by July's end a complete draft program would be ready.

The study began last spring.

All five supervisors were present at the meeting.

Attachment 1

California Department of Transportation
EIR Responses to Comments

Comment Letter #40

40-1 Please see Responses to Comments 36-1 and 36-2.

40-2 Although it's not entirely clear, the commenter appears primarily to assert, among several points, that the El Dorado County General Plan and the litigation over that plan require findings that certain impacts of the casino are significant. The Lead Agencies note the following in response to the comment:

A. The comment states that the references in the EIR/EA to the County General Plan do not reference the fact that the General Plan was invalidated by a lawsuit. While the comment is technically correct, the point made therein is not relevant here. The County General Plan was set aside as a result of litigation, but the plan itself was not determined to be invalid. The Plan was set aside because Judge Bond of the Sacramento County Superior Court found that the EIR/EA for the County General Plan was defective. Judge Bond did not "invalidate" the general plan. In fact, Judge Bond rejected the general planning law challenges in that lawsuit. [*El Dorado County Taxpayers for Quality Growth v. El Dorado County Board of Supervisors,* Sacramento Superior Court No. 96CS01290 (July 19, 1999).] The 1990 General Plan is the last adopted plan in place.

This ruling, however, does not substantially change the analysis of land use or other issues, because as the EIR/EA notes, the County General Plan does not apply to the project evaluated in the EIR/EA. Instead, that project is subject to state and federal jurisdiction.

B. The comment first states that the General Plan is not identified as a basis for assumptions in the EIR/EA. The EIR/EA does reference the General Plan and includes information from that plan, among many other documents and sources of data. The EIR/EA also explains when documents are used as the basis for assumptions. To take one example, in the chapter on traffic impacts, the EIR/EA references a number of documents and information sources used to compile the information, including a variety of specific traffic counts, 1998 and 2000 Caltrans traffic volumes from the Caltrans website, Caltrans State Route 50 Transportation Concept Report, the El Dorado County General Plan, El Dorado County traffic demand forecasts and data network files, various studies of casino trip generation, and a detailed technical study on traffic impacts. In that traffic chapter, when the EIR/EA analysis makes assumptions based on a document, such assumptions are set forth. Thus the EIR/EA states that the target level of service is based on the Route 50 Transportation Concept Report (page 5.4-7) and the EIR/EA bases its estimates of casino trip generation on both the traffic technical study (page 5.4-9) as well as comparison to the a number of other studies of casino trip generation (see conclusion at page 5.4-12 and description of other studies beginning at page 5.4-9).

C. The comment then states that the determination of the threshold of significance can be based upon the general plan EIR/EA and litigation. In response, the significance criteria for various impacts are set forth in the EIR/EA and they are generally not based on the County General Plan or the litigation over that plan and its EIR. In addition, it is incorrect to state that the County General Plan EIR/EA conclusions determine the conclusions that should be reached in this EIR/EA. The County General Plan EIR/EA evaluated impacts relating to development over the entire geographic area of the County, including substantial growth and development of new water supply. In contrast, this EIR/EA evaluates a single project located on a discrete parcel. The EIR/EA does consider many environmental impacts to be potentially significant, but specific mitigation measures are referenced in the EIR/EA to support the conclusions that such potentially significant impacts are mitigated.

40-3 This comment asserts that traffic must be considered a significant impact in this EIR/EA because it is a significant impact in the General Plan EIR/EA and traffic issues continue to be unresolved. The conclusions regarding the specific traffic impacts of this intersection (and the related indirect traffic impacts of the casino) are based on the analysis in this EIR/EA and in the EA for the casino, not on the County General Plan EIR. Caltrans and consultants for the Tribe have consulted the County's Transportation Department, and the county's traffic consultants in evaluating the reasonableness of assumptions with respect to Highway 50 traffic volumes and projected traffic flows. Please see Response to Comment 42-4.

This EIR/EA references information from the County General Plan and does consider traffic impacts of the interchange to be potentially significant. This EIR/EA also sets forth specific mitigation measures to reduce such impacts. The fact that the updated General Plan was set aside does not mean that this EIR/EA cannot develop mitigation measures that address both direct impacts of the interchange as well as indirect effects and the contribution to cumulative impacts that results. Unlike the general plan EIR, this EIR/EA evaluates a specific project, and that accounts for the ability to discuss specific mitigation measures even though aspects of the Countywide traffic situation are not yet resolved.

It is speculative as to whether the EIR/EA will be challenged once it becomes final. In response to the comment, however, Caltrans does not believe there are conflicts in the data for traffic, noise or air quality.

The proposed project is a joint state and federal project; there is no local government civil jurisdiction on the reservation. Therefore, the El Dorado County General Plan does not legally bind either Caltrans or BIA. In addition, every EIR/EA is completed when a variety of planning is occurring, and there is no need (or requirement) to wait for completion of these efforts to consider the EIR/EA.

40-4 Regarding tiering and segmentation, please see Responses to Comments 36-1 and 36-2.

This comment also questions whether an interchange is needed apart from the development of the casino. There is a longstanding problem of access to the Tribal lands, and resolving that access problem is a fundamental purpose of the interchange project. Regardless of the casino proposal, that access problem and the need to resolve that problem would still exist. See Response to Comment 36-4. With respect to the No Project Alternative, that alternative is properly described as not providing direct access, therefore it fails to achieve this fundamental project objective.

The Shingle Springs Rancheria, established in 1920, is the home to the Shingle Springs Band of Miwok Indians. The Rancheria is located in El Dorado County, just north of U.S. Highway 50 in the town of Shingle Springs. In the late 1950s, the state of California began planning for the construction of Highway 50 to connect Sacramento and Lake Tahoe. The State began surveying for the project in the late 1960s and subsequently began negotiations with property owners for acquisition of the necessary right-of-ways (ROW). Contact was made with the Bureau of Indian Affairs regarding ROW needs across BIA lands. By 1969, all necessary ROW was obtained and the Highway 50 realignment was completed.

In 1974, an adjacent residential development to the east of the existing 160-acre Rancheria, known as "Grassy Run," was established. A local private road system was established to access the parcels in the new subdivision. Public access to the subdivision was provided via Grassy Run Court off Greenstone Road, both of which are County maintained roads. Permissive access across the private roads within the subdivision was subsequently granted to the Rancheria in 1982.

Despite the previous grant of access, in 1998, the Grassy Run homeowners' association obtained a federal court order that restricted access to the Rancheria to only the access necessary for strictly residential purposes. This order severely restricts commercial access. Commercial vehicles are required to enter and exit the Rancheria between the hours of 9:00 a.m. and 2:30 p.m., Monday through Friday. Further, a separate permit is required for every commercial vehicle entering the Rancheria. The Tribe must apply to the homeowners association for each permit and approval takes up to several days. The Tribe is subject to financial penalties for noncompliance with permit regulations.

These access limitations severely impact daily life for tribal members living on the Rancheria. For example, the Tribe's health and dental clinic must be located offsite where it must bear the financial burden of paying rent due to access issues. Furthermore, all tribal members must travel to the town of Shingle Springs for medical and emergency treatment. Construction of direct access to Highway 50 via the proposed interchange would eliminate the delays involved in

transporting the elderly and /or ailing individuals to these nearby medical facilities.

In 2001, the bridge was temporarily blocked during the transport of a modular home. At the same time, emergency vehicles were called to attend to an ailing tribal elder. Because the bridge was inaccessible, tribal members had to transport this elder via personal vehicle to the bridge where the ambulance was waiting. The elder was then transferred to the ambulance for medical attention. Subsequently, the tribe has cleared an area for a life-flight helicopter in the event that roads become blocked and emergency vehicles cannot access the Rancheria or surrounding residences.

The homeowners association has installed fourteen speed bumps along the roads leading to the Rancheria. Under these circumstances, a two-mile journey to the Rancheria takes approximately ten minutes. These winding roads and speed bumps also further delay emergency vehicle response times to the Rancheria and surrounding residences. One spokesman for the tribe stated that outside emergency personnel "cringe" at the idea of a trip up these roads. Due to his proximity, the tribal Emergency Medical Technician (EMT) is first on scene for tribal and off-site emergency calls. Within the last two years, this individual has responded to fire calls, vehicular accidents, and various medical emergencies. In one instance, a nearby homeowner was "gassing" gophers in the field on his property. The gas ignited a fire and the homeowner called emergency services. The tribal EMT was the first to arrive on scene; the California Department of Fire (CDF) engine was lost attempting to find the location. The tribal EMT also stated that the Sheriff's department frequently gets lost on access roads while responding to emergency calls on the Rancheria. Additionally, the speed bumps contribute to general wear-and-tear on vehicles.

Currently, there are no traditional educational facilities on the Rancheria. A number of children are "home-schooled" but a majority must leave the Rancheria and travel to off-site schools. Children used to walk the two-mile distance to the bus stop; however, the students are now transported daily via Tribal vans for safety reasons. Again, the winding roads and speed bumps make this daily round-trip through the subdivision inconvenient.

These access limitations also deny the Tribe any economic development or commercial activity to support itself. The Tribe's original casino was forced to close after three months because patrons were not allowed access to the facility. The Tribe desires a viable revenue base to fund governmental programs and decrease its dependence on Federal and State funding. The Tribe also wants to build an economic base to support social and educational programs for elderly, poor and young Tribal members. Revenues will allow the Tribe to upgrade equipment, hire additional staff, and expand environmental, health and safety programs. Commercial development will provide self-sufficiency through

employment opportunities for tribal members and many local non-tribal residents. Under current conditions, no commercial development of any kind is feasible, and these goals cannot be realized.

The comment also suggests that the historic rail corridor should be studied for access potential. The EIR/EA does not evaluate this in detail because of the historic character of that rail corridor. As stated at page 4-11 of the EIR/EA, this historic character, the creation of discontinuity in a potential transportation source, and the need to acquire the railroad corridor from the SPTC-JPA were all cited as reasons for not considering an access road south of U.S. Highway 50. Finally the comment asks where similar interchanges have been approved in the past, and whether project proponents can easily get interchanges. Design, approval and construction of an interchange is a long and costly process. Caltrans and the BIA are aware of two other joint projects for the benefit of Tribes, one located in Susanville and one in San Diego County. One other interchange, the Morongo, has been constructed to connect Tribal lands with a freeway, but unlike the Proposed Shingle Springs Rancheria Interchange, that was a publicly funded project.

40-5 The commenter asks whether the federal 5.6-acre parcel, which is the location of a portion of the proposed interchange, is located within any district, and voices a concern regarding whether boundary adjustments are necessary. The federal 5.6-acre parcel is presently located within the boundaries of El Dorado Irrigation District, which provides water to the parcel. Therefore no boundary adjustment is required. Moreover, the purpose to which the federal 5.6-acre parcel will be for the interchange, not a home or commercial site.

The commenter asserts that the designation of the Interchange as a par of the IRR raises concerns regarding the federal portion, and how such designation impacts jurisdictional control, health and safety issues and funding. Since the commenter separately asks for information regarding the Highway Development and Encroachment Agreement, funding will be addressed below. BIA prepared a detailed Response to Comments received at the February 19, 2002 public hearing to determine whether IRR designation was appropriate. Copies of that responsive analysis were mailed to everyone who signed the "sign up" list at the hearing.

What follows is a summary of the BIA's determination.

At 25 CFR § 170.11, the BIA regulations establish the criteria by which Tribal leaders and the BIA Superintendent determine the necessity for a hearing relative to the IRR and construction of new IRR roadways. The Tribal Council amended its Amended Reservation Transportation Plan in early 2002 in consultation with BIA. The Tribe and the BIA Superintendent for this area determined that a hearing was, in fact, appropriate and proceeded with public notice as required by the BIA's regulations at 25 CFR Part 170, including tribal members and adjacent

property owners, El Dorado County, El Dorado County Transportation Commission, and all residents who had previously attended Caltrans public workshops on the proposed interchange project. Because of the proposed project, the subject of the IRR determination, was also considered regionally significant under applicable environmental protection laws and regulations, and because the Clean Air Act and the U.S. Environmental Protection Agency's ("USEPA") rules and guidance allow for concurrent hearings (i.e., a hearing required for a related purpose, in this case the IRR expansion at the Shingle Springs Rancheria), BIA appropriately coupled the hearing on the project conformity determination for the interchange with U.S. Highway 50 with the IRR hearing, and allowed for the lengthier pre-hearing notice required at 40 CFR 51.102.

BIA conducted the hearing to add the additional roadway to the existing IRR designations serving the Rancheria. The Tribe has been in contact with and worked with all of the agencies with an interest in this project, including Federal Highways, SACOG and Caltrans. BIA has a trust responsibility to tribes that it is mandated to preserve.

After the recommendation to take the interchange into the IRR was complete and notice of designation of the interchange as Federal Route 315 was received, 25 CFR § 170.7 allows BIA to enter into agreements with state agencies for the benefit of tribes. Additionally, tribes may contribute financially and otherwise to BIA projects undertaken for their welfare, as provided at 25 CFR § 170.6(a).

Pursuant to these provisions, and the provisions of P.L. 93-638 BIA entered into the Highway Development and Encroachment Agreement with Caltrans, one of several cooperative agreements necessary to building the interchange. Because of the sovereignty of tribes and the United States' unique relationship with tribes, local governments have no regulatory authority over tribal construction, provided at 31 USC § 6506, and no jurisdiction over federal projects. Therefore local agencies are not direct participants in the design and construction process. However, Caltrans includes all relevant local agencies in review of relevant project design and traffic issues. Caltrans and the Tribe have jointly conducted monthly planning development team [PDT] meetings which are open to the public, and which are attended by El Dorado County Transportation Department and El Dorado County Transportation Commission representatives.

The construction and design plan for the proposed interchange as indicated in the final project study report prepared by Caltrans, and approved by BIA on behalf of the Tribe meets or exceeds all Caltrans design specifications for the Interchange, and addresses all health and safety issues involved in design of the interchange.

The commenter seeks further information regarding the Highway Development and Encroachment Agreement referred to above to terms of the issues covered. A summary of the key provisions follows. The Highway Development and

Encroachment Agreement executed by the Lead Agencies provides for the cooperative review of design and environmental documents and commits BIA to reimburse Caltrans for all costs incurred in participation in the project through its 638 contract, or other regulatory agreement approved by BIA and the Tribe. No state or federal funds will be used in the construction of the project, although once construction is complete, the IRR System permits the Tribe to seek reimbursement for maintenance costs through the federal IRR budgeting process. The Agreement identifies responsibilities for correction in the event of construction accidents, provision of insurance, provision of the interchange contractor and the like. The agreement anticipates that when the environmental review is completed, the Lead Agencies will jointly present the FEIR/EA to CTC for its use as part of its hearing to permit the break in access and encroachment over Caltrans'. The agreement further anticipates execution of an interchange maintenance agreement, in a form acceptable to both agencies, by which maintenance of the interchange will meet tribal and BIA specifications, and the costs of such maintenance will be borne by the Tribe. Authority for enforcement of mitigation as determined by the EIR/EA is provided by the various agreements, most particularly the 638 Contract to be executed by the Tribe, or other regulatory agreement approved by BIA and the Tribe to ensure compliance by the Tribe, its contractors and agents with the mitigation measures adopted herein.

The commenter seeks clarification of the CTC process. As stated above, the Lead Agencies have forwarded requests that CTC approve the break in access thereby permitting Caltrans to execute an encroachment agreement applicable to its roadways. Since no public funds are designated for the construction of the interchange, the hearing will not consider funding issues. CTC will use the EIR/EA as the basis of its review, together with Caltrans Final project report. The proposed project is anticipated to be considered during the August and October CTC hearings. The commenter is directed to consult the CTC agendas for these hearings for additional information.

The commenter believes that the Highway Development and Encroachment Agreement should be treated as a development agreement. The interchange is a highway project subject to Caltrans/BIA highways standards and policies, not California planning laws. Development Agreements are identified and described in Government Code §65865, et seq. and permit cities and counties to adopt agreements amendments to existing zoning requirements. Since no city or county has any jurisdiction over any portion of the project, reference to development agreements is not relevant to the discussion before the Lead Agencies.

The commenter seeks incorporation of County, CFD and CHP requirements into a development agreement. Because Development Agreement Law is not applicable to either the proposed interchange or any development occurring on federal trust lands the comment is irrelevant. However, the FONSI for the hotel/casino development requires as part of final approval, submission of plans whereby the

Tribe reaches agreements with CDF, emergency services and sheriffs. In the event the Tribe is unable to obtain agreements with these agencies, the Tribe is required to independently contract with service providers to assure that these essential services are provided.

The commenter believes that the EA for the hotel/casino and the EIR/EA should address the Highway Development and Encroachment Agreement, apparently to ensure at whatever mitigation plans are approved can be enforced through the Highway Development and Encroachment Agreement. The FONSI for the casino/hotel project is subject to final approval of the Highway Development and Encroachment Agreement for construction of the proposed interchange. The hotel/casino FONSI is separately enforceable by NIGC; however, neither BIA nor any state agency has the requisite authority over the conditions of NIGC's FONSI. The execution of that Agreement is subject to final approval by BIA of the EA. BIA issued its FONSI for the interchange EA on June 26, 2002, thereby finally approving the terms and conditions of the Agreement. The Interchange FONSI provides all mitigation measures identified and adopted by BIA as a condition of approval of this interchange project, which are expressly enforceable under the terms of the 638 Contract approved by BIA and Caltrans, or other regulatory agreement as approved by BIA and the Tribe to ensure compliance by the Tribe, its contractors and agents with the mitigation measures adopted herein. [Interchange FONSI, pages 9-16.]

40-6 The commenter is requesting requiring a back-up plan for potentially failed wastewater systems, tied to a future application to EID, enforceable through the Highway Development and Encroachment Agreement. A future application for wastewater services is too speculative to be considered within the scope of this EIR/EA, even as an indirect impact. However, the comment is directed to Response to Comment 43-WQ.

The NIGC EA prepared by the NIGC thoroughly evaluated water supply issues. The EA has been incorporated into the EIR/EA. Water for the project will be supplied either by the El Dorado Irrigation District (EID) or by truck from an independent secondary source. Both are environmentally satisfactory. The EIR/EA also evaluated the potential air quality impacts of delivering water by truck. If water is supplied by EID, the Rancheria will construct system improvements to alleviate the pre-existing low pressure conditions. Any changes to the existing water delivery system will be consistent with applicable state and local requirements to ensure delivery of water at adequate pressure and meeting all required federal, state and local water quality standards. Based on the above, the EIR/EA concluded that impacts to water quality as a result of the project would be less than significant.

The commenter is also concerned about the effect of the Tribe's existing contract with EID and BIA, which allows for the provision of water to the Rancheria as

approved in 1988. The commenter misapprehends the nature of review conducted by this EIR/EA. The EID/BIA/Tribe 1988 agreement does not distinguish between water uses for tribal members and commercial uses. To the extent that this comment is intended to indicate that Caltrans/BIA should be considering the provision of water to the Rancheria as part of the EIR/EA, the comments confuses the definition of the "project" under consideration by Caltrans/BIA.

The proposed project is the construction of an interchange and access road to connect the Shingle Springs Rancheria to U.S. Highway 50 and provide the Reservation with access to allow economic development. When completed, the interchange/access road will connect U.S. Highway 50, over the Department of Transportation ("Caltrans") right-of-way, with the BIA's IRR System. The entire interchange will be constructed within the Caltrans right-of-way and on the federal 5.6-acre parcel that is contiguous to the Rancheria. Caltrans and BIA have prepared a joint environmental document, the EIR/EA that analyzes the impacts of the interchange project. Caltrans is the lead agency for CEQA and the BIA is the lead agency for NEPA. The EIR/EA incorporates by reference, the NIGC EA/FONSI that analyzed the effects of the proposed Shingle Springs hotel and casino, entry to which will be provided by the interchange and access road. The interchange EIR/EA includes its own complete cumulative impacts, growth inducing and secondary effects analyses that consider the casino project together with the interchange project. (EIR/EA at Chapters 6, 7, 9). The interchange EIR/EA does not ignore the potential impacts of the hotel/casino project, rather it fully analyzes the potential impacts of that project as they might relate to the interchange project. The EIR/EA classifies potential impacts of the casino and hotel as indirect impacts of the interchange project. This classification is based on the definition of such impacts in NEPA and CEQA. Under NEPA and CEQA, a direct effect of a project is an impact that is caused by a project and occurs at the same time and place. (CEQA Guideline 15358(a)(1); 40 CFR §1508.8(a).) An indirect effect of a project is an effect that is "caused by" the project or action and is a reasonably foreseeable consequence thereof, but which is either later in time or farther removed in distance. (CEQA Guideline 15358(a)(2); 40 CFR §1508.8(b). Under both the CEQA and NEPA definitions, indirect effects include changes in land use patterns that are induced by the project or action in questions. Thus, the interchange EIR/EA properly classified the potential impacts of the hotel/casino as indirect impacts, and in this manner as well, the EIR/EA appropriately considers the potential impacts of the hotel/casino project. The EA for the hotel/casino identified water sources for the Tribe. The hotel/casino EA also provides for the trucking of water for the purposes of the commercial project. Final Environmental Assessment, Section 6.8 – Public Services, Subsection 6.8.1 – Water Supply. The traffic analysis for this EIR/EA has considered the effects of the number of water trucks required. Therefore, the issue of the Tribe's water needs, as these needs impact environmental consideration of the project under consideration, have been evaluated.

40-6 Commenter seeks special mitigation monitoring information. Please see Response to Comment 36-3 regarding enforcement of mitigation measures. Caltrans will prepare and provide a mitigation monitoring list prior to final determination.

The comment seeks a clarification of which agency has jurisdiction/oversight for both projects. The proposed project under consideration at this time is the construction of an interchange and short connecting access road to connect existing IRR roads on the Shingle Springs Rancheria to U.S. Highway 50 and provide the Reservation with access to allow economic development. When completed, the interchange/access road will connect U.S. Highway 50, over the Department of Transportation ("Caltrans") right-of-way, with the BIA's IRR System. The entire interchange will be constructed within the Caltrans right-of-way and on the federal 5.6-acre parcel that is contiguous to the Rancheria. Caltrans and BIA have prepared a joint environmental document, the EIR/EA that analyzes the impacts of the interchange project. Caltrans is the lead agency for CEQA and the BIA is the lead agency for NEPA. The EIR/EA tiers from (under NEPA), and incorporates by reference (under NEPA and CEQA), the NIGC EA/FONSI that analyzed the effects of the proposed Shingle Springs hotel and casino, entry to which will be provided by the interchange and access road. The interchange EIR/EA includes its own complete cumulative impacts, growth inducing and secondary effects analyses that consider the casino project together with the interchange project. (EIR/EA at Chapters 6, 7, 9). Therefore, the interchange EIR/EA does not ignore the potential impacts of the hotel/casino project, rather it fully analyzes the potential impacts of that project as they might relate to the interchange project.

CTC's jurisdiction is as a responsible agency to Caltrans, and to consider Caltrans' and BIA's request for a new road connection. No state agency has authority over the Shingle Springs Tribe and Rancheria due to the Tribe's sovereign status. In addition, the construction of the hotel and casino and the execution of the gaming management contract are purely federal endeavors. The impacts have been analyzed and mitigated by the National Indian Gaming Commission in its EA/FONSI. The NIGC has full authority to enforce the mitigation of the NIGC EA. [See NIGC FONSI, page 4]. Moreover, while the interchange is not a component of the NIGC Proposed Action (i.e. the casino), it is a closely related project, therefore the NIGC review included analysis of the impacts of the interchange, especially traffic and air quality and conditioned its FONSI on approval of the Highway Development and Encroachment Agreement authorizing construction of the interchange. Therefore, Caltrans reviewed the NIGC EA because the EIR/EA tiers from (under NEPA) and incorporates by reference (under NEPA and CEQA) the NIGC EA due to the NIGC's EA analysis of impacts from the interchange as an indirect effect of the hotel/casino project. The reliance on the NIGC EA is appropriate under Cal. Pub. Res. Code §§15152,

15006(m), 15358(a)(1), 15126(a). However, Caltrans/BIA do not examine the EIR/EA with an eye towards re-analyzing the effects of the casino, as the casino is a federal endeavor and is protected by the Tribe's sovereign status. Rather, the Caltrans and CTC can utilize the information on the off-Reservation impacts of the interchange contained in the NIGC EA, and the EIR/EA. Neither the public nor any state agency should expect the NIGC's analysis to be re-done in the EIR/EA, as that would defeat the streamlining purposes of tiering and incorporation by reference. Finally, any CEQA analysis is limited in the area of tribal gaming. Primarily, as discussed below, California and its agencies do not have jurisdiction over the Rancheria and therefore do not have jurisdiction over on-Reservation environmental impacts of a proposed project. California's Government Code specifically limits CEQA by providing, "In deference to tribal sovereignty, neither the execution of a tribal-state gaming compact nor the on-Reservation impacts of compliance with the terms of a tribal-state gaming compact shall be deemed to constitute a project for purposes of the California Environmental Quality Act of the Public Resources Code." Cal. Govt. Code §12012.25. The Lead Agencies have requested mitigation resulting from the proposed interchange project, and the Tribe, pursuant to its already adopted Off-Reservation Environmental Impacts Ordinance has agreed to mitigate these impacts. The structure of the various cooperative agreements and specifically the proposed 638 contract or other regulatory agreement approved by BIA and the Tribe anticipates that approved mitigation measures will become conditions to final execution of the 638 Contract or other regulatory agreement as approved by BIA and the Tribe to ensure compliance by the Tribe, its contractors and agents with the mitigation measures as adopted herein. Mitigation required in the NIGC document is separately enforceable by NIGC.

The commenter requests the agency name and relevant phone numbers of who will have jurisdiction regulating authority over the mitigation monitoring program and follows up on the concerns expressed in 40-21. The name of the agency and relevant phone numbers will be incorporated in the final mitigations as identified and approved.

The commenter misstates the trust responsibility of BIA, and asks for assurance of protection for citizens of El Dorado County. The commenter apparently believes that the regulatory provisions derived from federal and state law respecting these government's relationships with tribes are inadequate to protect El Dorado County citizens. Such comments are beyond the scope of the EIR/EA. Nevertheless, the trust responsibility of BIA is restated. BIA has a trust responsibility to tribes that it is mandated to preserve. To enable it to carry out its trust responsibilities, 25 CFR § 170.7 allows BIA to enter into agreements with state agencies for the benefit of tribes. Additionally, tribes may contribute financially and otherwise to BIA projects undertaken for their welfare, as provided at 25 CFR § 170.6(a). Because of the Tribe's established need for unfettered access, and Department of Interior's published support for this project,

the Tribe has agreed to bear the cost of construction and development. Because of the sovereignty of tribes and the United States' unique relationship with tribes, local governments have no regulatory authority over tribal construction, provided at 31 USC § 6506; however, BIA, pursuant to its P.L. 93-638 contract or other regulatory agreement approved by BIA and the Tribe, supervises the design, construction and maintenance of the interchange. As per the terms of the Highway Development and Encroachment Agreement between the Lead Agencies for this project, BIA will execute a maintenance agreement for the interchange. The proposed interchange has already been designated a federal highway, Route 315, in compliance with the request of the District Superintendent.

The role of local government and state government with respect to Tribe's is already delineated as a matter of federal law. California does maintain some limited degree of jurisdiction through P.L. 83-280 applicable only to the conduct of individuals. P.L. 83-280 does not abrogate the authority of Indian governments over their reservations. *Bishop Paiute Tribe v. County of Inyo*, 291 F.3d 549, 556-557 (9th Cir. 2002) [citing to the U.S. Supreme Court in *Bryan v. Itasca County*, 426 U.S. 373, 379 (1979)]. Therefore, without waiver by the Tribe, no state agency, including Caltrans or CTC has authority over Shingle Springs Band as a Tribe. The Tribe has voluntarily agreed to be bound by the terms of the Highway Development and Encroachment Agreement between the Lead Agencies; and has agreed to make fair share contributions to off-reservation impacts derived from its commercial endeavors. The Highway Development and Encroachment Agreement ¶26B provides that disputes arising out of that agreement shall be enforced in Federal Court. The 638 contract or other regulatory agreement approved by BIA and the Tribe will further make the mitigation measures decided upon by BIA and Caltrans mandatory for the Tribe to ensure compliance by the Tribe, its contractors and agents with the mitigation measures as adopted herein.

The commenter seeks assurance that the Attorney General's office for the state of California has the power to enforce agreements with the Department of Interior. As stated above, BIA has the ability to enter into agreements with state agency to accomplish the purposes necessary under the IRR Program. In this case, the Highway Development and Encroachment Agreement, one of the cooperative agreements provides for dispute resolution in federal court.

40-7 The comment asserts that the socioeconomic impacts have not been adequately addressed. Under NEPA, socioeconomic impacts are to be analyzed in EIS's, but not in EAs. 40 CFR, Section 1508.8(b). CEQA Guideline 15064(6) excludes consideration of socio-economic impacts in determinations of whether a project contains a significant impact. BIA and Caltrans are considering the direct or indirect environmental impacts of the proposed interchange project. However, BIA makes a "good faith effort" to explain the environmental and socioeconomic effects of the project alternatives that are known and "reasonably foreseeable."

The BIA NEPA manual suggests analyses of socioeconomic impacts, even though NEPA does not require such a discussion in EAs. Thus the agency has the responsibility to make an informed judgment and estimate future impacts on that basis. The EIR/EA evaluates the indirect effects of the project, the EIR/EA does not and need not analyze the economic impacts of a competitor, such as South Lake Tahoe. Analysis of impacts on competitors is not required by NEPA.

40-8 This comment implies that Caltrans has been treating the Tribe differently than other project proponents. Caltrans has independently evaluated the environmental impacts of the proposed project, including potential health and safety impacts and is not approving a "segmented" project. The EIR/EA concluded that the Interchange project would not have significant health and safety impacts. As discussed above in Response to Comments 36-1 and 36-2, CEQA permits incorporation of environmental documents by reference, and such incorporation is not considered to be improper segmentation.

CONTROL TRAFFIC CONGESTION INITIATIVE
COMMITTEE (MEASURE Y)
P. O. Box 618, Camino, CA 95709

June 18, 2001

RECEIVED
JUN 2 0 2002
BY: Karen McWilliam

State of California
Steve Hetland
District 3 - Department of Transportation
Office of Environmental Management
2800 Gateway Oaks Drive Suite 100
Sacramento, CA 95833

William C. Allan
Department of the Interior
Bureau of Indian Affairs, Pacific Region
2800 Cottage Way
Sacramento, CA 95825

RE: Shingle Springs Interchange Project DEIR/EA

Dear Mr. Hetland and Mr. Allan:

This letter is being sent on behalf of the Control Traffic Congestion Initiative Committee, also known as the Measure Y Committee. Our group successfully placed before the voters of El Dorado County a ballot initiative to control traffic congestion in El Dorado County. This ballot initiative passed by 61% in November of 1998. The following is our committee's concerns regarding the traffic impacts of the Shingle Springs Interchange Project DEIR and EA:

The CEQA checklist listed on page 9 under Transportation/Traffic of the Environmental Impact Report lists impacts (a) and (b) as "Less than significant impact with mitigation". The Measure Y Committee feels this is incorrect and should be indicated rather as a "Potentially significant impact". 41-1

Attached is a copy of Measure Y, which is the law in El Dorado County. There is little or no relevant discussion in the DEIR/EA of Measure Y, its requirements or its relevance to this project. The DEIR/EA should discuss the impacts to the existing roads and highways already governed by Measure Y in El Dorado County and how the proposed casino and hotel; and the interchange (which has as its sole purpose for being, the Casino/hotel project on the Shingle Springs Rancheria) will affect County roads negatively or positively given the likely road and highway improvements foreseen in the next 10 to 20 years. The interchange project DEIR/EA should analyze how the interchange/casino/hotel project implements and supports the provisions of Measure Y, or if it doesn't, why?

41-1 Cont. The DIER on page 2-8 paragraph 2.2.4 seems to tier off of the EA but the EA didn't adequately address issues surrounding Measure Y either. The actual implementation of Measure Y and the determination of adequate fees and road improvements to "fully mitigate" is not resolved. If adequate mitigation to implement Measure Y has not been implemented by the County, how can the DEIR say that those issues are fully mitigated? All comments submitted for the NOP's of the Hotel/Casino EA and the Interchange DEIR are still relevant and remain un-addressed.

41-2 During an El Dorado County Board of Supervisor's meeting on May 14, 2002, the Board members and the public heard expert testimony from the firm of Fehr and Peers. (Attached is a copy of that report). The question that had been asked by our committee and some of the Supervisors was; "How many houses can be built in El Dorado County (given the foreseeable improvements contemplated for Highway 50 in the next 10 years) before Highway 50 will be at Level of Service "F"? The answer was that "the 2012 Demand Analysis indicates that Highway 50 with the improvements contemplated by the Variable TIM Fee will be approaching LOS F after development of an additional 13,000 dwelling units. While the 2012 Demand Analysis assumed the casino project would be operational by 2012, an alternative report is being prepared for the Board of Supervisors with the casino impacts numbers removed. That report should be available by the end of the month (see attached article from Mt. Democrat dated 6/17/02).

Will Kempton of Smith, Kempton, consultants hired by El Dorado County, has said in various meetings regarding the variable TIM fee that, in his opinion, Highway 50 will not in the foreseeable future be widened to 8 lanes in El Dorado County due to the bottleneck it will cause on Highway 50 in Sacramento County where an eight lane freeway is infeasible.

The DEIR/EA should have a discussion of the above latest information on traffic, the foreseeable impacts and all possible mitigation measures that might be required to accommodate traffic on Highway 50 at the Sacramento/El Dorado County line with or without the casino/hotel and foreseeable future projects contemplated for the rancheria. Has this been done? If not, why?

41-3 The DEIR/EA for the Interchange does not discuss adequately the economic impacts of this interchange, (again, which is solely for the benefit of the Casino/hotel project), on the County when Highway 50 is at or projected to be at LOS F. What would the likely economic impacts to El Dorado County with Highway 50 at LOS F?

The DEIR/EA does not adequately discuss the impacts on the economy of South Lake Tahoe, CA and Lake Tahoe NV from this project and the casino/hotel. Has Cal Trans

41-3 Cont. held hearings or noticed the City of South Lake Tahoe or the public in the South Lake Tahoe area of the possible economic impacts to their area? What are those impacts?

41-4 This project, known as the "Shingle Springs Interchange project", appears to be improperly "segmenting" the entire total project. It appears that rather than looking at the Casino/Hotel project and the Interchange together, the project was purposely divided so that the public cannot see or comment on the impacts of the "whole" project. We find it difficult to believe that the State of California would spend millions of dollars on an interchange at this location unless there was also a casino/hotel project. If in fact, the Shingle Springs Rancheria and/or Lakes Gaming are reimbursing the State for the EIR and the interchange then it is proof that the whole project (interchange and casino/hotel) is being "segmented", to determent of the citizens of El Dorado County and preventing an open CEQA study of the entire project. Segmenting a project is against the California Environmental Quality Act (CEQA). Is Cal Trans and the project proponents of the Casino, Hotel and Interchange project purposely "segmenting" the project? How does Cal Trans justify circumventing CEQA laws forbidding the "segmenting" of a project?

41-5 There is discussion in the DEIR/EA that Cal Trans will not be using the rail right-of-way corridor belonging to El Dorado County because it is a significant historical rail corridor. There is no discussion, however, in the DEIR/EA with regards to the possible impacts such as the damage that might occur to the rail corridor from explosives and heavy equipment used to construct the eastbound interchange project off ramp. Will the project in anyway damage the rail right-of-way? What are the mitigation measures in place to prevent such an occurrence?

41-6 What discussion was in the DEIR/EA with regards to future expansion projects (RV parks, gas station, stores, worker housing, etc.) that the Rancheria might be contemplating and its impacts on the interchange and El Dorado County and its roads?

Thank you for the opportunity to comment on this project.

Sincerely,

Sue Olmstead

Sue Olmstead, Treasurer for the
Measure Y Committee

Attachments

Attachment 1

	CEQA			
	Potentially significant impact	Less than significant impact with mitigation	Less than significant impact	No impact
TRANSPORTATION/TRAFFIC - Would the project:				
a) Cause an increase in traffic which is substantial in relation to the existing traffic load and capacity of the street system (i.e., result in a substantial increase in either the number of vehicle trips, the volume to capacity ratio on roads, or congestion at intersections)?	X	~~X~~		
b) Exceed, either individually or cumulatively, a level of service standard established by the county congestion management agency for designated roads or highways?	X	~~X~~		
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?				X
d) Substantially increase hazards due to a design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g., farm equipment)?			X	
e) Result in inadequate emergency access?				X
f) Result in inadequate parking capacity?				X
g) Conflict with adopted policies, plans, or programs supporting alternative transportation (e.g., bus turnouts, bicycle racks)?				X
UTILITIES AND SERVICE SYSTEMS - Would the project:				
a) Exceed wastewater treatment requirements of the applicable Regional Water Quality Control Board?			X	
b) Require or result in the construction of new water or wastewater treatment facilities or expansion of existing facilities, the construction of which could cause significant environmental effects? (Indirect Impact)		X		
c) Require or result in the construction of new storm water drainage facilities or expansion of existing facilities, the construction of which could cause significant environmental effects?			X	
d) Have sufficient water supplies available to serve the project from existing entitlements and resources, or are new or expanded entitlements needed?				X
e) Result in a determination by the wastewater treatment provider which serves or may serve the project that it has adequate capacity to serve the project's projected demand in addition to the provider's existing commitments?				X

Attachment 2

The "Control Traffic Congestion" Initiative.

For the purpose of PROTECTING PUBLIC HEALTH AND SAFETY BY REQUIRING NEW DEVELOPMENT TO FULLY PAY ITS WAY TO PREVENT TRAFFIC CONGESTION FROM WORSENING ON OUR ROADS, the El Dorado County General Plan is hereby amended by adding the following policies as follows:

County tax revenues shall not be used in any way to pay for building road capacity improvements to offset traffic impacts from new development projects. Exceptions are allowed if County voters first give their approval. (Policy 3.2.2.5)

Developer-paid traffic impact fees shall fully pay for building all necessary road capacity improvements to fully offset and mitigate all direct and cumulative traffic impacts from new development upon any highways, arterial roads and their intersections during weekday, peak-hour periods in unincorporated areas of the county. (Policy 3.2.2.4)

Traffic from residential development projects of 5 or more units or parcels of land shall not result in, or worsen, Level of Service "F" (gridlock, stop-and-go) traffic congestion during weekday, peak-hour periods on any highway, road, interchange or intersection in the unincorporated areas of the county. (Policy 3.5.1.6.1)

The County shall not add any additional segments of Highway 50, or any other roads, to the County's list of roads that are allowed to operate at Level of Service "F" (gridlock) without first getting the voters' approval. (Policy 3.5.1.6.2)

Before giving approval of any kind to a residential development project of 5 or more units or parcels of land, the County shall make a finding that the project complies with the policies added by this initiative. If this finding cannot be made, then the county shall not approve the project, or give final approval to a tentative subdivision map, until all these policy findings can be made, in order to protect the public's health and safety as provided by state law to assure that safe and adequate roads are in place as such development occurs. (Policy 3.2.1.5)

Implementation.

(a) If any portion of this initiative is declared invalid by a court, then that portion shall be removed, and the remaining portions of the initiative shall remain in full force and effect.

(b) This initiative may only be amended by a majority of County voters, and shall remain in effect for 10 years. Prior to expiration, it shall be placed on the ballot again to let the voters decide on a further 10 year extension.

Attachment 3

Matt

EL DORADO COUNTY
BOARD OF SUPERVISORS
AGENDA TRANSMITTAL
Meeting of May 14, 2002

AGENDA TITLE: Update on the Traffic Analysis for the General Plan and Variable State Highway Impact Fee

DEPARTMENT: Transportation Planning	DATE:5/01/02	CAO USE ONLY
CONTACT: Matt Boyer Conrad Montgomery	PHONE: 5981 7428	

DEPARTMENT SUMMARY AND REQUESTED BOARD ACTION: Transportation and Planning Departments request that the Board of Supervisors receive and file the update on the progress of the traffic analysis being prepared for the General Plan and Variable State Highway Impact Fee.

CAO RECOMMENDATION:

Financial impact? ( ) Yes (x) No	Funding Source: ( )Gen Fund ( ) Other
BUDGET SUMMARY: Total Est. Cost $____ Funding Budgeted $____ New Funding $____ Savings $____ Other * $____ Total Funding Available $____ Change in Net County Cost $____ Explain	**CAO Office Use Only:** 4\5's Vote Reqd. ( ) Yes ( ) No Change in Policy ( ) Yes ( ) No New Personnel ( ) Yes ( ) No CONCURRENCES: Risk Management____ County Counsel____ Other____

BOARD ACTIONS:

Vote: Unanimous _____ Or Yes: Noes: Abstentions: Absent:	I hereby certify that this is a true and correct copy of an action taken and entered into the minutes of the Board of Supervisors. Date:____ Attest: DIXIE L. FOOTE, Board of Supervisors Clerk By:____

COUNTY OF EL DORADO

Department of Transportation
2850 Fairlane Court
Placerville CA 95667
(530) 621-5900

Planning Department
2850 Fairlane Court
Placerville CA 95667
(530) 621-5355

April 30, 2002

Board of Supervisors
County of El Dorado
330 Fair Lane
Placerville, CA 95667

Subject: General Plan Update

Meeting Date: May 14, 2002

Dear Board Members:

Recommendation:

Receive and file.

Discussion:

As indicated in earlier staff reports, the General Plan team will require periodic policy guidance from the Board as new information becomes available as part of the EIR preparation process and related County programs. Based on traffic information presented to the Variable Traffic Impact Mitigation (TIM) Fee Community Advisory Committee on April 22, 2002, it appears that significant policy direction will be needed in early June with regard to traffic and transportation issues. This report is intended to provide the Board with the traffic information that has just become available to the General Plan team and to describe in general terms the policy guidance that will be required in the near future.

Background

As part of the Variable TIM fee process, the County's transportation consultant, Fehr & Peers, has prepared an analysis of traffic demand on Highway 50 to identify roadway improvements necessary to accommodate development expected through 2012 ("2012 Demand Analysis"). The analysis was presented to the TIM Fee Community Advisory Committee on April 22. Since that time several technical updates have been made to the data presented to the Committee. A copy of the updated data will be transmitted under separate cover when it is available from the consultant. The underlying development projections are derived from the March 5, 2002 El Dorado County Land Use Forecasts for Draft General Plan report prepared by Economic & Planning Systems and presented to the Board on March 19, 2002 ("2002 EPS Report").

Summary of 2012 Demand Analysis

The 2012 Demand Analysis indicates that in the absence of additional improvements, in 2012 several segments of Highway 50 will operate at LOS F in the a.m. and p.m. peak hours. DOT staff and Fehr & Peers project that these deficiencies can be eliminated by development of the road improvement projects to be funded by the Variable TIM Fee together with already planned improvements to other County roads that provide capacity parallel to Highway 50. It appears that these improvements may allow Highway 50 to operate just better than the LOS F threshold with the level of development expected through 2012.

The development projections used in the 2012 Demand Analysis were based on the "No Project" forecasts in the 2002 EPS Report. That is, the traffic study for the TIM Fee assumes that the writ will remain in effect and that only development allowed to proceed under the writ will take place. The TIM Fee would be updated and revised based on new growth projections at such time as the new General Plan is completed and the writ lifted. Under the TIM Fee's No Project forecasts, roughly 13,000 new homes are expected to be built in the County by 2012. The 2012 Demand Analysis also assumed that the casino project would be operational by 2012. Members of the Community Advisory Committee have suggested that the casino may not be operational by 2012 and have requested information regarding roadway capacity in the absence of the casino. The Variable TIM Fee consulting team is preparing this information.

Implications for the General Plan Process

Fehr & Peers has proceeded with the 2012 Demand Analysis in advance of its work on the traffic analyses for the General Plan. Therefore, as of this date, the General Plan Team does not yet have information regarding traffic impacts of the various alternatives at the General Plan planning horizon of 2025. However, the 2012 Demand Analysis provides useful initial information regarding the likely results of the traffic analysis for the No Project alternative in the EIR. The analysis indicates that even with the improvements to be financed by the TIM Fee and improvements to other roadways in the County financed by other fees, Highway 50 will operate at only LOS E in 2012. Moreover, the level of service in 2012 is expected to be very close to LOS F.

The General Plan adopted by the Board in 1996 called for maintaining levels of service of E or better throughout the County with the exception of certain roadway segments identified in the General Plan. The project description and 1996 General Plan alternative being evaluated in the EIR include the 1996 LOS E policy together with policies based on Measure Y requiring voter approval to add roadway segments to the list of segments allowed to operate below LOS E and imposing concurrency requirements on new development approvals.

Because the 2012 Demand Analysis indicates that Highway 50 with the improvements contemplated by the Variable TIM Fee will be approaching LOS F after development of an additional 13,000 units, we can infer that, as additional projected development occurs after 2012, it is likely that roadway capacity will be further constrained. Thus, it appears that

some combination of significant additional roadway/transit improvements and traffic/growth management programs will be required to respond effectively to either the roughly 21,000 new units expected by 2025 under the No Project scenario or the 32,000 new units expected by 2025 under the proposed project and the 1996 General Plan alternative. Of course, it is not possible to project roadway deficiencies until the 2025 traffic analysis has been performed. Staff expects the initial analysis to be completed by early June. Staff is presenting the limited information that is available to the Board at this time as part of its ongoing effort to keep the Board informed of significant developments in the General Plan process.

State law requires that the land use and circulation elements of the General Plan be correlated with one another. The data provided by the 2012 Demand Analysis indicates that to satisfy this requirement and maintain the Countywide LOS E policy of the 1996 General Plan and the proposed policies based on Measure Y, the proposed project description and 1996 General Plan alternative will need to be refined to include some combination of (1) a roadway expansion and transit improvement program to allow the development authorized by the land use maps to proceed without causing levels of service below E and (2) a development tracking and phasing program to ensure that development does not proceed in advance of necessary roadway improvements and other transit systems. These options are discussed briefly below and will be addressed in more detail as additional information becomes available.

The extent and feasibility of roadway expansions and transit improvements that could be needed to accommodate projected development under the proposed project and alternatives is unclear at this time. After the 2025 no project analysis has been completed, staff will return to the Board with general information regarding the nature of roadway and transit improvements that would be required to accommodate the level of development expected under that alternative. These may include roadway expansions, interchange improvements, and expanded transit programs. Based on this information staff will request general guidance on the nature of the roadway expansion/transit improvement program to be evaluated in the project description and the 1996 General Plan alternative.

If the roadway expansion and transit improvement program options available to the County would be insufficient to accommodate projected demand under the alternatives, it would appear that the County may need to consider some form of development tracking and phasing program as part of the new General Plan to ensure that growth does not outpace roadway capacity. While the concurrency policies based on Measure Y establish a general concurrency program to implement the 1996 General Plan's LOS E standard, the data available at this time indicates that the discrepancy between available roadway capacity and permitted land uses may be much larger than anticipated under the 1996 General Plan. This indicates that a more detailed program may be necessary to ensure continued compliance with the LOS E standard through 2025 by accounting for the location and type of trips to be generated by specific development proposals and possibly limiting new development using one or more of the mechanisms to affect latent demand outlined in the County Counsel's July 6, 2001 report to the Board regarding the Entitlement Status of Approved Development Projects. After additional traffic information is available, staff will be seeking Board guidance on the details of a development tracking and phasing program.

The EIR would evaluate the feasibility and efficacy of any proposed roadway/transit improvement programs in accommodating the land uses authorized by the General Plan as well as the environmental impacts of those programs. Similarly, the EIR would evaluate the feasibility, efficacy, and impacts of any proposed development tracking and phasing program. In this regard the County will need to consider any limitations that might be imposed on such a program by the development agreements previously entered by the County and the requirements of state housing laws.

After additional traffic information is available, staff will also be seeking Board guidance on the Board's preferred approach to developing the Road Constrained alternative for the environmental impact report. As explained in the Notice of Preparation for the EIR, this alternative will be designed to minimize the extent of improvements to the County's road system beyond those currently planned. Staff will seek guidance from the Board as to what, if any, additional improvements should be included within this alternative. Because a limited circulation system will limit the amount of development that can be accommodated in the County, staff will also request guidance as to whether the reduced development should be reflected in (1) revised land use designations (that would place development in regions where traffic is not a constraint and limit development in areas where there is limited capacity to accommodate increased traffic) or (2) a policy of growth limitations imposed by a development tracking and phasing program.

Fiscal Impact:

None.

Net County Cost:

No impact to Net County Cost.

Action to be taken following approval:

County staff and consultants will continue to develop the General Plan in accordance with prior Board direction.

Sincerely,

Matthew C. Boyer
Director of Transportation

Conrad Montgomery
Director of Planning

Attachment - Memo to Variable TIM Fee Community Advisory Committee with updated attachments

Smith, Kempton & Watts

Consulting and Governmental Relations

MEMORANDUM

To: Community Advisory Committee

From: Will Kempton, Smith & Kempton

Date: April 19, 2002

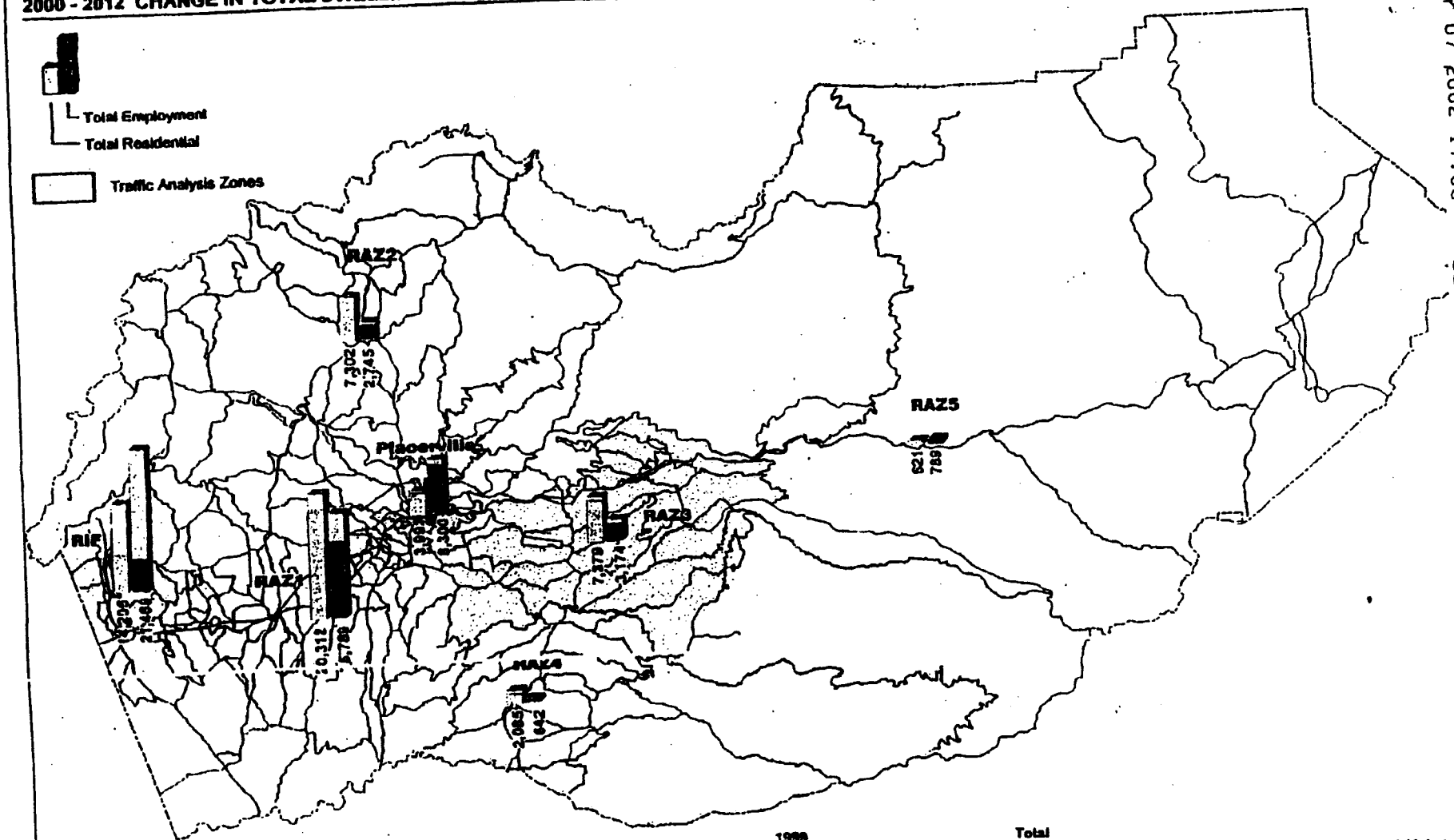
Subject: El Dorado Highway 50 Variable TIM Fee Project

As promised at our last meeting, we wanted to provide you with as much information as possible for your review prior to a subsequent meeting. Due to additional time required for modeling work, we are not able to provide you with a full draft fee proposal just yet. However, we have included a table that shows the trip contribution split by RAZ for the SR 50 projects that reach LOS F within the 10-year horizon date of 2012. Also, please find meeting agenda, a revised list of potential projects to be included in the fee program, and an updated schedule of activities.

At our meeting on Monday, April 22, 2002, we will review this information and answer any questions. We appreciate your involvement and patience as this process continues to evolve. Please do not hesitate to contact me before our Monday meeting with any questions or concerns.

980 Ninth Street, Suite 1560 • Sacramento, CA 95814
Telephone: (916) 446-1508 • Fax: (916) 446-1499

EL DORADO COUNTY GENERAL PLAN NO PROJECT ALTERNATIVE
2000 - 2012 CHANGE IN TOTAL DWELLING UNITS AND EMPLOYMENT BY FEE DISTRICTS



District	1999 (Dwelling Units)	2012 Increase	Total (Dwelling Units)	1999 (Jobs)	2012 Increase	Total (Jobs)
RIF	5,936	8,270	14,206	4,952	16,517	21,469
RAZ1	17,898	2,616	20,312	11,664	4,105	15,769
RAZ2	6,531	771	7,302	2,409	336	2,745
RAZ3	6,788	591	7,379	2,613	561	3,174
RAZ4	1,568	517	2,085	471	171	642
RAZ5	475	146	621	772	17	789
Pville	3,585	406	3,991	7,613	687	8,300
TOTAL	42,579	13,317	55,896	30,494	22,474	52,968

Mt. Democrat

Traffic study includes casino, will be redone without it

By OLIVIA LOY
Staff writer

June 17, 2002

In what required an extended contract with an outside firm, the Board of Supervisors last Tuesday decided to approve an additional study on traffic patterns for the Highway 50 corridor.

Though the study was near completion already "there was a desire to see what the traffic results would be without the (Indian) casino," said Director of Transportation for the county Matt Boyer.

Now, the new study will project and analyze traffic patterns taking the casino out of the equation. The study already performed looked at future traffic patterns with the casino up and running in its proposed location east of Shingle Springs Drive and west of Greenstone Road.

One of the main purposes of the study, and others like it, is to determine the amount of Traffic Impact Mitigation fees developers will have to be assessed to cover the cost of future improvements to the highway, according to Boyer.

In order to reassess the "trip generation studies," the district fee boundaries have to be modified, said Will

see HWY 50, page A-8

HWY 50

continued from A-1

Kempton of Kempton & Smith.

The travel demand model runs, as they are referred to, basically use a computer model that translates future development into traffic related data.

The studies will determine also what improvements should be made to the corridor in order to meet Measure Y standards.

Making the needed improvements is estimated to cost between $60 million and $70 million and will not be completed for another 10 years, said Kempton. He added that the cost figure " is just an estimate. The number is not final."

The county's contract with Kempton & Smith, originally set at $60,000, now totals $78,000.

Though residential and non-residential TIM fees will be assessed differently, said Kempton, the county has not yet concluded how either will be set. But, the delay and additional studies now underway "will not impact the fee structure," he said.

Boyer predicted the project to be finished in another five weeks, so that by July's end a complete draft program would be ready.

The study began last spring.

All five supervisors were present at the meeting.

Attachment 4

Comment Letter #41

41-1 The comment identifies a county-wide ballot initiative to establish mitigation within El Dorado County, and then asserts that the EIR/EA is flawed because there is limited references to Measure Y, adopted by the voters of El Dorado County, in 1998, and because the proposed mitigation for traffic is legally inadequate because that mitigation does not conform to Measure Y requirements.

Measure Y is not applicable to the analysis conducted by the Lead Agencies for several reasons: this county-wide Measure is not directly applicable to consideration of traffic impacts generated by the proposed Interchange Project because the contributions and analysis required by Measure Y, by its own terms, is triggered by applications for residential subdivision maps submitted to El Dorado County for approval containing five or more parcels. See Measure Y Policy 3.2.1.5. With respect to Measure Y, under the principles of tribal sovereignty in federal law, Measure Y as a County measure does not apply to development on the Tribe's land, or over land it exercises sovereign control, as for example an Indian Reservation Road. See *Brendale v. Confederated Tribes and Bands of Yakima Nation* (1989) 492 U.S. 408, 109 S. Ct. 2994. Mitigation for off- reservation impacts will be determined exclusively by the terms of the Tribal Off-Reservation Impacts Ordinance.

Also, Measure Y as a County measure does not apply to Caltrans approval of an interchange or to BIA actions relating to the IRR System, because County measures do not govern state and federal agency approvals. Thus Measure Y as a County measure does not apply to the activities evaluated in this EIR/EA (or to the Tribe's proposed development evaluated in the NIGC EA and incorporated into this EIR/EA). Further, Measure Y's provision that developers shall fully pay for all road capacity improvements (General Plan Policy 3.2.2.4) also applies only to residential developments (see General Plan Policy 3.2.1.5 contained within Measure Y which requires findings of consistency with Measure Y for "a residential development project of five or more units"). Because Measure Y imposes requirements on developers of residential projects, Measure Y does not apply to the calculation of mitigation measures for a freeway interchange (the subject of this EIR/EA) and also does not apply the calculation of mitigation measures for a tribal casino (the subject of the EA prepared by the National Indian Gaming Commission, and also an indirect impact of the interchange, and thus analyzed by incorporation by reference in this EIR/EA).

The amount of traffic anticipated to be generated from the proposed Interchange Project results from the hotel/casino project, analyzed in the EA dated December 2001. The project is therefore commercial in nature. Further, Measure Y

compliance applies only to projects over which El Dorado County has jurisdiction, under California's planning process. Given the federal nature of all land use activity on the Rancheria, and the joint federal and state nature of the evaluation, design and construction of the proposed Interchange, El Dorado County has no discretionary approval jurisdiction thereby requiring application of the principals or mitigation requirements of Measure Y to the Proposed Interchange Project.

41-2 The commenter requests an analysis of potential traffic impacts and related mitigation measures at the Sacramento County/El Dorado County line. Neither the proposed interchange project nor the hotel/casino project is anticipated to make a considerable contribution to the cumulative traffic situation on Highway 50. Nonetheless, the EIR/EA proposes mitigation for mainline impacts on Highway 50 in the form of a fair share contribution towards mainline improvements.

These specific mainline improvements would include auxiliary lanes between El Dorado Hills Boulevard and the proposed Empire Ranch Road interchange (the easterly ramps located at the County line) as follows:

- Auxiliary lanes are lanes that extend from one interchange to the next. Vehicles entering the freeway from an on-ramp enter into their own lane. This lane in turn will terminate at the next interchange as an "exit only" lane.
- Traffic operations benefit from auxiliary lanes in that there is more room for vehicles to conduct merge/diverge movements.
- Within a particular segment (i.e. between interchanges) the mainline level of service is improved by auxiliary lanes, although the overall capacity of the system is not increased.
- Auxiliary lanes could be constructed between El Dorado Hills Boulevard and Empire Ranch Road by median widening. The mainline high occupancy vehicle (HOV) lane project currently under construction will leave an unimproved median width of 14.14 m (46.4 feet). The addition of two paved lanes within the median (with construction of concrete median barrier) would leave a median width of 6.94 m (22.77 feet), which is the same as the recently constructed U.S. Highway 50 segment between Folsom Boulevard and Hazel Avenue.
- Existing 2.4 m (8 feet) outside shoulders would be widened to 3.0m (10 feet) within the limits described.
- The HOV lanes currently under construction would then transition into this median area, with subsequent shifting of lanes 2 and 3, with the outside lanes becoming auxiliary lanes between the two interchanges.
- Appropriate transitions would need to be provided (290 m minimum), with the additional assumption that the median widening would include median decking of the undercrossing at El Dorado Hills Boulevard.

- The estimated construction cost of these improvements is $11.5 million. With engineering and administration costs, the total project cost is estimated at $15.5 million.

Please see Response to Comment 51-13 for more detail on these potential impacts and related mitigation measures.

41-3 This comment states that the EIR/EA does not adequately evaluate the economic impact of the interchange, including the economic impact of U.S. Highway 50 at LOS F. The commenter asserts that the economic impacts of the interchange on El Dorado County when U.S. Highway 50 reaches LOS F in 2012 should be analyzed. The commenter seeks analysis of alleged South Lake Tahoe economic damage as a result of construction of the proposed interchange project.

The EIR/EA does evaluate socioeconomic impacts of the interchange. With respect to economic impacts of traffic, however, such impacts might occur only if there are unmitigated significant traffic impacts. The analysis in the EIR/EA demonstrates that the potentially significant traffic impacts of the interchange (and the casino) can be mitigated and thus will not create the LOS F condition that the commenter suggests may create economic impacts.

Under NEPA, socioeconomic impacts are to be analyzed in EISs, but not in EAs. 40 CFR, Section 1508.8(b). However, BIA makes a "good faith effort" to explain the environmental and socioeconomic effects of the project alternatives that are known and "reasonably foreseeable." The BIA NEPA manual suggests analyses of socioeconomic impacts, even though NEPA does not require such a discussion in EAs. Thus the agency has the responsibility to make an informed judgment and estimate future impacts on that basis. The EIR/EA evaluates the indirect effects of the project, but the EIR/EA does not and need not analyze the economic impacts of a competitor, such as South Lake Tahoe. Analysis of impacts on competitors is not required by NEPA. Also please see Response to Comment 51-11.

Under CEQA, potential socioeconomic impacts of a project are not required to be analyzed unless it is clear that such impacts could result in a physical environmental impact, CEQA Guideline 15131, and economic or social impacts alone "shall not be treated as significant effects on the environment" (id.). Nonetheless, as stated above, the EIR/EA makes a good faith effort to describe the potential social and economic consequences of the proposed Interchange project. Please see Response to Comment [regarding traffic mitigation on Highway 50].

41-4 The commenter challenges the EIR/EA on the grounds of segmenting. Please see Responses to Comments 36-2 and 41-1.

41-5 The commenter questions the interchange project's potential impacts to the historic rail corridor. Please see Responses to Comments 19-4, 27-1, and 39-16.

41-6 The commenter questions future expansion plans for the Rancheria such as RV parks, gas station, stores and worker housing. The Tribe has no plans to construct these types of uses. The foreseeable consequence of the interchange project is the proposed hotel and casino project as described in the EA for that project and incorporated into the EIR/EA for the interchange project.

Stephan C. Volker
Eileen M. Rice
Heather A. Dagan

Law Offices of
STEPHAN C. VOLKER
436 14th Street, Suite 1300
Oakland, California 94612
TEL: 510/496-0600 FAX: 510/496-1366
Email: svolker@volkerlaw.com

File 10.261

June 20, 2002

VIA ELECTRONIC MAIL (karen_mcwilliams@dot.ca.gov) – ORIGINAL BY U.S. MAIL
Karen McWilliams
District 3 Office of Environmental Management
California Department of Transportation
2800 Gateway Oaks Drive
Sacramento, CA 95833

Re: Comments of Voices for Rural Living and Shingle Springs Neighbors for Quality Living on Draft Environmental Impact Report/Environmental Assessment for Shingle Springs Interchange Project

Dear Ms. McWilliams,

On behalf of Voices for Rural Living and Shingle Springs Neighbors for Quality Living, we submit the following comments on your Draft Environmental Impact Report for the Shingle Springs Interchange Project.[1]

42-1

I. THE DEIR/EA THAT WAS CIRCULATED FOR AGENCY AND PUBLIC REVIEW LACKS ESSENTIAL INFORMATION THAT IS REQUIRED BY CEQA AND NEPA FOR ADEQUATE REVIEW OF IMPACTS

[1] The following documents are included by reference in these comments:

1.) Letter from Voices for Rural Living to Ken Van Velsor, Caltrans (August 4, 2001) re: NOP for the subject DEIR/EA including the letter's attached comments submitted by Stephan Volker on the Environmental Assessment: Shingle Springs Rancheria Hotel and Casino Project, El Dorado County, California.

2.) Letter from Stephan Volker to Ken Van Velsor, Caltrans (August 6, 2001) re: NOP for the subject DEIR/EA including attachments.

The Draft Environmental Impact Report ("DEIR") / Environmental Assessment ("EA") circulated for public review does not include key studies on several potential environmental impacts of the Shingle Springs Interchange Project ("Project" or "Interchange Project"), which are necessary for informed public review. The DEIS/EA contains 14 separate appendices (A thru K), which appear as the final 392 pages of the DEIR/EA document. Scores of the DEIR/EA were circulated for formal review and any reviewer would observe that these appendices existed and were easily accessible. These appendices contained both technical and non-technical data. The DEIR/EA table of contents lists these appendices, however, it does not note that there is an additional volume of key data available.

There is, in fact, a second set of "appendices" consisting of the following technical studies:

Air Quality – 52 pages
Noise and Vibration – 22 pages
Cultural Resources – 22 pages
Community Impact Assessment – 47 pages
Geology, Soils and Seismicity – 22 pages
Hydraulic – 30 pages
Natural Environment – 79 pages
Water Quality – 24 pages
Hazardous Material – 73 pages
42-1 Cont. Transportation/Circulation – 188 pages
Visual Resources – 40 pages

This second set of appendices is not referred to in the Table of Contents of the DEIR/EA. Individual technical studies are referred to on Page 5.2-2, Page 5.4-5, Page 5.4-8, Page 5.4 - 9, and Page 5.4-15. Anyone picking up the DEIR/EA would assume that they have in their hands the complete document with its appendices and would have no reason to believe that there was a second set of appendices for this DEIR/EA.

It is the contention of Voices For Rural Living that these technical studies, although omitted from the DEIR/EA, are substantive documentation integral to the implementation of the CEQA review of the Shingle Springs Interchange Project. That documentation was not made available to agencies and the public. It should have been attached as appendices and circulated with the DEIR/EA so that the entire DEIR/EA including its "appendices" could be reviewed as a unit.

CEQA regulations regarding information that must be contained in an EIR state that review of technical data, maps, plot plans, diagrams, and similar relevant information must be sufficiently summarized "to permit full assessment of significant environmental impacts by reviewing agencies and members of the public." § 15147. Further, highly technical data may be included in "appendices to the main body of the EIR." *Id.* Such

appendices "shall be readily available for public examination and *shall be submitted to all clearinghouses which assist in public review.*" *Id.* (emphasis added).

In its Public Notice of Availability of the DEIR/EA, Caltrans states certain "technical reports" are available for public review only in its Sacramento office during business hours. Although the DEIR/EA was also available from the Bureau of Indian Affairs ("BIA") or online at the Department of Transportation website, no other alternative for review was offered with regard to the maps/plans or technical reports. Rather, those key documents could be reviewed only at a location one hour's driving time from the interchange site and affected community.

In truth, these technical studies should have been an actual part of the DEIR/EA document even if it meant adding a second volume. Multi-volume DEIRs are quite common. If it is the author's goal to avoid a bulky document, this goal should not be achieved at the expense of complying with state and federal laws regarding the public's right to review. *See*, *Sierra Club v. Bosworth*, 199 F.Supp.2d 971 (N.D. Cal. 2002); *Robertson v. Methow Valley Citizens Council*, 490 U.S. 332, 349 (1989) (NEPA "guarantees that the relevant information will be made available to the larger audience").
42-1 Cont. Under NEPA the Court must "ensure that the procedure followed by [the agency] resulted in a reasoned analysis of the evidence before it, and that the [agency] made the evidence available to all concerned." *Friends of Endangered Species, Inc. v. Jantzen*, 760 F.2d 976, 986 (9th Cir. 1985). 40 C.F.R. § 1502.18(b) (Appendices must contain "material which substantiates any analysis fundamental to the impact statement"). These technical studies, especially transportation studies critical to a transportation project, must be widely circulated in order to comply with the spirit and letter of CEQA. In our estimation, the DEIR/EA must be recirculated for formal review with all pertinent appendices attached, particularly the Transportation/Circulation Technical Study. 40 C.F.R. §1502.9(a), §1502.9(c)(1)(ii), §1502.9(c)(2).

A. Transportation/Circulation Technical Study Withheld

The second set of appendices – not circulated with the DEIR/EA – contains the Transportation/Circulation Technical Study, Shingle Springs Rancheria Interchange Project by David Evans and Associates, Inc. dated 4/30/02, consisting of 188 pages. This 188-page traffic study is critical to the formulation of the author's findings and to the public review of the DEIR/EA.

42-2 Caltrans is well aware from the public record that traffic generation by the casino project is controversial and has been extensively commented on by agencies and the public. Over 200 individuals, groups and agencies commented negatively on the Environmental Assessment: Shingle Springs Rancheria Hotel and Casino Project, El Dorado County, California. The majority of the comments related to traffic and air quality issues, and they vigorously disputed the casino project's traffic generation figures in terms of casino trip generation and passer-by diversion trips. Yet, despite the traffic issue's prominent role in the EA process, Caltrans has secreted important traffic studies in its remote Sacramento office.

42-2 Cont.

Even if the 188 pages of technical traffic studies are in some manner summarized in the DEIR/EA, agencies and the public have a right to reasonable access to this data under the California Environmental Quality Act and the National Environmental Policy Act. 42 U.S.C. §4321 *et seq.*, 40 C.F.R. 1500.1(b) ("NEPA procedures must ensure that environmental information is available to public official and citizens before decision are made and before actions are taken. The information must be of high quality. Accurate scientific analysis, expert agency comments, and public scrutiny are essential to implementing NEPA." CEQA requires a full disclosure of information that is germane to environmental effects of a project. Pub. Res. Code §§ 21000, 21001. The traffic impacts of the Casino are central to the environmental effects of this interchange project, and providing such limited availability of 188 pages of critical technical documentation is tantamount to withholding of information that is critical to the implementation of the CEQA process. Such "withholding" is a denial of due process and is clearly a violation of CEQA and NEPA.

42-3

B. Community Impact Assessment Withheld

Section 5.2 treats land use, zoning and adopted policies. On page 5.2.2, Paragraph 2 states: "In light of these statutes and their respective guidelines for the treatment of land use impacts, the challenge faced by lead agencies charged with preparing CEQA-NEPA environmental documents is great. In order to help meet this challenge, and satisfy CEQA and NEPA by evaluating/reporting how proposed project land uses will affect the environment as well as the people, institutions, neighborhoods, communities and larger social and economic system, Caltrans conducted a technical study. This study, known as the *Shingle Springs Rancheria Interchange Project Community Impact Assessment*, examined potential neighborhood impacts, household impacts, environmental justice impacts, regional economic impacts, impacts on local businesses, property value effects, community facilities and services impacts, land use impacts, growth inducement and cumulative impacts of the project area (Figure 5.2-1) and Region."

The DEIR/EA goes on to devote 5½ pages of text and two maps to this most critical area of impacts, all based on the afore mentioned technical study: *Shingle Springs Rancheria Interchange Project Community Impact Assessment*. However in no place in section 5.2 or elsewhere is it mentioned how a reviewer can actually get a copy of this technical study. It is not stated that this study is part of the "technical studies" wherein can be found the Transportation/Circulation Technical Study. Certainly a land use specialist who does not review traffic engineering studies would not even know of the existence of an appendix of technical studies if he was reviewing only section 5.2 where in there is no mention of the technical studies that can be reviewed at a Caltrans office in Sacramento.

Once again, this constitutes the withholding of critical information needed by agencies and the public in order to perform an adequate review of a CEQA/NEPA document. This technical study contains information and findings on a wide range of

community impacts including land use impacts, growth inducement and cumulative impacts.

42-3 Cont.

In our estimation, the DEIR/EA must be recirculated for formal review with all pertinent appendices attached including the *Shingle Springs Rancheria Interchange Project Community Impact Assessment.*

II. THE DEIR/EA RELIES SOLELY ON TRAFFIC GENERATION DATA PROVIDED BY THE PROPONENTS OF THE SHINGLE SPRINGS CASINO. CALTRANS HAS FAILED TO PERFORM AN INDEPENDENT ANALYSIS OF TRAFFIC GENERATED BY THE CASINO THAT WILL UTILIZE THE PROPOSED INTERCHANGE

Caltrans is obligated to independently analyze the traffic and air quality impacts of facilities that it constructs regardless of who is funding the project. 40 C.F.R. §1502.1 (NEPA requires "full and fair discussion" and statements shall be "supported by evidence that the agency has made the necessary environmental analyses"); CEQA Guidelines § 15084(e); *Citizens to Preserve Ojai v. County of Ventura* (2d Dist. 1995), 176 Cal.App.3d 421, 432 (agency itself must conduct reasonable amount of original research to determine project's environmental effects). An analysis of the traffic data and air quality data used in the Final Environmental Assessment: Shingle Springs Rancheria Hotel and Casino Project, El Dorado County, California shows that the same data was used by Caltrans in the subject DEIR/EA. Caltrans did no additional, independent research on traffic generation by this casino development which is the generator of over 98% of the traffic on the Caltrans interchange.

42-4

Caltrans had available the Barona study from San Diego which contradicts Caltrans trip generation assumptions yet Caltrans did not discuss or rebut that study. Caltrans is aware of the fact that an event center with the potential for an additional 4,810 plus peak hour trips (or double for two shows nightly) had been casually pulled from the project by a simple statement in the EA's FONSI that it was no longer included in the project. The issue of the event center is discussed elsewhere in these comments, and Caltrans has an independent obligation under CEQA to analyze the traffic and air quality impacts of that center since it is a foreseeable consequence of the project.

Probably most significant is the fact that in several hundred pages of transportation analysis, nowhere is there presented a set of floor plans that shows square footages of buildings and uses to be constructed that would allow precise calculations of trips generated. Such calculations are the most common methodology used by traffic engineers to determine traffic generated by a land use development. Caltrans simply has taken numbers of square feet and trip generation factors fed to it by the casino developers and never independently verified those numbers.

III. THE DEIR/EA MISSTATES TRAFFIC IMPACTS BY ERRONEOUSLY ASSUMING THAT TRAFFIC VOLUMES ON WEEKENDS WILL EXCEED VOLUMES DURING THE WEEK

Higher traffic volumes during the week result in overall higher traffic impacts and air quality impacts. If the DEIR/EA has seriously understated its peak hour traffic impacts then it is seriously flawed and the air quality conformity analysis that was based on those erroneous impacts is also flawed.

The DEIR/EA assumes the Shingle Springs Casino will generate 9,404 weekday trips and 14,088 Saturday trips (Table 5.4-6, page 5.4-10). We believe these traffic volumes would be in fact reversed with the greatest volumes being on week days, not the weekend. We offer the following reasons for our position:

1.) Nevada Casinos particularly South Lake Tahoe casinos attract overnight visitors because of their distance from the markets of the Northern California Bay area and central valley. Also South Lake Tahoe casinos attract overnight visitors which come for outdoor recreation and sightseeing at a world class scenic environment. There is no reason to assume that visitors to Shingle Springs would have the same travel and visitation pattern as a visitor to South Lake Tahoe. Indeed the DEIR/EA offers no basis for its claim that visitation and travel patterns for the Shingle Springs Casino would be higher on a Saturday than on a Friday.

VRL has maintained for some time that large Indian casinos in Southern California operate differently from Nevada casinos. It is our contention that these casinos
42-5 attract major portions of their business during the week rather than on weekends and that they achieve high traffic volumes because the gamer comes for a few hours rather than a few days, thus a high turnover of gamers.

2.) The Shingle Springs Casino is substantially closer (over 1 hour in good driving conditions each way) and more convenient (no snow and ice in the winter). Because of the Shingle Springs Casino's proximity to its markets, it can reasonably expect to attract more day visitors rather than long term overnight visitors. For this reason the Shingle Springs Casino provides only 250 hotel rooms (418 within 10 miles), South Lake Tahoe has 2,253 rooms at its casinos (10,000 within 10 miles) and Reno/Sparks has 12,800 at its casinos (25,000 within 10 miles). Obviously the Shingle Springs Casino does not expect its patrons to stay overnight.

3.) The attached table that was put together by VRL (Comparison of Shingle Springs Casino with Tahoe and Reno) (Attachment 1)[2] shows ample statistics that indicate the number of gaming visits to the casino, market share, number of hotel rooms etc., all of which can paint a picture that this is a day users casino rather than an overnight, destination resort. This being the case it can easily be deduced that you don't have to take a day off (to stay overnight) to use this casino. Visitors can come up for

[2] Attachments to this letter have been submitted by facsimile and U.S. mail.

gambling during the day or evening and return home a few hours later; they do not have to wait for Saturday and Sunday to go gambling.

From the above it can be assumed that there is no reason to believe that the Shingle Springs Casino will replicate the travel pattern of South Lake Tahoe with Saturday/Sunday being big travel days. There is, however, evidence that would indicate that weekdays are the big travel days for a large casino near urban gambling markets in California.

4.) In February of 2000, the county of San Diego undertook a 7-day, 24-hour driveway count of the Barona Casino in San Diego County. The results of that study are attached as Attachment 2. At that time Barona was one of three casinos in the county and has since expanded significantly. That traffic study is attached and it showed two significant things. First the casino generated the most traffic on Friday, then Thursday, then Wednesday, then Tuesday, then Monday, then Saturday and finally Sunday. At the Barona casino which at that time was generating on a weekday ½ of what the Shingle Springs Casino expects to generate on a weekday, Saturdays were the 6th busiest day of the week and even Mondays generated more traffic than a Saturday! This is completely the opposite of what the project proponent's traffic studies predict for the Shingle Springs Casino, yet Barona is also close to an urban area (San Diego metro) and generates high daily volumes of visitors. The second significant feature of the Barona traffic study is that it shows the evening week day commute hours of 4-7pm as being the busiest times of the week which indicates that the casino traffic adds to the already present high evening commute peak hour traffic. The Friday peak hour traffic at 4-6pm is the highest 2 hour traffic period for the entire week.

42-5 Cont.

While the proponents of the Shingle Springs Casino claim that their total traffic generation will be 32% HIGHER on a Saturday than on a weekday, the actual engineering data at the Barona casino shows that traffic there is substantially lower on a Saturday. In fact during the busiest hour on a Friday (5:00 - 6:00 pm) the traffic volume is 27% HIGHER than the busiest hour on a Saturday (12:00 - 1:00 pm). Also important is the fact that during the weekdays which are the busiest casino days of the week at Barona, the traffic is very consistent, day-to-day. The San Diego County Preliminary Traffic Assessment of Indian Gaming projects in the San Diego Region dated October 17, 2000, Page 6 states: "The Barona Casino driveway counts, as provided in Exhibit A, indicate that although the highest 24-hr traffic volumes occur on a Friday, they were only approximately 15% higher than the traffic volumes that were occurring on the other week days (Monday through Thursday)." (Attachment 3[3])

We feel that the proponents of the Shingle Springs Casino have based their contention that casino traffic is highest on a Saturday because they have surveyed much more rural northern California casinos and because they expect through their marketing studies for this casino to mimic the Saturday market of Tahoe. It is our contention that

[3] The October 17, 2000 traffic report cited to here as Attachment 3 is contained as an appendix to the November 1, 2000 Report on the Potential Impact of Tribal Gaming on Northern and Eastern San Diego County. Due to its large size, the full report is not reproduced here.

because this casino will have a superb location very close to a large metropolitan market just as is enjoyed by the San Diego casinos, that this casino will perform more as do the San Diego casinos than as do the more rural and much smaller northern California Indian casinos.

42-5 Cont.

It is the position of Voices for Rural Living, et al. ("VRL") that there is no reason to believe that high traffic at the Shingle Springs casino will be on Saturday and every reason to believe that it will be on weekdays during the already congested pm peak hour. It is the duty of the DEIR/EA authors to respond and prove otherwise.

IV. THE 40% PASSER-BY DIVERSION CAPTURE RATE OF CASINO TRAFFIC IS UNSUBSTANTIATED

The traffic analysis on pages 5.4 – 13,15 assumes that: "40% of the peak hour trips generated by the proposed casino project would be trips that are already assumed to exist within existing (and future projected baseline) US - 50 traffic volumes during peak hours. Following the completion of the casino and interchange, this 40% is assumed to stop at the site rather than continuing past the site, which they would do in the absence of the development."

Passer-by diversion capture is very important to a project proponent because these trips are considered to not have an impact on the mainline or adjacent roads, since they are vehicles that would have been on the road anyway even if the casino project and interchange were never built. Therefore those 40% of vehicle trips have neither a traffic impact nor air quality impact.

The 188-page technical study does not shed any new light on how they can prove that on any given day 40% of the casino traffic would have been on Hwy 50 at the project area anyway.

42-6

In the Final Environmental Assessment: Shingle Springs Rancheria Hotel and Casino Project, El Dorado County, California, Summary Comments and Responses to Comments (dated December 2001), on page 50 we find a particularly "lucid" justification of the 40% figure:

> "The '*Environmental Assessment for the United Auburn Indian Community of the Auburn Rancheria*' (Environmental Science Associates, June, 2000) assumed that a minimum of 30% of the trips generated by the casino would be 'pass-by' trips. Since this facility is located a few miles off from I-80, it is reasonable that the passer-by capture for a facility located immediately next to a major freeway such as Shingle Springs would attract a higher passer-by percentage, thus 40% seems reasonable in comparison."

The two casinos are comparable in size and no logic is offered as to why the Shingle Springs Casino would be able to generate 10% more passerby traffic just because it is a bit closer to a freeway. Highway 80 in Roseville carries double the traffic that

42-6 Cont.

Highway 50 in Shingle Springs, thus radically increasing the pool of available passers-by to capture at the Placer County Casino. Going to a casino is not a casual impulse trip – one could make the argument that a freeway passer-by that is intent on visiting a casino would just as easily drive 3 miles off a freeway as he would 3/10ths of a mile. Further, it is likely that this increased pool of vehicles on I-80 would more than offset the advantage of Shingle Springs' closer proximity to the freeway, and an argument could be made that the Roseville casino would in fact generate a much higher percentage of passer-by traffic than Shingle Springs would. Using this analysis, it appears that the Shingle Springs Casino would actually generate a *lower* percentage (less than 30%) than the Roseville/Rocklin Casino. This is important, because the Shingle Springs Casino proponents have stated that as long as there is a passer-by rate above 29% there are no significant traffic/air quality impacts resulting from the project. Such analysis is missing from the DEIS.

V. THE PROJECT IGNORES THE TRAFFIC AND AIR QUALITY IMPACTS FROM THE EVENT CENTER WHICH WILL SURELY BE A PART OF THE CASINO PROJECT

42-7

Attachment 4 shows the development programs for this Shingle Springs Casino as they have evolved over the last 3 years. The development scenarios are generally consistent with each other, except the proposed event center became progressively larger until December 2001. At that time, the Final Environmental Assessment: Shingle Springs Rancheria Hotel and Casino Project, El Dorado County, California, Summary Comments and Responses to Comments (dated December 2001) pg. 4 stated: "The proposed convention facility has been removed from the proposed action."

While a convention facility with a capacity for 2,500 plus persons may not be feasible at a 250 room Hotel, VRL does find it credible for this complex with superb freeway access so close to Sacramento to support a 2,500 seat special event center that would host theatre performances, concerts and boxing matches. Many small casinos in California have facilities that can be used for bingo and small concerts. For example, Attachment 5 is the schedule of events for the Jackson Rancheria, which is a far smaller facility in a much poorer location. Despite its small size, the Jackson Rancheria will host Bill Cosby, Credence Clearwater, the Doobie Brothers, Gordon Lightfoot, The Oak Ridge Boys, Merle Haggard and others. One would have to be naive to assume that the Shingle Springs Casino would not do likewise in a larger facility at a superior location.

Robert Goralka, the San Diego County Traffic engineer in charge of analyzing casino traffic, states that SANDAG uses a traffic generation factor of 1.8 trips per special event seat, a figure which is calculated separately from the traffic generation of the casino gaming area and hotel complex.

The Shingle Springs Casino historically published occupancies of 1,500 seats for a 21,000 sq. ft. facility and 2,000 seats for a 28,000 sq. ft. facility. These numbers yield a factor of 14 sq. feet per seat. Applying that factor to the casino's last published event center proposal of 37,400 sq. ft yields a result of 2,672 seats. Multiplied by 1.8 trips per

seat (SANDAG trip count per seat for event centers) and the result is 4810 trips per show. If Jackson Rancheria can have two Bill Cosby shows on a Friday night (as it did on June 14) out in the middle of nowhere, then surely the Shingle Springs Casino can do the same on a major freeway close to a metropolitan area. Many of the Jackson Rancheria shows take place on weeknights with doors opening during the PM peak travel hour.

We suggest that as a matter of convenience the casino backers dropped this facility because it would have tipped them over the edge into significant traffic and air quality impacts. These casinos are notorious for piecemeal development over time with no subsequent NEPA review after the initial one. There is every reason to believe that once the casino is constructed, an event center will soon be added (not long after the dust has settled on this CEQA/NEPA process) yet that event center will not be analyzed as part of the complete project.

42-7 Cont.

Neither CEQA nor NEPA allows piecemealing and both require disclosure at the earliest possible stages of reasonable and foreseeable impacts. *Citizens Ass'n for Sensible Development of Bishop Area v. County of Inyo*, 172 Cal.App. 151, 165-66 (1985). The development of a 2,700 + seat entertainment room at this casino complex is both reasonable and foreseeable.

VI. AIR QUALITY IMPACTS FROM THE PROJECT HAVE BEEN UNDERSTATED BECAUSE TRAFFIC GENERATION HAS BEEN SHOWN TO BE UNDERSTATED

It naturally follows that if traffic is undercounted then the air pollution emitted from that traffic will also be undercounted. It is our contention that the amount of traffic, and the hours and days of the week that that traffic is generated, has been erroneously reported in this DEIR/EA. We therefore find that the air quality section of the DEIR/EA is erroneous due to faulty traffic data.

42-8

Our Air Quality Impacts section of the Comments of Voices for Rural Living, et al. on the Environmental Assessment for the Shingle Springs Casino Project, March 16, 2001, submitted by Stephan C. Volker is incorporated here by reference.

We feel that there has been a conscious attempt to underreport traffic and air quality impacts for the casino and the interchange project. This project is a massive generator of traffic and traffic related air quality impacts and yet it has been stated to have no significant effect on the environment. We feel that the traffic analysis has been manipulated to cast this project in a favorable light for air quality purposes and that the integrity of the CEQA/NEPA process has been severely compromised. From the conscious and cavalier omission of the event center, which would generate substantial traffic and air pollutants from traffic during the evening peak hour, to the arbitrary ratcheting upward of passer-by capture rates to avoid conflict with *de minimis* thresholds, every opportunity has been used to "cook the books" on this project in order to cast it in a favorable light.

There has been absolutely no attempt to analyze this project's cumulative air quality impacts in conjunction with other existing and planned land development projects. There has been no analysis of this project's effect on the ability of El Dorado County to implement its General Plan nor consideration that perhaps this project's contribution to worsening of air quality in a designated non-attainment area might prohibit other land developments from happening or unreasonably restrict their development.

42-8 Cont.

A project level air quality conformity analysis was done prior to the public review of traffic studies and air quality studies in this CEQA/NEPA review. The cart was placed before the horse.

VII. GROWTH INDUCEMENT

We believe that the interchange itself has the potential for being growth inducing. While it is widely stated that the purpose of the interchange is to serve the Rancheria to the north of Hwy. 50, it is not shown that the interchange could not be modified so as to access properties to the south of Hwy 50. Page 6-1, line 23 states: "A unique construction design would prevent connections or access to the south side of Highway 50. Connections would also be precluded by regulation".

42-9

There is no discussion of what is unique about the construction design to prevent ramp modifications or additions that would allow access to the south side of Highway 50.

There is no discussion of what regulation would prevent "connections."

There is no discussion of the propensity of a large commercial development to induce the growth of commercial development nearby.

There is no discussion of the project inducing the development of affordable housing for its employees. On page 6-2 the DEIR/EA discusses that there will be 1,500 employees of the hotel casino but fails to mention that there will be a need for affordable housing for these employees that are in low paying jobs. There is no discussion of availability of affordable housing or plans to create more affordable housing in the area, contrary to CEQA Guidelines § 15126.2(d).

VIII. CUMULATIVE IMPACTS

42-10

The DEIR/EA fails to include the Hotel and Casino development as an integral part of the interchange project. We maintain that the two cannot be separated since the only reason that this interchange is being built is to provide access to the commercial development (hotel/casino) which is the sole funding source for the construction of the interchange.

All impacts of the Casino and Hotel project are combined with the interchange projects impacts and are thus combined and cumulative with the impacts of other regional impactors. This is not analyzed in the DEIR/EA.

The DEIR/EA fails to adequately analyze the impacts of the Hotel/Casino traffic on mainline functions of Highway 50, particularly west of El Dorado Hills Blvd.

42-10 Cont. Cumulative air quality impacts are swept under the rug. There is no quantitative analysis of how this project cumulatively will effect the environment as more land development occurs. There is no accurate picture of what cumulative role this project will play as it combines with future land developments to worsen air quality in an existing non-attainment area. The failure to provide a quantitative analysis of these impacts violates CEQA. *Kings County Farm Bureau v. City of Hanford* (1990) 221 Cal.App.3d 692, 730-737.

IX. SIGNIFICANT UNAVOIDABLE ADVERSE IMPACTS

42-11 We have repeatedly stated that this DEIR/EA has adjusted its traffic and air quality impacts to assure that they would not be significant. The Casino and Hotel Development combined with the freeway interchange project is the single biggest commercial development in the county and the single biggest commercial traffic generator yet the DEIR/EA incredibly finds not one significant unavoidable adverse impact. This conclusion clearly is wrong.

X. INDIRECT EFFECTS

Page 9-1, line 6 states: "For purposes of this EIR/EA, Indirect Effects include the development of the proposed hotel and casino on the Rancheria. If constructed, the proposed interchange (direct subject of this EIR/EA) will allow free and open access to the Rancheria thereby allowing the opportunity for development consistent with the Tribe's Land Use Plan. The foreseeable consequence of interchange construction of the hotel and casino on the Rancheria."

42-12 The above quoted statement is symptomatic of the obfuscation that has been prevalent throughout this DEIR/EA. To call the casino and hotel project an indirect effect is ludicrous. It is obvious to even the most casual observer that the $20,000,000 freeway interchange is being built only because there is a casino proposal. Even Caltrans admits that 98% of the interchange traffic will be generated by the casino. The casino backers are paying for the interchange construction. Without the casino and its funding for the interchange there would be no interchange. The Tribe knows this. BIA knows this. Caltrans knows this. The government of El Dorado County and all its citizens know this.

It is absolutely a fact that there is nothing indirect about the relationship between the casino and its freeway interchange. To state that the development of the hotel and casino is an indirect effect of the construction of the freeway interchange defies logic.

Interestingly, Section 9.2.13 on page 9-8 states that the interchange project traffic analysis "assumes traffic resulting from the hotel and casino." If the casino traffic is a direct impact of the interchange project then why is not the casino a direct impact?

The DEIR/EA cites water supply as an indirect impact, but we believe that impacts to water supply are direct. Furthermore, the Casino and Hotel Final Environmental Assessment never analyzed the impacts to the El Dorado Irrigation District ("EID") water supply of using the existing 3" water service.

42-12 Cont.

Like water supply, wastewater treatment is considered a direct effect of the project of the DEIR/EA. EID in its comments spoke to the failure of the Hotel and Casino Environmental Assessment to analyze growth inducement by the need for EID to supply sewer services to areas not presently served, should EID have to provide such services to the Rancheria in the event that its onsite water treatment facility fails. Such direct impacts and growth inducement also are impacts of the interchange project by virtue of the interchange project's direct and intimate relationship with the Hotel and Casino project.

GENERAL COMMENTS

42-13

Page 1-1 Line 19 states that the Rancheria is landlocked. This statement is incorrect because the Rancheria has had vehicular access for many years. It does not have access for a commercial venture such as a casino. This only means that the Rancheria is consistent as far as accessibility goes with its surrounding residential neighborhood.

42-14

Page 2-1 Line 21 states that "The No Project/Action Alternative assumes that no interchange, or other direct access, is provided to the Rancheria." The DEIR/EA does not analyze any other forms of accessing the Rancheria other than using the existing private road or an interchange. The discussion on page 4-10, 4.3.3 Frontage Road Alternative does not constitute adequate discussion of this alternative as required by CEQA. The discussion dwells on reasons why it would be difficult to accomplish, rather than the CEQA requirements as to presence of and level of impact if it were accomplished. The author's rationale here is particularly specious given the fact that a prior casino backer, Sharp Image, had purchased parcels with just this alternative access in mind.

42-15

Page 2-6 Line 18. We concur with NOP commenters who state that the hotel/casino project and the interchange project are in effect one project, and the effects of one are the effects of the other. They are clearly dependent on one another and co-existent; you cannot have one without the other and the interchange is, in fact, intended to be funded by the casino project. The environmental effects of the casino project must be treated in this DEIR/EA as a direct project impact of the interchange project. *See*, *Laurel Heights Improvement Assn. v. Regents of California*, 47 Cal.3d 376, 396 (1988) (EIR analysis required if future expansion and general type of future use of project are reasonably foreseeable and likely to change the scope or nature of the project and its environmental effects); CEQA Guidelines, §15064, subd. (d)(1), (2). There is a direct causal relationship between the interchange project and the casino project that it

42-15 Cont. facilitates. The hotel and casino issues are not indirect effects of the interchange project as is stated on page 2-7, line 12. Merely incorporating the NIGC EA and FONSI by reference is insufficient to satisfy the requirements of NEPA and CEQA.

42-16 Page 5.2-4, Line 23 states: "The Shingle Springs Rancheria land use plans and Environmental Management Plan are the governing policies for the growth and development on Tribal lands. They are the basis for which all proposed Tribal projects are evaluated."

We are unfamiliar with these plans and find that they are referenced here but not listed as part of this DEIR/EA nor does the latter reference how these plans may be reviewed. While the DEIR/EA does list those documents that are incorporated into this DEIR/EA by reference, it does not include these plans.

It is assumed that the Casino/hotel project and the interchange project are integral parts of any Tribal land use plans and environmental management plans and as such are "Tribal projects".

42-17 "The Shingle Springs Rancheria land use plans and Environmental Management Plan are the governing policies for the growth and development on Tribal lands," and they are "the basis for which all proposed Tribal projects are evaluated," why are they not included in this DEIR/EA, and why are they not available for review as part of this CEQA/NEPA process?

It would appear that failure to include these most important and critical plans in this environmental review constitutes a fatal flaw in this joint CEQA/NEPA process. The DEIR/EA should include such documentation and be recirculated so that adequate review can take place. 40 C.F.R. §§ 1502.9(a), 1502.9(c)(ii), 1502.9(c)(2).

42-18 Page 5.2-9, line 17 states: "Regardless of current or future land use designations or compliance with land use plans, the actual proposed use would result in few, if any, land use conflicts due to the rural residential nature of the area and the large parcel sizes that buffer surrounding properties. As such, there are no inconsistencies with regard to land use." This series of statements contains conclusions that are neither explained nor supported by fact.

42-19 Table 2-1, 5.4-9, AB. Mitigation proposed here to reduce impacts to less than significant is insufficient to satisfy the requirements of CEQA because the mitigation proposed is not built into the project, has not been guaranteed by the "project proponent" and is vague and lacking in specificity. Relying on a clause of the state-tribal compact that "the tribal government will contribute a fair share contribution to future master planned improvements as identified by Caltrans and El Dorado County..." does not satisfy the appropriate litmus test of CEQA as to what constitutes adequate mitigation.

This is especially critical since El Dorado County is an opponent of the Casino and interchange project and since the DEIR/EA clearly states on page 1-6, line 2 that El

42-19 Cont. Dorado County lacks jurisdiction over any part of the interchange project. If the county lacks jurisdiction, how can mitigation be assured by this project for future master planned improvements to be determined by the county?

42-20 Table 2-1, 5.5-2, AB. Mitigation proposed here to reduce impacts to less than significant is insufficient to satisfy the requirements of CEQA. The mitigation proposed is compliance with a local county ordinance, yet the authors of the DEIR/EA previously state that the county lacks jurisdiction over the project. If the local county lacks authority to enforce the provisions of its "Naturally occurring Asbestos and Dust Protection Ordinance," then Caltrans cannot use said ordinance as *a priori* mitigation as there is no jurisdiction to ensure compliance with the county ordinance.

42-21 Table 2-1, 5.5-3 and 5.5-4, AB, AC. A determination of Less Than Significant cannot be made. We have addressed this issue in our comment above (p. 9) that: "It naturally follows that if traffic is undercounted then the air pollution emitted from that traffic will also be undercounted. It is our contention that the traffic, and the hours and days of the week that that traffic is generated, has been erroneously reported in this DEIR/EA. We therefore find that the air quality section of the DEIR/EA is erroneous due to basing on faulty traffic data."

42-22 Table 2-1, 5.7-5, AB, AC. A determination of Less Than Significant cannot be made because only areas affected by the freeway interchange are considered and we maintain that the casino/hotel project is also part of this project and the casino/hotel cumulative impacts are not analyzed here in conjunction with the freeway interchange.

42-23 Page 6-2 and 6-3 of the EIR. There is discussion that there will be ample housing for the employees of the project. It is stated that there are 2,725 units available for renting and/or housing. There is no discussion of affordability of this housing. It is mentioned that El Dorado Hills and Shingle Springs have the greatest amounts of proposed residential housing in the West Slope region of EDC. Again, no discussion of how most of the employees will be able to afford to rent, let alone buy.

42-24 There is no discussion on the socioeconomic or other impacts on Shingle Springs of these employees and, in fact, most of Shingle Springs is not even included in the Study Area. Figure 5.2.2. The Study Area shown on Fig 5.2.2 does not go south of Highway 50 and did not even include the business and historic areas of Shingle Springs. This is a fatal flaw. How can there be addressed impacts to Shingle Springs if it is not in the Study Area? The Study Area corresponds to a Census Tract, not the impacted area.

42-25 There is an inconsistency between the statement on page 15 of 24 of the Water Quality Technical Study and page 2-7 of the Natural Environmental Technical Study. The second paragraph of the Page 15 of 24 of the Water Quality Technical Study says that "no dredge or fill is expected to take place as part of the proposed project, and so no permit will be required." However, Section 2.3 Regulatory Requirements, Permits and Approvals, Page 2-7 of the Natural Environmental Technical Study indicates that the

42-25 Cont. "Proposed Project will require a US Army Corps of Engineers Section 404 permit for approximately 0.057 acre of fill."

42-26 The introduction of Title 22 water to the subsurface has the potential to degrade the ground water. The treated Title 22 water will have up to 8 mg/l nitrates and undisclosed toxic chemicals such as THMs and NDMA. Currently the groundwater of El Dorado County, except for local contaminated areas near septic fields or other specific sources, does NOT have any nitrates. This can have a negative impact on wells in the region and, with fractured bedrock flow, the impact could be miles away in any direction.

42-27 The last sentence on Page 1-1 of the Summary of the Natural Environmental chapter discusses mitigation payments to El Dorado County for potential habitat loss within the Pine Hill gabbro formation. There is no impact analysis given for this loss in the DEIR/EA.

CONCLUSION

42-28 The Shingle Springs Interchange Project will have far-reaching significant impacts that were not adequately addressed in the DEIR/EA. Most importantly, the DEIR/EA circulated for public review does not include key technical studies on significant environmental impacts, such as traffic and air quality. In addition, Caltrans' neglect to include the casino development as a direct impact of the interchange process is an abuse of discretion and must be remedied. For these reasons, we request that a revised DEIR/EA be circulated for public review, as required by CEQA and NEPA.

Very truly yours,

Stephen C. Volker
Attorney for
Voices for Rural Living and
Shingle Springs Neighbors for Quality Living

Attachments

Law Offices of
STEPHAN C. VOLKER
436 14th Street, Suite 1300
Oakland, California 94612
TEL: 510/496-0600 ◆ FAX: 510/496-1366

File No. 10.261

DATE: June 20, 2002

TO: Karen McWilliams FAX: 916-274-0602

FROM: Eileen M. Rice, Esq.

PAGES: 18, including cover sheet

COMMENTS:

Please find attached the documents referenced in comments to the Draft Environmental Impact Report/Environmental Assessment for the Shingle Springs Interchange Project submitted by Voices for Rural Living and Shingle Springs Neighbors for Quality Living.

Originals of these attachments, as well as the original comment letter, are being sent to you by U.S. mail. The comment letter itself was e-mailed to you earlier this afternoon.

Thank you for your assistance with this matter.

Sincerely,

Eileen Rice

FACSIMILE TRANSMITTAL SHEET

NOTE: The information contained in this facsimile message is attorney privileged and confidential information intended only for the use of the individual or entity named above. If the reader of this message is not the intended recipient, you are hereby notified that any dissemination, distribution or copying of this communication is strictly prohibited. If you have received this communication in error, please immediately notify us by telephone, and return the original of this transmittal to us at our address via the U.S. Postal Service. Thank you!

ATTACHMENT 1

COMPARISON OF SHINGLE SPRINGS CASINO WITH TAHOE AND RENO

area of comparison	Shingle Springs Casino	S. Lake Tahoe Casinos	Reno/Sparks Casinos
No. of Major casinos	1	4	13
Annual Gaming Revenue	$186,000,000 L24	$309,000,000 L7	$930,000,000 L10
Annual Gaming Visits from: (Bay Area, Sacramento, Stockton)	3,670,454 L24	2,190,545 L10	3,587,027 L12
Gaming Revenue from: (Bay Area, Sacramento, Stockton)	$186,000,000 L24	$135,000,000 L10 44% of total gaming rev. L9	$233,874,157 L13 25% of total gaming rev. L13
# of Slot Machines	2,300 L25 2,000 Class III, 300 Class II	6,271 L7	25,146 L11
# of Table Games	100 L25	309 L7	870 L11
# of Gaming Positions	3,000 *	8,124 L7	30,364 L11
Revenue per day per slot	$190 L25 $190/Class III and $99/Class II	$81 L7	$73 L11
Revenue per year per slot	$69,350 L25	$29,565 L7	$26,645 L11
Revenue per year all slots	$149,540,500 L25	$185,402,115 L7	$670,015,170 L11
Slot revenue as % of total annual gaming revenue	83% L24	60% L11	73% L11
% of gamers that are day visitors	over 95%	20% L8	11% L12
# of Hotel rooms at casinos	250 L26	2,253 casino brochures	12,800 casino brochures
# of rooms within 10 miles	418 L36	10,000 SLTVA	25,000 Reno/Sparks VA

The statistics on this page come from a variety of sources and are summarized in Appendix L of the Shingle Springs Rrancheria Environmental Assessment. A footnote such as L25 refers to page 25 of this appendix.

* 2,300 slot machines and 100 table games

ATTACHMENT 2

Report on the Potential Impacts of Tribal Gaming on Northern and Eastern San Diego County

November 1, 2000

Prepared for the
County of San Diego Board of Supervisors
Supervisor Greg Cox, First District
Supervisor Dianne Jacob, Second District
Supervisor Pam Slater, Third District
Supervisor Ron Roberts, Fourth District
Supervisor Bill Horn, Fifth District

EXHIBIT A

Location: Wildcat s/o Vicente — Barons Volumes for Mon. 2/28/00 — 0145000 1mo

AM Period	NB		SB			PM Period	NB		SB		
12:00-12:15	4		1			12:00-12:15	11		23		
12:15-12:30	7		2			12:15-12:30	16		21		
12:30-12:45	5		0			12:30-12:45	20		14		
12:45-1:00	9	25	3	6	31	12:45-1:00	21	68	31	89	157
1:00-1:15	9		1			1:00-1:15	28		23		
1:15-1:30	6		1			1:15-1:30	23		23		
1:30-1:45	4		2			1:30-1:45	15		21		
1:45-2:00	4	23	2	6	29	1:45-2:00	19	85	22	89	174
2:00-2:15	1		1			2:00-2:15	30		16		
2:15-2:30	5		1			2:15-2:30	29		24		
2:30-2:45	1		1			2:30-2:45	25		30		
2:45-3:00	5	12	0	3	15	2:45-3:00	36	120	16	86	206
3:00-3:15	3		0			3:00-3:15	54		35		
3:15-3:30	1		1			3:15-3:30	37		27		
3:30-3:45	1		5			3:30-3:45	44		31		
3:45-4:00	2	7	6	12	19	3:45-4:00	42	177	39	132	309
4:00-4:15	2		2			4:00-4:15	42		29		
4:15-4:30	2		7			4:15-4:30	58		31		
4:30-4:45	0		6			4:30-4:45	61		28		
4:45-5:00	3	7	15	30	37	4:45-5:00	81	242	25	113	355
5:00-5:15	2		25			5:00-5:15	91		35		
5:15-5:30	5		31			5:15-5:30	80		28		
5:30-5:45	2		50			5:30-5:45	72		17		
5:45-6:00	6	15	46	152	167	5:45-6:00	81	324	32	112	436
6:00-6:15	6		51			6:00-6:15	74		21		
6:15-6:30	8		81			6:15-6:30	82		25		
6:30-6:45	13		93			6:30-6:45	66		17		
6:45-7:00	16	43	82	307	350	6:45-7:00	57	279	26	89	368
7:00-7:15	36		93			7:00-7:15	38		15		
7:15-7:30	20		76			7:15-7:30	48		17		
7:30-7:45	15		74			7:30-7:45	35		9		
7:45-8:00	22	93	63	306	399	7:45-8:00	34	155	16	57	212
8:00-8:15	18		52			8:00-8:15	21		7		
8:15-8:30	16		65			8:15-8:30	20		6		
8:30-8:45	14		52			8:30-8:45	26		12		
8:45-9:00	14	62	34	203	265	8:45-9:00	16	83	9	34	117
9:00-9:15	17		40			9:00-9:15	20		2		
9:15-9:30	14		32			9:15-9:30	25		9		
9:30-9:45	15		36			9:30-9:45	32		7		
9:45-10:00	10	56	29	137	193	9:45-10:00	18	95	10	28	123
10:00-10:15	17		18			10:00-10:15	11		4		
10:15-10:30	12		23			10:15-10:30	19		6		
10:30-10:45	17		31			10:30-10:45	12		8		
10:45-11:00	12	58	23	95	153	10:45-11:00	11	53	7	25	78
11:00-11:15	11		21			11:00-11:15	8		5		
11:15-11:30	9		20			11:15-11:30	8		3		
11:30-11:45	18		28			11:30-11:45	12		4		
11:45-12:00	17	55	27	96	151	11:45-12:00	8	36	4	16	52
Total Vol	456		1353		1809		1717		870		2587
Daily Totals							2173		2223		4396

Location: Wildcat s/o Vicente Rd. Barona Volumes for Tues. 2/22/00 01450001ni

AM Period	NB		SB			PM Period	NB		SB		
12:00-12:15	5		2			12:00-12:15	23		17		
12:15-12:30	6		4			12:15-12:30	23		24		
12:30-12:45	12		4			12:30-12:45	21		17		
12:45-1:00	9	32	3	13	45	12:45-1:00	19	86	23	81	167
1:00-1:15	3		1			1:00-1:15	18		20		
1:15-1:30	8		2			1:15-1:30	26		24		
1:30-1:45	3		3			1:30-1:45	26		27		
1:45-2:00	6	20	3	9	29	1:45-2:00	23	93	21	92	185
2:00-2:15	5		1			2:00-2:15	30		21		
2:15-2:30	3		0			2:15-2:30	28		23		
2:30-2:45	5		2			2:30-2:45	29		18		
2:45-3:00	5	18	2	5	23	2:45-3:00	30	117	35	97	214
3:00-3:15	3		0			3:00-3:15	42		26		
3:15-3:30	1		0			3:15-3:30	32		32		
3:30-3:45	2		7	—		3:30-3:45	41		26		
3:45-4:00	3	9	6	13	22	3:45-4:00	45	160	38	122	282
4:00-4:15	1		1			4:00-4:15	64		27		
4:15-4:30	2		11			4:15-4:30	42		33		
4:30-4:45	0		7			4:30-4:45	78		37		
4:45-5:00	4	7	11	30	37	4:45-5:00	88	272	45	142	414
5:00-5:15	4		22			5:00-5:15	76		30		
5:15-5:30	3		32			5:15-5:30	73		20		
5:30-5:45	6		42			5:30-5:45	88		22		
5:45-6:00	6	19	49	145	164	5:45-6:00	72	309	24	96	405
6:00-6:15	9		63			6:00-6:15	76		26		
6:15-6:30	12		76			6:15-6:30	71		21		
6:30-6:45	12		103			6:30-6:45	63		23		
6:45-7:00	24	57	99	341	398	6:45-7:00	81	291	20	90	381
7:00-7:15	25		71			7:00-7:15	62		13		
7:15-7:30	20		76			7:15-7:30	49		17		
7:30-7:45	25		79			7:30-7:45	35		11		
7:45-8:00	23	93	78	304	397	7:45-8:00	35	181	10	51	232
8:00-8:15	16		46			8:00-8:15	27		14		
8:15-8:30	17		60			8:15-8:30	29		8		
8:30-8:45	11		67			8:30-8:45	29		5		
8:45-9:00	16	60	46	219	279	8:45-9:00	20	105	7	34	139
9:00-9:15	14		54			9:00-9:15	32		8		
9:15-9:30	19		29			9:15-9:30	17		8		
9:30-9:45	13		30			9:30-9:45	21		9		
9:45-10:00	14	60	33	146	206	9:45-10:00	25	95	12	37	132
10:00-10:15	19		28			10:00-10:15	11		11		
10:15-10:30	9		20			10:15-10:30	19		12		
10:30-10:45	18		29			10:30-10:45	13		8		
10:45-11:00	9	55	28	105	160	10:45-11:00	18	61	6	37	98
11:00-11:15	19		22			11:00-11:15	10		11		
11:15-11:30	21		21			11:15-11:30	4		4		
11:30-11:45	19		24			11:30-11:45	5		5		
11:45-12:00	19	78	33	100	178	11:45-12:00	8	27	2	22	49
Total Vol	508		1430		1938		1797		901		2698
Daily Totals							2305		2331		4636

Location: Wildcat s/o Vicente Rd. Barons Volumes for Wed. 2/23/00 01450001we

AM Period	NB		SB			PM Period	NB		SB		
12:00-12:15	8		2			12:00-12:15	15		22		
12:15-12:30	9		2			12:15-12:30	20		17		
12:30-12:45	9		2			12:30-12:45	15		26		
12:45-1:00	9	35	2	8	43	12:45-1:00	18	68	19	84	152
1:00-1:15	11		4			1:00-1:15	20		23		
1:15-1:30	6		1			1:15-1:30	20		31		
1:30-1:45	5		3			1:30-1:45	18		27		
1:45-2:00	1	23	2	10	33	1:45-2:00	30	88	31	112	200
2:00-2:15	5		2			2:00-2:15	31		20		
2:15-2:30	3		1			2:15-2:30	32		24		
2:30-2:45	7		1			2:30-2:45	40		32		
2:45-3:00	2	17	1	5	22	2:45-3:00	38	141	21	97	238
3:00-3:15	1		0			3:00-3:15	40		30		
3:15-3:30	0		4			3:15-3:30	45		36		
3:30-3:45	4		2			3:30-3:45	50		41		
3:45-4:00	2	7	4	10	17	3:45-4:00	51	186	30	137	323
4:00-4:15	3		2			4:00-4:15	60		33		
4:15-4:30	1		9			4:15-4:30	65		22		
4:30-4:45	4		6			4:30-4:45	71		21		
4:45-5:00	1	9	16	33	42	4:45-5:00	78	274	22	98	372
5:00-5:15	5		18			5:00-5:15	80		29		
5:15-5:30	7		34			5:15-5:30	85		35		
5:30-5:45	7		49			5:30-5:45	90		23		
5:45-6:00	5	24	57	158	182	5:45-6:00	101	356	19	106	462
6:00-6:15	7		52			6:00-6:15	88		15		
6:15-6:30	11		74			6:15-6:30	90		16		
6:30-6:45	16		79			6:30-6:45	78		9		
6:45-7:00	19	53	92	297	350	6:45-7:00	85	341	10	50	391
7:00-7:15	22		62			7:00-7:15	60		8		
7:15-7:30	23		74			7:15-7:30	61		13		
7:30-7:45	23		74			7:30-7:45	55		14		
7:45-8:00	23	91	84	294	385	7:45-8:00	30	206	5	40	246
8:00-8:15	15		52			8:00-8:15	30		10		
8:15-8:30	22		63			8:15-8:30	23		11		
8:30-8:45	12		62			8:30-8:45	21		9		
8:45-9:00	15	64	51	228	292	8:45-9:00	18	91	9	39	130
9:00-9:15	10		42			9:00-9:15	10		7		
9:15-9:30	14		37			9:15-9:30	15		9		
9:30-9:45	22		31			9:30-9:45	12		6		
9:45-10:00	12	58	18	128	186	9:45-10:00	19	56	6	28	84
10:00-10:15	14		30			10:00-10:15	15		5		
10:15-10:30	18		23			10:15-10:30	18		8		
10:30-10:45	18		27			10:30-10:45	20		6		
10:45-11:00	25	75	25	105	180	10:45-11:00	10	63	3	22	85
11:00-11:15	35		21			11:00-11:15	15		4		
11:15-11:30	30		24			11:15-11:30	10		2		
11:30-11:45	22		21			11:30-11:45	11		5		
11:45-12:00	25	112	18	84	196	11:45-12:00	11	47	2	13	60
Total Vol	568		1360		1928		1917		826		2743
Daily Totals							2485		2186		4671

Location: Wildcat s/o Vicente — Barona Volumes for Thurs. 2/24/00 — 01450001th

AM Period	NB		SB			PM Period	NB		SB		
12:00-12:15	0		0			12:00-12:15	19		14		
12:15-12:30	0		1			12:15-12:30	14		27		
12:30-12:45	0		0			12:30-12:45	15		23		
12:45-1:00	0	0	1	2	2	12:45-1:00	17	65	16	80	145
1:00-1:15	0		1			1:00-1:15	21		13		
1:15-1:30	1		1			1:15-1:30	19		32		
1:30-1:45	2		5			1:30-1:45	25		34		
1:45-2:00	3	6	2	9	15	1:45-2:00	31	96	31	110	206
2:00-2:15	5		2			2:00-2:15	30		18		
2:15-2:30	4		0			2:15-2:30	30		19		
2:30-2:45	6		1			2:30-2:45	33		32		
2:45-3:00	5	20	1	4	24	2:45-3:00	48	141	34	103	244
3:00-3:15	4		0			3:00-3:15	38		26		
3:15-3:30	3		1			3:15-3:30	40		37		
3:30-3:45	5		6			3:30-3:45	53		38		
3:45-4:00	4	16	0	7	23	3:45-4:00	49	180	28	129	309
4:00-4:15	6		2			4:00-4:15	45		29		
4:15-4:30	2		7			4:15-4:30	66		37		
4:30-4:45	4		6			4:30-4:45	75		28		
4:45-5:00	6	18	9	24	42	4:45-5:00	72	258	40	134	392
5:00-5:15	5		19			5:00-5:15	84		42		
5:15-5:30	6		36			5:15-5:30	84		24		
5:30-5:45	4		39			5:30-5:45	90		23		
5:45-6:00	6	21	57	151	172	5:45-6:00	80	338	27	116	454
6:00-6:15	7		60			6:00-6:15	90		35		
6:15-6:30	6		66			6:15-6:30	78		22		
6:30-6:45	5		109			6:30-6:45	61		37		
6:45-7:00	10	28	82	317	345	6:45-7:00	60	289	15	109	398
7:00-7:15	24		71			7:00-7:15	54		10		
7:15-7:30	21		70			7:15-7:30	38		18		
7:30-7:45	19		74			7:30-7:45	29		18		
7:45-8:00	16	80	70	285	365	7:45-8:00	42	163	11	57	220
8:00-8:15	17		62			8:00-8:15	35		14		
8:15-8:30	22		59			8:15-8:30	38		17		
8:30-8:45	24		47			8:30-8:45	19		9		
8:45-9:00	19	82	51	219	301	8:45-9:00	23	115	7	47	162
9:00-9:15	14		52			9:00-9:15	19		10		
9:15-9:30	17		36			9:15-9:30	24		13		
9:30-9:45	14		24			9:30-9:45	20		11		
9:45-10:00	15	60	30	142	202	9:45-10:00	30	93	10	44	137
10:00-10:15	17		28			10:00-10:15	27		13		
10:15-10:30	17		33			10:15-10:30	17		6		
10:30-10:45	14		27			10:30-10:45	18		6		
10:45-11:00	17	65	26	114	179	10:45-11:00	16	78	6	31	109
11:00-11:15	21		23			11:00-11:15	13		7		
11:15-11:30	20		27			11:15-11:30	17		5		
11:30-11:45	16		17			11:30-11:45	11		11		
11:45-12:00	15	72	26	93	165	11:45-12:00	9	50	6	29	79
Total Vol	468		1367		1835		1866		989		2855
Daily Totals							2334		2356		4690

Location: Wildcat s/o Vicente — Barona Volumes for Fri. 2/25/00 — 01450001fr

AM Period	NB		SB			PM Period	NB		SB		
12:00-12:15	10		2			12:00-12:15	24		25		
12:15-12:30	11		4			12:15-12:30	17		31		
12:30-12:45	12		3			12:30-12:45	27		27		
12:45-1:00	8	41	1	10	51	12:45-1:00	22	90	24	107	197
1:00-1:15	6		4			1:00-1:15	27		23		
1:15-1:30	4		4			1:15-1:30	22		25		
1:30-1:45	9		3			1:30-1:45	22		30		
1:45-2:00	8	27	4	15	42	1:45-2:00	23	94	20	98	192
2:00-2:15	4		4			2:00-2:15	35		26		
2:15-2:30	6		1			2:15-2:30	31		28		
2:30-2:45	8		1			2:30-2:45	39		38		
2:45-3:00	1	19	2	8	27	2:45-3:00	39	144	33	125	269
3:00-3:15	3		1			3:00-3:15	53		31		
3:15-3:30	3		2			3:15-3:30	39		42		
3:30-3:45	5	—	8			3:30-3:45	58		37		
3:45-4:00	2	13	5	16	29	3:45-4:00	46	196	35	145	341
4:00-4:15	3		1			4:00-4:15	51		34		
4:15-4:30	4		7			4:15-4:30	70		24		
4:30-4:45	3		2			4:30-4:45	65		44		
4:45-5:00	4	14	10	20	34	4:45-5:00	63	249	45	147	396
5:00-5:15	5		15			5:00-5:15	89		29		
5:15-5:30	5		33			5:15-5:30	67		35		
5:30-5:45	3		32			5:30-5:45	87		41		
5:45-6:00	6	19	51	131	150	5:45-6:00	84	327	27	132	459
6:00-6:15	8		48			6:00-6:15	80		35		
6:15-6:30	14		67			6:15-6:30	76		32		
6:30-6:45	15		89			6:30-6:45	49		32		
6:45-7:00	28	65	95	299	364	6:45-7:00	57	262	26	125	387
7:00-7:15	20		84			7:00-7:15	49		21		
7:15-7:30	32		68			7:15-7:30	38		27		
7:30-7:45	23		55			7:30-7:45	32		18		
7:45-8:00	18	93	68	275	368	7:45-8:00	29	148	7	73	221
8:00-8:15	30		50			8:00-8:15	35		13		
8:15-8:30	12		59			8:15-8:30	28		12		
8:30-8:45	15		65			8:30-8:45	33		13		
8:45-9:00	15	72	41	215	287	8:45-9:00	31	127	15	53	180
9:00-9:15	14		41			9:00-9:15	29		9		
9:15-9:30	24		34			9:15-9:30	16		5		
9:30-9:45	12		33			9:30-9:45	24		9		
9:45-10:00	21	71	23	131	202	9:45-10:00	26	95	11	34	129
10:00-10:15	16		30			10:00-10:15	20		12		
10:15-10:30	16		35			10:15-10:30	25		7		
10:30-10:45	22		26			10:30-10:45	37		10		
10:45-11:00	15	69	24	115	184	10:45-11:00	16	98	13	42	140
11:00-11:15	23		20			11:00-11:15	20		9		
11:15-11:30	16		20			11:15-11:30	17		6		
11:30-11:45	20		24			11:30-11:45	22		14		
11:45-12:00	21	80	25	89	169	11:45-12:00	14	73	13	42	115
Total Vol	583		1324		1907		1903		1123		3026
Daily Totals							2486		2447		4933

Location: Wildcat s/o Vicente Barona Volumes for Sat. 2/26/00 01450001sa

AM Period	NB		SB			PM Period	NB		SB		
12:00-12:15	10		4			12:00-12:15	46		39		
12:15-12:30	18		8			12:15-12:30	48		47		
12:30-12:45	19		2			12:30-12:45	32		43		
12:45-1:00	16	63	4	18	81	12:45-1:00	39	165	40	169	334
1:00-1:15	11		4			1:00-1:15	38		41		
1:15-1:30	9		0			1:15-1:30	40		27		
1:30-1:45	7		6			1:30-1:45	48		38		
1:45-2:00	6	33	1	11	44	1:45-2:00	39	165	36	142	307
2:00-2:15	6		3			2:00-2:15	44		29		
2:15-2:30	7		2			2:15-2:30	40		42		
2:30-2:45	10		1			2:30-2:45	40		36		
2:45-3:00	7	30	4	10	40	2:45-3:00	45	169	32	139	308
3:00-3:15	4		1			3:00-3:15	47		32		
3:15-3:30	4		2			3:15-3:30	41		39		
3:30-3:45	6		6			3:30-3:45	47		34		
3:45-4:00	4	18	3	12	30	3:45-4:00	34	169	35	140	309
4:00-4:15	3		3			4:00-4:15	44		32		
4:15-4:30	3		5			4:15-4:30	44		28		
4:30-4:45	3		7			4:30-4:45	46		41		
4:45-5:00	3	12	3	18	30	4:45-5:00	36	170	43	144	314
5:00-5:15	2		10			5:00-5:15	40		30		
5:15-5:30	2		5			5:15-5:30	41		31		
5:30-5:45	5		9			5:30-5:45	32		35		
5:45-6:00	7	16	22	46	62	5:45-6:00	39	152	26	122	274
6:00-6:15	7		10			6:00-6:15	33		24		
6:15-6:30	8		19			6:15-6:30	40		38		
6:30-6:45	5		18			6:30-6:45	30		39		
6:45-7:00	5	25	19	66	91	6:45-7:00	35	138	22	123	261
7:00-7:15	14		18			7:00-7:15	39		32		
7:15-7:30	14		21			7:15-7:30	20		24		
7:30-7:45	11		29			7:30-7:45	30		16		
7:45-8:00	13	52	43	111	163	7:45-8:00	24	113	15	87	200
8:00-8:15	19		27			8:00-8:15	25		10		
8:15-8:30	17		30			8:15-8:30	13		13		
8:30-8:45	24		39			8:30-8:45	21		9		
8:45-9:00	24	84	43	139	223	8:45-9:00	22	81	9	41	122
9:00-9:15	29		35			9:00-9:15	14		14		
9:15-9:30	19		45			9:15-9:30	24		17		
9:30-9:45	21		45			9:30-9:45	17		11		
9:45-10:00	20	89	35	160	249	9:45-10:00	24	79	11	53	132
10:00-10:15	25		33			10:00-10:15	15		11		
10:15-10:30	22		34			10:15-10:30	23		12		
10:30-10:45	19		28			10:30-10:45	17		12		
10:45-11:00	22	88	45	140	228	10:45-11:00	23	78	13	48	126
11:00-11:15	45		44			11:00-11:15	18		13		
11:15-11:30	33		34			11:15-11:30	11		7		
11:30-11:45	29		35			11:30-11:45	15		9		
11:45-12:00	26	133	42	155	288	11:45-12:00	18	62	8	37	99
Total Vol	643		886		1529		1541		1245		2786
Daily Totals							2184		2131		4315

Location: Wildcat s/o Vicente — Barona Volumes for Sun. 2/27/00 — 01450001su

AM Period	NB		SB			PM Period	NB		SB		
12:00-12:15	10		5			12:00-12:15	39		47		
12:15-12:30	15		5			12:15-12:30	29		38		
12:30-12:45	17		9			12:30-12:45	38		28		
12:45-1:00	6	48	4	23	71	12:45-1:00	35	141	44	157	298
1:00-1:15	14		4			1:00-1:15	41		29		
1:15-1:30	7		8			1:15-1:30	27		37		
1:30-1:45	4		2			1:30-1:45	36		41		
1:45-2:00	8	33	7	21	54	1:45-2:00	46	150	24	131	281
2:00-2:15	6		2			2:00-2:15	32		35		
2:15-2:30	10		3			2:15-2:30	37		25		
2:30-2:45	10		3			2:30-2:45	32		42		
2:45-3:00	6	32	3	11	43	2:45-3:00	28	129	47	149	278
3:00-3:15	3		2			3:00-3:15	38		35		
3:15-3:30	3		4			3:15-3:30	37		31		
3:30-3:45	4		3			3:30-3:45	41		38		
3:45-4:00	5	15	1	10	25	3:45-4:00	36	152	23	127	279
4:00-4:15	7		2			4:00-4:15	35		39		
4:15-4:30	0		1			4:15-4:30	48		37		
4:30-4:45	6		3			4:30-4:45	49		40		
4:45-5:00	3	16	1	7	23	4:45-5:00	48	180	29	145	325
5:00-5:15	4		8			5:00-5:15	45		21		
5:15-5:30	2		7			5:15-5:30	32		19		
5:30-5:45	3		10			5:30-5:45	45		22		
5:45-6:00	6	15	10	35	50	5:45-6:00	37	159	25	87	246
6:00-6:15	5		8			6:00-6:15	29		18		
6:15-6:30	2		6			6:15-6:30	28		19		
6:30-6:45	6		15			6:30-6:45	35		10		
6:45-7:00	2	15	19	48	63	6:45-7:00	28	120	9	56	176
7:00-7:15	6		15			7:00-7:15	28		5		
7:15-7:30	8		27			7:15-7:30	21		18		
7:30-7:45	3		32			7:30-7:45	18		7		
7:45-8:00	5	22	27	101	123	7:45-8:00	16	83	14	44	127
8:00-8:15	14		15			8:00-8:15	18		12		
8:15-8:30	19		29			8:15-8:30	13		9		
8:30-8:45	16		37			8:30-8:45	25		17		
8:45-9:00	13	62	23	104	166	8:45-9:00	19	75	9	47	122
9:00-9:15	17		20			9:00-9:15	24		10		
9:15-9:30	19		33			9:15-9:30	7		11		
9:30-9:45	16		29			9:30-9:45	6		4		
9:45-10:00	19	71	21	103	174	9:45-10:00	9	46	6	31	77
10:00-10:15	25		45			10:00-10:15	14		8		
10:15-10:30	21		23			10:15-10:30	16		5		
10:30-10:45	17		40			10:30-10:45	14		6		
10:45-11:00	19	82	37	145	227	10:45-11:00	10	54	6	25	79
11:00-11:15	28		35			11:00-11:15	7		5		
11:15-11:30	22		29			11:15-11:30	11		3		
11:30-11:45	20		40			11:30-11:45	8		5		
11:45-12:00	20	90	31	135	225	11:45-12:00	7	33	5	18	51
Total Vol	501		743		1244		1322		1017		2339
Daily Totals							1823		1760		3583

ATTACHMENT 3

PRELIMINARY TRAFFIC ASSESSMENT OF INDIAN GAMING PROJECTS IN THE SAN DIEGO REGION

October 17, 2000

ANALYSIS CRITERIA

Levels of service for County-maintained arterials were assessed using the County of San Diego's level of service thresholds (Exhibit C). These thresholds are based upon a 24-hour traffic volume. The Barona Casino driveway counts, as provided in Exhibit A, indicate that although the highest 24-hr traffic volumes occurred on Friday, they were only approximately 15% higher than the traffic volumes that were occurring on the other weekdays (Monday through Thursday). The 24-hour traffic volume threshold was, therefore, deemed appropriate for the analysis of County-maintained arterials. Levels of service for State highways were assessed by Caltrans using a methodology based on lane capacity, peak-hour traffic, and direction flows of traffic. Additional studies should be conducted to discern whether a peak hour traffic assessment would be more representative of the operations of the two-lane rural arterials servicing the proposed Indian Gaming projects.

Per the County's Public Facilities Element, a level of service D standard has been established for the assessment of impacts to off-site Circulation Element roads. Impacts from each of the proposed Indian Gaming projects were then assessed according to the following criteria:

1. If the additional traffic generated by a proposed Indian Gaming Project significantly increased the amount of traffic roads currently operating below LOS D, it would result in a significant off-reservation traffic impact;

2. If the additional traffic generated by the proposed Indian Gaming projects caused the level of service to fall below LOS D threshold, it would result in a significant off-reservation traffic impact.

An impact would be considered a direct impact if the traffic generated by the individual Indian Gaming project only would trigger one of the above criteria. An impact was considered cumulative if the traffic generated by the individual Indian Gaming project in conjunction with the traffic generated by the other proposed Indian Gaming project in the area would trigger the above criteria.

ATTACHMENT 4

EXHIBIT 1

PRELIMINARY DEVELOPMENT PROGRAMS

For Shingle Springs Rancheria Casino Development - 3 programs below were published by Lakes Gaming on dates shown

	9/17/99	10/21/99	10/5/00	1/11/01
PARKING				
Total Parking	3,800 Cars	5,000 Cars	3,000 Cars	3,000 Cars
Surface parking	1,500	3,000	NS	
Structure parking	2,000	2,000	NS	2000
CASINO DEVELOPMENT				
Gaming Floor Area (Total)	70,500 s.f.	91,800 s.f.	82,800 s.f.	82,800 s.f.
Slot Machines	2,000 Slots	2,000 Slots	2,000 Slots	2,000 Slots
Table Games	50 Tables	100 Tables	100 Tables	100 Tables
Class II Games	NS	300 Games	NS	300 Games
Race Book Floor Area	NS	1,800 s.f.	1,800 s.f.	
Event Hall/Convention Center/Bingo	21,000 s.f. 1,500 Seats	28,000 s.f. 2,000 Seats	37,400 s.f. *See foot note	37,400 s.f. 2,000 plus seats
Meeting Rooms	2,400 s.f.	2,400 s.f.	Include in Convention Center	Include in Convention Center
Restaurants/Bars	41,000 s.f.	43,300 s.f. 1,625 Seats	43,300 s.f. 1,425 Seats	43,300 s.f. 1,425 Seats
Retail	4,000 s.f.	4,000 s.f.	4,000 s.f.	4,000 s.f.s
Toilets	5,900 s.f.	6,600 s.f.	6,600 s.f.	6600 s.f.
Child Care/Video Games etc.	14,000 s.f.	14,000 s.f.	14,000 s.f.	14,000 s.f.
Gaming Support	7,100 s.f.	8,400 s.f.	8,400 s.f.	8,400 s.f.
Banking	5,000 s.f.	6,300 s.f	6,300 s.f.	6,300 s.f.
Back of House	13,700 s.f.	15,000 s.f.	15,000 s.f.	15,000 s.f.
Office	11,500 s.f.	13,000 s.f.	13,000 s.f.	13,000 s.f.
Employee Areas	7,200 s.f.	9,000 s.f.	9,000 s.f.	9,000 s.f.
Miscelaneous & Circulation	34,700 s.f.	40,800 s.f	36,100 s.f	36,100 s.f.
Total Casino/Event Center	230,000 sf	282,600 s.f.	276,900 s.f.	275,900 s.f.
Hotel Development				
250 Rooms + Support Facilities	158,500 s.f.	142,750 s.f.	142,750 s.f.	
Future Casino Expansion	NS	50,000 s.f.	NS	

*No. of Seats were not specified for event hall. Bingo not specified as an activity.

ATTACHMENT 5

WILLIAM
No. Highlands
$4,982

JESUS
Stockton
$10,102

WINNERS
WINNERS

DEBBY
Lodi
$6,208

JEFFREY
Sacramento
$4,500

CARL
Elk Grove
$2,500

TOWN LINE

UPCOMING EVENTS

Friday, March 1
Merle Haggard
$29, $39, $59 • Doors Open at 6 PM, Showtime 8 PM

Sunday, March 10
George Thorogood & the Destroyers
$39, $49, $69 • Doors Open at 4 PM, Showtime 6 PM

Thursday, March 14
U.S. Male Review (Ladies' Night)
$10, $15, $20 • Doors Open at 6 PM, Showtime 8 PM

Saturday, March 23
Creedence Clearwater Revisited
$39, $49, $69 • Doors Open at 6 PM, Showtime 8 PM

Sunday, April 7
Huey Lewis & The News
$49, $69, $79 • Doors Open at 4 PM, Showtime 6 PM

Friday, April 12
Bill Engvall
$29, $39, $59 • Doors Open at 8 PM, Showtime 9 PM

Friday, April 19
Robert Cray / Tommy Castro
$39, $49, $69 • Doors Open at 8 PM, Showtime 9 PM

Sunday, May 5
Big Bad Voodoo Daddy
Prices to be announced • Doors Open at 4 PM, Showtime 6 PM

Thursday, May 9 & Friday, May 10
Wynonna
$49, $69, $79 • Doors Open at 6 PM, Showtime 8 PM

Friday, June 14
Bill Cosby
$49, $69, $79 • TWO SHOWS! 7 PM & 10 PM

Sunday, June 30
Oak Ridge Boys
$29, $39, $59 • Doors Open at 4 PM, Showtime 6 PM

Thursday, August 1
Martina McBride
$49, $69, $79 • Doors Open at 6 PM, Showtime 8 PM

Sunday, August 18
Gordon Lightfoot
Prices to be announced • Doors Open at 4 PM, Showtime 6 PM

Sunday, September 29
Doobie Brothers
Prices to be announced • Doors Open at 4 PM, Showtime 6 PM

[illegible]

events

Saturdays, Sundays and Holidays
Kennedy Mine Surface Tours
March 2 through Oct. 27, 10 a.m. to 3 p.m., weather permitting. Walk where the miners walked, view the headframe, the tallest mining structure in the Mother Lode, and visit the magnificent 90 year old three-story cement mine office. 223-9542 or email kmmine@volcano.net

Saturdays and Sundays
Kennedy Mine Model Tours
The Amador County Museum offers tours of a scale model of the historic Kennedy Mine on Saturdays and Sundays from 11 a.m. to 3 p.m. on the hour. The museum is open Wednesday through Sundays from 10 a.m. to 4 p.m. 223-6386

Mid-March through Mid-April
Daffodil Hill
Weather permitting. See thousands of blooming daffodils of all varieties on an historic ranch. Call 209-296-7048 or 209-223-0608 for dates and times.

Fri. & Sat., March 8 & 9
Books & Authors Forum
Historian Inn (formerly Aparicios Hotel), Sutter Creek. Enjoy poetry, discover how to find rare books and preserve them, listen to a cowboy musician/storyteller, and more. For tickets contact the Amador County Arts Council at 267-9038.

Sun., March 10
Soup & Shoe
Kirkwood Ski Resort. Showshoers will be rewarded with hot soup and priceless views at the summit of this guided hike. $25. 209-258-7248.

Mon. – Thurs., March 11 to 14
Northern California Special Olympics Winter Games
Kirkwood Ski Resort. 800-770-9401

Sat. & Sun., Mar. 16 & 17
Dandelion Days
Outdoor Peddlers Faire throughout downtown Jackson. 8 a.m. to 5p.m. 223-1706

Sat. & Sun., March 16 & 17
Spring Obsession
Art exhibit, professional chef's recipe competition and Northern California Daffodil Society's Mother Lode Daffodil Show and competition. Ironstone Vineyards, Murphys. 728-1251

See EVENTS, page 9

Comment Letter #42

42-1 The EIR/EA circulated for agency and public review contains all necessary information for adequate review of potential environmental impacts of the interchange project. To the extent that any agency or member of the public has requested copies of the various technical studies referenced in the EIR/EA, those have been provided. The commenter stated that the technical documents were only available at the Caltrans or BIA offices, which is "one hour's driving time from the interchange site and affected community." In addition to the Lead Agencies' offices, public review of the technical documents was also possible at two public libraries within El Dorado County. In fact, the commenter shows that he did have a copy of the technical study in Comment 42-6 (he states "The 188-page technical study does not shed any new light…").

There is no requirement under CEQA to include the technical studies as part of the EIR/EA. In fact, CEQA encourages Lead Agencies to separate technical appendices from the body of an EIR. (CEQA Guidelines §15147.) NEPA's requirements are comparable (40 CFR 1502.18, 1502.21). The EIR/EA does not need to be recirculated to comply with either CEQA or NEPA.

42-2 The Commenter claims that the traffic technical study is "critical to the formulation of the author's findings….". The commenter also claims that Caltrans has "secreted important traffic studies in its remote Sacramento Office." The commenter concludes by reiterating the public availability issue raised in 42-1. The commenter does not specify what "critical" information is in fact missing from the EIR/EA. Caltrans believes that all pertinent information is summarized within the EIR/EA traffic analysis, and that the traffic technical study was made available as described in Response to Comment 42-1. Preparation of the EIR/EA has fully complied with the disclosure requirements of CEQA. Every document requested by a member of the public has been provided or made available in a Public Library, and Caltrans has not withheld anything from public review. Please see Response to Comment 42-1.

42-3 The commenter again makes a claim that the EIR/EA should be recirculated due to the withholding of technical information. In this case, the commenter claims that the Community Impact Assessment was withheld. That is not accurate. Please see Responses to Comments 42-1 and 42-2.

42-4 The commenter cites *Citizens to Preserve the Ojai v. County of Ventura*, 176 Cal.App. 3d 421, 432, for the proposition that an agency must itself conduct a reasonable amount of independent research to determine a project's environmental effects. This statement appears to be the commenter's interpretation of that case, as neither those words nor that holding appears in that court decision. The court in that case did reject a County's reliance on an earlier air quality management plan analysis as the basis for the cumulative impact discussion in an EIR/EA for

expansion of an oil refinery. The basis for the court's holding, however, was not that it is inappropriate to rely on prior environmental reviews; instead, the basis for the ruling was that the earlier air quality management plan analysis was not complete and omitted offshore emissions from its analysis. The language of the decision confirms that it is this omission from the source document that was the problem: "The EIR/EA does not explain in even minimum detail the basis for this omission and provides no reasoned analysis clarifying why complete reliance on AQMP is justified when this major omission exists." (176 Cal. App. 3d at 430.)

Here, Caltrans appropriately and justifiably used data and information from the recently analyzed hotel/casino project. That project is very close to the interchange project in time and geography, therefore the use of that data is proper here. In fact, using that data, rather than reinventing the wheel, is consistent with both NEPA's and CEQA's mandates to avoid duplicating work. Please see Response to Comment 36-1.

The commenter asserts that the Barona study contradicts the trip generation rates used in the report, and questions why Caltrans didn't discuss or rebut that study. The trip generation rates established within the Barona study (as utilized by San Diego County Rev. 2002) have been incorrectly interpreted. In fact, the Barona data as used in the revised San Diego study actually confirms that the trip generation rate used within the Shingles Springs analysis is in fact conservative. The San Diego study utilizes square footage of the gaming floor area to establish a rate, whereas the Shingle Springs study uses the square footage of the entire casino facility. If instead, the 82,800 square feet of Shingle Springs gaming floor area was used, the trip rate would be 113.57 trips/1,000 square feet; which is higher, and thus more conservative than the 100 trips/1,000 square feet, which is utilized, in the revised San Diego study.

The commenter also asserts that the potential impacts of an events center should have been analyzed. In fact, no event center is planned for the Rancheria. Therefore, analyzing such a project would be speculative, contrary to CEQA's requirements. (See CEQA Guidelines §15145.) Any references to an event center in the traffic study, which is one of the technical appendices to the EIR and one of the technical appendices to the NIGC EA, are erroneous.

Regarding the comment's assertion that Caltrans is obligated to obtain floor plans and measure square footages itself, CEQA Guideline 15063(e) specifically authorizes the lead agency to obtain project information from the project applicant for use in preparing the environmental document. The agency with actual jurisdiction over the casino, NIGC, approves and verifies the specifics of the casino. Moreover, EIRs are to be prepared early in the development process in order to allow a proposal to benefit from the analysis and public input that occurs through the environmental review process. It would be infeasible in many cases to require a project applicant to have prepared detailed floor plans at that stage in

the process. In any case, Caltrans justifiably relied on reasonable information from the project applicant, and is not under any obligation to independently regenerate that information. Additionally, the estimated size has been submitted to NIGC for approval. A material deviation would jeopardize prior approvals. There is no logical basis to assert this claim.

42-5 The comment asserts that the EIR/EA mistakes traffic impacts by erroneously assuming that traffic volumes on weekends will exceed volumes during the week. However, the commenter provides no valid statistical data from California Indian casinos to support his claim. Rather, the commenter bases his claim on the fact that the proposed Shingle Springs hotel and casino project will provide a low number of hotel rooms thereby substantiating the fact that overnight destination (therefore, heavy weekend travel) will not occur at the Shingle Springs Rancheria. The commenter does provide a table that compares the proposed Shingle Springs hotel and casino with South Lake Tahoe and Reno casinos; however, this data does not support the claim that weekend trips to the proposed Shingle Springs hotel and casino will be less than weekday trips.

Casinos of a nature similar to the proposed casino experience heavier volumes on weekends than weekdays. The following supports the conclusion that weekend trip generation at the casino would be heavier on a weekend peak hour than weekday peak hour. (1) A survey of a northern California Indian gaming casino (which includes substantial hotel facilities) located within 50 miles of the proposed casino was undertaken. The results found that they generated approximately 60% more traffic on the peak day of a Saturday than that generated on the PM peak hour of a weekday; (2) Driveway counts were collected at the Sycuan Casino and reported within the "*Kumeyaay Truck & Travel Center Project Campo Indian Reservation Final Environmental Assessment*" (issued June 21, 1999 by Connolly & Associates). This casino is located in San Diego County and shows that daily counts on weekends were 27% higher than daily counts on an average weekday; (3). Driveway counts collected at the Lucky Eagle Casino in Rochester, Washington showed that daily counts on weekends were 59% higher than daily counts on an average weekday; (4) The March, 1998 article within the ITE Journal titled "Gaming Casino Traffic" shows that traffic to St. Louis casinos is 52% higher on weekends than weekdays; (5) The marketing study prepared specifically for the proposed project established that weekend traffic (including Saturday peak hour traffic) would be substantially higher than weekday traffic (including PM peak hour traffic). The marketing study utilized complex modeling and financing mechanisms, which took into account every unique feature of the proposed casino and demographic considerations of gamers.

The Barona counts referenced within the comment were misused. The counts were not raw driveway counts but rather counts collected along the roadway leading to the Barona driveway from which driveway counts were derived, thus

they included non-casino background volumes which skews a comparison of day to day characteristics.

42-6 The comment asserts that the 40% passer-by diversion capture rate of casino traffic is unsubstantiated. Please see Response to Comment 39-10.

42-7 The commenter continues to claim that the proposed hotel and gaming facility will include an event center. The commenter also claims that this facility was dropped because it would have "tipped them over the edge into significant traffic and air quality impacts." The comment concludes by stating that neither CEQA nor NEPA allows piecemealing. This comment addresses the proposed hotel and casino project, not the proposed interchange project. The hotel and casino are treated as indirect effects of the proposed interchange project. The NIGC approved an Environmental Assessment for the hotel and casino project that does not include an event center. An event center is not proposed as part of the interchange or hotel/casino project. Therefore, an event center need not be considered for purposes of trip generation assumed for the interchange. Please also see Response to Comment 42-4.

42-8 The commenter goes on to claim that, since the trip generation did not include an event center, the air quality impacts are understated. As stated in Response 42-7, the proposed hotel and gaming facility EA considered and approved by the NIGC did not include an event center. The project addressed in the NIGC EA for the proposed hotel and casino project is the basis for the traffic study in the proposed interchange EIR/EA. Therefore, the air quality effects, which are based on the trip generation of the proposed hotel and casino project, are not understated for purposes of the EIR/EA.

The claim that the air quality analysis did not look at accumulated conditions is inaccurate. Impact 5.5-4 Transportation Conformity with the State Implementation Plan included the years 2005, 2015 and 2025 as analysis years for air quality purposes (pages 5.5-13 and 5.5-14). In addition, cumulative air quality effects are also analyzed in Section 7.3.3 (page 7-6) of the EIR/EA.

Lastly, the commenter also claims that the "books were cooked" by not including the event center and "ratcheting upward of passer-by capture rates." Please see Response to Comment 42-5.

42-9 This comment raises several issues relating to growth-inducing impacts. First, with respect to the interchange design, the unique construction design is the flyover design. This design prevents connections to the south, and thus avoids possible growth-inducing impacts to the south, is the flyover design. The flyover design does not include an intersection that could connect to lands to the south. Any change to the interchange would require the same type of extensive environmental review as has been done for the proposed interchange.

Specifically, the Interchange design, which would severely restrict connections to, lands south of U.S. Highway 50, absent major reconstruction of the interchange.

- The superelevation of the eastbound connector ramp (i.e. cross slope towards left) makes construction of a widened overcrossing difficult, as widening of the structure would introduce a severe crown on the bridge surface, which would not meet Caltrans standards.

- Connection from the south, over U.S. Highway 50, then to westbound U.S. Highway 50 would require an additional westbound on-ramp; however, due to conflicts with the westbound ramps proposed with this project, these westbound ramps would need to be reconstructed, and/or another level to the interchange would be required so that separation of movements is maintained.

- Either new or reconstructed ramps would be required for westbound off-ramp and eastbound on-ramp movements for an interchange serving areas south of U.S. Highway 50; new ramps most likely would be located too close to Greenstone to maintain weaving operations.

- The eastbound off-ramp would need to be widened at the retaining wall; it is unlikely that decision site distance would be achieved to allow connection to the south (i.e. a distance of 230 m (750 feet) would be required from the ramp nose to the branching point). There is only 160 m to the proposed connector structure.

The "Regulation": A new connection would require a break in access control, and would need to be approved by the CTC. Procedures for approval for new interchanges are defined in Chapter 27 "New Public Road Connections" of Caltrans Project Development Procedures Manual (PDPM). The manual defines Caltrans responsibilities as follows:

"Caltrans is responsible for improving and preserving State highways to serve interregional traffic on the State's transportation corridors. To this end, access control rights are acquired and connection points are kept to a minimum on freeways and expressways. New public road connections to these facilities are permitted only after careful analysis to determine that no detrimental effect will occur that would diminish facility operation."

"For purposes of implementing new public road connection policy, city streets, county roads, and public highways are collectively referred to as public roads. A "public road" is defined to include: (1) a road to be maintained for general public use having dedicated rights of way or easements and serving multiple property ownerships; or (2) a road to be maintained at public expense, which is to connect

to a public agency facility serving the general public, such as a State park, a county government center, a city landfill, an Indian reservation, etc.

"...A local agency "public road" must clearly serve a public purpose, exceed 0.4 km in length, and should function as part of the local circulation element providing access to General Plan land uses. The connection of the new public road must also meet freeway Design Standards for interchange spacing, as described in HDM Index 501.3, or it must have an approved exception. The proposal should conform to Caltrans Access Control Policy in HDM Topic 104 and Index 205.1..."

The PDPM requires that interchanges be constructed only on public roads, defines what those roads may be, and further sets requirements on minimum length of roadway, requirements with respect to interchange spacing, etc. While there is no "regulation" prohibiting such a connection per se, any proponent of such a connection to the south would need to satisfy the process noted, in addition to the engineering challenges described above.

The comment questions whether the hotel and casino itself, which was evaluated directly in the 2001 Final EA, would generate other commercial development. The factors set forth in the Final EA and in this EIR/EA demonstrate that the casino will not have such growth-inducing impacts. Most significantly, the casino is located on a discrete parcel of tribal land, surrounded by developed residential land with County designations for residential development. The tribal lands surrounding the casino/hotel site is also developed for residential use. Neither the tribal land use plan for the tribal land, nor the El Dorado County General Plan, provides for commercial development in the immediate area. The immediately surrounding area is also governed by recorded covenants that exclude commercial activity. For all these reasons, the casino is not expected to have any significant growth-inducing impact.

The comment finally states that the EIR/EA does not discuss inducement of affordable housing for its employees. The EIR/EA does discuss the availability of housing, and demonstrates that there is more than sufficient housing available in the County to provide for the employees of the casino, even if all of the employees require new housing. (See page 6-2.) It is expected, however, that many employees of the casino will be existing County residents. Based on the existing median income in the County of approximately $35,000, the employees of the casino are not expected to generate a substantial demand for a different type of housing than is currently available considering the region as a whole.

42-10 This comment again asserts that Caltrans is segmenting or piecemealing the project. Please see Responses to Comments 36-2 and 41-4.

The NIGC EA/FONSI is incorporated by reference into the EIR/EA and includes an analysis of cumulative impacts of the proposed hotel and casino project. In addition, Chapter 7 of the EIR/EA also contains substantial additional analysis of cumulative impacts. Caltrans does not believe that additional analysis of cumulative impacts is required.

The traffic analysis includes a discussion of the potential impacts arising along U.S. Highway 50 west to the County line. The scope of the area to be covered by the traffic analysis was identified in consultation with Caltrans staff, as well as information gathered during the scooping process. The development and operation of the proposed interchange is not shown to cause a significant unavoidable impact along U.S. Highway 50 to the County line, which is west of El Dorado Hills Boulevard. There is no need for additional analysis that will take the study even further west than currently analyzed.

As shown in Table 1 below, the projected cumulative LOS on this segment of Highway 50 is F with and without the proposed interchange project. The proposed interchange project, coupled with the operation of the proposed hotel and casino, is projected to result in an increase of 4,235 average daily trips along this segment of highway. This increase of average daily trips translates to a 3 % increase over the cumulative no project conditions. Table 2 shows that the construction of the auxiliary lane will effectively mitigate the overall cumulative conditions on this segment of Highway 50 back to LOS D. Caltrans' Concept Report, and interchange EIR/EA, identifies LOS E as an acceptable LOS for this segment of Highway 50. Therefore, the auxiliary lane and the Tribe's agreement to provide fair share funding for that cumulative mitigation measure will reduce to a less than significant level both the project's contribution to the cumulative impact as well as the overall cumulative condition.

TABLE 1
2025 Unmitigated Highway Segment Conditions

Highway Segment	LOS E/F Threshold (Capacity)[1]	2025 No Project Volume	2025 No Project LOS	Project Volume	2025 Plus Project Volume	Volume Over Capacity	Unmitigated Cumulative Plus Project LOS
County Line to EDHB/Latrobe	120,400	135,000	*F*	4,235	139,235	18,835	*F*

[1]/ Assumes no auxiliary lane.

TABLE 2
2025 Mitigated Highway Segment Conditions

Highway Segment	LOS E/F Threshold (Capacity)[2]	2025 Plus Project Volume	Volume Under Capacity	Mitigated Cumulative Plus Project LOS
County Line to EDHB/Latrobe	160,600	139,235	***21,365***	*D*

[2]/ Assumes auxiliary lane

Please see Responses to Comments 43-2, 43-4 and 46-2 for information concerning the air quality analysis. The Lead Agencies have determined that additional development other than that included in the analysis in the EA/FONSI and the EIR/EA is speculative. CEQA and NEPA require analysis of what is reasonably foreseeable and do not require analysis of speculative possibilities. Based on this, The Lead Agencies do not believe there is any additional analysis of cumulative impacts required other than what is now contained in the EIR/EA (including clarifications made in Responses to Comments). For the same reasons, The Lead Agencies do not believe additional analysis of air quality impacts is required in the EIR/EA.

42-11 The commenter claims that the traffic and air quality impacts were adjusted so that they would not be significant. The assertion is inaccurate. Please see Responses to Comments 42-5 through 42-10, and 45-1.

42-12 The commenter questions whether the hotel casino is an indirect effect of the interchange project. The commenter misstates the assumptions of the EIR/EA, which designated wastewater treatment as an *indirect effect*, not a direct effect. The commenter thereafter claims that EID's comments to the Hotel/Casino EA point out deficiencies in the event that EID is required to provide services to the Rancheria at a future date, and resulting growth inducing effects.

Under NEPA, an Environmental Assessment should discuss direct and indirect effects of the project (40 CFR 1502.16(a)-(b)), as well as cumulative effects (40 CFR 1508.8). The EIR/EA includes a discussion of the casino, an indirect effect. In addition, the EIR/EA incorporates by reference the earlier environmental review of the casino. The EIR/EA provides a complete discussion of the direct and indirect effects of the project.

The discussion of the casino development and its impacts as an indirect effect is based upon the definitions set forth in the CEQA Guidelines (the CEQA statute does not define direct and indirect impacts). The CEQA Guidelines definitions

are substantially similar to the NEPA definitions as well. Under CEQA, a direct effect of a project is an impact, which is caused by a project and occurs at the same time and place. CEQA Guideline 15358(a)(1). Under NEPA, an Environmental Assessment should discuss direct and indirect impacts of the project (40 CFR 1502.8(b)), as well as cumulative effects (40 CFR 1508.8(a)). An indirect effect of a project is an effect which is "caused by" the project or action and reasonably foreseeable, but which is either later in time or farther removed in distance. CEQA Guideline 15358(a)(2); NEPA Regulations, 40 CFR 1508.8(b). Under both CEQA and NEPA definitions, indirect effects include changes in land use patterns that are induced by the project or action in question.

The comment and its strong assertions appear to rely on the assumption that there is a causal link between the interchange and the casino, such that the interchange would not be constructed without the proposed casino. However, the definition of an indirect impact as set forth above includes such a causal link. Such a causal link does not rebut the proper classification of the casino impacts as indirect impacts of the interchange.

Caltrans notes in particular in response to this comment that the classification of these impacts as indirect impacts was reached after careful analysis of the CEQA Guidelines definitions. Therefore, the issues of water delivery and wastewater treatment and disposal are each indirect effects associated with the proposed hotel and casino project. These indirect effects associated with the proposed hotel and casino project were fully addressed within the NIGC EA, and have been properly incorporated by reference into the interchange EIR/EA.

The interchange EIR/EA includes its own complete cumulative impacts, growth inducing and secondary effects analyses that consider the casino project together with the interchange project. (EIR/EA at Chapters 6, 7, 9). Therefore, the interchange EIR/EA does not ignore the potential impacts of the proposed hotel and casino project; rather it fully analyzes the potential impacts of that project as they might relate to the interchange project. The interchange EIR/EA classifies potential impacts of the casino and hotel as indirect impacts of the interchange project.

The commenter's concerns are based on a mistake in reading EID's comments. EID's comment letter regarding the wastewater treatment plant is forwarded together with comments on the interchange EIR/EA and is dated March 15, 2001, specifically addressing a wastewater treatment plant which has been redesigned by the Tribe in response to those earlier EID comments received. The wastewater treatment plant design actually submitted to NIGC for approval as part of the December 2001 EA package is designed by Hydroscience. EID never submitted a supplemental comment on this revised design. To the extent the EID raises concerns in their June 20 comment letter about the possibility of a failure at a

future time, such potential failures are too speculative to be addressed by the interchange EIR/EA.

42-13 The commenter claims that the Rancheria has no restricted access. Page 3-3 of the EIR/EA states "(a)t present, the Shingle Springs Rancheria is *effectively landlocked for economic purposes*" (emphases added). This statement was used after a detailed description of why commercial enterprises cannot be developed on the Rancheria. The EIR/EA does not claim that residents of the Rancheria are prevented from accessing the area, for limited residential purposes.

The Grassy Run Community Services District (CSD) restrictions were imposed involuntarily upon the Tribe and as part of the subdivision map process for El Dorado County. The residential only restrictions imposed on the Rancheria, have occurred because the Rancheria has no independent access and is therefore bound by the pre-existing restrictions affecting its neighbors, regardless of its independent and sovereign status. The commenter is respectfully directed to the June 20, 2002 letter from Department of Interior Secretary for Indian Affairs Neal McCaleb [a copy of which is attached to Response to Comment 23]. The history of access restrictions to the Tribe spans a 35 year history dating back to relocation of U.S. Highway 50 south. Access restrictions reached a nadir when Grassy Run CSD successfully obtained an injunction against the Tribe, precluding any use on Grassy Run roads but narrowly constructed residential uses by the Tribe. The Department of the Interior has taken the position that resolving the Tribe's access issues is a priority for the Department.

42-14 The commenter states that the EIR/EA does not discuss any other form of access to the Rancheria other than the interchange and private access road. The commenter does not offer any additional thoughts regarding potentially feasible alternatives. Chapter 4 of the EIR/EA presents a thorough discussion of the range of alternatives selected. The final alternatives were selected after a complete analysis that included public input. The commenter also asserts that the Frontage Road Alternative in the EIR/EA does not contain an adequate discussion under CEQA. Please see Response to Comment 4-1.

42-15 Please see Response to Comments 36-2, 41-4, and 42-10. As stated in the previous responses, the existence of a causal link is part of the definition of an indirect impact, and such a link does not rebut the proper classification in this EIR/EA of the casino impacts as indirect impacts of the interchange. Incorporation by reference of the EA and FONSI is proper; these are publicly available documents that qualify for such incorporation under CEQA Guideline 15150, and NEPA regulation 10 CFR 1502.21.

42-16 The comment asserts that because the Shingle Springs Rancheria land use plans and Environmental Management Plan are not made part of, or expressly

incorporated into, the EIR/EA, the EIR/EA is flawed and must be recirculated. This is incorrect.

There is no requirement that applicable land use plans or other regulatory documents be incorporated into an EIR or an EA, either directly or by reference. In fact, CEQA Guideline 15148 states that, while "preparation of EIRs is dependent on information from many sources," source documents "should be cited but not included in the EIR."

The casino/hotel project and the interchange project are anticipated in both the Rancheria land use plans and the Tribe's Environmental Management Plan for the Rancheria. (See EIR/EA at page 5.2-8.)

The comment's assertion that the Rancheria land use plans and the Environmental Management Plan are "not available for review as part of this CEQA/NEPA process" is also incorrect. These are publicly available documents.

For all of the foregoing reasons, there is no need to recirculate the EIR/EA for further review.

42-17 The commenter claims that the Tribal Land Use Plan is incorporated by reference; and that failure to provide the Tribal Land Use Plan to the public in connection with review of this interchange EIR/EA is a critical flaw. The commenter is mistaken because the land use assumptions regarding the hotel/casino have already been incorporated in the traffic and air quality assumptions incorporated in the hotel/casino EA and the EIR/EA. These indirect impacts have been thoroughly evaluated as part of Caltrans/BIA's consideration and proposal of the interchange.

All other issues dealing with Tribal Land Use needs are completely beyond the scope of these agencies or the public reviews. As is noted by the Court in *Brendale v. Confederated Tribes and Bank of Yokima Nation* (1989) 492 U.S. 408, Tribes retain all land use and zoning authority of the land they control. Their land use and environmental documents do not require non-tribal scrutiny. California Government Code §12012.25 specifically limits CEQA applications to Tribal Gaming issues by providing, "In deference to tribal sovereignty, neither the execution of a tribal-state gaming compact nor the on-Reservation impacts of compliance with the terms of a tribal-state gaming compact shall be deemed to constitute a project for purposes of the California Environmental Quality Act of the Public Resources Code." Therefore, while a CEQA analysis is proper for the proposed interchange because of Caltrans' role, and construction of the interchange over Caltrans, the CEQA analysis should not contemplate on-Reservation impacts of the Compact, including modifications of the Tribal Land Use Plan by the Tribal Council, except where such impacts are considered indirect impacts of the proposed interchange. In addition, the construction of the

hotel and casino and the execution of the gaming management contract are purely federal endeavors. The impacts have been analyzed and mitigated by the NIGC in its EA/FONSI. Please see Response to Comment 28-12.

42-18 This comment proposes that the EIR/EA's conclusions regarding land use conflicts are not supported by facts or analysis. The commenter is referred to page 5.2-9, the same page quoted in the comment, which states that "[t]he project . . . implements planned land uses on the Rancheria." Also, page 5.2-8 states that "[t]he planned land use for [the interchange] area is transportation facilities and maintenance," therefore the interchange does not represent a departure from the currently planned land use. These statements demonstrate consistency with Rancheria land use plans. Moreover, the hotel/casino EIR/EA, which is incorporated into the interchange EIR/EA by reference, contains additional analysis of land use compatibility for that project.

42-19 As discussed in Response to Comment 51-13, the mitigation measure for cumulative U.S. Highway 50 traffic impacts has been clarified. The expanded language of that mitigation measure as set forth in Response to Comment 51-13 responds to this comment as well.

The comment also appears to suggest that mitigation measures must be guaranteed by a project proponent. With regards to the proposed hotel and casino, which is treated as an indirect effect of the proposed interchange project, the NIGC has full authority to enforce the mitigation of that agency's EA. That EA and the mitigation proposed in the associated FONSI have been incorporated by reference into the proposed interchange EIR/EA.

With regards to the proposed interchange EIR/EA, the requirement is that mitigation must be feasible. CEQA Guideline 15126.4(a)(1); Mitigation measures must also be enforceable, and for public projects, that can be achieved by incorporating the mitigation measure into the project design. That has been done here, where mitigation for tribal impacts has been adopted by the tribe as part of the environmental impact ordinance, and where the cumulative mitigation measure has specifically been adopted. Response to Comment 51-13 states that the Tribe has also specifically adopted an off-reservation impacts resolution confirming that the mitigation set forth below shall be carried out. In addition, mitigation measures must be consistent with applicable law and constitutional requirements, including the legal and constitutional issues governing the relation between state agencies and federally recognized tribes. Please see Responses to Comments 29-2 and 36-6.

42-20 Caltrans has examined the local ordinance establishing local standards for mitigation of asbestos found in the serpentine rocks bountiful in the area of the project. Caltrans believes that these standards are quite sufficient for the purpose and do satisfy the requirements of CEQA. Caltrans has determined that they are

appropriate for application in this project and will enforce them itself, with the BIA, through the P.L. 93-638 contract or other regulatory agreement approved by BIA and the tribe to ensure compliance by the Tribe, its contractors and agents with the mitigation measures adopted herein. Please see Response to Comment 43SR-12. Adopting these mitigation standards through the P.L. 93-638 contract or other regulatory agreement neither confers any enforcement authority or responsibility on local governments nor diminishes the value of the chosen means of mitigation in the context of CEQA. Certainly, if El Dorado County believes that its ordinance is sufficient for purposes of CEQA in a local project under its control, then these same standards are sufficient if another authority is enforcing them.

42-21 The commenter claims that air quality impacts are not less-than-significant. Please see Response to Comment 42-7.

42-22 The commenter claims that the conclusion for Impact 5.7-5 is incorrect given that only areas affected by the freeway interchange are considered, that the hotel and casino are part of the project, and are not analyzed in conjunction with the freeway interchange. Impact 5.7-5 is the cumulative biological impact that does look at the cumulative effect of the proposed interchange project. The analysis does not just focus on the project area. The analysis states that the alternatives may contribute to cumulative effects through reducing the amount of oak woodland habitat in the *Sierra foothills.* The analysis also states that cumulative effects to special status plants have occurred through the increased rate of construction of homes and businesses on the gabbro soils in the past 10-20 years. In addition to this analysis, Chapter 9.0 of the EIR/EA provides an indirect analysis assuming construction of the hotel and casino.

42-23 The commenter questions the indirect effects of the interchange project on affordable housing. Please see Responses to Comments 21-3, 32-10, 32-12, and 42-9.

42-24 The commenter asserts that there is no discussion of the socioeconomic impacts of future hotel and casino employees and that the census tract didn't even cover Shingle Springs. Please see Responses to Comments 21-3, 27-4, 32-10, 32-12, 41-3, 42-9, and 42-23.

42-25 The commenter points out an error in the Water Quality Technical study that concluded that a 404 Permit was not required since no waters of the U.S. would be affected by the proposed interchange project. The wetland survey conducted for the interchange project concluded that 0.057 acres of "waters of the U.S." would be permanently impacted by the construction of the Proposed Project. No jurisdictional *wetlands* exist within the boundaries of the project site. The U.S. Army Corp of Engineers verified the wetland delineation on April 16, 2002.

42-26 The commenter asserts that the wastewater treatment process associated with the proposed hotel and casino project (indirect effect of the proposed interchange project) could have a negative effect on groundwater quality. NDMA, or N-Nitrosodimethylamine, is a potent carcinogen that can be formed when water is disinfected with chlorine. As the disinfection process to be employed at Shingle Springs will not utilize chlorine, BIA does not anticipate the introduction of NDMA into groundwater through the SDI system. Likewise, BIA does not anticipate the introduction of trihalomethanes to groundwater via the treated effluent that will, at times, be injected through the SDI system. Nitrate removal by the tertiary wastewater treatment system will meet primary drinking water standards as well as California's highest standards for reclaimed water.

Caltrans questions whether all groundwater in El Dorado County is as pristine as the commenter suggests. However, the only groundwater of concern for purposes of this project is the groundwater underlying areas off-reservation that may be impacted by activities related to this project. As described in the EIR, the Tribe will install and operate groundwater monitors to ensure that effluent injected by the SDI system is not contaminating groundwater. The Tribe will conduct background water quality monitoring through current open wells off-reservation and then ensure that that background water quality, off-reservation, does not deteriorate as a result of activities associated with this project by also monitoring very closely the quality of the effluent to be injected. The Tribe will work with USEPA Region 9 with regard to groundwater monitoring as a function of establishing the wastewater treatment plant and SDI system.

42-27 The commenter claims that the mitigation for Pine Hill gabbro formation presented in the Natural Environmental Study does not exist within the EIR/EA. The Pine Hill gabbro formation mitigation is identified as Mitigation Measure 5.7-1(D) in the EIR/EA, as a mitigation for impacts to upland vegetation.

42-28 Please see Responses to Comments 36-2 and 42-1.

COMMENT LETTER #43

EL DORADO COUNTY
OFFICE OF
THE COUNTY COUNSEL

COUNTY COUNSEL
LOUIS B. GREEN

CHIEF ASS'T. COUNTY COUNSEL
EDWARD L. KNAPP

PRINCIPAL ASS'T COUNTY COUNSEL
PATRICIA E. BECK
THOMAS D. CUMPSTON

DEPUTY COUNTY COUNSEL
CHERIE J. VALLELUNGA
THOMAS R. PARKER
JUDITH M. KERR
REBECCA C. SUDTELL
PAULA F. FRANTZ

COUNTY GOVERNMENT
CENTER
330 FAIR LANE
PLACERVILLE, CALIFORNIA
95667
(530) 621-5770
FAX# (530) 621-2937

Legal Assistants
RUDY LIMON
JOHN F. MARTIN

June 20, 2002

CalTrans
c/o Karen McWilliams
District 3 Office of Environmental Management
2800 Gateway Oaks Drive
Sacramento, CA 95682

Re: Comments on Draft EIR/EA for Highway 50 Shingle Springs Interchange

Dear Ms. McWilliams:

We appreciate the opportunity to comment on the above-named draft environmental document on behalf of El Dorado County and its Board of Supervisors. These comments apply to both CalTrans' lead agency role under the California Environmental Quality Act ("CEQA") and the Bureau of Indian Affairs' ("BIA's") lead agency role under the National Environmental Policy Act ("NEPA"). Pursuant to the May 7, 2002 notice issued by the Bureau of Indian Affairs, these comments are delivered to you in lieu of separate delivery to Mr. Ronald M. Jaeger at the BIA.

43-1 The Draft EIR/EA is, unfortunately, analytically flawed and legally inadequate, most prominently in its ill-advised reliance upon a prior environmental study for numerous impact analyses. Not only does this approach improperly "piecemeal" the environmental review required by CEQA and NEPA, it has caused CalTrans and the BIA to build their analyses on a foundation of sand. As the County and others have documented – in materials contained within the pages of this Draft EIR/EA – the prior environmental study falls far short of legal adequacy.

Piecemealing of Environmental Review

The County's Department of Transportation responded to CalTrans' Notice of Preparation on August 3, 2001. In that letter, the County cautioned CalTrans against preparing an EIR focused only on the "footprint" impacts of the interchange structures, without considering the impacts

resulting from the Tribal development plans this interchange makes possible. The County specifically counseled CalTrans against merely relying upon the Environmental Assessment (EA) that had been prepared by the BIA (and later the National Indian Gaming Commission) in connection with the casino Development and Management Contract and other actions. To ensure that CalTrans had notice of the many defects in the federal agencies' EA, the County attached its critique of that prior document.

Virtually every agency, group, and individual that responded to the Notice of Preparation made the same points, and some also attached their critiques of the prior document. We are disappointed to find that CalTrans and the BIA have chosen instead to maintain a course that appears to have been preset before the Notice of Preparation was even promulgated.

Chapter 2 of the Draft EIR/EA repeatedly states that the casino and hotel are not considered an element of the project – the project is the interchange only. This misguided assertion taints every impact analysis performed in the Draft EIR/EA. CEQA requires analysis of *the whole of an action*; projects are required to be defined broadly so as to maximize protection of the environment. It is legal error to split a project into pieces, because the effect is to submerge environmental considerations, losing sight of the project's overall, long-term impacts. NEPA, as well, forbids project-splitting.

43-1 Cont.

Unfortunately, the Draft EIR/EA is a textbook example of improper piecemealing. The hotel and casino impacts are separated out from the interchange portion of the project. They are relegated to the status of indirect or growth-inducing secondary impacts. The impacts are discussed in only two chapters of the document, in passages totaling about 14 pages. Even if these scant discussions had provided new information and analysis, their adequacy would be dubious. But in fact, these subsequent chapters merely incorporate by reference the inadequate discussions of the prior EA. CalTrans and the BIA have made no attempt whatsoever to conduct independent or supplemental environmental analysis.

This is a fatal analytical error. It renders the project description incomplete and inadequate. It infects the traffic and air quality impact analyses by importing the defects of the prior EA's work into this document. It renders the analyses of noise, biology, visual resources, socioeconomics, cultural resources, hazardous materials, water quality, and drainage incomplete, because the Draft EIR/EA does not properly aggregate and analyze the combined impacts of the interchange and casino/hotel on these resources. It invalidates the consideration of alternatives to the project, because the crabbed definition of the project at hand results in the consideration merely of interchange alternatives, rather than alternatives to the project as a whole.

The federal agencies insisted in the prior EA that neither the interchange, nor even the casino/hotel, were not parts of their project, which was ultimately defined down to the mere approval of a Development and Management Contract for the casino. Now, CalTrans and the BIA insist that this project is merely the interchange. The result is a shell game, in which neither environmental review claims the casino and hotel as its own. The casino and hotel evade thorough review, and neither document fully analyzes the whole of the action.

43-1 Cont. It is sophistry to attempt to separate the interchange from the casino and hotel. The financial backers for the casino and hotel intend to pay the multimillion-dollar cost of the interchange from their own pockets. Would they volunteer to build and interchange if there was not a casino at the end of the ramp? Of course not. Conversely, the casino and hotel cannot be built without the interchange or some other alternative form of road access, because of the legal and physical limitations of the existing access. In short, the casino makes the interchange possible, and the interchange makes the casino possible. Each is necessary for the other to exist. They cannot be separated. These and other points are made at greater length in a memorandum dated June 11, 2002, from County Principal Planner Steven D. Hust. That memorandum is incorporated herein by this reference.

Tiering of Environmental Review

43-2 A corollary of this piecemealing error is CalTrans' assertion that it is "tiering" off of the prior EA. It is true that CEQA encourages tiering to allow agencies to avoid repetitiveness and wasted time, money, and effort. However, CEQA tiering begins with a CEQA-compliant EIR. Nothing in CEQA authorizes the use of an EA prepared under NEPA as a first-tier document, and for good reason – as CalTrans frankly admits, standards for finding a significant impact differ between NEPA and CEQA. So, too, do many other procedural and substantive provisions, including CEQA's "action-forcing" requirements that all feasible mitigation measures and alternatives be adopted. In other words, even absent the many defects of the EA's impact analyses, those analyses were tailored for NEPA compliance, not CEQA compliance. CalTrans cannot "tier" off of the prior EA; it must provide CEQA-compliant impact analyses for the project as a whole.

Traffic Analysis

43-3 The County and others identified many inaccuracies, inconsistencies, unsubstantiated assumptions, errors, and omissions in the traffic studies prepared for the EA. Although a few of these problems have been corrected in this Draft EIR/EA, most have not. The traffic analysis in this document is based closely on the prior, flawed analysis. According to the County's Senior Traffic

Civil Engineer, Craig McKibbin (who is also a member of the Project Development Team for this project), flaws carried forward into this analysis include:

- The use of an outdated version of the Highway Capacity Manual. The analysis relies on the 1997 version, even though a new version of the Manual was published in 2000.
- Flawed trip generation assumptions. The assumptions are derived from "comparator" casinos that differ substantially in size and facilities. Data for truly comparable casinos were available, but not used. Proposed restaurants, with seating for 1,400 customers, were not included in the trip generation calculations; nor was the convention/event center that seems to appear and disappear from the announced casino plans at will. The methodology used to calculate trip generation rates does not meet industry standards. In particular, the "weighted average" trip rate calculation deviates substantially from standard methodology without adequate justification. No trip generation is attributed to support operations, including the possibility of trucking in 100,000 gallons of water per day.
- Unsupportable trip rate reduction claims. The claim that co-use of the casino and hotel will reduce hotel trip generation by 75% is unsubstantiated and not credible. Likewise, the discussion of pass-by trips and traffic diversions continues to be characterized by unsupported conjecture and unreasonably high assumed capture rates.
- Internal inconsistencies in the analysis, including the selective use of specific "comparator" projects for some purposes, but not others.

43-3 Cont.

- Insufficient analysis of traffic impacts to Highway 50 beyond the two segments immediately adjacent to the proposed project. No analysis of Highway 50 and 49 impacts beyond County lines. Insufficient analysis of impacts to roads other than Highway 50.

To the extent that an analysis of impacts to County roads is provided, it clearly shows that the project will be a major contributor to traffic on several segments, yet no mitigation is proposed. Apparently, CalTrans and the BIA simply assume that the County will bear the capital expense of needed road improvements, as well as the increased maintenance costs attributable to larger facilities and increased traffic. This is inequitable and inconsistent with CEQA and NEPA. CalTrans and the BIA should acknowledge and shoulder their fair share of mitigation

Similarly, the analysis clearly shows that the project substantially increases traffic on the state highway system on road segments where no mitigation is proposed. CalTrans and the BIA should commit themselves to appropriate mitigation measures.

The Draft EIR/EA makes no effort to integrate the project with existing or potential public transportation service. On one hand, the project may burden existing public transit options, but no analysis is performed or mitigation proposed. On the other hand, coordination with or expansion

of public transit might help mitigate the project's traffic impacts, but this initiative is not even considered. More broadly, the Draft EIR/EA should, but does not, analyze non-vehicular access and circulation to the project. As a result, there is no effort to accommodate bicycle or pedestrian traffic, despite the fact that the interchange will adjoin the former Southern Pacific Railroad right of way, an obvious potential conduit for non-vehicular traffic. CalTrans and the BIA should conduct these omitted analyses, mitigate any significant impacts they identify, and utilize these means to provide mitigation for other traffic impacts.

The Draft EIR/EA refers several times to discussions regarding future widening of Highway 50 in the project area. While the accuracy of certain specifics in those discussion is questionable, it is reasonably foreseeable that more lanes may someday be added to the highway. By adding an offramp and an auxiliary lane for eastbound travel, this project is using up limited surplus right of way, which may complicate or preclude later lane additions. The Draft EIR/EA should, but does not, analyze the impacts of this project on future potential highway improvements.

The analyses of cumulative and indirect traffic impacts are incomplete, because they fail to acknowledge the growth-inducing effects of the casino/hotel. The Tribe claims that 1,500 employees will be traveling to and from the facility; the facility will also require a host of ancillary commercial
43-3 Cont. services. The presence of a commercial enterprise of this scale and character will increase development pressures in the nearby community and will foreseeably alter the present rural residential character of the surrounding lands. The Draft EIR/EA does not acknowledge the traffic (not to mention other) impacts of this growth-inducement. CEQA and NEPA require that it do so.

The cumulative traffic analyses is also inaccurate and outdated in several respects. At Page 5.1-3, the Draft EIR/EA identifies what it calls an "obvious error" in the County's traffic model, then goes through an elaborate estimation process to correct that particular error. The true error, however, is that the traffic consultant chose to use outdated results from an obsolete version of the County's model as the basis for cumulative traffic analysis, rather than utilizing the current version of the model to generate the most accurate available data. The County informed the traffic consultant of the situation and urged the use of the updated model, to no avail.

In addition, Pages 5.4-5 and 5.4-23 indicate that the cumulative traffic impact analysis is based upon a projected roadway network that the County has never approved or adopted. Further, the cumulative baseline Rancheria traffic is assumed to increase at 1% per year (Page 5.4-9). The County's historical rate is approximately three times that, and reported growth on the Rancheria in the last five years has been higher still. This assumed 1% growth rate is at odds with the best available information.

43-3 Cont.

The wilful use of outdated methodology and inaccurate data, when better are available, does not meet CEQA's or NEPA's standards. The cumulative traffic analysis must be redone.

Overall, the traffic analysis is riddled with unsubstantiated assumptions and conclusions. The situation is compounded by CalTrans' and BIA's failure to make available all of the documents and reports referenced in the Draft EIR/EA and the Transportation/Circulation Technical Study, even to Mr. MiKibbin, who is a member of the Project Development Team.

These and other points are raised in greater detail in the attached memorandum by Mr. McKibbin, dated June 13, 2002. That memorandum, as well as all of the County's March 2001 comments on the prior EA (included in the Draft EIR/EA) are incorporated herein by reference.

Air Quality Analysis

El Dorado County retained Sierra Research, a qualified expert air quality consulting firm, to review this portion of the Draft EIR/EA. Sierra Research found that the traffic-based air quality analysis employed inappropriate thresholds for characterizing impacts as significant or insignificant. The appropriate thresholds for this project are those of the El Dorado County Air Pollution Control District's CEQA Guide ("CEQA Guide"), first published in 2001 and formally adopted in February 2002. The County's March 2001 comment letter on the prior EA, which was also transmitted to CalTrans in response to the NOP, specifically raised the issue of improper thresholds, yet the error has not been corrected.

43-4

If the proper thresholds had been used, the project would show significant impacts from ROG and NOx. The information provided in the Draft EIR/EA is insufficient to determine whether the project would also show significant impacts from CO and PM10 under the proper thresholds.

The Draft EIR/EA did not employ the proper thresholds because it simply adopted an air quality analysis that was conducted for purposes other than CEQA or NEPA compliance. The analysis, which was for purposes of determining conformity with federal Clean Air Act requirements, cannot serve as a substitute or proxy for a proper CEQA or NEPA analysis of potential air quality impacts. Not only do the thresholds of significance differ, but a CEQA/NEPA analysis would find greater emissions from the same number of vehicle trips.

The difference in emissions arises from the fact that, until January 1, 2003, "conformity analyses" are authorized to use assumptions about the composition of California's vehicle "fleet" that are outdated and proven to be inaccurate. In contrast, CEQA and NEPA require that the best

available information be used. Current information shows that, due to the popularity of SUVs and light-duty trucks, vehicle emissions exceed the assumptions employed in a conformity analysis.

For all of these reasons, the traffic-based air quality analysis is wholly inadequate and must be completely redone.

43-4 Cont.

Similarly, the analysis of construction emission impacts fails to comply with the proper methodology, as prescribed in the CEQA Guide. The proper methodology was developed by the Sacramento Metropolitan Air Quality Management District and is being adopted and used region-wide. In contrast, the Draft EIR/EA employs the outmoded approach that the new methodology has replaced, and thereby underestimates ROG and NOx emissions. Also, the Draft EIR/EA claims credit for large reductions in PM10 emissions from fugitive dust, without documenting how those reductions are achieved. There is no consideration of the combined emissions resulting from overlapping interchange and casino/hotel construction, or total emissions from the two activities, whether overlapping or sequential.

The analysis of toxic emissions is faulty. Specifically, the Draft EIR/EA fails to provide a health risk assessment for asbestos, despite the fact that construction, grading, and other activities will disturb naturally-occurring asbestos deposits. Similarly, no health risk assessment has been performed for diesel engine particulate emissions during construction. The CEQA Guide requires both of these health risk assessments.

Repeating a defect of the prior EA, an appendix to the Draft EIR/EA includes a traffic-based air quality analysis, using the URBEMIS model, whose trip generation assumptions contradict the assumptions of the traffic analyses. The effect, as in the prior EA, is to further reduce even the traffic analyses' questionable trip rates, thereby falsely understating the resulting air pollution. Even so, the URBEMIS outputs show that, even with mitigation, pollution from ROG, NOx, CO, and PM10 all greatly exceed not only the CEQA Guide thresholds, but even the inappropriate, more lenient thresholds utilized in the Draft EIR/EA.

These results flatly contradict the conclusion in the Draft EIR/EA that air pollution from traffic is an insignificant effect. Yet the text of the Draft EIR/EA does not even mention these damning URBEMIS modeling results! These results require that air pollution be acknowledged as a significant impact and require substantially greater mitigation to try to offset that impact. The County is greatly disturbed by this selective and possibly manipulative use of data. It is a clear violation of both the letter and the spirit of CEQA and NEPA, particularly given the "black box" approach the Tribe and BIA have taken to air pollution issues throughout.

43-4 Cont.

Other air pollution data are missing or unsupported. The estimates of construction activity for the construction emissions analysis are undocumented. The emissions of employee commute travel are said to be included, but the relevant appendix does not substantiate this statement, and the numbers contradict it. The claimed reductions in NOx from mitigation measures are not documented.

Above, we discuss the many questionable, unsubstantiated, and unorthodox aspects of the traffic analyses' trip generation estimates. Until these trip generation issues are resolved, the Draft EIR/EA's air quality analysis is equally in doubt. Further, the underlying data for the ROG and NOx analysis are simply absent, rendering the conclusions unsupported and unverifiable. In short, not enough information is provided to allow appropriate, informed public review and comment on these critical environmental issues.

All of the foregoing points, and others, are set forth in greater detail in a letter from Sierra Research dated June 18, 2002. That letter is attached and incorporated herein by this reference.

Water Quality/Drainage Analysis

43-5

The water quality and drainage analyses suffers from the piecemealing problem previously discussed. In addition, the significance criteria focus exclusively on larger, less-likely storm events without due consideration of the potential for increased erosion and channel widening from more common events. The analyses also do not address the effects of the project on total runoff volume in the watersheds. Increased volumes can lengthen inundation times downstream. Also, because data on volume increases are not presented, there is no support for the conclusion that mitigation measures will avoid significant additions to roadway contaminants. Two different computer models were used to estimate runoff for large basins. It is unclear how the methods differed or why both were used. There is no rationale to support the choice of one-hour durations in the analyses, and it is not clear whether this duration was consistently used. County engineers believe that the characteristics of the watershed require that a 24-hour duration analysis be performed.

These and other points are expressed in greater detail in the attached memorandum from Senior Civil Engineer Dave Spiegelberg dated June 5, 2002. The memorandum is incorporated into the County's comments by this reference.

Socioeconomic Analysis

43-6

The comparison of household income in Table 5.9-2 is meaningless. Of the 180 households surveyed, only a fraction actually live on the Rancheria, and probably a majority live outside of El

43-6 Cont.

Dorado County. Comparing these non-residents' income to El Dorado County income provides no meaningful information. The conclusions at Pages 5.9-5 and 5.9-7, that the project will not affect the socioeconomic character of the surrounding area or neighborhoods, and will not affect minority or low-income populations, are absurd statements that dramatically illustrate the fatal analytical flaw of refusing to analyze the project as a whole. Whether the *interchange structure* will affect the area's socioeconomics is an irrelevant question. The question is, what will the casino do to its neighbors and the community at large, including minority and low-income citizens?

Despite all efforts, in the end the Draft EIR/EA cannot consistently maintain its project-splitting fiction. At page 5.9-6, the basis for the conclusion that the No Project alternative has no displaced person/housing impacts is that without the interchange, the casino and hotel will not be built! If CalTrans and the BIA had their "story straight," that analysis would focus only on whether the interchange structure would displace persons or housing.

43-7

Impacts on Former Railroad Right of Way

The Draft EIR/EA asserts, without substantiation, that the eastbound interchange offramp will not impact the former Southern Pacific Railroad right of way. The only available evidence suggests otherwise. The reduced-size Figures 2-1 and 2-2 show that the ramp will extend to the very edge of the common property line between Highway 50 and the right-of-way. This will occur where the improved portion of the railroad right of way most closely approaches the Highway under existing conditions. Apparently, a retaining wall will also be constructed in this vicinity. This area is a rock ridge cut deeply on both sides for the respective rights of way. Older maps of the area show an irrigation canal immediately north of the former railroad tracks, of which the cultural resources analysis in the Draft EIR/EA makes no mention.

As the Draft EIR/EA acknowledges, the former railroad right of way is a historic resource. (So, too, would be vestiges of the former irrigation canal.) In its new ownership, the right of way is also a valuable resource for potential non-vehicular transportation or public transit. For both reasons, any impact upon the railroad right of way (or canal remnants) would be significant, and the prospect of such an impact cannot merely be dismissed or ignored.

43-8

Integration of Impact Analyses

As discussed above, the traffic and air quality analyses purport to be integrated, but in fact they are inconsistent in their trip generation assumptions. Moreover, the traffic analysis shows impacts on roads other than the segments of Highway 50 immediately adjoining the interchange, but the territorial scope of the air quality impact analysis does not extend to this larger area. Similarly,

43-8 Cont. the noise analysis is focused only on the proposed interchange area, using four noise measurement sites and a total of ten sites modeled for noise impacts. Because the traffic analysis shows increased traffic elsewhere, the noise analysis should also determine if these changes in traffic volumes have corresponding noise impacts. To summarize, the fundamental assumptions and territorial scope of the impact analyses are not properly integrated. They should be redone to achieve consistency.

Alternatives Analysis

43-9 Because of the piecemealing problem previously discussed, the consideration of alternatives is improperly limited to no project and a single alternative interchange design. Even if the project description was rightly limited to the interchange, providing only a single alternative to the preferred design (along with the legally mandated no-project alternative) does not provide the reasonable range of alternatives that CEQA and NEPA require.

A frontage road alternative was eliminated from consideration as infeasible on the basis that condemnation would be necessary to implement it, and on the basis that El Dorado County "has previously expressed opposition to economic development of the Rancheria.." Neither rationale holds up. The first ignores that a non-resident private party has already assembled the properties needed to route a frontage road, and would be the only landowner in condemnation proceedings. As both the BIA and CalTrans have eminent domain power, the County's cooperation would be unnecessary. The second rationale is a canard. As the resolutions attached to the County's Notice of Preparation response made clear, the County opposes the development of a casino anywhere in El Dorado County, and it opposes development on the Rancheria *that does not comply with the state and County law, including zoning, environmental review, and impact mitigation.* As yet, the County has seen no development proposal that meets these minimal criteria; the County will gladly review such a proposal, and support it if appropriate, should it ever emerge.

In short, it was improper not to analyze a reasonable range of alternatives to the entire project. Further, even under the Draft EIR/EA's narrow project description, the range of alternatives considered was inadequate and CalTrans and the BIA improperly excluded a frontage road alternative.

Cumulative Impacts

43-10 The Draft EIR/EA's cumulative impact analysis fails to take into account foreseeable expansions of the casino hotel project. Virtually every Indian casino in California has expanded since opening, no matter what its original size. In nearby Yolo County, the Rumsey Band of Wintun Indians is planning a second major expansion to its casino. In particular, it is foreseeable that the

43-10 Cont. Shingle Springs Band will add an event/convention center and bingo hall to its facility almost immediately. Virtually every Indian casino in California has such a facility. An event center was part of the proposed casino but was dropped when it became apparent that the prior EA had completely failed to analyze its impacts. It will return; the Draft EIR/EA must anticipate this eventuality and include the likely impacts into its analyses – particularly in the areas of traffic and air quality.

Omitted Documentation

43-11 The County concurs with the comments of Voices for Rural Living regarding the many ancillary, support, and technical documents that should have been, but were not, made available for public review. This failure to make information available stunts meaningful public input and thwarts CEQA's and NEPA's public disclosure functions.

Rancheria Title

43-12 At Page 3-2, the Draft EIR/EA asserts that deeds to the Rancheria recited that "'the land is held in trust for the Sacramento Verona Band of Homeless Indians.'" This is a serious and material factual misrepresentation, especially misleading in its use of quotation marks. The true language of the deed vests title in the "United States of America, for the use and occupancy of the Sacramento Verona-Band [sic] of Homeless Indians." This is no minor quibble. To be eligible to host a casino under federal law, the Rancheria must be held in trust by the United States for the Shingle Springs Band of Miwok Indians. Obviously, the deed refers to another band of Indians, not the Shingle Springs Band. Further, the phrase "for the use and occupancy" is more appropriate to an easement or license for use; it is not trust language.

Thus, a substantial legal issue exists as to whether federal allows the development of a casino on the Rancheria in any event. CEQA and NEPA require the Draft EIR/EA to disclose and analyze the consequences of this cloud on the title.

Summary

43-13 The Draft EIR/EA falls short of meeting the procedural and substantive requirements of CEQA and NEPA on numerous fronts, as detailed above. CalTrans and the BIA should withdraw this woefully inadequate document and prepare a new document that, at long last, adequately describes the entire project and takes into account and remedies the defects of the prior EA and the defects of this document as identified by the County and other responding parties. Any attempt to

43-13 Cont. finalize this document without a preparing and recirculating a new draft to the public will be legally infirm and counterproductive.

Very truly yours,

LOUIS B. GREEN
County Counsel

By _____
THOMAS D. CUMPSTON
Principal Ass't. County Counsel

cc: El Dorado County Board of Supervisors
Matt Boyer, Director of Transportation
Conrad Montgomery, Planning Director
Jon Morgan, Director of Environmental Management, APCD Air Pollution Control Officer

Encl.
TDC:km

California Department of Transportation
EIR Responses to Comments

Comment Letter #43

43-1 The commenter asserts that the interchange EIR/EA is inadequate due to the lack of incorporating the proposed hotel and casino projects as components of the interchange project. Please see Responses to Comments 36-2, 39-1, and 41-4.

43-2 The commenter claims that the interchange EIR/EA improperly tiers off of the NIGC EA. Please see Responses to Comments 36-1, 39-1 and 46-3.

43-3 The commenter states that Mr. McKibbin, who is an active participant of the monthly PDT meetings, claims that the EIR/EA traffic study is flawed since it relies on the flawed NIGC EA traffic study. The issues now raised by the commenter on behalf of Mr. McKibbin during the public review period of the EIR/EA are addressed in these responses.

Caltrans notes initially in response to this comment that the County did not raise these comments during the notice of preparation process, or during many Project Development Team meetings at which the scope and methodology of the traffic analysis was discussed and determined.

Attendance records indicate that Mr. Randy Pesses, Deputy Director of Transportation Planning & Systems initially attended three PDT Meetings on October 19, 2000, November 21, 2000, and February 6, 2001. Mr. McKibbin then attended PDT Meetings held on April 10, 2001, May 15, 2001, August 24, 2001, September 28, 2001, October 26, 2001, November 30, 2001, January 25, 2002, February 28, 2002, March 22, 2002, and April 19, 2002. Distribution records indicate that the El Dorado County Department of Transportation received a copy of PDT Meeting Minutes for every meeting held since October 2000

Highway Capacity Manual Issue: The traffic analysis utilizes 1997 Highway Capacity Manual methodologies since the analysis was performed long before 2000 Highway Capacity Manual methodologies were available. The traffic analysis is very extensive, and the time frame during which the traffic analysis is being reviewed and commented on is also extensive, therefore to require that traffic be reanalyzed every time a new methodology is released would be unnecessarily cumbersome and confusing. In addition, 1997 Highway Capacity Manual methodologies are still reasonable, and in fact are still the preferred methodologies within numerous jurisdictions.

Flawed Trip Generation Assumptions: The research conducted for the traffic analysis included AM peak hour, PM peak hour, and Saturday peak hour surveys at two northern California Casinos. These are identified as Casino A and B in Table 13 (page 28) of the Transportation/Circulation Technical Study. Casino A is the Cache Creek Casino (78,000 sq. ft.), and Casino B is the Jackson Rancheria (50,000 sq. ft.). The identities of the other three casinos are not known, as noted

within the Transportation/Circulation Technical Study, since they were not identified in the source material, the traffic study performed for the Auburn Rancheria Gaming Facility in Placer County.

The comment notes that the trip generation information does not include a convention center or restaurants. The proposed casino does not contain a convention center. Larger casinos typically include restaurant facilities, which includes larger casinos from which trip generation data was either derived or validated. Therefore, trip generation rates and trips would include trips associated with the restaurant, as well as other ancillary uses.

The comment challenges the methodology used to calculate trip generation rates. As was noted in the Transportation/Circulation Technical Study, trip generation information for Indian gaming style casinos are not readily available due to their unique trip generation characteristics compared to those of more traditional casinos. Therefore, trip rates were carefully established based on surveys of 5 northern California Indian Casinos, and then validated through extensive research and consultation with experts. The trip rate validation found that the trip rate assumptions used were generally conservative and reasonable for a casino of this size.

Trip generation validation was performed through (1) comparison to trip generation rates established through the collection of driveway counts at Barona Casino in San Diego (as researched by San Diego County Department of Public Works for the study titled "*Report on the Potential Impacts of Tribal Gaming on Northern and Eastern San Diego County*"); (2) comparison to trip generation rates established through the collection of driveway counts at Mystic Lake Casino-Hotel located in southwestern Minnesota; (3) consultation with the project manager for the above referenced San Diego study which helped establish that the rates used for the Shingle Springs report were more conservative then those used for the San Diego forthcoming revised San Diego study; (4) consultation with a member of the technical advisory committee which helped to put together a report prepared for the Institute of Transportation Engineers titled "*Casino Trip Generation*" who reviewed the methodology and verified that the rates and methodology were fully consistent with this report, and that in his opinion, the rates used, and trips generation volumes calculated, were very conservative for a facility this size; and (5) the May, 1992 ITE article titled "*Trip Generation Rates for Las Vegas Area Hotel-Casinos.*" No sources have been located which, when evaluated correctly, show that trip generation would be higher for a similar sized facility. The methodologies employed here to develop traffic numbers are reasonable and appropriate.

The comment challenges the reduction of hotel trip generation by 75%. The following studies support the assumption that trips associated with the hotel

calculated as being 25% of hotel trips as established in the ITE Trip Generation Manual (which is equivalent to 2.06 trips/room on an average weekday):

(1) The San Diego County Department of Public Works prepared a study of casino trip generation titled "*Report on the Potential Impacts of Tribal Gaming on Northern and Eastern San Diego County.*" The traffic study portion of this report, which was included as an appendix, was titled "*Preliminary Traffic Assessment of Indian Gaming Projects in the San Diego Region*" dated October 17, 2000. The project manager for this study stated that the revised San Diego study will assume an internal capture for a mixed hotel/casino, although a slightly more conservative rate of 3.0 trips/room for an average weekday.

(2) Trip generation rates was established for the Mystic Lake Casino-Hotel located in southwestern Minnesota based on driveway counts, as included within the "*St. Croix Meadows Racing Park Proposed Casino Traffic Impact Study; Hudson, Wisconsin*" (also called the Hudson Casino) prepared by BRW within the past 2 years. The Indian gaming casino, which contains 448,000 square feet plus a 416 room hotel, is a large casino-hotel facility similar in nature to the proposed Shingle Springs casino. Based on the driveway counts, trip generation rates were established, which when compared to trip generation rates for the combined Shingle Springs casino-hotel show that trip rates for the Shingle Springs Casino-Hotel are 25%-57% less than trip rates established for the Mystic Lake Casino-Hotel. This validates that an assumption using 25% of hotel trips as established in the ITE Trip Generation Manual is reasonable and conservative.

(3) An article published within the May, 1992 Institute of Transportation Engineers Journal titled "*Trip Generation Rates for Las Vegas Area Hotel-Casinos*" was also referenced. The article shows that the difference in trip rates associated with hotel-casinos to stand alone hotels accounts for a difference equal to less than that which would be derived using 25% of hotel trips as established in the ITE Trip Generation Manual.

(4) A member of the technical advisory committee which helped to put together a report prepared for the Institute of Transportation Engineers titled "*Casino Trip Generation,*" which is currently undergoing final review and is expected to be published in the near future, verified that an assumption of approximately two trips/room (25% of the trip generation vs. a stand alone hotel) is reasonable. Additional detail regarding the methodology used to establish and validate using 25% of hotel trips as established in the ITE Trip Generation Manual is available on pages 32-39 of the Transportation/Circulation Technical Study.

The comment questions why support for the trip generation rate methodology is inconsistent with some comparator projects being rejected in some areas of the report and then used in other areas of the report. Characteristics associated with comparable projects were used only when considered reasonable and appropriate. The rejection of consideration of one characteristic should not automatically prohibit the use of any and all characteristics. For example, although use of trip generation criteria for Mississippi Coast casinos were not considered appropriate for use in this study, characteristics associated with how the mixed use aspects of combined hotel-casinos vs. stand alone hotels in Mississippi Coast casinos was considered appropriate since the question was one regarding simply how much a hotel attached to a casino increases or decreases trips when compared to a similar sized casino without a hotel. This characteristic would likely be similar regardless of where the facility was located. And since the question was not one of trying to establish a specific rate, but a generalized characteristic, the use of the data was considered appropriate.

The comment challenges the reductions of trip rates to account for trips associated with recreational sites/facilities. Only 105 vehicles per day, or 210 trips per day, are assumed to be associated with intercepted or diverted trips (passer-by capture) of recreation oriented guests. It is assumed these people would have been traveling along U.S. Highway 50 en route to various recreation destinations within El Dorado County with or without the project. These include both guests who decide to stay at the hotel as they enjoy area recreational activities, (and who are assumed would have utilized some other area lodging in the absence of the casino-hotel), or persons in the area vacationing who decide to stop into the casino as part of their recreational activities. Given these considerations, 105 vehicles a day is reasonable and appropriate, and likely conservative.

The comment questions why there is no trip generation information within the traffic analysis for support trips associated with the wastewater plant and fire protection. Trips associated with the wastewater plant and fire protection are not typical daily trips. These trips would be so rare, and negligible, that their numbers are easily absorbed within the conservative trip generation values used within the analysis.

The comment asserts the traffic analysis summarily dismissed trips associated with hauling water in and waste water out. As stated within the Transportation/Circulation Technical Study, water trucks would comprise only ½% of daily trips, and it is reasonable to assume that to avoid peak hour congestion, very few, if any, deliveries would be made during peak periods due to congestion. Also as stated within the Transportation/Circulation Technical Study, a sensitivity analysis was performed along the various facilities to test potential impacts created by the addition of water delivery trucks assuming 10% of the trucks arrived during the peak hour. It was found that the addition of water delivery trucks would not create any additional impacts beyond those identified

within this study, including intersections, ramps, U.S. Highway 50 freeway mainline, and local roads.

The comment asserts that the "weighted average" trip rate development within the traffic analysis is flawed. The methodology was the same methodology used within the approved Auburn Rancheria Environmental Assessment. Additionally, the methodology, including the use of weighted averages, was submitted to a member of the technical advisory committee who helped to put together a report prepared for the Institute of Transportation Engineers titled "*Casino Trip Generation.*" This technical advisory committee member verified that the methodology and conclusions were in reasonable and provided conservative results.

Unsupported trip rate reduction: Please see response above for hotel trip reduction claims. Please see Responses to Comments 27-18, 39-10, 42-5 and 51-7.

Internal inconsistencies: Please see discussion above for response to comparator comment.

Insufficient analysis of traffic impacts to U.S. Highway 50: The traffic analysis in the EIR/EA addressed an area beyond that cited in the comment. The U.S. Highway 50 analysis extends from the Sacramento/El Dorado County line in the west to Greenstone Road interchange in the east. The commenter claims that the EIR/EA contains insufficient analysis of impacts to roads other than U.S. Highway 50; however, the commenter does not provide specifics. The comment is noted and will be included in the record for consideration by the decision-makers prior to a final decision on the interchange project.

The comment questions why the traffic analysis does not show mitigation for impacts to County roads. Project impacts to County roads were analyzed per the standards of significance outlined on page 11-12 of the Transportation/Circulation Technical Study, which was formulated through consultation with El Dorado County traffic engineering staff. Mitigation is necessary only for roadways, which are significantly impacted by the project, as stipulated by the standards of significance. Although the casino will add traffic to most major roadways within the County, most are not significantly impacted since traffic volumes do not surpass the stipulated 2% threshold. All roadways for which project traffic would exceed the 2% threshold are listed in Table 28a on pages 64-65 for Existing conditions, and Table 34a on page 80 for Cumulative conditions. Per the standards of significance criteria, none of the roadways listed in Table 28a and 34a were found to be significantly impacted.

The commenter claims that the analysis shows substantial increases on the state highway system; however no mitigation is provided. The commenter fails to

provide enough detail about which segments they are referring. A detailed response is unavailable due to this lack of detail. The comment is noted and will be included in the record for consideration by the decision-makers prior to a final decision on the interchange project.

The comment questions why impacts associated with transit and light rail were not analyzed. The project in question is a highway interchange project providing access to an Indian Rancheria. The area is currently not served by public transit, thus there is no impact to public transit. Also public transit is not typically used to access casino developments. Thus detailed analysis of transit is not regarded as necessary for a freeway interchange EIR/EA given the lack of existing transit, or anticipated need for future transit.

The comment questions why impacts associated with non-vehicular access and circulation to the project such as bicycles and pedestrians were not analyzed. The project in question is a highway interchange project providing access to an Indian Rancheria. Only vehicles will have access to the freeway interchange since bicycles and pedestrians are not allowed on the freeway. Bicycles and pedestrians do not currently access the Rancheria in any significant number due to its rural location, nor would they be expected to once the project was completed. Thus detailed analysis of non-vehicular traffic is not regarded as necessary for a freeway interchange EIR/EA given the lack of existing provisions for, or anticipated need for, bicycles and pedestrians facilities.

This project does not preclude nor complicate future, currently unplanned, mainline capacity enhancements on U.S. Highway 50 in the project limits. It is noted that cumulative plus project traffic analyses showed that the eastbound ramp diverge level of service was not acceptable, assuming a four lane facility. However, with either a six lane mainline facility or with the addition of an eastbound auxiliary lane as proposed, the ramp diverge LOS was at acceptable levels. Therefore, should a six lane facility be constructed in the future, the auxiliary lane would not be required.

The existing U.S. Highway 50 median width is 21.34 m (70 feet), which is sufficient width for two additional lanes, plus maintaining a fully standard median width. However, the current Caltrans Route concept does not include additional lanes in this area of Route 50. Consequently, the design team chose to widen within the median within the project limits, which would allow lane transition for the eastbound auxiliary lane; however in the future the median pavement could be converted to a through lane, eliminating the need for the auxiliary lane at that time. This interchange project neither precludes nor impedes future median widening of Route 50 in this area.

The commenter states that the analysis is incomplete because it failed to address the growth inducing effects of the proposed hotel and casino complex. Please see

California Department of Transportation
EIR Responses to Comments

Responses to Comment 42-9. Per direction from El Dorado County traffic engineering staff, roadway improvements which were to be assumed to be in place for cumulative conditions were those specified within the 2015 Capital Improvement Program (CIP) files of the 1999 version of El Dorado County's traffic model. These were assumed to be planned capitol improvements, which would be in place by 2015. None of the County roadways which would experience more than a 2% increase in traffic with the addition of project traffic are assumed to be improved, with the exception of Green Valley Road between Lotus Road and Greenstone Road. This section of Green Valley Road is planned to be improved from a 2-lane rural minor collector to a 4-lane divided urban minor arterial. However, even if the improvement were not in place, the roadway would operate at LOS D for both cumulative no project and cumulative plus project conditions. Therefore, the roadway would not be significantly impacted even without the planned improvement.

The comment notes that the traffic consultant corrected a "flaw" in cumulative traffic volumes generated by the County's traffic model along US-50 in the immediate vicinity of the report, and states that the consultant was informed of the problems with the model and chose to proceed anyway. The comment mistakes the timing and methodology of when cumulative traffic volumes were established for US-50 in the immediate vicinity of the interchange vs. the remainder of the County, and incorrectly assumes that the traffic consultant had a copy of the model. US-50 traffic volumes in the immediate vicinity of the interchange were established in late 1999 as part of an entirely different project. Raw model volumes were not established by the consultant, but rather by a member of the El Dorado County traffic engineering staff. This El Dorado County staff member utilized whatever version of the County's traffic model was deemed appropriate by County staff at that time, performed the model runs in-house, and supplied the traffic consultant with cumulative roadway volumes. It was upon reviewing these volumes that the consultant noted the volumes on US-50 were not balanced between the east and west side of Shingle Springs Rd. The volumes were thus balanced to correct this "flaw," with the El Dorado County staff member who performed the model runs checking and approving the final corrected and balanced volumes.

The commenter claims that a 1% growth rate is at odds with the best available information. Please see Responses to 39-10.

The commenter refers to what he characterizes as Caltrans' "wilful [SIC] use of outdated methodology and inaccurate data" with respect to the traffic analysis. Caltrans believes that it has used appropriate data and methodologies throughout the process.

43-4 The commenter asserts that the transportation conformity demonstration relied upon improper thresholds by not using those developed by El Dorado County in its "CEQA Guide." The commenter recognizes that the difference he refers to is because updated information is not currently available, which the commenter says are "proven to be inaccurate." Likewise, the commenter believes that the EIR/EA should have reflected use of the construction emissions factors developed by the Sacramento Metropolitan Air Quality Management District and that are "being adopted" region-wide. Finally, the commenter states that use of the URBEMIS model for the traffic-based air quality analysis is inappropriate and understates emissions. The EIR/EA used three thresholds for to determine significance in the EIR/EA: (1) federal general conformity thresholds of 25 tons per year for VOC, 25 tons per year for NOx, and 100 tons per year for PM10; (2) the mobile sources emission budget for the area included in the state implementation plan; and (3) the state air quality standards for CO of 9 ppm (8-hr.) and 20 ppm (1-hr.). Proponents have followed Caltrans' procedures applied uniformly across the state, which is to demonstrate conformity for such state/regional projects with the SIP and national/state air quality standards. Caltrans does not rely upon local CEQA guides, as it is necessary for the state agency to rely upon state standards in order to effectuate projects with statewide or regional significance. Caltrans notes, in point of fact, that the El Dorado County APCD thresholds that the commenter refers to were not adopted until February 2002.

Caltrans and other proponents are not required to rely upon emission factors that have not been adopted. Moreover, Caltrans relies upon statewide emission factors, as is appropriate for state/regional projects. Further analysis required by the County's "CEQA Guide" is not applicable. Please see Responses 42-16 and 43SR-2.

The EIR includes mitigation measures addressing diesel emissions from construction equipment. Further analysis required by the County's "CEQA Guide" is not applicable. Please see Responses to Comments 42-16 and 43SR-2.

Inclusion of the URBEMIS model results in Appendix E of the draft EIR/EA was erroneous and inadvertent. The model run was conducted during the early stages of the analysis of the hotel and casino project, and the results are an interim product. The model run was not conducted for the analysis of the interchange project.

As the commenter noted, the EIR/EA does not refer to the URBEMIS model results. These model results are not referred to in the draft EIR/EA on the interchange because the model results are not relevant to the interchange project and should not have been included in the EIR/EA for the interchange project.

43-5 Please see Responses to Comments 43WQ 1-10.

43-6 The commenter wants to know what the casino will do from a socioeconomic standpoint to its neighbors and community at large. The socioeconomic effects of the casino project, which is not an element of the proposed interchange project, have been fully addressed within the EA that was approved by the NIGC and incorporated by reference into the interchange EIR/EA (see Chapter 9 of the EIR/EA).

The commenter also claims that if Caltrans and the BIA had "their story right" the analysis of displacement of persons or housing would focus only on the effects of the interchange. The analysis provided for Alternatives B and C focus on the effects to the one residence located on the 5± acre parcel and access to the two adjacent parcels. Therefore, the analysis of the two interchange alternatives do address the displacement effects of the proposed interchange. The reference to the hotel and casino in Alternative A would be better served to include a statement that, without the construction of the interchange, no potential displacement issues arise.

43-7 The comment alludes to "[o]lder maps of the area" that show an irrigation canal, but does not specify or provide these maps. In any case, the former railroad right-of way and the potential former irrigation canal are outside of the Caltrans right-of-way and are therefore outside of the potential direct impact area of the project. Accordingly, the proposed interchange project would not make infeasible the use of these corridors for a future recreational or transportation purpose.

More generally, the EIR/EA contains a through and complete survey and discussion of cultural resources in the area and potential impacts thereon. (See Draft EIR/EA at 5.10.) The casino/hotel EIR/FONSI, incorporated in the interchange EIR/EA by reference, also contains a survey and discussion of cultural resources in the area. Also, please see Response to Comments 19-5, 27-1, 39-16, 40-4, 43-7, and 45-2.

43-8 The commenter begins by stating that the trip generation assumptions used for the traffic analysis and air quality analyses are inconsistent. Please see Response to Comment 43-4.

This comment also criticizes the EIR/EA for studying different geographic areas in its analysis of different potential impacts. In fact, this is a common practice in environmental documents and it is driven by the varying nature of potential impacts. Whereas one type of impact may be very localized, and thus it is not necessary to study a large geographic area, another type of impact may be potentially far-reaching, making it necessary to study the area potentially affected. The analyses in the EIR/EA follow this principle, which ensures that each potential impact is studied to the extent necessary to determine the potential effects of the project.

43-9 Both this EIR/EA and the EA on the casino, which is incorporated by reference, evaluate alternatives. The NIGC EA on the hotel and casino evaluated the proposed action, a no action alternative, and a shopping center alternative. That EA also discussed, but did not evaluate in detail, an alternative of locating a casino south of Highway 50. This EIR/EA on the interchange evaluates two different types of interchanges in addition to the no project/no action alternative. This EIR/EA also explains why other alternatives were not evaluated in detail. The Lead Agencies have concluded that these alternative analyses present a reasonable range of alternatives for decision-makers and the public to consider.

This comment also challenges the determination in this EIR/EA that the frontage road alternative north of Highway 50 is not a feasible alternative. On this point, Please see Responses to Comment 4-1. This comment also states that the County's opposition to the casino, and resulting unwillingness to participate in the condemnation process for such an alternative, is not a basis for eliminating the alternative from consideration and is a "canard." An EIR is required to evaluate a reasonable range of feasible alternatives, and feasible is defined as capable of being achieved taking into account economic, environmental, legal, social and technological factors. Under this definition, difficulty in completing a condemnation process is properly taken into account in evaluating whether an alternative is feasible.

43-10 Whether or not the hotel/casino project will be expanded is not the subject of this EIR/EA. The impacts associated with the proposed hotel/casino project were evaluated by NIGC in the NIGC EA for which a FONSI was adopted in January 2002. Future development on the Rancheria, if any, is speculative at this point in time as no plans currently exist. In the event additional development is proposed, it will be subject to evaluation under NEPA. There is no requirement under CEQA to include an analysis of the impacts of unknown development on the speculative, off-chance it might occur.

43-11 The commenter claims that they agree with the various claims made in Comment Letter 42. Please see Responses to Comments 42-1 through 42-28.

43-12 County Counsel asserts that a defect exists in title to the Rancheria, which misrepresents the status of the Rancheria and may interfere with the Tribe's right to game. The issues raised in this comment are beyond the scope of the environmental analysis contemplated by this document. However, BIA and the Tribe have advised Caltrans that County Counsel's analysis is mistaken. The status of Indian lands is exclusively a federal matter, and BIA is "charged with the Federal responsibility to record, provide custody and maintain records that affect titles to Indian land, to examine titles and to provide title status reports." 25 CFR 150.3. BIA is satisfied that the Shingle Springs Band is the correct and legal holder of the beneficial interest in the Rancheria, that the Rancheria is a validly

established reservation; and that all rights inherent in a federally recognized tribe apply to the Shingle Springs Band.

43-13 Caltrans and the BIA believe the EIR/EA fulfills all requirements of CEQA and NEPA. Accordingly, Caltrans and the BIA do not believe the document should be substantially amended or recirculated, or that the document should not be relied on by decision-makers.

COUNTY OF EL DORADO
DEPARTMENT OF TRANSPORTATION

INTEROFFICE MEMORANDUM

Date: June 13, 2002

To: Tom Cumpston, Deputy County Counsel

From: Craig D. McKibbin, Senior Traffic Civil Engineer

Subject: Draft Environmental Impact Report – Shingle Springs Rancheria Interchange Project

EL DORADO COUNTY COUNSEL
2002 JUN 14 PM 3:55

In my review of this Draft Environmental Impact Report (EIR) for the proposed Shingle Springs Rancheria Interchange project, I had the following concerns and comments.

My main concerns can be condensed into the following six issues:

43-DT-1 1. Lack of an adequate discussion of the growth inducing impacts of the proposed interchange to include the proposed casino/hotel project, and indirect growth inducement within the adjacent community due to the casino.

43-DT-2 2. Lack of an adequate, complete and correct traffic analysis with appropriate mitigation measures addressing impacts to the State and County road systems.

43-DT-3 3. The number of unsubstantiated assumptions contained in the document. Page 5.4-18 contains the word assumed eleven times. The rest of the circulation/transportation discussions are similar.

43-DT-4 4. They show no mitigation for their impacts to the County road system even though their analysis clearly shows they are a major contributor of the traffic using the system (Tables 5.4-18, 5.4-27). They just make the assumption the County is going to construct all the improvements, without any contribution of funding from the proponents, for the impacts caused by the project, both capital costs to construct the improvements and the costs of increased maintenance due to the additional traffic.

43-DT-5 5. Similarly, they show no mitigation for their impacts to the State Highway system, outside of Highway 50 between the County Line and El Dorado Hills Boulevard and between Shingle Springs Drive and Greenstone Road, even though their analysis clearly shows they are a major contributor of the traffic using the system

43-DT-5 Cont.

(Tables 5.4-18, 5.4-27). Nor do they even analyze the impacts to Highway 50 or Highway 49 beyond the County Line.

43-DT-6

6. Copies of all the documents and reports referenced in the EIR or the Transportation/Circulation Technical Study have not been made available. Without these documents and reports we cannot confirm their applicability, what assumptions they may have made, etc.

More specific concerns and comments include:

1. The traffic analysis for the EIR is based on the flawed Shingle Springs Casino Environmental Assessment (EA). A few of these flaws, but not nearly all, of the many flaws needing correction have been fixed. Remaining flaws which have been transferred to the EIR, and the supporting Transportation/Circulation Technical Study, include such items as (not a complete list):

43-DT-7

a. The analysis made use of an outdated version of the Highway Capacity Manual (1997). The new analysis should use the latest version of the manual (2000).

43-DT-8

b. The trip generation information for the Casino/Hotel/Convention Center project is flawed.

i. The comparator casinos used where significantly different in size and facilities. Without the names of these comparator casinos we cannot confirm their applicability as to size, location, etc.

ii. The trip generation information does not include the convention center or the restaurants with seating capacity of approximately 1,400 customers.

iii. The methodology used to calculate the trip generation rates did not follow industry-accepted standards and again added to the inappropriate reductions in trip rates.

iv. The trip rate reduction methodology, and information provided, for the co-use of the hotel/casino is similarly flawed. An artificial, unsubstantiated reduction of 75 percent is unacceptable.

v. The support for the trip generation rate methodology is inconsistent with some comparator projects being rejected in some areas of the report and then used in other areas of the report.

vi. There are unsubstantiated reductions in trip rates associated with users of this project may also make use of other recreational

sites/facilities within the County again artificially reducing the predicted trip rates.

vii. There is no trip generation information regarding trips generated by support operations such as the wastewater plant, fire protection, etc.

viii. The trip generation information regarding trips generated by the proposed hauling of water into the casino and wastewater out bound from the casino was summarily dismissed.

43-DT-8 Cont.

ix. The "weighted average" trip rate development is still flawed. The justifications listed on page 29 of the technical study are not reasonable justifications for such a deviation from industry standards. Item number 3 is taken completely out of context and is for mixed use analysis (such as a shopping center with a fast-food store, grocery store, big-box store, etc.). It is not intend to cover the use of averaging several different sizes of the same use.

43-DT-9

c. The discussion of pass-by trips and traffic diversions continues to be flawed with unsupported conjecture and unreasonably high capture rates.

43-DT-10

d. The Trip Distribution information is flawed due to a lack of adequate supporting information and unsubstantiated assumptions and claims.

43-DT-11

e. A significant amount of the information provided was internally inconsistent.

43-DT-12

f. There is little traffic analysis of Highway 50 outside of the immediate area of the interchange/casino project. There is little analysis of the traffic impacts to any roads other then those two segments of Highway 50 immediately adjacent to the interchange project.

43-DT-13

2. The EIR's traffic analysis must correct all of the above flaws to that original traffic study. Additionally, it must analyze the impacts to the State and County road systems beyond the immediate project area. Appropriate mitigation measures must be proposed to mitigate any impacts to those road systems.

43-DT-14

3. Any impacts to the former Southern Pacific Railroad right-of-way located adjacent to this project must be identified and mitigation measure proposed to mitigate those impacts. Simply stating there will be no impacts is not acceptable, particularly given the range of proposed and possible future uses of the right-of-way; pedestrian trail, bicycle trail, rail use, etc.

43-DT-15

4. The EIR does not analyze the non-vehicular access and circulation to the project, primarily pedestrians and bicycles. This should include sidewalks, bicycle paths, trails, etc. This access should look at the need to connect to residential land uses to and through the project site. This is critical with the potential uses the former Southern Pacific railroad right of way immediately south of the project provides.

43-DT-16

5. The EIR does not analyze the project's impacts to, and the ability to access, public transportation such as El Dorado County Transit buses and the potential to extend light-rail from Folsom along the former Southern Pacific railroad right of way immediately south of the project.

43-DT-17

6. Page 4-11 contains the statement " . . . the County of El Dorado has previously expressed opposition to economic development of the Rancheria . . ." I believe this is incorrect in that the County's opposition is only to the proposed casino.

43-DT-18

7. Page 5.1-3 refers to the County's traffic model containing a "flaw". The traffic model information used by the consultant preparing the traffic analysis for the EIR used an unrefined model that has since been updated and refined. The consultant was informed of the problems with such an approach but chose to move forward with his analysis anyway. It is unacceptable to blame their lack of correctness in the analysis on the County's traffic model when we are not even using the model he used any longer.

43-DT-19

8. The traffic volumes shown for the County roads in the "Existing Setting" section are incorrect. Example: Shingle Springs Drive south of the freeway was counted in 2000 with a resulting count of 1,886, and again in 2001 with a count of 1,936, not the "less than 1,000" quoted in the document.

43-DT-20

9. Page 5.4-5 states there are on-going discussions regarding an HOV lane and/or a six-lane freeway through the project area. We have not been aware of any such discussions. The current proposed HOV project extends only to the Ponderosa Road interchange, approximately three miles from this project location.

43-DT-21

10. Page 5.4-5 also refers to the 2022 CIP (Capitol [sic] Improvement Program). There is no such program. The only adopted program is the 2015 CIP adopted in 1996. The new general plan work will be generating a new CIP, but that will have 2025 as the out year. Additionally, the roadway network contained in 1999 version of the County's traffic model has never been approved or adopted.

43-DT-22

11. The County's General Plan uses different Level of Service (LOS) standards than Caltrans or this EIR. We believe the EIR should recognize those standards and include them in the report.

43-DT-23 12. Similarly, the EIR's interpretation of General Plan Policy 3.5.1.1 is flawed. The policy does not require newly created intersections to be designed to LOS C (page 5.4-7).

43-DT-24 13. Page 5.4-9 states the writers of the EIR used a growth rate of only one percent per year. The County has had a historical growth rate of approximately three times that. That rate is forecasted to continue to apply for the next 25 years. Why is this one shown so low?

43-DT-25 14. Page 5.4-23 restates the analysis is based on outdate and unofficial CIP information.

43-DT-26 15. There is no documentation on how they reached the conclusion shown on pages 5.4-33 and 5.4-45 that Highway 50, east of Greenstone road are not going to see an increase in traffic more then two percent. Such information should be shown.

43-DT-27 16. Similarly there is a statement on page 5.4-38 regarding the operation of the auxiliary lane without any supporting information on how that conclusion was arrived at.

43-DT-28 17. Page 6-1 states connections to the south from the proposed interchange would be "precluded by regulation." What regulation?

43-DT-29 18. Page 6-2 states "some employees will reside in the surrounding communities." We believe they all will given the casino is not a housing project and the Rancheria itself cannot generate much house stock.

43-DT-30 Attached are comments regarding water quality and drainage issues prepared by Dave Spiegelberg of our office.

Also incorporated by reference are all my earlier comments regarding the Casino EA and the Interchange NOP as most of those comments have not been satisfactorily addressed in this new document either.

Lastly, given the size and complexity of the EIR document (500 pages plus or minus), and the accompanying technical study (200 pages plus or minus), I have not been able to complete a through review of the technical study. If we can get an extension on the review period it would greatly assist in getting a more complete review done.

CDM:cdm

Attachment

Pc: Matt Boyer, Director
Randy Pesses, Deputy Director, Transportation Planning and Systems

California Department of Transportation
EIR Responses to Comments

Comment Letter #43DT

43DT-1 The EIR/EA incorporates the hotel/casino EA by reference. Section 4.1.6 of the EA and Chapter 5 of the EIR/EA discuss likely effects to population based on anticipated development of the casino/hotel. See also Responses to Comments 39-1 and 42-9.

43DT-2 The comment states the belief that the traffic analysis is not adequate, complete, or correct with appropriate mitigation measures addressing impacts to County roads. Caltrans believes the traffic analysis in the EIR/EA is adequate, complete and correct. Likewise, Caltrans believes the mitigation measures proposed for potential traffic impacts are appropriate and will be effective in reducing impacts. Please see Responses to Comments 36-3 and 40-6.

43DT-3 The comment states that belief that there are a number of unsubstantiated assumptions in the traffic analysis, and notes use of the word "assumed" eleven times on page 5.4-18 of the report. All assumptions within the report were based on conclusions established through engineering judgment following a detailed review and analysis of all available data.

43DT-4 The comment questions why the traffic analysis does not show mitigation for impacts to County roads. Project impacts to County roads were analyzed per the standards of significance outlined on page 11-12 of the Transportation/Circulation Technical Study, which was formulated through consultation with El Dorado County traffic engineering staff. Mitigation is necessary only for roadways, which are significantly impacted by the project, as stipulated by the standards of significance. Although the casino will add traffic to most major roadways within the County, most are not significantly impacted since traffic volumes do not surpass the stipulated 2% threshold. All roadways for which project traffic would exceed the 2% threshold are listed in Table 28a on pages 64-65 for Existing conditions, and Table 34a on page 80 for Cumulative conditions. Per the standards of significance criteria, none of the roadways listed in Table 28a and 34a were found to be significantly impacted.

Per direction from El Dorado County traffic engineering staff, roadway improvements which were to be assumed to be in place for cumulative conditions were those specified within the 2015 CIP files of the 1999 version of El Dorado County's traffic model. These were assumed to be planned capitol improvements, which would be in place by 2015. None of the County roadways, which would experience more than a 2% increase in traffic with the addition of project traffic are assumed to be improved, with the exception of Green Valley Road between Lotus Road and

Greenstone Road. This section of Green Valley Road is planned to be improved from a 2-lane rural minor collector to a 4-lane divided urban minor arterial. However, even if the improvement were not in place, the roadway would operate at LOS D for both cumulative no project and cumulative plus project conditions. Therefore, the roadway would not be significantly impacted even without the planned improvement.

43DT-5 The comment questions the scope and parameters of the traffic impact analysis contained in the EIR/EA. The parameters of the traffic analysis with respect to the state highway system was established and developed by an expert traffic consultant in consultation with Caltrans personnel, and Caltrans directed the consultant to model the peak hour level of service of US-50 in the immediate vicinity of the project. This analysis was expanded at the request of El Dorado County to include the remainder of US-50 in El Dorado County, and all other El Dorado County highways and major roadways. Thus the parameters for the traffic analysis were developed in consultation with El Dorado County, as stated at pages 11-12 of the Transportation/Circulation Technical Study, based on areas of identified potential impact.

This scope also reflects the existing conditions and the potential for cumulative impacts from the proposed Interchange project. For example, the county line is a reasonable boundary because that is approximately where Highway 50 starts its climb up the Sierra. Accordingly, that is where traffic conditions worsen because trucks and other vehicles begin to slow. On the downhill side of the road, the existing congestion is largely in the a.m. peak. The casino/hotel project is a minimal contributor to a.m. peak traffic, therefore the possibility for that project to contribute to cumulative impacts westbound is minimal as well.

Furthermore, Caltrans provided notice of the topics this EIR/EA was proposed to analyze to El Dorado County and Sacramento County via the Notice of Preparation. Neither entity commented at that time that the scope of cumulative impacts should be expanded to include Sacramento County. Nonetheless, should any impact occur beyond the county line from this project's contribution to the cumulative situation, the project's contribution would be mitigated because the Tribe commits to pay its "fair share" towards any necessary improvement measures.

43DT-6 Copies of the referenced documents have been available for review since the DEIR/EA was circulated. The County has also been made aware of the various technical studies as they were prepared through Mr. McKibbin's participation in the Project Development Team's meetings.

43DT-7 The comment questions why the traffic analysis made use of the 1997 Highway Capacity Manual and not the 2000 Highway Capacity Manual. Please see Response to Comment 43-3.

43DT-8 The comment notes the different sizes of the casinos used in the comparative analysis, and states that without the names of these comparator casinos, they cannot confirm their applicability. The traffic analysis included AM peak hour, PM peak hour, and Saturday peak hour surveys at two northern California Casinos. These are identified as Casino A and B in Table 13 (page 28) of the Transportation/Circulation Technical Study. Casino A is the Cache Creek Casino (78,000 sq. ft.), and Casino B is the Jackson Rancheria (50,000 sq. ft.). The identities of the other three casinos are not known, as noted within the Transportation/Circulation Technical Study, since they were not identified in the source material, the traffic study performed for the Auburn Rancheria Gaming Facility in Placer County. Please see Response to Comment 43-3.

The comment notes that the trip generation information does not include a convention center or restaurants. The proposed casino does not contain a convention center. Larger casinos typically include restaurant facilities, which includes larger casinos from which trip generation data was either derived or validated. Therefore, trip generation rates and trips would include trips associated with the restaurant, as well as other ancillary uses.

The comment challenges the methodology used to calculate trip generation rates. As was noted in the Transportation/Circulation Technical Study, trip generation information for Indian gaming style casinos are not readily available due to their unique trip generation characteristics compared to those of more traditional casinos. Therefore, trip rates were carefully established based on surveys of 5 northern California Indian Casinos, and then validated through extensive research and consultation with experts. The trip rate validation found that the trip rate assumptions used were generally conservative and reasonable for a casino of this size. Trip generation validation was performed through (1) comparison to trip generation rates established through the collection of driveway counts at Barona Casino in San Diego (as researched by San Diego County Department of Public Works for the study titled "*Report on the Potential Impacts of Tribal Gaming on Northern and Eastern San Diego County*"; (2) comparison to trip generation rates established through the collection of driveway counts at Mystic Lake Casino-Hotel located in southwestern Minnesota; (3) consultation with the project manager for the above referenced San Diego study which helped establish that the rates sued for the Shingle Springs report were more conservative then those used for the San Diego forthcoming revised San Diego study; (4) consultation with a member of the technical advisory committee which

helped to put together a report prepared for the Institute of Transportation Engineers titled "*Casino Trip Generation*" who reviewed the methodology and verified that the rates and methodology were fully consistent with this report, and that in his opinion, the rates used, and trips generation volumes calculated, were very conservative for a facility this size; and (5) the May, 1992 ITE article titled "*Trip Generation Rates for Las Vegas Area Hotel-Casinos.*" No sources have been located which, when evaluated correctly, show that trip generation would be higher for a similar sized facility.

The comment challenges the reduction of hotel trip generation by 75%. The following studies help support the assumption that trips associated with the hotel calculated as being 25% of hotel trips as established in the ITE Trip Generation Manual (which is equivalent to 2.06 trips/room on an average weekday): (1) The San Diego County Department of Public Works prepared a study of casino trip generation titled "*Report on the Potential Impacts of Tribal Gaming on Northern and Eastern San Diego County.*" The traffic study portion of this report, which was included as an appendix, was titled "*Preliminary Traffic Assessment of Indian Gaming Projects in the San Diego Region*" dated October 17, 2000. The project manager for this study stated that the revised San Diego study will assume an internal capture for a mixed hotel/casino, although a slightly more conservative rate of 3.0 trips/room for an average weekday (2) Trip generation rates was established for the Mystic Lake Casino-Hotel located in southwestern Minnesota based on driveway counts, as included within the "*St. Croix Meadows Racing Park Proposed Casino Traffic Impact Study; Hudson, Wisconsin*" (also called the Hudson Casino) prepared by BRW within the past 2 years. The Indian gaming casino, which contains 448 ksf plus a 416 room hotel, is a large casino-hotel facility similar in nature to the proposed Shingle Springs casino. Based on the driveway counts, trip generation rates were established, which when compared to trip generation rates for the combined Shingle Springs casino-hotel show that trip rates for the Shingle Springs Casino-Hotel are 25%-57% less than trip rates established for the Mystic Lake Casino-Hotel. This validates that an assumption using 25% of hotel trips as established in the ITE Trip Generation Manual is reasonable and conservative. (3) An article published within the May, 1992 Institute of Transportation Engineers Journal titled "*Trip Generation Rates for Las Vegas Area Hotel-Casinos*" was also referenced. The article shows that the difference in trip rates associated with hotel-casinos to stand alone hotels accounts for a difference equal to less than that which would be derived using 25% of hotel trips as established in the ITE Trip Generation Manual. (4) A member of the technical advisory committee which helped to put together a report prepared for the Institute of Transportation Engineers titled "*Casino Trip Generation,*" which is currently undergoing final review and is expected to be published in the near future, verified that an assumption

of approximately 2 trip/room (25% of the trip generation vs. a stand alone hotel) is reasonable. Additional detail regarding the methodology used to establish and validate using 25% of hotel trips as established in the ITE Trip Generation Manual is available on pages 32-39 of the Transportation/Circulation Technical Study.

The comment challenges the reductions of trip rates to account for trips associated with recreational sites/facilities. Only 105 vehicles per day, or 210 trips per day, are assumed to be associated with intercepted or diverted trips (passer-by capture) of recreation oriented guests. It is assumed these people would have been traveling along US-50 en route to various recreation destinations within El Dorado County with or without the project. These include both guests who decide to stay at the hotel as they enjoy area recreational activities, (and who are assumed would have utilized some other area lodging in the absence of the casino-hotel), or persons in the area vacationing who decide to stop into the casino as part of their recreational activities. Given these considerations, 105 vehicles a day is reasonable and appropriate, and likely conservative.

The comment questions why there is no trip generation information within the traffic analysis for support trips associated with the wastewater plant and fire protection. Trips associated with the wastewater plant and fire protection are not typical daily trips. These trips would be so rare, and negligible, that their numbers are easily absorbed within the conservative trip generation values used within the analysis.

The comment asserts the traffic analysis summarily dismissed trips associated with hauling water in and waste water out. As stated within the Transportation/Circulation Technical Study, water trucks would comprise only ½% of daily trips, and it is reasonable to assume that to avoid peak hour congestion, very few, if any, deliveries would be made during peak periods due to congestion. Also as stated within the Transportation/Circulation Technical Study, a sensitivity analysis was performed along the various facilities to test potential impacts created by the addition of water delivery trucks assuming 10% of the trucks arrived during the peak hour. It was found that the addition of water delivery trucks would not create any additional impacts beyond those identified within this study, including intersections, ramps, US-50 freeway mainline, and local roads.

The comment asserts that the "weighted average" trip rate development within the traffic analysis is flawed. The methodology was the same methodology used within the approved Auburn Rancheria Environmental Assessment. Additionally, the methodology, including the use of weighted averages, was submitted to a member of the technical advisory

committee who helped to put together a report prepared for the Institute of Transportation Engineers titled "*Casino Trip Generation.*" This technical advisory committee member verified that the methodology and conclusions were in reasonable and provided conservative results.

43DT-9 The comment challenges the pass-by assumptions used within the traffic analysis. Please see Responses to Comments 39-10, 43-3, and 43-DT-8.

43DT-10 The comment challenges the trip distribution assumptions used within the traffic analysis. Please see Responses to Comments 39-10, 43-3, and 43-DT-8.

43DT-11 The comment asserts that a significant amount of the information provided within the traffic analysis was internally inconsistent. The comment is noted and will be included in the record for consideration by the decision-makers prior to a final decision on the interchange project. No specific examples were provided to respond to.

43DT-12 The commenter claims that there is little traffic information outside of the immediate area of the interchange project. Please see Responses to 43DT-5.

43DT-13 This comment asserts that the traffic analysis in the interchange EIR/EA is flawed and that additional mitigation measures are therefore necessary. The Lead Agencies believe that the traffic analysis is correct and that it analyzes all necessary areas and potential impacts of the interchange project. Because the analysis properly identifies the potential impacts of the project, no additional mitigation measures are necessary.

43DT-14 The project has been designed fully within the Caltrans right-of-way, including offset from improvements to right-of-way lines so that construction activities are fully maintained within Caltrans right-of-way. Construction methods and techniques have been developed to minimize impacts as well. There has been extensive geologic and geotechnical investigation for purposes of specific design and construction techniques recommendations to assure that effects to existing cut slopes will be minimized.

43DT-15 The comment questions why impacts associated with non-vehicular access and circulation to the project such as bicycles and pedestrians were not analyzed. Please see Response to Comment 43-3.

43DT-16 The comment questions why impacts associated with transit and light rail were not analyzed. Please see Response to Comment 43-3.

43DT-17 The comment is noted and will be included in the record for consideration by the decision-makers prior to a final decision on the interchange project. The County's opposition to the casino would presumably include an unwillingness to condemn land for alternate access routes.

43DT-18 The comment notes that on page 5.1-3 of the EIR/EA, the traffic consultant corrected a "flaw" in cumulative traffic volumes generated by the County's traffic model along US-50 in the immediate vicinity of the report, and states that the consultant was informed of the problems with the model and chose to proceed anyway. Please see Response to Comment 43-3.

43DT-19 The comment notes that traffic volumes shown within the "Existing Settings" section of the report are incorrect and conflict with volumes used later in the report. This comment is correct. The text describing qualitative characteristics of roadways in the vicinity of the project were written early in the process of the traffic analysis. More detailed volumes were subsequently obtained, as noted in the comment. These more detailed volumes were actually used within the analysis, as shown in Table 5.4-18 shows on page 5.4-32 of the DEIR/EIR which shows a revised existing daily volume along E. Shingle Springs Rd of 1,886 vehicles.

43DT-20 The comment states that the County is unaware of any discussions regarding the 6-laning of the freeway, or provision of an HOV lane in the immediate vicinity of the project, and establishes that the planned limits of the HOV lane is the Ponderosa interchange. The lane geometrics used within the analysis recognize the HOV termination at Ponderosa, and does not assume the 6-laning of US-50 near the project. The comment is noted and will be included in the record for consideration by the decision-makers prior to a final decision on the interchange project.

43DT-21 The comment notes that the DEIR/EA refers to the 2022 CIP (Capital Improvement Program) and further notes that there is no such program, but instead there exists a 2015 CIP adopted in 1996. The reference was a typographical error, and the correct reference is 2015 CIP files. The data network files used to establish cumulative roadway geometries were from the 2015 CIP files, not non-existent 2022 CIP files. These 2015 CIP files were included within the CD files containing the 1999 version of the County's traffic model, which were supplied by Craig McKibben of the El Dorado County Department of Transportation in a letter dated June 12, 2001. It was established in follow up inquiries with Craig McKibben that roadway improvements as identified within the 2015 CIP files be used as the basis for the cumulative roadway network.

The comment further states that the roadway network contained in the 1999 version of the County's traffic model has never been approved or adopted. Although the County General Plan and its circulation element were set aside, the analysis in the EIR was accurately based on existing conditions. Contrary to the commenter's point, it was the El Dorado County Department of Transportation who on June 12, 2001 supplied the EIR preparers with the 1999 model of the El Dorado County Traffic Model and stated that it is "the latest version of the [Traffic] model." It should be noted that it was the County who determined that the SACMET model should not be used in the traffic analysis as conveyed to the traffic consultant on May 24, 2001.

Following consultation with El Dorado County traffic engineering staff, and the traffic consultant currently working on the revised County traffic model, it was determined that the 1999 traffic model would provide the best available data for use in the analysis. To help assure the volumes were reasonable, they were checked against existing volumes to assure that the model accurately reflect the amount of growth.

43DT-22 The comment notes that the County's standards of significance differ from Caltrans', and that the EIR/EA should recognize and report the County's standards. As described on pages 11-12, pages 64-65, and pages 79-80 of the Transportation/Circulation Technical Study, non-Caltrans facilities were analyzed using the County's standards of significance as established from the County's General Plan and consultation with County traffic engineering staff. Caltrans standards of significance were applied only to Caltrans facilities.

43DT-23 The comment asserts that the EIR interpreted the County's General Plan incorrectly and that the General Plan does not require that newly created intersections be designed to LOS C. The EIR does not state this. LOS C was established as the target level of service for the newly created intersections within the interchange. The newly created intersections would lie within the jurisdiction of both the County and Caltrans, and traffic traveling through the intersections will be exclusively to/from the Rancheria, thus official jurisdiction and applicable standards of significance are open to debate. The target level of service was established as LOS C for purposes of this study based on Caltrans' concept level of service, statements included within the 1996 El Dorado County General Plan (which were quoted), and the fact that LOS C is always regarded as a desirable level of service. The study did not state that the County or County's General Plan required that intersections be designed to LOS C. Provided the intersections operate at LOS C for all scenarios, the argument regarding which standards is applicable is moot.

43DT-24 The comment questions why a 1% growth rate was used when the County's historical growth rate is approximately 3%. Please see Responses to Comment 39-10 and 43-3.

43DT-25 Comment again asserts that the traffic analysis used questionable CIP information. Please see Responses to Comment 43-DT-21.

43DT-26 The comment requests that the EIR/EA document how it was concluded that traffic volumes along US-50 east of Greenstone Road would not increase by more than 2%. Project traffic was distributed throughout the County, including along US-50 east of the project. As a result of passer-by intercepts and diversions, it was projected that average daily traffic volumes along US-50 east of the Greenstone Road would not experience increases over 2%. The analysis shows that volumes may even remain level with existing conditions, or even experience decreases, ranging from a minimal potential decrease in daily traffic volumes of 16 vehicles (-0.1% decrease) immediately east of Greenstone, and a maximum potential decrease in daily traffic volumes of 1,154 vehicles (a 10 % decrease) east of Upper Truckee River Rd.

43DT-27 The comment notes that a statement on page 5.4-38 regarding the operation of the auxiliary lane does not also include supporting information on how that conclusion was arrived at. The comment notes text contained within the "Impact" portion of the "Cumulative Plus Project- Peak Hour Freeway Mainline Operations" section. The supporting information desired is instead appropriately provided on the next page (5.4-39) within the "Mitigation" portion of the same "Cumulative Plus Project- Peak Hour Freeway Mainline Operations" section, where the proposed recommendation states "...the provision of this auxiliary lane would result in acceptable LOS D or better operation along the 3-lane weaving section..." Additional detail is included within pages 69-71 of the Transportation/Circulation Technical Study (and Appendix G), which describes how the acceptable operation of the weaving lane was established. It states: Two different methodologies were utilized to analyze level of service operations for the weaving zone created by a new auxiliary lane; (1) methodologies as included within Caltrans' *Highway Design Manual*; and (2) methodologies described in the *1997 Highway Capacity Manual*. The first methodology, which is the methodology preferred by Caltrans, is described within Section 504.12 - Weaving Sections of the Caltrans' *Highway Design Manual*.

43DT-28 The commenter questions the "precluded by regulation" statement made in the EIR/EA. Please see Response to Comment 42-9.

43DT-29 The commenter states that the Rancheria will not be a housing project for employees. Please see response to comment 42-9.

43DT-30 The comments from Dave Spiegelberg are treated as a separate letter numbered 53WQ and are responded to in full. Caltrans and the BIA believe that the EIR/EA and these responses to comments comply with CEQA and NEPA in all respects. The County never formally requested an extension of the review period, nor is one justified.

sierra
research
1801 J Street
Sacramento, CA 95814
Tel: (916) 444-6666
Fax: (916) 444-8373

June 18, 2002

Tom Cumpston
Deputy County Counsel
El Dorado County
330 Fair Lane
Placerville, CA 95667

Re: Comments on Air Quality Analysis in
BIA/CalTrans Draft EIR/EA for U.S. Highway 50
Shingle Springs Interchange Project

Dear Mr. Cumpston:

We have reviewed the Draft Environmental Impact Report/Environmental Assessment for the U.S. Highway 50 Shingle Springs Interchange Project ("EIR/EA"), dated May 2002, which was jointly prepared by the Bureau of Indian Affairs ("BIA") and CalTrans. Our comments regarding the air quality analysis portion of the Draft EIR/EA are provided below.

1. Project Segmentation

We are concerned that the EIR/EA does not treat the proposed interchange and the casino/hotel facility that it will serve as a single project. The CEQA guidelines define a "project" as

43-SR-1

> *. . . the whole of an action, which has a potential for resulting in either a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment . . .* (Sec. 15378(a); emphasis added)

We believe the interchange and the casino/hotel are inextricably linked—one would not be undertaken without the other. Thus, the "whole" of the action in this case is the facility and the interchange together.

43-SR-2

While the EIR/EA does treat the hotel/gaming facility as a "growth-inducing/indirect impact" of the interchange, and estimates air quality impacts based on the assumption that the facility is in operation, the approach taken in the EIR/EA is to rely on and incorporate by reference the Final Environmental Assessment (FEA) prepared by the National Indian Gaming Commission (NIGC). The FEA, however, was not prepared to meet CEQA requirements. As a result, the EIR/EA includes no CEQA-specific or

43-SR-2 Cont.

CEQA-complying analysis of how operation of the hotel/gaming facility and the interchange will impact air quality. Similarly, we do not believe that reliance on a federally prepared FEA properly falls under the "tiering" concept as enunciated in Sec. 15152 of the CEQA guidelines. To meet the requirements of CEQA, the EIR/EA should include its own independent analysis of the air quality impacts of the interchange and the casino/hotel facility together.

2. Use of Incorrect/Inappropriate Air Quality Significance Criteria

43-SR-3

In Sec. 5.5.4, the EIR/EA identifies the federal general conformity *de minimus* emission thresholds as the significance thresholds that are applicable for CEQA purposes. The conformity thresholds are 25 tons/year for VOC and NOx emissions, and 100 tons/year for CO emissions. While these conformity thresholds of significance need to be discussed and properly addressed for conformity purposes (see below), they are not appropriate or correct as CEQA thresholds of significance. Conformity and CEQA are separate programs and have different requirements that must be independently met.

Instead, the EIR/EA should use the thresholds of significance adopted by the El Dorado County Air Pollution Control District (District) in its "Guide to Air Quality Assessment: Determining Significance of Air Quality Impacts Under the California Environmental Quality Act," dated February 2002 ("District CEQA Guide" or "the Guide"). While the Guide was recently adopted, the significance thresholds in the Guide have been published in proposed form for over a year, and there has been adequate time since the formal approval date on February 26, 2002, for the project proponents to incorporate them into the EIR/EA.* Under the District CEQA Guide, the following criteria would be applicable:

ROG and NOx	82 lbs/day
CO	State and Federal Ambient Air Quality Standards
PM_{10}	State and Federal Ambient Air Quality Standards

The ROG and NOx criteria are equivalent to 15 tons/year, and are considerably more stringent than the VOC and NOx conformity thresholds of 25 tons/year. The EIR/EA therefore underestimates the significance of ROG and NOx air quality impacts. This is an important shortcoming because the project is located in a federal and state nonattainment area for ozone, and ROG and NOx are the two direct precursors in the formation of ground level ozone.

43-SR-4

The use of the federal conformity mass-emissions criteria for PM_{10} and CO is inadequate because they do not allow direct comparison with the applicable state and federal ambient air quality standards (AAQS). This shortcoming was recognized during development of the Guide. To comply with the District CEQA Guide, project mass

* Sierra was contacted on March 7, 2002, by a Rancheria representative asking for a copy of the February 26, 2002 minute order containing the approval of the Guide by the El Dorado County APCD board. At a minimum, this means the project proponents had two months to incorporate the air quality impact analysis approach used in the Guide.

43-SR-4 Cont. emissions must be determined on an hourly basis and then converted to ambient concentrations for comparison against the AAQS through modeling (or via a screening technique allowed under the Guide).

43-SR-5 The need for identifying the proper air quality CEQA significance thresholds was first called to the attention of the BIA, in connection with the BIA's EA for the hotel/casino facility, in the County's March 14, 2001 letter to the BIA environmental manager, Mr. William C. Allen (at p. 11), which referred to a supporting analysis in a Sierra Research letter of February 26, 2001. In its letter, the county specifically stated that the District's offset thresholds for new stationary sources should be used; the offset thresholds were subsequently adopted by the District as the applicable CEQA thresholds for ROG and NOx in the District CEQA Guide. Unfortunately, the EIR/EA for the freeway interchange ignores the County's earlier recommendations.

43-SR-6 The failure to use the proper air quality significance criteria is a substantial defect that can be corrected only by re-doing the air quality analysis.

3. Complete Lack of a CEQA Air Quality Analysis

43-SR-7 Because the EIR/EA improperly uses federal conformity criteria for CEQA purposes, it does not contain an actual CEQA-compliant air quality impact analysis. There is an analysis of compliance with the conformity criteria, but that analysis cannot serve as a substitute or proxy for a proper air quality analysis under CEQA. The EIR/EA should be re-written to use the analytical techniques in the District CEQA Guide. The Guide contains specific, user-friendly methodologies for examining project-specific impacts of emissions of ROG and NOx, CO, PM_{10}, visibility, and other pollutants for which state and federal ambient air quality standards exist. The failure to do a CEQA-specific air quality analysis using the District CEQA Guide is a major omission and shortcoming of the EIR/EA.

43-SR-8 Using a conformity analysis for CEQA purposes leads to one particularly prejudicial result: the failure to use updated emission factors and VMT assumptions in the air quality analysis. In conformity parlance, this is referred to as the failure to use "current planning assumptions." As you are aware, the California Air Resources Board (CARB) and the Federal Highway Administration (FHWA) have recently agreed that the use of current planning assumptions is not required until January 1, 2003. Thus, use of older planning assumptions is acceptable for conformity purposes at this time. However, there should not be and is no such constraint under CEQA. The latest and most up-to-date version of CARB's EMFAC model, which better accounts for use of SUVs and heavier light-duty trucks, should have been used in the EIR/EA for the interchange. While the older EMFAC7F model may still be the "official" or "approved" model for conformity purposes, EMFAC2000 (or later) should have been used for the CEQA analysis in the EIR/EA. By importing analytical constraints that artificially constrain the CEQA analysis into a conformity analysis, the EIR/EA is clearly deficient.

4. Construction Emissions

43-SR-9 The analysis of construction emission impacts in Appendix E needs to be revised to comply with the methodology specified in the District CEQA Guide. The Guide (Sec. 4.3.3) contains a specific modeling technique recently developed by the Sacramento Metropolitan AQMD for estimating emissions from road construction projects. The analysis in the EIR/EA uses a minimalist analytical approach based on outmoded Sacramento Metropolitan AQMD and South Coast AQMD CEQA guidelines to estimate equipment exhaust emissions. This approach appears to underestimate ROG emissions by about 2.5 lbs/day and NOx emissions by about 23 lbs/day, or about 20% in each case (PM_{10} emissions may have been overestimated). Under the District CEQA Guide, NOx emissions exceed the applicable 82 lbs/day significance criterion both without and with mitigation. This suggests that additional mitigation needs to be provided, perhaps in the form of requiring newer, cleaner equipment certified to EPA's "Tier 2" standards for non-road engines or through use of an emulsified Diesel fuel, as discussed in the Guide.

43-SR-10 The EIR/EA analysis provides an estimate of 397 lbs/day of PM_{10} fugitive emissions, but there is inadequate information provided to show how this estimate was calculated. Appendix E shows total PM_{10} of 407.5 lbs/day (consisting of 2% equipment emissions and 98% fugitive dust) being mitigated by 351 lbs/day, or nearly 85%, down to 56 lbs/day. Presumably, all of this mitigation comes from reductions in fugitive dust. In Sec. 5.5-1 of the EIR/EA, there is a list of fugitive dust mitigation measures, but there is no demonstration of how these measures were converted into quantitative values that result in the claimed reduction of 351 lbs/day. The District CEQA Guide refers to Rule 403 of the South Coast AQMD, which contains specific mitigation measures for fugitive dust designed to eliminate transmission of visible dust beyond project boundaries. The mitigation measures listed in the EIR/EA should be compared to the measures in Rule 403, and where necessary supplemented, so that the objective of preventing fugitive dust from escaping onto neighboring properties is achieved.

43-SR-11 In addition, the segmentation problem noted at the beginning of this memorandum has prevented analysis of possible combined construction impacts of the freeway interchange and the casino/hotel facility. While we are not certain that construction of the interchange and the facility will overlap, the question needs to be addressed. If there is overlap, then an analysis of combined construction emissions needs to be undertaken in accordance with the Guide. Even if construction of the interchange and casino/hotel facility will be done at different times, a complete estimate of construction emissions for both projects should be provided, along with applicable mitigation.

5. Toxic Emissions

43-SR-12 The EIR/EA acknowledges that asbestos-containing serpentine rock will be disturbed during construction of the interchange, and states that compliance with the El Dorado County Ordinance governing asbestos emissions (Title 8, Chapter 8.44) will mitigate asbestos emissions to a less than significant impact. However, the EIR/EA omits other requirements governing asbestos emissions from road construction. Specifically, the EIR/EA should require compliance with the Airborne Toxic Control Measure (ATCM) established by CARB in 2001 limiting emissions from construction, grading, and other

activities in areas with asbestos deposits. The CARB ATCM is codified at 17 CCR 93105, and is referenced in the District CEQA Guide.

43-SR-12 Cont.

Under the District CEQA Guide, in order to provide better information about asbestos risks, there is also a requirement that a Health Risk Assessment (HRA) be performed in accordance with guidelines established by the California Air Pollution Control Officers Association (CAPCOA), and that the results of the HRA be compared against two specific criteria for toxic air contaminants:

1. Will the emissions result in a lifetime probability of contracting cancer greater than 1 in one million (10 in one million if T-BACT is applied); or

2. Will the emissions result in a ground-level concentration of non-carcinogenic toxic air contaminants that result in a Hazard Index of greater than 1.

No such HRA has been performed for the project, and as a result it does not provide adequate information about asbestos risks.

Further, no HRA (or alternative screening analysis) has been performed for Diesel engine particulate emissions during construction, as required under the District CEQA Guide (see Sec. 4.2.2). This analysis must be done since CARB declared Diesel PM to be a toxic air contaminant in 1998.

6. <u>URBEMIS Analysis Shows Significant Impacts</u>

43-SR-13

While Appendix E lacks supporting ROG and NOx data for the SACMET, EMFAC, or DTIM model runs, somewhat strangely it does include URBEMIS7G output results for ROG, NOx, CO, and PM_{10} emissions from vehicles using the casino/hotel facility. URBEMIS is a model that calculates motor vehicle and stationary source emissions for specified types of commercial or industrial operations. Although URBEMIS does not contain calculations for casino/hotel facilities, vehicle trip data can be inserted to simulate that kind of facility. There is no reference to this output in the EIR/EA text, so its applicability is unclear. URBEMIS results were given in the earlier BIA EA, and in our letter of February 26, 2001, we noted those results contained deficiencies in the vehicle trip assumptions that underestimated emissions by two to four times.

43-SR-14

The URBEMIS7G output in Appendix E calculates the emissions for a summer day using trip generation rates that are similar, but not identical, to those calculated in the traffic section of the EIR/EA. Specifically, the URBEMIS7G output shows trip generation rates of 35.44 trips per 1000 square feet for the casino and 2.05 trips per room for the hotel. The traffic section of the EIR/EA indicates trip generation rates of 39.43 and 59.07 trips per 1000 square feet for the casino for weekdays and Saturdays, respectively, and 2.06 and 2.05 per room for the hotel for weekdays and Saturdays, respectively. These trip generation rates result in 9,918 daily trips based on the traffic analysis compared to 8,965 daily trips based on assumptions used in URBEMIS7G. (The URBEMIS7G estimates therefore somewhat underestimate air quality impacts.)

The URBEMIS7G results in Appendix E provide emission estimates for both unmitigated and mitigated scenarios. The results of the mitigated estimates are as follows:

ROG	229 lbs/day	42 tons/yr
NOx	599 lbs/day	109 tons/yr
CO	2,463 lbs/day	449 tons/yr
PM_{10}	299 lbs/day	55 tons/yr

Note: tons/yr calculated by multiplying daily emission rates by 365 and dividing by 2000.

43-SR-14 Cont.

The annual emissions estimates for the mitigated scenario exceed both the conformity thresholds and the CEQA thresholds in the District CEQA guide by a large margin. Using these data, emissions from the project are clearly significant.

These results directly contradict the conclusion in Sec. 5.5-4 that emissions are not significant based on the SACMET/EMFAC/DTIM analysis referred to (but not explained) in that section. This conflict in analytical results indicates to us that the EIR/EA is technically deficient, and must be re-done; alternatively, extensive mitigation should be required based on the URBEMIS results.

7. General Conformity Analysis

The construction emission estimates used to make the finding that project emissions are below the *de minimus* thresholds are unsupported. They are based on undocumented estimates of construction activity. The Appendix E documentation contains assumptions about the hours of activity per day (8), the number of pieces of equipment that are operating (e.g., 2 Dozers, 1 Motor Grader, etc.), the number of days per week the equipment is operating (6), and the construction period (52 weeks). The text of the report states:

43-SR-15

> *Construction equipment usage rates, and total square footage for site grading and asphalt paving were based on values specific to the Proposed Project. Emissions associated with construction employee commute travel were estimated using the URBEMIS7G program.*

No source for these assumptions is provided and no discussion of these activity estimates is presented. Without this information, it is not possible to comment on the accuracy or realism of these estimates. Another concern is that the text refers to URBEMIS estimates of employee commute travel, yet those values are not included in the construction estimates presented in Appendix E. The unmitigated construction values presented in Appendix E match the values included in the text in Section 5.5-3 used to make the general conformity finding (i.e., 2.02 tons per year of VOC emissions, 16.00 tons per year of NOx emissions, and 55.98 tons per year of PM_{10} emissions). Based on this information, it is clear that the URBEMIS estimates of employee commute emissions are not included in the general conformity analysis.

43-SR-16 Another concern is that mitigated NOx values are presented without any information on the NOx mitigation calculations. Again, it is not possible to comment on the reasonableness or accuracy of these estimates.

8. Transportation Conformity Analysis

The conformity analysis in the EIR/EA is a "project level" analysis, i.e., it estimates emissions for the project, adds them to all other projects in the latest MTIP and MTP, and compares the result against the allowable emissions budgets in the regional State Implementation Plan.

a. Trip Assumptions Need Verification - The conformity emissions budget calculations presented Table 5.5.4 show that the budgets for ROG and NOx are met by only a small margin in 2005:

ROG forecasted emissions	29 tons/yr
ROG emissions budget	31.2 tons/yr
NOx forecasted emissions	56.82 tons/yr
NOx emissions budget	61.35 tons/yr

Numerous concerns about the validity of traffic assumptions employed in this project have been raised by the El Dorado County Department of Transportation (see the June 18, 2002 memo from Craig McKibbin to Tom Cumpston) and others. Any changes to these assumptions could easily cause emissions from the project and emissions from all other projects included in the "latest MTIP and MTP" to exceed applicable conformity budgets.

43-SR-17

For example, a critical assumption in the traffic analysis used in the EIR/EA is that 40% of the vehicle trips associated with the new casino/hotel facility will not be new trips, and will instead consist of trips by persons who are on their way to other destinations (e.g., Lake Tahoe) on Highway 50. In effect, this assumption reduces the trips that contribute extra air pollution by 40%. The air quality impacts of the project would be extremely sensitive to the by-passer capture rate. If the 40% assumption is high by even a small margin, it is likely that the ROG and NOx emissions budgets will be exceeded. The EIR/EA refers to (but does not append) a technical study justifying the 40% by-passer capture rate done by CalTrans and a consultant. Another example of the sensitivity of the conformity finding to traffic assumptions is related to the reasonableness of assumed trip generation rates. Comments from the County Department of Transportation raise numerous concerns about the validity of these and many other assumptions employed in the traffic analysis.

For these reasons, we do not believe that the EIR/EA can be considered adequate until the many concerns about traffic assumptions (e.g., by-passer capture rate, trip generation rates, etc.) expressed by the El Dorado County Transportation Department have been resolved.

43-SR-18

b. Absence of Data to Support Technical Analysis - Sec. 5.5-4 of the EIR/EA contains the statement that a transportation conformity analysis was done for ROG, NOx, and CO, and that the analysis used three models: SACMET (a travel simulation model), EMFAC7F1.1 (motor vehicle emission rates), and DTIM2 (mobile source emissions).

It is obvious that examining the impacts of only three pollutants is inadequate for CEQA purposes. The larger problem, however, is that the EIR/EA contains no information documenting how the technical analysis was conducted for ROG and NOx. The air quality technical appendix, Appendix E, contains data for CO emissions, but there is a complete absence of any input or output data for the two most critical pollutants, ROG and NOx. There is no way we can verify the traffic assumptions that were used, or whether they were properly entered. The EIR/EA merely states that the models were exercised. There is no way we or any other person can understand or comment on the technical analysis. From the information that is available, it is unclear whether the air quality analysis ever addressed concerns previously expressed by El Dorado County (see February 25, 2002 letter from Jon Morgan to Bill Allen of the Bureau of Indian Affairs). EIRs must be substantive enough to enable intelligible comment; the EIR/EA does not come close to meeting this standard. We believe the EIR/EA is seriously deficient because of this shortcoming.

43-SR-19

c. Use of Outdated MTIP - Our final observation is that the analysis does not use the latest MTIP. In Sec. 5.5-4, the EIR/EA notes that the MTIP used for comparison was Amendment 01-04. Recent correspondence from SACOG (May 10, 2002 letter from Kenneth Hough, Director of Planning to Ronald J. Jaeger, BIA Regional Director) indicates that SACOG is currently using Amendment 01-11. The EIR should be re-done to update the air quality analysis for comparison with this later amendment to the MTIP.

Sincerely,

Robert G. Dulla
Senior Partner

Kingsley Macomber
General Counsel

Comment Letter #43SR

43SR-1 The commenter asserts that the EIR/EA does not treat the proposed interchange and casino/hotel facility as a single project as required by CEQA Guideline 15378(a). Please see Responses to Comments 36-1, 36-2, 39-1 and 39-3.

43SR-2 The commenter acknowledges that the EIR/EA analyzes growth-inducing impacts but asserts that in doing so it has improperly relied on the EA for the hotel/casino project. The commenter asserts that reliance on the EA for the hotel/casino project does not properly fall under "tiering" in CEQA Guideline 15152 and that the EIR/EA should include its own independent analysis of the air quality impacts of interchange and casing/hotel facility together. As previously stated, Caltrans did not "tier" under CEQA in preparing this EIR/EA. Further, as required by CEQA, Caltrans has conducted its own independent analysis of all impacts relating to the proposed interchange. As to tiering and segmentation, see Responses to Comments 36-2 and 36-3, respectively.

43SR-3 The comment asserts that the El Dorado County Air Pollution Control District's "Guide to Air Quality Assessment: Determining Significance of Air Quality Impacts Under the California Environmental Quality Act," adopted in February 2002, should have been followed in evaluating the potential air quality impacts of the project under CEQA. In fact, neither Caltrans nor the BIA are required to use local CEQA guidelines because Caltrans is a state agency and BIA is a federal agency and no local agency may set mandatory requirements or guidelines for a state or federal agency. Moreover, the analysis to which the comment refers (Section 5.5.4 of the Draft EIR/EA) is an analysis for conformity with the State Implementation Plan ("SIP"), a federal requirement applicable to states only. It would be ineffective for Caltrans to use local CEQA guidelines because the question is conformity with state, not local, thresholds. For this very reason, Caltrans applies its own guidelines uniformly across the state in order to ensure conformity with the SIP and with national and state air quality standards. Caltrans does not and need not rely upon local CEQA guides, and it was correct in not doing so here.

The comment further claims that the comparison values Caltrans used are an "important shortcoming" because the project is located in a federal and state nonattainment area for ozone. Rather than illustrating a "shortcoming," this in fact demonstrates that conformity with federal and state requirements is the important analytical question, and thus that state guidelines should direct this analysis.

43SR-4 The commenter states that the use of the federal conformity mass-emissions criteria for PM10 and CO is inadequate because they do not accommodate direct comparison with state and federal ambient air quality standards. Rather, according to the commenter, the local CEQA Guide should have been followed, with a conversion of project mass emissions to ambient concentrations. As stated in Response to Comment 43SR-3, Caltrans does not rely upon local guides. The federal conformity rules have addressed the more local impacts of PM10 and CO emissions by requiring their inclusion in a conformity analysis, even though the area is not necessarily nonattainment for those pollutants, and by requiring an analysis that appropriately reflects the local nature of the potential impacts.

The El Dorado County CEQA Guide appears to require a conversion of mass emissions to ambient air concentrations. Based on discussions with the technical consultants who prepared the air quality analysis, this is an additional reason why the County CEQA Guide should not be applied to this Caltrans project. In brief, these two values do not convert from one to the other. Ambient air concentrations must be measured at an air quality monitor. Emissions may be reflected in the measurement at the air quality monitor, but the emissions from a single source or project will be mixed with all other components in the ambient air to produce the air quality that is monitored. Additionally, the purpose of the analysis is to evaluate the impact of this project <u>in conjunction with</u> all other projects in the area in order to determine the overall impact on air quality. To limit an air quality monitoring exercise to just one source, particularly, in the scheme of things, as small as this one, is unlikely to result in an impact on air quality and so could produce a "false negative."

43SR-5 The commenter states that the appropriate threshold for determining air quality impacts is the El Dorado County Air Pollution Control District's thresholds for new stationary sources. As stated in Response 43SR-2, Caltrans does not rely on local CEQA guides. Further, while the interchange is stationary, it, is not the source of the emissions itself. Rather, mobile sources are the sources of the emissions. Any emissions associated with the stationary hotel/casino complex are minimal, well below thresholds requiring a new source review analysis. New source review analysis for stationary sources is not properly applied to mobile sources. Therefore, to do as the commenter suggests would have been inappropriate.

43SR-6 The commenter believes that there has been a failure to reflect the proper air quality significance criteria in the evaluation of the air quality impact

of this project. To the contrary, as explained in Responses to Comments 43SR-2 through 43SR-5, the appropriate air quality significance criteria have been used for this regionally-significant project. Particularly, please see Responses to Comment 43SR-2.

43SR-7 The commenter states that the EIR/EA should be rewritten to reflect use of the analytical techniques included in the El Dorado County CEQA Guide. Please see Responses to Comment 43SR-2.

43SR-8 The commenter asserts that reliance upon the federally-approved EMFAC7F for air quality analysis under CEQA is inappropriate. As the commenter recognizes, the conformity analysis prepared for the EIR/EA relied upon the most current data available, as is required by applicable laws.

Air quality analysis of motor vehicle travel involves the use of computer programs that estimate emission rates. These estimates of motor vehicle emission rates are subsequently used in a wide range of other computer models. These subsequent computer models include those that estimate indirect source emissions, regional emissions inventories, and carbon monoxide (CO) concentrations. Ultimately, those results are compared to emissions budgets prepared by the California Air Resources Board (ARB).

In California, the EMFAC series of programs is used to estimate motor vehicle emission rates. The EMFAC programs have evolved over time, with version numbers indicating relatively substantial updates, and version letters indicating relatively minor updates. An important aspect of the EMFAC series of models is that there is no single version of EMFAC that is approved for all uses. Different versions of EMFAC are currently approved for different types of analysis. For example:

- Currently, the Caltrans website states that EMFAC7F "is currently accepted for CO microscale modeling in California by US EPA." EMFAC7F is also the current Caltrans-approved and ARB-approved version of the program for conducting transportation conformity analyses in the Sacramento area; EMFAC7F was used by the Sacramento Area Council of Governments (SACOG) in the transportation conformity analysis of the Metropolitan Transportation Plan adopted by SACOG in mid-July 2002.

- EMFAC7G was described in a December 7, 2001 letter from Robert E. Larson of the U.S. Environmental Protection Agency (EPA) as "an interim update to

EMFAC7F." Until recently, this version of the program was the most commonly used for indirect source analysis.

- At ARB's request, EPA approved use of EMFAC 2000 for use in conformity analysis only in the San Francisco Bay Area on January 11, 2002.

- EMFAC 2001 is the most recent version of the EMFAC series of models. It is being used by local agencies to conduct some indirect source emissions analysis. However, EMFAC 2001 has neither been approved for use in conducting microscale carbon monoxide analyses, nor approved for use in conducting conformity analyses. In this latter context, the primary reason is that no emissions budgets have been developed using EMFAC 2001. In fact, ARB does not anticipate developing and approving for use emissions budgets based on EMFAC 2001 until late spring or summer 2003.

Conducting the conformity analysis for the EIR/EA using EMFAC 2000 or EMFAC 2001 as the commenter suggests would be inappropriate for at least the following reasons:

- EMFAC 2001 has not been approved by EPA or ARB for use in conducting transportation conformity analysis. Conformity analyses conducted using EMFAC 2001 would not meet requirements set by EPA for this type of analysis.

- Important assumptions and input values needed to apply EMFAC 2001 have not been approved. Most notably, the vehicle fleet mix values, a key input to the model, have not been approved. Using a model without the properly approved values would result in an unapprovable conformity analysis.

- ARB developed the emissions budgets used to determine conformity using EMFAC7F emission rates. Comparing emissions forecasts developed with EMFAC 2001 to emissions budgets developed with EMFAC7F would be invalid. The common phrase used to describe this type of comparison is "apples-and-oranges."

- Using EMFAC 2001 at this time would be speculative because the budgets based on EMFAC 2001 will not be

available for possibly a year or more. CEQA prohibits speculative analysis.

The assertion that the air quality analysis in the EIR/EA is inadequate because it relied on emissions projections generated under EMFAC7F is incorrect.

43SR-9 The commenter again states that the analysis of the project should have followed the El Dorado County CEQA Guide and that additional mitigation is needed, such as those discussed in the El Dorado County CEQA Guide. Please see Responses to Comment 43SR-2. Mitigation will be implemented to the extent practicable. For example, contractors will be required to use newer diesel equipment to the extent feasible.

43SR-10 The commenter states that there is insufficient detail provided regarding construction emissions estimates to determine whether they are accurate. Rather, according to the comments, the emissions estimates are based construction activity specific to this project. In fact, construction emissions estimates are based upon the construction activity anticipated for this project is appropriate and reasonable and logical. Further, there has been sufficient information provided for the commenter to check the emissions estimates. See Appendix E, page 2, of Construction-Related Emissions for documentation of the calculation of the effectiveness of the mitigation. Construction emissions impacts are also analyzed in the FONSI for the interchange project. Also please see Response to Comment 43SR-2.

43SR-11 While not certain that the construction of the interchange and the hotel/casino will overlap, the commenter, nevertheless, asserts that the EIR/EA should include evaluation of the combined emissions. Please see Responses to Comments 36-2, 39-1, 41-4, and 42-7.

43SR-12 The commenter states that Caltrans has not addressed asbestos-containing serpentine rock that will be disturbed during construction. Please see Responses to Comment 42-20. The commenter also states that a health-based risk analysis for diesel emissions during construction should be completed. Construction of the interchange will occur over a period of time that is less than a year. Contractors will be required to comply with California's off-road diesel emissions requirements throughout the construction period. Therefore, exposure to diesel emissions will be temporary and minimal.

43SR-13 The commenter questions the use of the URBEMIS model. The SACMET, EMFAC, or DTIM model runs were conducted for the air quality transportation conformity analysis of the interchange project. The

transportation conformity determination was made as part of a process separate from the CEQA process and was subject to separate extensive notification, documentation, review, and hearings. The public, including the commenter, was provided with documentation of the modeling during the transportation conformity review process. The public, including the commenter, reviewed the documentation, submitted comments on the analysis, and was provided with responses to their comments.

43SR-14 Please see Response to Comment 43-4.

43SR-15 The commenter notes that the source of the estimates for construction equipment usage rates, total square footage for site grading, and so forth is not provided and that the URBEMIS estimates of employee commute emissions are not included in the general conformity plan. Please see the Response to Comment 43-4. The reference to the URBEMIS run included in the EIR/EA was inadvertent. However, in response to this comment, we have reconfirmed the employee commute travel emissions estimates in tons per year. In the first full paragraph on page 5.5-13 of the EIR/EA, the VOC/ROG emissions should be 2.71 tons per year (additional 0.69 TPY for construction-related employee commutes), the NOx emissions should be 56.30 (additional 0.93 TPY), and the PM10 emissions should be 56.30 (additional 0.32 TPY) tons per year. As can be seen by these estimates, the addition of the construction-related employee commutes does not change the result, i.e., that the emissions are far below the significance thresholds.

43SR-16 The commenter is concerned that mitigated NOx values are presented without any information on the mitigation calculations. The commenter is correct in that the documentation of the effectiveness of the mitigation was omitted from the EIR/EA. Impact Statement 5.5-1, which includes the mitigation measures referred to by the commenter, was part of an earlier preliminary draft of the environmental document. This impact statement should have been deleted, and was inadvertently left in the document. The documentation of the effectiveness of the mitigation measure was omitted, as it should have been.

43SR-17 The commenter argues that changes to the traffic assumptions made in the traffic study could result in a violation of the air quality emissions budgets. The commenter goes on to question the basis for the 40% capture rate and overall trip generation rate used in the traffic study. Please see Responses to Comments 39-10, 43DT-8 and 51-7. The existing information is adequate to substantiate the use of the trip generation rate and pass-by capture rate.

43SR-18 The commenter states that analysis of only ROG, NOx, and CO in the transportation conformity analysis was insufficient. According to the commenter, other pollutants must be analyzed as well. The transportation conformity analysis was subject to its own public forum pursuant to federal rule and which the commenter attended and provided testimony. Moreover, SACOG's inclusion of the analysis in the MTP is a public process.

43SR-19 The commenter observes that the transportation conformity analysis did not use the latest MTIP. BIA used the most recent MTP and MTIP available at the time of the transportation conformity analysis. Subsequently, this project was included in the amended MTP. As a result, the mobile source emissions associated with this project are included in the budget for the area and will be included in the analyses of any future projects proposed by others. The adoption of an amended MTP or MTIP following a transportation conformity analysis does not mandate re-analysis of a project that conforms to the MTP and MTIP in place at the time the analysis was performed.

COUNTY OF EL DORADO
DEPARTMENT OF TRANSPORTATION

INTEROFFICE MEMORANDUM

Date: 6/5/02

To: Craig McKibbin, P.E., T.E., Senior Traffic Civil Engineer
Transportation Planning and Systems

From: Dave Spiegelberg, P.E., Senior Civil Engineer
Transportation Planning and Systems

Subject: Rancheria Interchange EIR – Water Quality and Drainage

43-WQ-1 The significance criteria do not address the potential for increased erosion and channel widening due to increased flows during common events (such as the two-year event).

43-WQ-2 The significance criteria do not consider increased downstream flooding on existing residential development or public infrastructure.

43-WQ-3 The analysis does not address the effects of the project on total runoff *volume* in the watersheds. Increases in runoff volumes can result in extended inundation times for areas of the floodplain(s) downstream of the project. While section 7.3.10 makes the statement that implementation of BMP's will assure that the alternatives will not significantly add to the cumulative addition of roadway contaminants, data on volume increases is not presented.

43-WQ-4 Page 5.13-12, Last Paragraph – The document provides no reference for the Time of Concentration (T_c) formula chosen. Have not seen this one, and cannot find it in my references.

43-WQ-5 Page 5.13-13, Table 5.13-5, *Peak Runoff Hydrograph Computations using HEC-1* – Lists post development 100-year peak flow at 7466 cfs. This is a substantial increase over the pre-development peak flow of 4765 cfs. This looks like a transposition error.

43-WQ-6 Pages 5.13-12 through 5.13-14 - It appears that runoff for the large basins was estimated using both HEC-1 and TR-55. The text does not adequately explain the differences in data input to each model, or why duplicative analysis was considered necessary.

43-WQ-7 Page 5.13-14, *Predicted Discharge* – This section states that the assumption was made that the project will not alter the time of concentration of the drainage basins. Since there are only a few drainage basins involved, it seems a comparative analysis of pre-project and post project T_c's using methods of calculation described in TR-55 would be reasonable to verify this assumption.

43-WQ-8 Page 5.13-20, *Impact 5.13-1 Peak Flow* - The Impact statement for alternatives AB and AC discusses the analysis based on the 100-year, one-hour storm. The *Runoff Computations* section of the report makes no reference to storm duration for the HEC-1 and SCS TR-55 analysis. Was the one-hour duration used for all analysis, or is this simply a statement resulting from analysis not discussed in the prior sections?

43-WQ-9 If the one-hour duration was used throughout the analysis, why was that duration chosen? It is questionable as to whether a large basin, such as Slate Creek would respond during such a short event. It is suggested the analysis be revised using a 24-hour rainfall duration.

43-WQ-10 The same paragraph indicates a predicted change (increase) in peak discharge of 3 cfs during the 2.33-year event. Again, no reference to the 2.33-year event appears in the *Runoff Computations* section. Does the maximum increase occur during this frequent event?

Comment Letter #43WQ

43WQ-1 The commenter is concerned that the EIR/EA significance criteria do not address the potential for increased erosion and channel widening during common storm events. In fact, the significance criteria for drainage impacts located on page 5.13-19 states that drainage impacts "will be considered significant if additional flows for predetermined storm events (including common two-year storm events - see EIR/EA Table 5.13-8) ... cause surface erosion above background levels defined by the NRCS universal soil loss equations. For stream culverts this would mean the exceedance of the allowable headwater and/or causing excessive erosion of the culvert embankments." The significance criteria also state that accelerated erosion at bridge abutments would result in a significant drainage impact.

43WQ-2 As noted in the CEQA checklist, contained in Appendix A of the EIR/EA, the project area is located outside of a FEMA designated floodplain and the project is not expected to expose people or structures to a significant risk of loss, injury, or death involving flooding. Impacts from flooding were not raised during the NOP comment period as having the possibility of being significantly affected by the Proposed Project.

43WQ-3 The commenter is concerned that the EIR/EA does not address downstream flooding caused by increased runoff volume. Please see response to comment 43WQ-2 above. The commenter also is concerned that data on volume increases is not presented in Section 7.3.10. Section 7.3.10 discusses cumulative water quality effects. It concludes that Best Management Practices (BMPs) will assure that the Proposed Project will not significantly add to the cumulative addition of roadway contaminates impacting water quality. As discussed under Impact 5.12-4 of the EIR/EA, the proposed interchange falls under the Caltrans statewide NPDES permit issued by the RWQCB. The NPDES permit and the Storm Water Management Plan (SWMP) prepared pursuant to this permit outlines methodologies for selection and implementation of BMPs to mitigate adverse impacts to water quality. The water quality impacts identified in the EIR/EA are those resulting from increases in "total runoff volumes". Data on runoff volume increases is presented in the drainage section, which is referenced under Impact 5.12-4.

43WQ-4 The commenter claims that the document provides no reference for the Time of Concentration formula chosen. The time of concentration formula was taken from the U.S. Bureau of Reclamation's *Design of Small Dams*.

43WQ-5 The commenter notes a transposition error. The commenter correctly points out this transposition error. The correct post development peak flow is 4,766 cfs.

43WQ-6 Pages 22 through 24 of the Hydraulic Technical Study provides a more detailed explanation on the differences between the two models and the reasons for analyzing the results of both models. TR55 was employed as an alternative hydrograph method for peak runoff computation in response to Caltrans' comments. Input data coincide with those used in the HEC-1 computations.

43WQ-7 The commenter asserts that the assumption made that the project will not alter the time of concentration should be modeled given that there are only a few drainages involved in the project. It is precisely that there are only a few drainages involved that modeling is not required. The small area involved with the project will not result in a time of concentration.

43WQ-8 See the *Runoff Computations* Section, *Predicted Discharge* Subsection in the EIR/EA. Table 5.13-7 labels the 2.33 - 100 year storms as one-hour storm return intervals.

43WQ-9 A 24-hour storm duration was used in HEC-1 and TR-55 for computing cumulative runoff from larger shed areas. The EIR/EA text notes basin size limitation for use of the Rational Model. It is unclear what Slate Creek basin the commenter is referring to. All sub-basins except for Sub-basin D4 are tributary or discharge directly to Slate Creek. Note that no construction or post-project changes in discharge will occur on Sub-basins SC1 or SC2, by far the largest of the sub-basins analyzed at 4,375 and 552 acres. Sub-basins D1 through D4 range in size from 9 to 52 acres.

43WQ-10 See the *Runoff Computations* Section, *Predicted Discharge* Subsection in the EIR/EA. Tables 5.13-7 and 5.13-8 both include an analysis for the 2.33-year storm event. The maximum increase in surface discharge does not occur during the 2.33-year event.

COMMENT LETTER #43-PD

EL DORADO COUNTY
PLANNING DEPARTMENT

2850 Fairlane Court
Placerville, CA 95667

http://co.el-dorado.ca.us/planning

Phone: (530) 621-5355
Fax: (530) 642-0508

MEMORANDUM

RECEIVED
JUN 11 2002
El Dorado County Counsel

DATE: June 11, 2002

TO: Conrad B. Montgomery, Planning Director

FROM: Steven D. Hust, Principal Planner

SUBJECT: California Department of Transportation (Caltrans) and Bureau of Indian Affairs (BIA) Shingle Springs Interchange Project-Environmental Impact Report (EIR)/Environmental Assessment (EA)

Caltrans and the BIA have jointly prepared a draft Environmental Impact Report and Environmental Assessment to provide the public and public agencies with information about the environmental effects of the proposed Shingle Springs Interchange Project. The proposed project consists of the construction, operation and maintenance of an interchange at Highway 50 to serve the existing Shingle Springs Rancheria. The new interchange will provide open access to the Rancheria so that the property can be developed with uses consistent with the Tribe's recently amended Land Use Plan. The immediate plan for development on the Rancheria is a hotel and casino complex project that is proposed to be located in the southwestern portion of the Rancheria.

This environmental document was prepared as a Project EIR pursuant to Section 15161 of the CEQA Guidelines. This type of EIR focuses primarily on the changes in the environment that would occur as a result of project implementation, and examines planning, construction and operation phases of the proposed project. The BIA is acting as a joint lead agency with Caltrans on the proposed project and it's role is to ensure compliance with NEPA. In addition, this EIR/EA incorporates by reference: Final Environmental Assessment: Shingle Springs Rancheria Hotel and Casino Project; El Dorado County, California(December, 2001) and Notice of Finding of No Significant Impact; Proposed Shingle Springs Hotel and Casino Project (January, 2002). This is authorized by Section 15150 of the CEQA Guidelines and 40 CFR 1502.21 of the NEPA regulations. Therefor, this EIR/EA only examines the environmental effects of the proposed interchange project and alternatives.

Given the above described project and legislative context staff comments are as follows:

43-PD-1

1. The appendix to the Draft EIR/EA includes comment letters with attachments from County staff and the Board of Supervisors in response to the Notice of Preparation. These letters, in part, communicate the County's continuing concern regarding the adequacy of environmental review of the hotel, casino and interchange project. It is apparent from the tone of this

43-PD-1 Cont.

correspondence that the County believes that the comments submitted to date have not received adequate response, and submits that this EIR/EA should provide such responses.

2. The draft EIR/EA states that the EA developed for the hotel and casino project included the construction and operation of an interchange at the location of the project site described in this document. As shown in Chapter 3, the interchange is needed with or without the proposed hotel and casino project. However, the draft EIR/EA states that the foreseeable consequence of this interchange is the construction of the recently approved hotel and casino project located on the southwest corner of the Rancheria (pages 2-6 and 2-7). The draft EIR/EA also states that, "The revenue base, along with the interchange access to Highway 50, will allow better utilization of the Rancheria site. Without direct interchange access to Highway 50, no commercial facilities can be constructed on the Rancheria."

43-PD-2

The Final EA/FONSI found that the construction costs of the proposed facility (interchange) is expected to result in a revenue stream into the economy totaling approximately $83.7 million dollars. The casino and hotel project, following construction, is forecasted to achieve annual revenue of $194 million dollars in the first year of operation, with about $83.4 million dollars in net income. It is assumed that absent federal and/or state funding sources that tribal proceeds from the annual revenue derived from the hotel and casino project will pay for the construction cost of the proposed interchange. Although it is not clear what portion of the $83.7 million dollars associated with the interchange project is related to direct construction costs, it is equally as unclear as to how this interchange and associated mitigation measures will be financed absent the hotel and casino project. (See Section 9.2.12 Socioeconomic Conditions, page 9-6).

Given the socioeconomic analysis, it appears that the proposed interchange, hotel and casino projects are dependent and inter-related, rather than independent and not related. If the former is true, then the project description for this draft EIR/EA should be modified to correctly describe the entire project and not a component thereof, and this would require reconsideration of all the impacts described therein. If the later is true, then the socioeconomic analysis should demonstrate how the interchange and proposed mitigation measures will be financed and implemented.

43-PD-3

3. Usually, traffic, air quality and noise impact assessments are inter-related and follow similar impact assessment methodologies. This relationship exists because traffic model outputs data for the project, and cumulative plus project that are necessary data inputs for air quality and noise models. The traffic analysis models effects at the proposed intersection, Highway 50 to the west and east of the project site, Highway 49 and, in addition, models traffic effects on numerous segments of the county road network (See Tables 5.4-8 through 5.4-11, Page 5.4-31: Impact 5.4.4, and Tables 5.4-18, 19, 27 and 28.). The air quality impact assessment clearly states that this analysis was based upon traffic model data outputs (See page 5.5-1:Section 5.5.1, and Page 5.5-9, Methodology). The noise analysis is focused on the proposed intersection only, using four noise measurement sites with 10 sites modeled for noise impacts. Only four noise modeling sites are identified in the Draft EIR/EA. The location of the other six sites are not illustrated on Figure 5.6-1 or described elsewhere in the text or appendix. Since the traffic analysis discloses changes in traffic volumes and levels of service throughout the county road network, the noise analysis should determine if shifts

43-PD-3 Cont.

in traffic volumes and levels of service produce significant noise impacts. Also, the noise analysis fails to identify transportation and non-transportation noise standards contained in the El Dorado County General Plan. These noise standards should be used, in addition to those included in the Draft EIR/EA, as a threshold of significance for noise impact analysis particularly where project related traffic and construction noise effects impact areas subject to County jurisdiction.

cc: Matt Boyer, Department of Transportation Director
Jon Morgan, Director of Environmental Management
Tom Cumpston, Deputy Chief County Counsel

California Department of Transportation
EIR Responses to Comments

Comment Letter #43PD

43-PD-1 The commenter states that the NOP letters received from El Dorado County staff and the Board of Supervisors communicate the County's continuing concern regarding the adequacy of the NIGC EA. The commenter (El Dorado County Planning Department) also states that, based on the "tone" of the correspondence, the County believes that previous comments have not received adequate response. Caltrans has responded to each of the comments submitted in response to the NOPAGE The EIR/EA was prepared with these comments in mind, and Caltrans does not believe any further analysis is required other than that presented in the EIR/EA. The comment is noted and will be included in the record for consideration by the decision-makers prior to a final decision on the interchange project.

43-PD-2 The comment implies that the project is being segmented or piecemealed and that the hotel/casino project and the interchange are in fact one project. Please see Responses to Comments 36-2, 39-1 and 41-4.

The commenter misapplies financial numbers presented in the NIGC EA to the proposed interchange project. The commenter states that the "...construction costs of the proposed facility (interchange) is expected to result in a revenue stream into the economy totaling approximately $83.7 million dollars." The commenter is referring to information provided on page 4-14 of the NIGC EA, which states that the construction of the proposed hotel/casino complex (not the proposed interchange) is expected to result in a revenue stream of 83.7 million dollars. The commenter goes on to correctly cite the estimated revenue for the first year of operation (194 million dollars) and the net income from operations (83.4 million dollars). However, the commenter then incorrectly questions what portion of the $83.7 million dollars "associated with the interchange project is related to direct construction costs." Again, the $83.7 million dollars is related to the revenue that will be put into the economy through the construction of the proposed hotel/casino complex.

The commenter also states that it is unclear how the interchange and associated mitigation measures will be financed absent a hotel and casino project. The construction of the interchange will be financed by the Tribal Government. By virtue of the NIGC FONSI, the hotel and casino construction is made contingent upon the provision of direct access to the Shingle Springs Rancheria from U.S. Highway 50. It is not the purpose of the EIR/EA to open up and evaluate the financials of the Tribe or its associates to expressly show where and how the money will be made available for construction and operation. This also applies to the mitigation measures of both the NIGC EA and interchange EIR/EA. The

NIGC (through the Gaming Management Contract), BIA (through the 638 Contract or other regulatory agreement) and Caltrans (through the MMP) will assure that the mitigation measures for all facilities are adequately implemented by the appropriate parties.

The commenter's claim that the EIR/EA needs to show how the interchange is financed and how the mitigation measures are financed and implemented are not required under either CEQA or NEPA.

43PD-3 The commenter questions why a noise analysis was not conducted at other sections of highway throughout the County. The noise analysis addressed the most probable location of where a noise impact would occur – within the segment of roadway that goes from Highway 50 to the Rancheria. This is due to the fact that a roadway does not currently exist in this location. The as shown in the noise analysis, the segment of Highway 50 directly adjacent to the interchange would not result in a significant noise impact (operational). Traveling further away from the interchange (where all project related trips converge), the noise effects are reduced. See also Responses to Comments 9-1, 39-11, and 48-3.

COMMENT LETTER #44

El Dorado Irrigation District

Reg Dir
Dep Reg Dir
Reg Adm Ofcr
Route
Response Required
Due Date
Memo Ltr
Tele

Letter No. M0602-88

June 20, 2002

Ronald M. Jaeger, Regional Director
Pacific Region
Bureau of Indian Affairs
2800 Cottage Way
Sacramento, CA 95825

Subject: Comments on Draft Environmental Impact Report/Environmental Assessment for the Shingle Springs Interchange Project

Dear Mr. Jaeger:

The El Dorado Irrigation District (EID) has reviewed the Draft Environmental Impact Report/ Environmental Assessment (EIR/EA) for the Shingle Springs Interchange Project (Draft EIR/EA). EID offers the following comments:

A. General

The interchange project will induce growth, which may call for eventual additional service to the Rancheria and will result in significant additional demands for water and wastewater services off the Rancheria. The following discussion evaluates the growth inducement issue as relates to the interchange, the various projects to be completed by the Rancheria, and all the Rancheria projects together. There are also cumulative impacts of existing, proposed, and reasonably anticipated projects that taken together may have significant environmental impacts.

The following are the various Rancheria activities formally proposed thus far:

Casino (approved by BIA)

- Casino
- Hotel
- Water service (EID or other)
- Package wastewater treatment plant

U.S. Highway 50 Interchange (to be approved by Caltrans)

- Access to Rancheria

2890 MOSQUITO ROAD • PLACERVILLE • CA 95667 • PHONE (530) 622-4534 • FAX (530) 622-8597

Health Clinic (to be approved by County)

- Health clinic

Residential (to be approved by County)

- Six single-family homes

1. **Potential growth-inducing impacts of utility distribution, conduits, lines, service, etc. associated with construction of the Caltrans Shingle Springs Interchange**

There are two ways a project such as the proposed Caltrans Shingle Springs Interchange project could induce growth. A project is considered growth inducing if it removes obstacles to population growth. In the case of the Rancheria casino/hotel project, the obstacles are water, sewer, and surface road access. Once these resources are made available to the Rancheria, the hotel/casino will be built and, in turn, become an economic engine that will fuel economic growth and development in the surrounding area. Development of water and/or wastewater transmission facilities at the Rancheria and surrounding area could allow greater residential or other land use type densities in an area receiving new service(s).

44-1

The U.S. Highway 50 Interchange project could accommodate a conduit for placement of water and/or wastewater transmission lines. However, this would not be the only means of providing water and/or wastewater transmission to the Rancheria, or necessarily the most desirable means. Therefore, the development of the U.S. Highway 50 Interchange project *per se* is not considered growth inducing with regard to EID services. Alternative alignments for water and wastewater service to the Rancheria from south of U.S. Highway 50 are shown on the attached system map and are discussed in item #3 below.

This does not mean that the Rancheria project itself is not growth inducing or that provision of water or wastewater services to it are not growth inducing. The development of the Rancheria casino/hotel project, including the provision of services to the Rancheria, has the potential for tremendous growth inducement, as we have commented in the past to Caltrans during the Notice of Preparation Process (NOP) (comment letter attached) and to the BIA during the EA review (comment letter attached). During the NOP process, EID commented to Caltrans that the Interchange could not be segmented from the Rancheria, and that their EIR for the interchange should discuss all the potentially significant effects of the Rancheria, including growth inducement.

Unfortunately, the Caltrans EIR limits its discussion of environmental impact to the interchange project and does not address the environmental and growth inducing effects of the casino/hotel. As a commenting responsible agency, the District is limited to making "substantive comments regarding those activities involved in the project that are within an area of expertise of the agency or which are required to be carried out or approved by the responsible agency." (CEQA Guidelines Section 15086 (c). Thus,

44-1 Cont.

EID's comments are focused on the extent to which the interchange project is a portion or a piecemealing of a larger project impacting water or wastewater service and facilities. EID has expertise in water and wastewater service and these services may be required to be carried out by EID to serve the Rancheria and/or areas induced to grow. The way in which this growth inducement affects EID is that the casino/hotel project will likely foster economic growth in the form of services (e.g., motels, pawn shops, eating establishments, gas stations) and related housing. This growth will obviously place additional demands on EID water and wastewater systems.

44-2

2. Relationship of the interchange to the proposed (and requested) water and sewer connection to the Rancheria clinic/residential area south of U.S. Highway 50

Service to the clinic is proposed to come from south of U.S. Highway 50 and approximately 2,000 feet west of the proposed interchange. The new interchange may constitute a potential link for these services to the Rancheria area in the future.

3. Ownership, easements, and/or other designations for the property located between the existing Rancheria clinic and the proposed Rancheria casino site

The exact ownership interest of the Rancheria in lands south of U.S. 50 is not known. Land potentially owned by entities associated with the Rancheria, and the U.S. Highway 50 Interchange project that will serve the Rancheria are shown on the attached system map based on the best information available to EID at this time. The degree of control that the Tribe has on those properties designated as owned by entities potentially associated with the Tribe is unknown.

44-3

There are public streets leading from the clinic site to the Rancheria in which water and wastewater services could be constructed. The following identifies alternative alignments for water and/or sewer service to serve the Rancheria lands from south of U.S. Highway 50.

a. New Interchange Alternative

- Leave clinic site to Railroad ROW
- Traverse north within Railroad ROW to U.S. Highway 50.
- Cross north under U.S. Highway 50 within special conduits or jacked under to 5-acre parcel purchased by Rancheria
- Cross Artesia Road to Rancheria

b. Shingle Springs Drive Alternative

- Leave clinic site to South Shingle Springs Drive
- Traverse north within South Shingle Drive across U.S. Highway 50 to North Shingle Springs Drive
- Traverse north within North Shingle Springs Drive to Artesia Road, Home Court, or cross-country

- Does not require U.S. Highway 50 Interchange Project, but would require permit from Caltrans

As evident from review of the attached system map, the ability to provide water and/or wastewater service to the Rancheria from south of U.S. Highway 50 does not depend on the construction of the U.S. Highway 50 Interchange project. However, construction of such water and/or wastewater infrastructure would require CEQA documentation.

44-3 Cont.

Caltrans should discuss the potential for the necessity of providing water and/or wastewater services to the Rancheria in the Draft EIR/EA, whether through the interchange or otherwise. The interchange, as discussed above, allows the development of other potentially related projects that will induce growth in the general area.

B. Facilities

44-4

1. EID has a 6" A.C. water line in Artesia Road at the northern end of the 5-acre parcel between the reservation and U.S. 50. An EID system map is attached showing the location of this water line.

44-5

2. If the Rancheria believes that it may want to connect to EID's wastewater system in the future, these matters should be addressed, including but not limited to any potential or proposed conduit facilities related to the interchange project. The Rancheria is located north of U.S. 50, and the Deer Creek Wastewater Treatment Plant, which could serve the Rancheria, is located south of U.S. Highway 50. Analysis should consider any route that would pass from the Rancheria land southward via the newly acquired 5-acre parcel, under the freeway to the existing railroad right-of-way.

44-6

3. In Section 1.6, Incorporation B Reference, the Draft EIR/EA states that in accordance with Section 15150 of the CEQA Guidelines, the *Final Environmental Assessment: Shingle Springs Rancheria Hotel and Casino Project* and the *Notice of Finding of No Significant Impact: Proposed Shingle Springs Hotel and Casino Project* are incorporated by reference. In fact, these documents are *not* incorporated by reference in accordance with CEQA. Section 1.6 of the Draft EIR/EA states that these documents are available for review during business hours (8:00 a.m. to 5:00 p.m.) at locations identified in Section 1.4.4, which identifies two locations in Sacramento.

   Section 15150(b) of the CEQA Guidelines states in part:

   > "At a minimum, the incorporated document shall be made available to the public in an office of the lead agency in the county where the project would be carried out or in one or more public buildings such as county offices or public libraries if the lead agency does not have an office in the county."

   Caltrans has violated the CEQA Guidelines by placing the incorporated documents, which are a critical part of the Draft EIR/EA, *in another county* out of reach by the citizens and public agencies of El Dorado County. This inhibits the primary purpose of an EIR, which is to provide for informed public participation and decision-making.

Section 15150(f) of the CEQA Guidelines provides direction on the types of information appropriate for incorporation by reference, indicating that:

> "Incorporation is most appropriate for including long, descriptive, or technical materials that provide general background but do not contribute directly to the analysis of the problem at hand."

By incorporating the casino/hotel complex EA by reference and limiting the discussion in the Draft EIR/EA to only the interchange portion of the project, Caltrans is telling us that information about a large casino and hotel complex to be located near a rural El Dorado County residential community and made possible by the interchange project.

44-6 Cont.

The Draft EIR/EA does not completely inform the public and decision-makers about the environmental implications of the interchange project. The Caltrans interchange makes the casino/hotel complex possible. The impacts of the casino/hotel complex are the impacts of the interchange project. As noted above, the interchange project will likely lead to the cumulative impacts of a larger project with several pieces or sub-components. Therefore, information in the EA is of prime importance to understanding the full environmental implications of the interchange project, and this information should not be relegated to the status of incorporation by reference.

CEQA's requirements regarding incorporation by reference are to facilitate the public's "connecting the dots." The interchange project removes the primary obstacle to the casino/hotel project and all the growth that will, in turn, be induced by injection of this huge economic engine in the Shingle Springs/El Dorado area. This is a fatal flaw in the public review process and Caltrans should re-circulate the Draft EIR/EA, with the documents incorporated by reference made available locally as required by CEQA.

4. The issue of growth inducement as presented in Section 6 of the Draft EIR/EA is inadequate. Although the Draft EIR/EA says that the casino/hotel complex EA addresses that project separately, and the Draft EIR/EA says that an EA must examine growth inducing effects, the words "growth inducement" do not even appear anywhere in the casino/hotel complex EA. Thus, the casino/hotel EA, although incorporated by reference, does not meet the standard for discussion of the growth inducing impacts of the casino/hotel that is made possible by the interchange project.

44-7

The Draft EIR/EA discussion focuses on the amount of available land for development, which is more appropriate for a housing and population study. Growth inducement impacts, especially in El Dorado County, are significant when growth stimulated by a project results in additional demands on public infrastructure, such as roads, water systems and wastewater systems. As U.S. Highway 50 approaches Level F conditions, the accelerated evolution of a heretofore-unplanned city surrounding the Rancheria will generate significant new traffic. Of concern to EID, the water and wastewater purveyor, is that this additional growth will require water that may not be available.

44-8 5. Section 9.2.14 limits its discussion of indirect effects to simple consistency of the casino/hotel project to the Rancheria land use designations. This omits a meaningful discussion of the effects of induced growth on local land uses and land use designations.

Considering the lack of availability to the public of documents incorporated by reference, the inadequacy of documents incorporated by reference to meet CEQA's informational requirements, and the omission of other key discussions required by CEQA, Caltrans should consider revising and re-circulating the Draft EIR/EA.

Thank you for the opportunity to comment on this project.

Sincerely,

EL DORADO IRRIGATION DISTRICT

Ane D. Deister By

Ane D. Deister
General Manager

CW:lb

Attachment:

- Letter to Bill Allen, USDI, Bureau of Indian Affairs, March 15, 2001
- Letter to Ken Van Velsor, Caltrans, July 30, 2001
- William C. Neasham, District Counsel, transmitting staff comments on *Shingle Springs Rancheria Water, Wastewater and Reclamation Study*, October 4, 2001
- Letter to Catherine Fonseca, Shingle Springs Rancheria Tribal Utility District, December 6, 2001
- System Map

c: Conrad Montgomery, El Dorado County Planning Department

El Dorado Irrigation District

COPY
Chris Ubach

In Reply Refer To: M0301-056

March 15, 2001

Bill Allen
U.S. Department of the Interior, Bureau of Indian Affairs
Pacific Region Office
2800 Cottage Way, Room W-2820
Sacramento, CA 95825-1846

Subject: Comments on Environmental Assessment for Shingle Springs Rancheria 5-Acre Fee-to-Trust Transfer Project and Hotel and Casino Project, El Dorado County, California

Dear Mr. Allen:

The El Dorado Irrigation District (District) has reviewed the above-referenced document and submits the following comments:

1. The Environmental Assessment (EA) states on Page 1-9, Paragraph 1, that the casino will stimulate the local economy. The District agrees with this statement and believes that such inducement of growth should be carefully evaluated in the context of the ability of the District to serve this growth. Such growth in the project area will create a need for additional water services, impacting available water supplies, and will generate additional wastewater treatment requirements. These circumstances could significantly impact the ability of the District to provide services.

2. On Page 1-10, Paragraph 1, the EA indicates that the Tribe consulted with the District with regard to the proposed action. However, the Tribe has only requested and accepted one Facility Improvement Letter (FIL) which describes the capability to utilize a 3-inch water meter to serve, as specifically requested by the Tribe, "housing for Tribal elders, landscaping, office space, health clinic, water supply to a fire storage tank and community projects" uses north of U.S. 50.[1] The Tribe has not consulted with the District regarding a casino at the proposed location.

[1] Two FILs were prepared for the Tribe. The first, dated March 28, 2000, was in response to a request for water and sewer service for a casino and hotel project south of U.S. 50 outside the original Rancheria. The FIL indicated that an extension from the Diamond Springs Main for water service, an extension from the Motherlode Forcemain for sewer service, and associated improvements for both were required. The second FIL request was for a 6-inch bulk water meter on the Rancheria for a casino and hotel project also south of U.S. 50; Sewer service was not requested. The resultant FIL dated April 20, 2000 informed the Tribe that the existing system could not meet the demands of the requested 6-inch water meter. A Tribal representative then told District staff that an FIL was not wanted for the casino project, but for "housing for Tribal elders, landscaping, office space, health clinic, water supply to a fire storage tank and community projects." Therefore, the second FIL was nullified and replaced with the revised FIL dated May 15, 2000, which indicated that the District water system at the Rancheria could meet the demands of a 3-inch meter (250 gpm maximum continuous flow) and a 500 gpm minimum residential flow.

2890 MOSQUITO ROAD • PLACERVILLE • CA 95667 • PHONE (530) 622-4534 • FAX (530) 622-8597

ORIGINAL SENT TO FILE

3. On Page 2-2, Paragraph 2, the EA states that the casino will be built to the Uniform Building Code fire codes. This capability will depend on the water supplies and transmission facilities available. As indicated in the previous comment, the District informed the Tribe that the District's water system can only meet the demands of a 3-inch water meter and a 500 gallon per minute (gpm) minimum residential fire flow. There is no water available to serve the Casino beyond that supplied from the existing 3-inch meter and that allocated for the 20 existing or anticipated residential uses on the Rancheria.

4. On Page 2-4, Paragraph 4 (the last paragraph), the EA states that "Water lines and booster pumps will be provided to convey water from the existing [3-inch] meter to the proposed facility." The Annexation agreement between the District and the Tribe, dated October 14, 1987, outlining the terms and conditions of the Rancheria's annexation to the District, specifies that the water can be used only for residential and accessory uses (community facilities, school playgrounds, recreation facilities, a residential home for elders and community grazing or garden projects). Use of the 3-inch meter for the casino is inconsistent with the Tribe's agreement with the District.

5. The EA should discuss the alternative of providing a bulk meter for the reservation, transferring all water facilities within the Rancheria to the Tribe, and re-routing District water facilities around the reservation to serve customers now served via facilities that pass through the Rancheria.

6. Regarding Effluent Disposal discussed on Page 4-17, et seq. and Appendix C, the California Department of Health Services typically requires auxiliary storage of effluent in case effluent quality is below standard. This storage volume is normally set by the Department of Health Services at 7-21 days. No provision for such storage is referred to in the EA. If wastewater reuse will occur, Title 22 applies. If there is subsurface discharge, requirements of the Central Valley Regional Water Quality Control Board (CVRWQCB) for groundwater monitoring and protection would be applicable.

7. Based on a 2000 survey of existing casino/hotel developments in California and Nevada, the District estimates that the project will discharge approximately 180,000 gallons per day (gpd) rather than 90,000 gpd as stated in the EA. In view thereof, effluent flow estimates are low for the project. If true, these circumstances have serious implications for the District and the potential inducement of significant growth in the project region. Should the wastewater treatment facilities proposed for the project fail, the Rancheria may find it impossible to avoid connecting to the District's wastewater collection and treatment system. This would involve significant extensions and upgrades to the District's facilities and therefore make sewer service available in a wide area now constrained by the lack of such facilities. These facilities would include construction of a forcemain, pump station, and upgrade of existing District wastewater facilities. The District estimates the construction costs and connection fees of $3 million to $5 million for wastewater service for the casino. Connection fees are based on estimated wastewater flow and loadings at current District Facility Capacity Charges (FCCs). The District is

currently planning long-range improvements to the Motherlode-Forcemain system. Any potential for ultimate connection by the Rancheria to this system should be evaluated and discussed in project NEPA documentation.

8. Section 7.3, Page 7-2 indicates specific consultations with the District in preparation of the EA. Except where limited to preparation of an FIL for a casino project south of U.S. 50, the District does not concur that consultations with the District occurred specifically for planning of the casino project or preparation of the EA.

The District believes that the EA should be revised to incorporate discussion of the issues identified above.

Sincerely,

EL DORADO IRRIGATION DISTRICT

William L. Wilkins
General Manager

CW/ac

c: Tom Cumpston, El Dorado County Counsel
330 Fair Lane, Placerville, CA 95667
Penny La Dueax, Grassy Run Homeowners Association
5555 Grassy Run Court, Placerville, CA 95667
Jan McKinsey, Taxpayers for Quality Growth
1487 Crooked Mile Court, Placerville, CA 95667
Conrad Montgomery, Director, El Dorado County Planning Department
2850 Fairlane Court, Placerville, CA 95667
William C. Neasham, Neasham & Kramer Attorneys at Law
11201 Gold Express drive, Suite 202, Gold River, CA 95670
Ken Van Velsor, CEQA Manager, Caltrans
2800 Gateway Oaks Drive, Suite 100, Sacramento, CA 95816

Proof of Delivery

Date: March 15, 2001

On this date, as an authorized agent of the U.S. Department of the Interior, Bureau of Indian Affairs, I received El Dorado Irrigation District's Letter No. M0301-056" dated March 15, 2001 regarding, "**Comments on Environmental Assessment for Shingle Springs Rancheria 5-Acre Fee-to-Trust Transfer Project and Hotel and Casino Project, El Dorado County, California.**"

Signature

Title

Name (Printed)

3/15/01 4:45 pm
Date, Time

Signature of Deliverer

Engineering Tech.
Title

Name (Printed)

3/15/01
Date

El Dorado Irrigation District

In Reply Refer To: E0701-264

July 30, 2001

Ken Van Velsor, Chief
Office of Environmental Management
District 3 – Sacramento Area Office
State of California, Department of Transportation
2800 Gateway Oaks Drive, Suite 100 MS-19
Sacramento, CA 95833

Subject: Shingle Springs Rancheria Interchange Project

Dear Mr. Van Velsor:

The El Dorado Irrigation District (District) appreciates the opportunity to provide input to the contents of the Environmental Impact Report (EIR) for the Shingle Springs Rancheria Interchange Project and submits the following recommendations:

1. Section 15378 of the CEQA Guidelines defines a "Project" as *"the whole of an action, which has the potential for resulting in either a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment..."* Further, in determining the significance of environmental effects caused by a project, the CEQA Guidelines at § 15064 (d) requires the lead agency to consider not only direct physical changes in the environment that may be caused by the project, but also *"reasonably foreseeable indirect physical changes in the environment which may be caused by the project."* Section 15064 (d) (2) goes on to define an indirect physical change in the environment as *"a physical change in the environment which is not immediately related to the project, but which is caused indirectly by the project."*

   Construction of the interchange by Caltrans is an essential part of the Shingle Springs Rancheria's casino/hotel project, which is not mentioned in your Notice of Preparation. Without the interchange, the casino project as proposed could not be constructed. Therefore, in addition to the direct physical impacts associated with construction of the interchange, Caltrans' action will also result in the indirect environmental effects of the casino/hotel project. In order to meet the requirements of CEQA, Caltrans' EIR must address the potential environmental effects associated with the casino/hotel project and any other direct or indirect activities that would be made possible by construction of the proposed interchange.

2890 MOSQUITO ROAD · PLACERVILLE · CA 95667 · PHONE (530) 622-4334 · FAX (530) 622-8597

The Environmental Assessment (EA) completed by the Bureau of Indian Affairs was an inappropriate and inadequate document for the Shingle Springs casino/hotel project under NEPA and does not contain essentially the same points of analysis as would an environmental impact statement. Further, the EA does not begin to approach functional equivalency of an EIR. Thus, that document cannot be used to reduce in any way the scope and content of the EIR needed to address the whole of the action of the interchange as required by CEQA.

2. The casino/hotel that will be made possible by the Caltrans interchange will induce growth on and off the Shingle Springs Rancheria for which water service will be required. The Rancheria and surrounding areas are within the District's Western Region, which has water supply and transmission constraints. Water supplies in the Western Region, in which the proposed casino and its freeway interchange lie, are limited. The EIR should evaluate the availability of water supplies to serve the growth induced by the casino, including impacts to existing water customers.

3. Based on District research of other casinos of similar size, wastewater effluent flow estimates for the project appear low. If true, these circumstances have serious implications for the District and the potential inducement of significant growth in the project region. Should the proposed project wastewater treatment facilities fail, the Rancheria may find it impossible to avoid connecting to the District's wastewater collection and treatment system. This would involve significant extensions and upgrades to the District's facilities and make sewer service available in a wide area now constrained by the lack of such facilities. This would also exacerbate the growth inducement potential of the casino/hotel project made possible by the Caltrans interchange. The District is currently planning long-range improvements to the Motherlode Forcemain system. The adequacy of the proposed casino/hotel wastewater disposal system and the potential for ultimate connection of the Rancheria to this system should be evaluated in the EIR.

4. The ability of the casino/hotel complex to meet UBC fire codes should be evaluated in the EIR. Meeting fire codes will depend on available water supplies and transmission facilities. The District's water system can meet only the demands of a 3-inch water meter and a 500 gallon per minute (gpm) minimum residential fire flow. There is no fire flow water available to serve the casino/hotel complex beyond that supplied from the existing 3-inch meter allocated for the 20 existing or anticipated residential uses on the Rancheria.

The District is available at your convenience to provide any additional information at our disposal to assist you in completing the EIR.

Sincerely,

EL DORADO IRRIGATION DISTRICT

W. Chris Word
Environmental Planner

WCW:iw

c: Conrad Montgomery, Director, El Dorado County Planning Department,
2850 Fairlane Court, Placerville, CA 95667
Tom Cumpston, El Dorado County Counsel, El Dorado County Water Agency,
330 Fair Lane, Placerville, CA 95667
Penny La Dueax, Grassy Run Homeowners Association,
5361 Reservation Road, Placerville, CA 95667

El Dorado Irrigation District

MEMORANDUM

TO: William C. Neasham, District Counsel EM1001-068

FROM: Brian Cooper, Senior Engineer and Chris Word, Environmental Planner

VIA: Dave Powell, Engineering Director

DATE: October 4, 2001

SUBJECT: Shingle Springs Rancheria Water, Wastewater and Reclamation Study Dated July 2001

As requested by your office, staff has reviewed the Shingle Springs Rancheria Water, Wastewater and Reclamation Study.

The most current direction given to staff by the El Dorado Irrigation Board of Directors is to provide the Rancheria with a single bulk meter. This meter would serve the entire Rancheria via a separate distribution system completely isolated from the District's water system. The Rancheria would be responsible for constructing any improvements needed to provide fire flow or peak system demands for the Rancheria, including the future casino. The Rancheria would also be responsible for constructing any improvements necessary to restore the existing EID system to maintain the current level of service to neighboring District customers. Under such a scenario, some of the staff's comments would be less pertinent than if all parts of the Rancheria continued to be a part of the EID system.

Many staff hours were spent reviewing this report for several important reasons:

- To correct statements in the report as they relate to the District's ability to serve water to the proposed casino.
- To clarify the District's role in providing services to the Rancheria.
- To provide a preliminary technical review of the design parameters to assist the Rancheria in developing a water, recycled water, and wastewater system that will adequately serve the casino. The District's main concern here is that the failure of inadequate facilities could result in requests for services that were not part of District or County long-range planning.

The cover letter written with these attached comments could restate these points and suggest that the Rancheria retain their own independent engineering consultant to review this report and assist them in reviewing the design of these systems.

Brian Cooper

Chris Word

BC/CW:aln

2890 MOSQUITO ROAD • PLACERVILLE • CA 95667 • PHONE (530) 622-4634 • FAX (530) 622-8597

SHINGLE SPRINGS RANCHERIA
WATER, WASTEWATER AND RECLAMATION STUDY
REVIEW COMMENTS PREPARED BY THE EL DORADO IRRIGATION DISTRICT

The El Dorado Irrigation District (EID) Engineering Department's staff have reviewed the "Shingle Springs Rancheria Water, Wastewater and Reclamation Study" dated July 2001 and have provided the comments below.

Water

1. Table 2-4 entitled , "Estimated Water Demands" should show the peak hour demand as well. The recommended supply capacity should be based on the peak hour demand. Assumptions for calculating the peak hour peaking factor should be stated.

2. In Section 3.1, "Water Supply System," the Annexation Agreement between the Shingle Springs Rancheria, EID and the Local Agency Formation Commission (LAFCO) is mentioned. The District's agreement with the Tribe at the time of the Rancheria's annexation to the District specifies that the water can be used only for residential and accessory uses (community facilities, school playgrounds, recreation facilities, a residential home for elders and community grazing or garden projects). Use of the 3-inch meter for the casino is inconsistent with the Tribe's agreement with the District. This 3-inch meter that was installed last year for "Tribal Government use and community facilities" according to the large meter application, took the remaining design capacity of the water system serving the Rancheria and neighboring parcels. The Annexation Agreement is attached for your information.

   The existing 3-inch meter is only capable of providing 250 gpm. The District's distribution system can also provide 500 gpm fire flow along with current maximum day demands which includes the 250 gpm from the 3-inch meter.

Recycled Water

1. In Section 2.4, "Recycled Water," third paragraph, the peak water usage is 210,000 gpd.

2. In Section 2.4, the study should state that, "The use of recycled water at the Shingle Springs gaming facility would significantly reduce *annual* potable water *irrigation* demands, as well as, significantly reduce *annual* wastewater disposal requirements."

3. Also in Section 2.4, the potential for use of recycled water for toilet flushing, emergency fire flow and fire sprinklers should be cleared with the California Department of Health Services (DOHS).

4. The "Recycled Water Storage Reservoir" description on Page 4-1 states the "Fire flows are estimated at 4,000 gpm for 2 hours ..." while the Uniform Fire Code requires a 4-hour duration for a fire flow requirement of 4,000 gpm. Therefore, the storage volume for fire flow (480,000 gallons) appears to be undersized.

5. In Section 3.1, "Water Supply System," the statement, "This reservoir could be constructed by EID as part of their existing water system" refers to the recycled water storage reservoir. This reservoir would be part of the private system owned and operated by the Rancheria and not part of the EID system. EID would not fund nor construct the reservoir.

Wastewater

1. In Section 1.2, "Objectives," one of the objectives indicated is to develop alternative strategies for disposal of wastewater. However, alternatives are not discussed in this report. Connection to the District's wastewater collection system should be discussed and evaluated.

2. In the first paragraph of Section 2.1, it is stated that the study was based on the assumption that inflow and infiltration (I&I) will be negligible because the system will be new. However, the system will not always be new, and the study should consider higher I&I that comes with aging facilities. The District multiplies the average day weather flow by 4 to get the peak wet weather flow.

3. In the second paragraph of Section 2.2, the recommended minimum wastewater treatment capacity is 200,000 gallons per day. In Table 2-3, the peak wastewater flow is estimated to be 200,250 gallons per day, which exceeds the recommended minimum treatment plant capacity. When a treatment plant is built for a public utility, the incoming flow rates gradually increase over a long period of time. As the flow rates begin to reach the "Design Capacity", operation of the plant becomes more difficult. Design and operational problems become apparent so improvements are made to keep the plant in compliance.

   The design flow of this plan could be seen the first month of operation. Extreme fluctuations in plant flow will also be seen, making plant operations difficult. A safety factor of 20 – 50% is recommended because of these conditions.

4. In Section 3.2, "Wastewater Collection and Treatment System," despite what is discussed regarding the Biosolids Stabilization Basins, odors from these facilities will most likely become a problem with residents and hotel patrons. This may result in more frequent solids hauling offsite than is described in the report.

5. Table 3-1, the Water Balance Model (water, wastewater, and recycled water) is missing from the report.

6. The District would like to see the Tribe's contingency plan for wastewater disposal, including a replacement area for subsurface disposal. A larger recycled water storage reservoir would improve overall operations of the recycled water system and will be required by the DOHS.

7. The "subsurface drip irrigation disposal" fields should be placed at least 25 feet from new or existing potable water lines.

8. In Section 3.4, "Effluent Disposal," the subsurface disposal area should be designed to handle the peak day flow of 98,200 gpd, plus the landscape irrigation demand of 10,000 gpd. The report should also show the 100% replacement area.

H:\WORKGRPS\ENG\ADMIN\PROJECTS\Developer Projects\Shingle Springs Rancheria\W,WW and Recaim Study.doc

RESOLUTION OF THE BOARD OF DIRECTORS OF
EL DORADO IRRIGATION DISTRICT
INCLUDING LANDS
ANNEXATION NO. 88-06 (LAFCO #87-15)
SHINGLE SPRINGS RANCHERIA - PARCEL NO. 319-100-37

89-24

WHEREAS, SHINGLE SPRINGS RANCHERIA, as owner of certain real property filed a petition for annexation to the EL DORADO IRRIGATION DISTRICT pursuant to the provisions of Section 56000 et seq. of the Government Code of the State of California, for the annexation of certain real property described in ATTACHMENT A attached hereto and made a part hereof; and

WHEREAS, the EL DORADO COUNTY LOCAL AGENCY FORMATION COMMISSION by its order dated July 7, 1988 pursuant to Section 56375 and 56377 of the Government Code of the State of California conditionally authorized the annexation of lands to the EL DORADO IRRIGATION DISTRICT of that certain real property described in ATTACHMENT A attached hereto, subject to holding the necessary noticed public hearing; and

WHEREAS, there exists between the EL DORADO IRRIGATION DISTRICT and the UNITED STATES OF AMERICA a service contract, or so called 9E contract, and pursuant to the terms of said contract and under provisions of Section 23202 of the Water Code of the State of California, the consent of the Secretary of the Interior on the real property sought to be included is necessary and required; and

WHEREAS, the Board of Directors of the EL DORADO IRRIGATION DISTRICT at its regular meeting on October 20, 2988 duly and regularly adopted a resolution of intention to include said lands within boundaries of the EL DORADO IRRIGATION DISTRICT subject to the consent of the Secretary of the Interior and said consent has been secured by an instrument in writing dated November 2, 1988 on file with the District; and

WHEREAS, pursuant to Section 56323 of the Government Code of the State of California, the lands described in ATTACHMENT A will be included subject to the following conditions:

(1) The EL DORADO IRRIGATION DISTRICT shall make water available for residential use only, including accessory uses and for tribal use limited to community facilities, school playgrounds, recreation facilities, a residential home for tribal elders, and community grazing or garden projects.
(2) The service capability shall be limited to that necessary to serve a community of forty residential lots including the uses listed in (1) above.
(3) Compliance with all rules, regulations and policies of the EL DORADO IRRIGATION DISTRICT.
(4) Compliance with all terms and provisions of attached Annexation Agreement between EL DORADO IRRIGATION DISTRICT and owner entered into on October 14, 1987 labeled ATTACHMENT B.
(5) The EL DORADO COUNTY LOCAL AGENCY FORMATION COMMISSION shall retain jurisdiction and authority to amend or eliminate conditions 1, 2 & 3 listed above.

Invite to LAFCO

OFFICIAL RECORDS
EL DORADO COUNTY-CALIF.
RECORD REQUESTED BY:
LAFCO
MAR 9 3 35 PM '89
DOROTHY CARR
COUNTY RECORDER
No Fee

CERTIFICATE OF COMPLETION

Pursuant to Government Code Section 57200, this Certificate is issued by the Executive Officer of the Local Agency Formation Commission of El Dorado County, California.

1. The short-form designation, as determined by LAFCO, is 87-15 Shingle Springs Rancheria.

2. The name of each district or city involved in this change of organization or reorganization and the kind or type of change of organization ordered for each city or district are as follows:

City or District	Type of Change of Organization
El Dorado Irrigation District	Annexation

3. The above listed cities and/or districts are located within the following county(ies): EL DORADO

4. A description of the boundaries of the above cited change or organization or reorganization is shown on the attached legal description, marked Exhibit A and by reference incorporated herein.

5. The territory involved in this change of organization or reorganization is, inhabited/uninhabited. (underline one)

6. Territory will be taxed for existing bonded indebtedness.
Yes ____ No X

7. AB 8 Negotiations completed. Yes X No ____

8. This change of organization or reorganization has been approved subject to the following terms and conditions: (1) The El Dorado Irrigation District shall make water available for residential use only, including accessory uses and for tribal use limited to community facilities, school playgrounds, recreation facilities, a residential home for tribal elders, and community grazing or garden projects.
(2) The service capability shall be limited to that necessary to serve a community of forty residential lots including the uses listed in (1) above.
(3) Compliance with all rules, regulations and policies of the El Dorado Irrigation District.
(4) Compliance with all terms and provisions of attached Annexation Agreement between El Dorado Irrigation District and owner entered into on October 14, 1987, labeled ATTACHMENT B.
(5) The El Dorado County Local Agency Formation Commission shall retain jurisdiction and authority to amend or eliminate conditions 1, 2, & 3 listed above.

ANNEXATION AGREEMENT
EL DORADO IRRIGATION DISTRICT

THIS AGREEMENT made and entered into this 14th day of October, 1987, by and between El Dorado Irrigation District (hereafter, "District") and the Shingle Springs Rancheria (hereafter "Owner").

WHEREAS, District is an Irrigation District organized and existing under and in conformity with the laws of the State of California; and

WHEREAS, Owner is a federally recognized Indian Rancheria owned by the United States of America in trust for the Indians of the Shingle Springs Rancheria; and

WHEREAS, said lands of the Rancheria are located in El Dorado County and are more specifically described and depicted in Exhibit "A", attached hereto and incorporated herein by reference; and

WHEREAS, said lands are currently located outside the District's boundaries and the Owner wishes to annex into the District and to receive separately metered and billed water service for its members from District; and

WHEREAS, Owner has installed a water distribution system on the Rancheria that was constructed in accordance with District standards and has been inspected and approved by District personnel; and

WHEREAS, Owner is willing to disconnect its system from the well and to convey to District the components, fixtures and appurtenances comprising its water distribution system together with necessary easements and rights of way if it is annexed into the District;

NOW, THEREFORE, IN CONSIDERATION OF THE ABOVE-RECITED FACTS, District and Owner agree as follows.

Agreement

1. Owner agrees to submit application to District and to the Local Agency Formation Commission ("LAFCO") to annex the Rancheria into District in accordance with all applicable state and county laws rules and regulations. District agrees to support the annexation and to annex the Rancheria if said annexation is approved by LAFCO.

2. Owner shall pay all fees normally charged by District and LAFCO for processing and approving annexation applications, except th "inclusion fee" imposed by District. In lieu of the inclusion fee, Owner agrees to make payment to District of an amount equal to the inclusion fee the District would charge an annexation applicant based on the formula in effect at the time the application is submitted to District.

ATTACHMENT B

3. On the terms and conditions stated in this Agreement District agrees to provide water service to Rancheria residents on the same terms as it provides service to any other resident within the District.

4. Owner agrees to disconnect the water system from their well and to convey legal title to District of the water distribution system more particularly described and depicted on the attached Exhibit B, which is incorporated herein by reference as though set forth in full; together with any necessary easements or rights of way necessary for District to maintain, repair and service the system. District agrees to accept title to the distribution system and necessary easements or rights of way, when documents evidencing title are delivered in properly executed form to District, and to maintain the distribution system in good repair and working order.

5. Owner agrees to apply to District for line extensions to connect the distribution system to District's service mains at the points indicated on the attached Exhibit "C", which is incorporated herein by reference, and to pay the deposit and all costs associated with the line extension customarily charged by District to line extension applicants as calculated under District rules in effect at the time of such application.

6. Owner irrevocably grants District and its authorized agents and employees the right to enter upon Rancheria for the purpose of servicing, repairing, maintaining or replacing any or all of the distribution system and to effect or enforce any of District's generally applicable rules and regulations, including, but not limited to, those respecting the timely payment of charges for water service. Owner agrees that District shall have the right to terminate water service to any customer on the Rancheria for nonpayment of bills for water service or other violation of District rules and regulations; provided that such termination of service complies with all laws governing such termination of service generally applicable to any customer within the District. Owner shall provide District with an annual update of Tribal Officials.

7. Compliance with the terms of this Agreement shall be a condition of District's approval of the annexation.

8. Upon annexation, Owner and every customer on the Rancheria shall have the same rights as all other Owners and customers within the District, and shall be charged the same fees and charges for water service as other owners and customers within the District which currently include the Meter Installation fee, Diamond Springs Main (DSM) Surcharge and the Water Facilities Capacity Charge (FCC). In addition, each Rancheria resident shall pay a fee of $1.00 per month for each acre of land or portion thereof that resident occupies on the Rancheria. This fee to be reviewed and adjusted by the District from time to time.

9. This Agreement constitutes the entire Agreement between the parties regarding its subject matter and supersedes all proposals, oral and written, and all negotiations, conversations or discussions heretofore and between the parties related to the subject matter of this Agreement.

10. This Agreement shall not be effective unless and until Owner has delivered to District an opinion of California Indian Legal Services in substance satisfactory to District, stating that this Agreement (i) has been duly authorized by Owner, (ii) has been duly executed and delivered by Owner, and (iii) constitutes a legal, valid and binding obligation of Owner enforceable in accordance with its terms.

11. This Agreement shall not be effective until the Shingle Springs Tribal Council has: 1) duly passed a resolution approving this Agreement and authorizing a designated tribal official to sign the Agreement on behalf of the Rancheria, 2) consented to suit to the extent necessary to allow District to bring a legal action against the Owner to specifically enforce the terms of this Agreement, and 3) had this Agreement approved by the Bureau of Indian Affairs.

ATTEST:

Clerk of District

By:

APPROVED AS TO FORM:

Attorney for El Dorado Irrigation District

California Indian Legal Services

Chairman
Board of Directors
El Dorado Irrigation District

Owner:
Shingle Springs Rancheria Tribal Official

By:

CERTIFIED AND APPROVED

9/11/87

Bureau of Indian Affairs
(A Federal Agency)

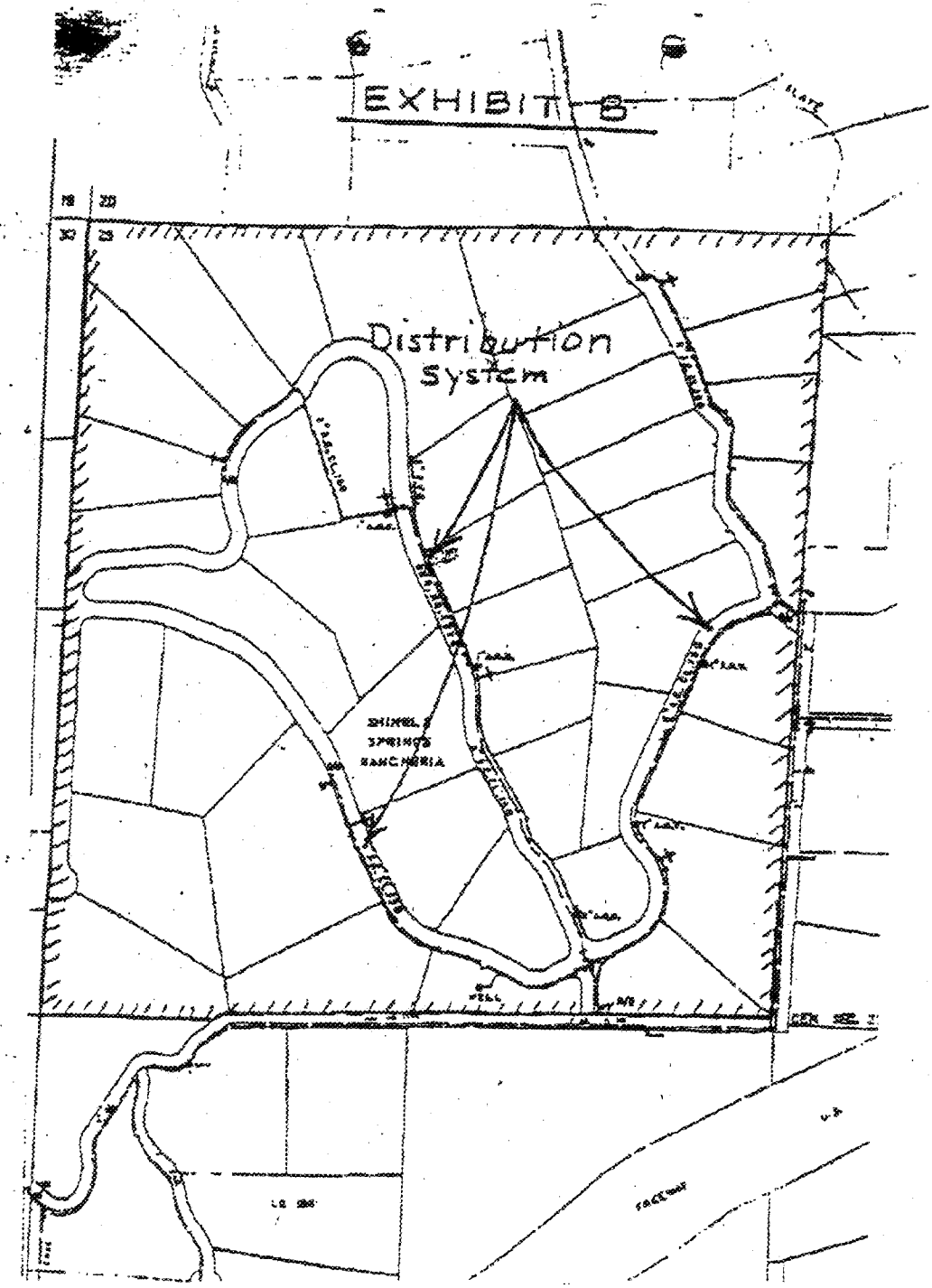


EXHIBIT B
Distribution System
SHINGLE SPRINGS RANCHERIA

El Dorado Irrigation District

COPY
Chris Ward

In Reply Refer To: E1201-342

December 6, 2001

Catherine Fonseca
Shingle Springs Rancheria Tribal Utility District
P.O. Box 1340
Shingle Springs, CA 95682

Subject: Facility Improvement Letter, Shingle Springs Rancheria Lots 23 and 24
Assessor's Parcel No. 319-100-37 (Shingle Springs)

Dear Ms. Fonseca:

This letter is in response to your request dated July 11, 2001 and is written pursuant to Regulation No. 22, Service Procurement. This regulation states the procedure agreed upon between the District and the County to indicate water and sewer improvements necessary to support proposed developments. This letter is valid for a period of 2 years. If a Facility Plan Report (FPR) for your project has not been submitted to the District within 2 years of the date of this letter, a new Facility Improvement Letter will be required.

Design drawings for your project must be in conformance with the District's *Water, Sewer and Recycled Water Design and Construction Standards* dated July 1999.

This project is the development of two 1-acre residential lots. Water service and a fire hydrant are requested. The property is within the District boundary.

Water Supply

The District manages its water supply under Regulation No. 2. In the event the District's water supply is depleted, water meters will not be sold. This letter is not a commitment to serve, but does address the location and approximate capacity of existing facilities that may be available to serve your project. In terms of water supply, as of November 30, 2001 there were 274.25 equivalent dwelling units (EDUs) available in the Western Water Supply Region. You have requested two 1½-inch meters or 6 EDUs of water supply for your proposed project.

2890 MOSQUITO ROAD · PLACERVILLE · CA 95667 · PHONE (530) 622-4534 · FAX (530) 622-8597

ORIGINAL SENT TO FILE

The 3-inch meter that was installed for "Tribal Government use and community facilities" took the remaining design capacity of the water system serving the Rancheria and neighboring parcels. The design capacity is defined in this case as the combination of the maximum day demand and fire flow. The District cannot approve any additional meters for the Rancheria at this time.

Water Facilities

A 6-inch water line exists in Koto Road adjacent to the northeast corner of Lot 24. The Diamond Springs/El Dorado Fire Protection District has determined that the minimum fire flow for this project is 500 gpm for a 2-hour duration while maintaining a 20 psi residual pressure. The hydraulic grade line for the existing water distribution facilities is 1,700 feet above mean sea level.

Facility Plan Report

In accordance with District Regulation No. 22, Service Procurement, an FPR will be required for this project. The FPR shall identify the future water needs of the Rancheria, casino, hotel, and neighboring parcels and evaluate alternatives to increasing the available water supply to this area.

The District Board of Directors has recently given direction to staff to allow isolation of the Rancheria's water system. One large meter would be installed to supply the Rancheria and casino. If possible, this meter would be sized to deliver the total required annual use, assuming a constant flow through the meter. Capacity constraints of the existing distribution system may limit the size of the meter. Fire flow and peak demands would be supplied by onsite storage built within the Rancheria. The Rancheria will need to submit the total annual water demand required for the Rancheria and casino so the District can determine the appropriate meter size. Enough detail should be provided to justify the request.

Before the Rancheria's water system is severed from the District's water system, the Rancheria will be required to install any additional water lines needed to maintain the District's current water system capacity and integrity. This analysis should be included in the FPR. A meeting to discuss the content of the report will be required. Please contact this office to arrange the meeting.

Two copies of the FPR will be required along with a $2,000 deposit. You will be billed for actual time spent in review and processing of your FPR. Please submit the FPR and fee to our Customer Service Department. Enclosed is the FPR description and transmittal form for your use. The items listed under content in the description and the completed transmittal form must be bound in each copy of the FPR.

Easement Requirements

Proposed water lines, sewer lines and related facilities must be located within an easement accessible by conventional maintenance vehicles. When the water lines or sewer lines are within streets, they shall be located within the paved section of the roadway. No structures will be permitted within the easements of any existing or proposed facilities. The District must have unobstructed access to these easements at all times, and does not generally allow water or sewer facilities along lot lines.

Easements for any new District facilities constructed by this project must be granted to the District prior to District approval of water and/or sewer improvement plans, whether onsite or offsite. In addition, due to either nonexistent or prescriptive easements for some older facilities, any existing onsite District facilities that will remain in place after the development of this property must also have an easement granted to the District.

Environmental

Ordinarily, the District would be the lead agency for environmental review of this project, per Section 15051 of the California Environmental Quality Act Guidelines (CEQA). Caltrans is currently preparing an Environmental Impact Report for your hotel and casino. The EIR should address the environmental effects of providing water service to the Rancheria, casino, and hotel. The District is a Responsible Agency under CEQA and must use the Caltrans EIR in making decisions about providing additional water service to the Rancheria.

Summary

Service to this proposed development is contingent upon the following:

- The future availability of water supply,
- Approval of the County's environmental document by the District (if requested),
- Approval of a Facility Plan Report by the District,
- Approval of an extension of facilities application by the District,
- Approval of facility improvement plans by the District (based on July 1999 Design & Construction Standards),
- Construction by the developer of all onsite and offsite proposed water and sewer facilities,
- Acceptance of these facilities by the District,
- Payment of all District connection costs.

Services shall be provided in accordance with El Dorado Irrigation District Rules and Regulations, as amended from time-to-time. As they relate to conditions of and fees for

extension of service, District Rules and Regulations will apply as of the date of a fully executed Extension of Facilities Agreement. As they relate to conditions of and charges for initiation of service and for ongoing water service provided to the customer, District Rules and Regulations will apply as adopted and amended from time-to-time by the District's Board of Directors.

If you have any questions, please contact me at (530) 642-4019.

Sincerely,

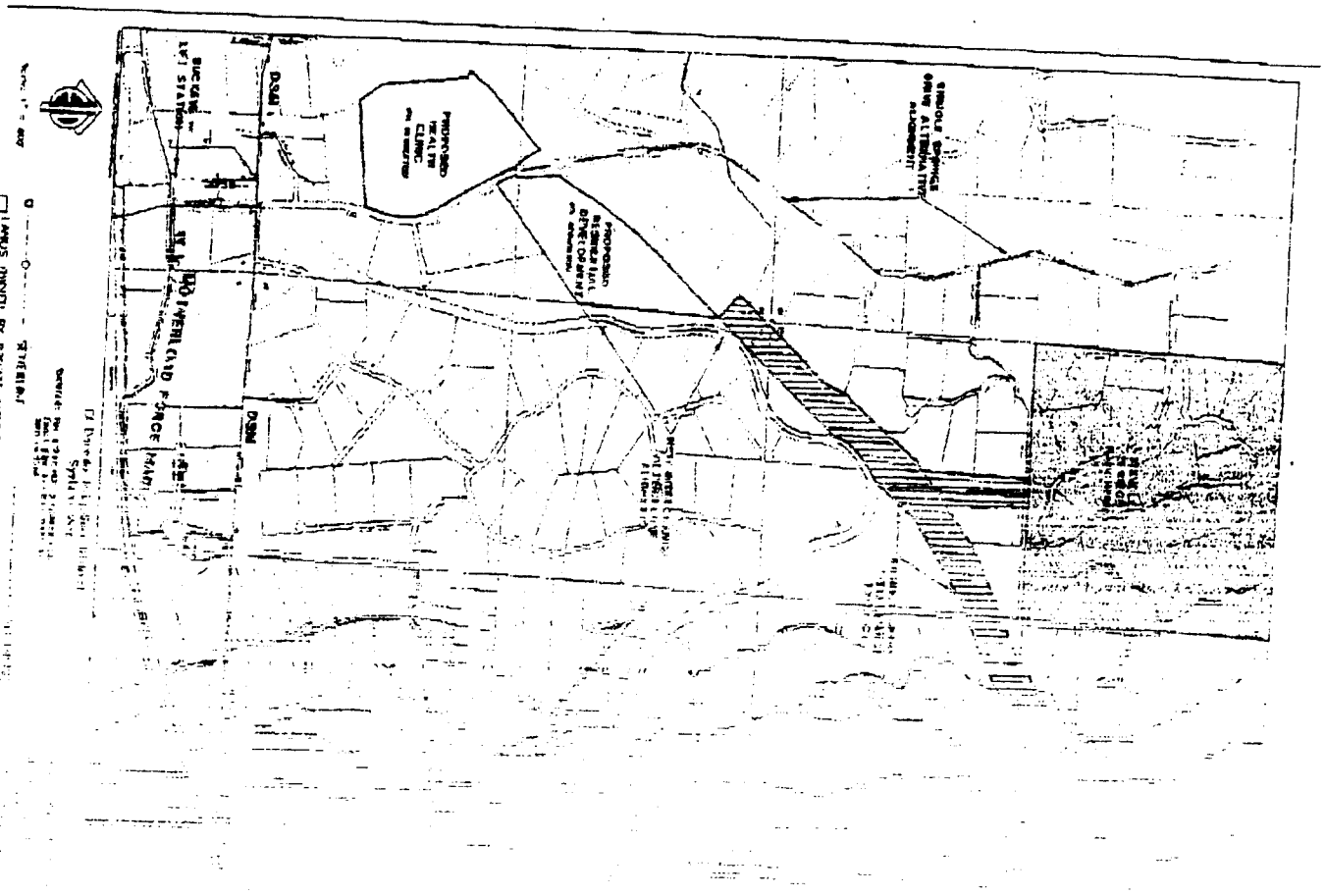
EL DORADO IRRIGATION DISTRICT

Brian L. Cooper, P.E.
Senior Engineer

BC:lb

Enclosures: System Map
FPR Guidelines and Transmittal

c: Sam Neasham, Neasham & Kramer Attorneys at Law,
11201 Gold Express Dr., Suite 202, Gold River, CA 95670
Scott Wylie, Fire Prevention Officer, Diamond Springs/El Dorado Fire
Prevention District, P.O. Box 741, Diamond Springs, CA 95619-0741


PROPOSED HEALTH CLINIC
PROPOSED RESIDENTIAL DEVELOPMENT
SINGLE SPRINGS DRIVE ALTERNATIVE ALIGNMENT
BUCKEYE LIFT STATION
MOTHERLAND FORCE MAIN
DSM
LANDS OWNED BY PRIVATE ENTITIES

California Department of Transportation
EIR Responses to Comments

Comment Letter #44

44-1 The commenter states that the interchange project has been piecemealed. Please see Response to Comment 36-1, 36-2, 40-1 and 40-2.

44-2 The interchange and the Rancheria's request for water and sewer connection for the clinic/residential area south of U.S. Highway 50 are not related. Access to the proposed clinic already exists off of U.S. Highway 50 via Shingle Springs Road to the south. A separate application to El Dorado County has been made for development and construction of the clinic. Given the geographic separation of U.S. Highway 50 between the proposed clinic and the Rancheria, connection of water services between the two is not foreseen and any discussion of potential impacts would be speculative and not required by CEQA.

44-3 Responding to the portion of the comment regarding cumulative impacts, there is no plan or proposal for casino-related development south of U.S. Highway 50, and the interchange is designed to serve only development on the Rancheria. In addition, there is no proposal for use of any properties owned by the Tribe south of U.S. Highway 50 that will substantially increase any cumulative or other impacts of either the interchange or the casino.

Responding to the portion of the comment regarding alternate routes for water supply, the various alternatives referred to by the commenter require construction of substantial new facilities. The interchange itself requires no such facilities. As to the hotel/casino, as discussed in the NIGC EA, the Tribe has alternatives for water service. It can connect to existing facilities and avoid the need to construct substantial new facilities, or it can obtain water from another source and also avoid the need to construct substantial new facilities. In addition, if the Tribe did proceed to obtain water from EID for its commercial uses, the Tribe could provide a local enhancement by developing facilities on the tribal land that would remedy the existing low pressure delivery problems affecting the nearby residences.

44-4 The comment mentions the existence of a 6" A.C. water line in Artesia Road. The comment does not relate the existence of this line to any potential impacts to the physical environment, therefore, the comment is noted and will be included in the record for consideration by the decision-makers prior to a final decision on the interchange project.

44-5 The commenter states that if the Rancheria wants to connect to EID's wastewater system in the future, that this should be discussed in the EIR/EA for the interchange. The Rancheria currently has no plans to connect to the EID wastewater system in the future. Any analysis of impacts is purely speculative and not required by CEQA.

44-6 The commenter asserts that the public participation process has not been satisfied for this EIR/EA review. The Lead Agencies disagree. Please see Responses to Comments 9-1 and 23-4. Caltrans provided copies of all documents requested by agencies and/or members of the public and does not believe that "informed public participation and decision-making" has been compromised in any way.

44-7 The commenter asserts that growth-inducing effects of the proposed project have not been analyzed. The comment states that there is no discussion of cumulative growth-inducing impacts arising from the casino or hotel, either in section 5.9 or in section 7. That discussion is provided in section 6 of the EIR/EA, however, which evaluates whether there may be growth-inducing impacts from both the interchange and the hotel/casino project. Please see Response to Comment 6.1.

44-8 The comment appears to confuse indirect impacts with growth inducing impacts. Caltrans believes the analysis of growth inducing impacts in Chapter 6 of the EIR/EA is sufficient and that no further analysis is required. Please see Response to Comment 44-7. Regarding the ability of commenter to evaluate future growth impacts, the Tribe has advised the Lead Agencies that no significant growth is expected beyond what is considered is the EIR/EA. Please see Responses to Comments 3-10, 39-2 and 42-7.

Art Marinaccio
4024 Jackpine Rd.
Shingle Springs, CA 95682

CALTRANS
Attn: Steve Hetland, District 3
2800 Gateway Oaks
Sacramento, CA

June 20, 2002

To whom it may concern,

These comments are being submitted on behalf of the Taxpayer's Association of El Dorado County. The association has been active in those issues which affect the taxpayers of this county since 1958.

We strongly feel that you should not certify this EIR as meeting the minimum requirements under the California Environmental Quality Act. This document is so critically defective as to constitute a gross waste of tax dollars. We in fact find the entire situation with the p0ositions taken in this document as patently offensive.

Consistently the truth has been stretched so thin as to be unrecognizable. This starts with the name of the project as the Shingle Springs Interchange. Shingle Springs has 3 interchanges now. /this is the Casino interchange and should be recognized as such.

Section 3.2 of the PSR seemingly attempts to give some history of the property in an attempt to justify this project. It starts out attempting to join the existing Shingle Springs Rancheria and the defunct El Dorado Rancheria into one project. This is known to Caltrans to be a false assertion.

45-1

It then implies through the guise of "historic maps" to indicate that there was some sort of road system connecting the two Rancheria's. Caltrans staff also knows this to be false.

When Caltrans acquired the northerly portion of the former El Dorado Rancheria from the Clarence Padilla family for the construction of the current freeway adequate research was done by state staff to determine that when the Bureau of Indian Affairs deeded the 80 acres to Padilla no easements of any sort were retained by the BIA through the 80 acres to the 160. Had there been any need for or rights to access they would have to have been reserved in the deed to Padilla.

Caltrans purchased excess lands north of the freeway from Padilla as those lands were in fact land-locked by the process. The excess lands were subsequently sold to the developers of North Buckeye Rancheros. This was a process whereby the lands could only be sold to neighbors who had the capacity to supply their own access to the lands. The BIA was another possible purchaser from Caltrans who was offered the property but

declined the opportunity to buy the land. Had the BIA or anyone else purchased those lands it still would not provide any opportunity for access to a controlled access highway. Paying for the right to prohibit access to the freeway was the sole purpose for the expenditure of public funds.

Caltrans is well aware of these facts. The facts in no way justify the gift of public funds and other gifts to handful of people for the purpose of developing a major commercial project which by its very nature is incompatible with the County General Plan and the neighborhood.

45-1 Cont.

These facts in no way support the supposition that an interchange is justified because the handful of people can no do a commercial project without it.

Miscalculation of space needed and interests affected-

Review of the engineering data and drawings show that all of the proposed iterations of this proposal affect the railroad right-of-way as purchased from the Southern Pacific Transportation Company by the Joint Powers Authority established for that purpose. The zoning of the property is for Transportation Corridor which requires adequate setback of proposed adjacent uses to ensure adequate space for use and enjoyment of the corridor. No provision has been made for any setback. In fact I believe that the actual improvements will encroach upon the corridor. At the very least the improvements will require alteration of the cuts and fills necessary for the use of the rail line. This will require a discretion action of the JPA and \el Dorado County under the MOU for management of the corridor. The environmental review for those approvals must proceed at least concurrently with this document. This document is not now adequate to address those concerns. I believe these issues were purposefully ignored with the hope that once the project was underway nobody would have the guts to stop it just to bring it into conformity with the law.

45-2

Scope.

It is clear to anyone who actually lives on this planet that the construction and operation of a major hotel casino in this residential neighborhood will have many serious unmitigated effects upon the community as a whole. It is clear that the Bureau of Indian Affairs and their cohorts do not care about the effects on our community, but for Caltrans to accept the Finding of No Significant Impact as an adequate treatment of the issue that enables a State agency to ignore the impacts is illegal and unacceptable.

45-3

A full Environmental review of all the environmental effects which would follow from the construction of this project is demanded. Nothing short of this is justified. This review of necessity must include the development of the additional acreage recently purchased by the Lakes Gaming group. This would include all those lands purchased on the South side of the freeway.

45-3 Cont. The EIR/EIS of necessity must include the effect on our local water system and its ability to supply huge quantities of water in an area not slated for development under the General Plan.

45-4 Soils studies and the history of septic failures in the area clearly indicate that the possibility of actually treating sewage flows at their actual or even the falsely reduced flows used in previous documents is impossible. The development of other ancillary uses on private lands adjacent to the casino property will require even more water and increased access to an already overburdened sewage disposal system. The practice of ignoring the probability of a significant health related event for the purpose of allowing future access to the EID sewer system as a health emergency is reprehensible. Further, an environmental specialist participating in such a sham should be litigated as a criminal act.

45-5 This property was purchased to give homeless people a place to live. This is not an appropriate place for a major commercial project regardless of how convenient that might be for the economic well being of a handful of people. The job of the environmental review process is to identify the effects of a proposal. This document does not even give lip service to addressing the legally required aspects of CEQA.

45-6 Housing-

The large numbers of minimum wage and near minimum wage employees that would work in this and adjacent facilities have no appropriate local housing opportunities. The EIR/EIS of necessity must discuss and mitigate the effect of introducing this nature of employment into a rural residential neighborhood.

Responses to this requirement indicating that this is an issue that can not be studied because "we have no way of guessing where people will live". Is telling only to the extent that these are the types of things people who do EIR's do. Someone who would suggest that this couldn't be done is only admitting that they not qualified to do the work.

We have been told by the State Department of Housing and Community Development that these workers will of necessity be included in the next "affordable housing allotment" that will be imposed on El Dorado County after the next round of calculations. The cost both financially and socially should be discussed and mitigated. This is not an appropriate effect to ask the people to absorb without analysis and discussion.

45-7 Safety-

The construction of this project does not meet the minimum requirements for spacing between interchanges. The minimum spacing in a rural area is 2 miles. The existing Greenstone and Shingle Springs interchanges are almost exactly 2 miles apart.

45-7 Cont.

I was told that the safety was analyzed within the PSR and that it was acceptable. I could find no information within the PSR that would quantify the reduction in safety which will occur with the various configurations. Even if the reductions in safety inherent in giving a waiver to safety requirements were acceptable to Caltrans, they are not acceptable to those of us who live here and drive that stretch of road every day. The community should not have to accept a lower level of safety to accommodate the wishes of a handful of individuals.

45-8

Visual-

This project is so visually intrusive as to be completely unacceptable to the local community. The use of a massive "fly-over" has never been allowed within our community. The only argument I have heard that might even come close to the truth is that the hotel casino will be so visually intrusive that you will not even see the ugly interchange. This is hardly the way Caltrans should be treating this issue.

45-9

Growth Inducing -

This discussion within section 6 fails every test both logic and legal. The entire section should be thrown out in its entirety. To suggest that this construction project, which will allow for the construction of a major commercial project in a residential neighborhood will have no growth inducing effects is insane. To suggest that this project will thus not affect housing because no housing is proposed is difficult to even categorize.

To flatly state that off-rancheria developments would not be facilitated by this development is so false as to constitute a bald faced lie.

The discussion of accepting the FONSI as proof that there is no effect of this project is not the basic structure even proposed in the document itself. For an environmental document to serve as a Federal/State joint environmental review means more than accepting whatever silly statements the other agency might make. The state of California should not be willing to accept the FONSI. There is no way anyone could possibly think that this project will have no effect on our community.

45-10

Cumulative Impacts-

Chapter 7 This section needs to be replaced with an actual analysis. Again, basically this document uses the FONSI as an excuse to ignore the legally required analysis. Try again.

45-11

Significant Unavoidable Impacts-

Chapter 8---- This statement is appalling. This statement would lead one to believe that there is no possible action man could do which would have any effect on anything. This statement is proof positive that Caltrans has completely sidestepped its moral and legal responsibility. I question whether Caltrans should even be allowed to participate in the preparation of an actual environmental document when it is done.

45-11 Cont.

These comments are in addition to the comments made at previous public meetings and as previously made in writing.

The Taxpayer's Association of El Dorado County strongly urges that this document be rejected outright as insufficient and legally inadequate. The very discussion of why this project was proposed in the first place shows disregard for the truth that pervades the entire effort. This document when reviewed in total was en effort to check a box off rather than give even lip service to the law.

Art Marinaccio, for the Association

Comment Letter #45

45-1 The EIR/EA is based on substantial technical analysis as well as other studies and evidence, and the Lead Agencies conclude, based on their independent review of the EIR/EA, that the documents meets the legal requirements of CEQA. The final determination of CEQA compliance will be made by the Caltrans District Director based on the entire record, including this as well as other comments.

This comment also makes a number of assertions about the history of the project. These comments generally relate to the merits of the Project or to the Caltrans Project Study Report, rather than the analysis of environmental issues in this EIR/EA. Caltrans disagrees with these comments, and believes that the PSR accurately describes the historical context. These comments will be part of the record that will be considered by the decision-makers at the Lead Agencies.

This comment also states a major commercial project is not compatible with the El Dorado County General Plan. As stated in response to numerous other comments, the El Dorado County General Plan does not legally apply to or govern Caltrans and BIA decisions on the interchange project evaluated in this EIR/EA (please see Response to Comment 27-19), and also does not apply to the related development on the Tribe's land evaluated in the prior EA/FONSI.

It should also be noted that U.S. 50 is part of the national highway system administered by the Federal Highway Administration and the California Freeway and Expressway System. It is a divided arterial highway for through traffic with full control of access and with grade separations at intersections -- the highest classification in the federal and state systems. (See, e.g., California Streets and Highways Code §§ 253.1, 257.) In the early 1900s, U.S. 50 was part of the Lincoln Highway - the first coast-to-coast highway in the United States, which eventually connected Ocean City and San Francisco. Since then it has continued as part of the modern transcontinental highway system.

There is substantial commercial development in progress nearby to the project site, and there are far larger commercial operations in the County today. For example, the Mansour Town Center East is 925,000 square feet of retail and Town Center West is planned for 1.5 million square feet of high-tech and light-industrial space total. (Source: Sacramento Business Journal, April 21, 1997) This is far larger than the proposed hotel/casino. In terms of visitors, Heavenly Valley Ski Resort, located in the eastern part of the County draws approximately 1,000,000 people per year -- far more than the proposed hotel/casino.

The County Plan also is not now in legal effect, as several commenters noted, and a new plan is being prepared in response to the Sacramento

Superior Court's order setting aside the prior plan.

The Lead Agencies note that the property upon which the interchange is proposed is currently designated in the El Dorado County Zoning Ordinance as "Transportation Corridor" and the interchange is consistent with that designation. The Lead Agencies also note that there already exist substantial major commercial developments at other locations along Highway 50.

As to the adequacy of the EIR/EA for CEQA purposes, Caltrans has prepared the EIR/EA in strict accordance with the CEQA Guidelines. Caltrans notes that the commenter disagrees with the history of access problems for the Tribe and the comment will be included in the record for consideration by the decision-makers prior to a final decision on the interchange project. The Department of Interior has determined that the historic access interference should be rectified as a priority.

45-2 The commenter claims that the proposed interchange project will encroach and impact the adjacent railroad right-of-way south of Highway 50. The interchange has been designed to fit entirely within Caltrans right-of-way and the federal 5.6-acre parcel as part of the federal project. The eastbound off-ramp has been designed using appropriate ramp design speeds and operations in conformance with Caltrans Highway Design Manual, yet fits within the Caltrans right-of-way, with offsets to maintain integrity of the existing cut slopes. Additionally, this design does not encroach onto the rail corridor, and therefore does not compromise the future use of the rail corridor.

Blackburn Consulting Inc. (BCI) has conducted a thorough geologic and geotechnical investigation of this site. Based on this investigation, BCI has made recommendations regarding construction methods and techniques to minimize impacts to existing cut slopes, including those outside of the state right-of-way.

Based on the geotechnical review, no significant impacts are expected to the railroad right-of-way. Per established Caltrans protocol, qualified field inspection personnel will review construction activities to assure no damage outside of Caltrans right-of-way, including the subject railroad right-of-way.

Please see Responses to Comments 27-1, 19-5 and 39-16.

45-3 This comment appears to assert that tiering is not permitted or that Caltrans is somehow segmenting the project. Please see Responses to Comments 36-1 and 36-2.

As discussed in the EIR/EA, Caltrans has evaluated the potential environmental effects of construction of the proposed freeway interchange project. As to the

hotel/casino project, the NIGC evaluated the potential environmental effects of that project in its EA and subsequently adopted FONSI. Caltrans is unaware of any projects on the south side of Highway 50 related to the proposed project.

Although the hotel and casino project is not the subject of this EIR/EA, according to EID, adequate water is available to supply the hotel and casino project. As discussed in the NIGC EA, water will be supplied by either the EID or an alternate off-site source. These impacts are fully discussed in that document, and the FONSI concluded there would be no impacts as a result of this project.

45-4 The comment focuses on the proposed hotel and casino project addressed within the NIGC EA approved by that agency in January. The comment does not focus on the proposed interchange project, which is the subject of the EIR/EA. The wastewater issue associated with the hotel and casino project is treated as an indirect issue within the interchange EIR/EA. The wastewater flows from the proposed hotel and casino will be fully treated to Title 22 – full body contact standards – at the proposed wastewater treatment plant. The commenter is incorrect when they assert that the soils of the project site will be used to treat the wastewater. It is not clear what the commenter means by stating that the "development of other ancillary uses on private lands adjacent to the casino property will require even more water and increased access to an already overburdened sewage disposal system." The proposed wastewater treatment plant on the Rancheria will not be available to "ancillary uses on private lands adjacent to the casino property." The proposal does not include connection to the EID wastewater system. The final comment related to criminal act requires no response.

45-5 The commenter begins by claiming that the property (assume Rancheria) was purchased to give "homeless people" a place to live, and that the hotel and casino are not appropriate uses on the Rancheria. The comment then claims that the purpose of the environmental review is to identify effects of this proposal (assume proposed hotel and casino), and that the document fails to do comply with CEQA. The EIR/EA under evaluation is the proposed interchange that will provide access to the Rancheria. The indirect effects of the Rancheria were addressed within the growth inducement and indirect effects discussions of the EIR/EA (Chapters 6 and 9, respectively). The environmental effects of the proposed hotel and casino were fully addressed within the NIGC EA that was approved by that agency in January 2002. Caltrans disagrees with the assertion that the document does not meet the legal intent of CEQA.

45-6 The comment claims that additional analysis must be undertaken in the EIR/EA to address the project's effects on local housing. The comment is focused on the effects of the proposed hotel and casino project, which was fully addressed by the NIGC in its EA. The proposed interchange project will have no direct effect on

housing. The indirect effect on housing was addressed within Chapter 6 of the EIR/EA. See also Response to Comment 32-10.

45-7 The commenter claims that the construction of the proposed interchange does not meet the minimum requirements for spacing between interchanges, and that the community should not have to accept a lower level of safety. Caltrans specifies interchange spacing requirements through Design Bulletin 77. The minimum spacing between interchanges shall be 1.5 km (0.93 miles) in urban areas, and 3.0 km (1.86 miles) in rural areas. Interchange spacing on U.S. Highway 50 in El Dorado County varies from 1.24 km (0.77 miles) to 3.82 km (2.37 miles). Requests for exceptions to interchange spacing standards must be made in writing in accordance with the Caltrans standard procedures for requesting exceptions to any design standards. The information presented in the request includes the following:

- Description of project
- Description of existing facility
- Features requiring an exception
- Reasons for requesting an exception
- Traffic data, including existing and forecasted volumes
- Traffic operations data
- Historic accident data

The Fact Sheet prepared for this project, which was included as an Appendix to the PSR document, showed the following:

- The proposed interchange spacing, although less than standard, is reasonable in the context of other interchanges in the corridor.
- The facility design, other than noted, conforms to accepted design practices.
- The traffic forecast and resultant operations data shows that the proposed facility would operate acceptably.
- Based on review of historic accident, there are no indications of an accident problem that would be exacerbated by this interchange.

As for "safety", it is not measurable per se. Rather one can measure accident data, which are indicators of existing or historic safety issues. Also, one can evaluate traffic operations (existing and/or forecasted), which when considered with conformance with accepted design criteria and accident data can be an indicator of an acceptably "safe" facility. The fact sheet process is the means for evaluating facilities in this manner, specifically when one or more design features not otherwise meeting standards are proposed. In this sense, an analysis of the facility as relating to future operations and subsequent safety was performed, using similar a protocol similar to that employed on other improvement projects on Caltrans freeway facilities.

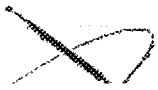
45-8 The commenter claims that the project is "so visually intrusive as to be completely unacceptable to the local community." The commenter goes on to say that since the hotel and casino is so visually intrusive that nobody will see the "ugly" interchange. In fact, the hotel and casino will not be visible from the interchange. Chapter 5.8 of the EIR/EA provides a detailed discussion of the visual effects of the proposed interchange. In fact, the hotel and casino will not be visible from the interchange. In addition to the discussion, graphics and photographs are presented in the EIR/EA that assist with the visual impact assessment. The EIR/EA states that the proposed interchange would introduce a new urban feature into the environment. However, a less-than-significant impact was concluded given the analysis presented on pages 5.8-7 and 5.8-8 and the significance criteria established on page 5.8-6 of the EIR/EA.

The indirect impact analysis presented in Chapter 9 of the EIR/EA also addresses the visual impacts of the hotel and casino. The visual effects of the hotel and casino were also considered to be less than significant given the facility's orientation and location on the north side of the on-Rancheria hill and the existence of surrounding vegetation (see pages 9-12 and 9-13 of the EIR/EA). The NIGC concluded that the visual effects of the hotel and casino were insignificant.

45-9 The commenter claims that a major commercial project such as a hotel and casino will have growth inducing effects on community. Please see Responses to Comments 27-2, 32-10 and 32-12.

45-10 The comment incorrectly suggests that the EA/FONSI is used in place of actual analysis of cumulative impacts. The EA/FONSI is part of the analysis, and is properly used for analysis of impacts of the casino project. Chapter 7 of the EIR/EA contains substantial additional analysis of cumulative impacts as well. Please see Response to Comment 36-1.

45-11 The commenter disagrees with the conclusions regarding significant and unavoidable impacts. The commenter also wishes that the document be rejected as insufficient and legally inadequate. The EIR/EA conclusions are based on substantial analysis, and on the mitigation measures set forth in the EIR/EA. The EIR/EA in turn is supported by, among other things, detailed technical studies. Caltrans believes it has fully complied with its responsibility and in particular has cooperated with BIA to prepare an adequate EIR/EA under CEQA and NEPA.



() 06/20/02 04:17 PM

To: cha_mcfarlin@dot.ca.gov
cc:
Subject: Shingle Springs

Below is the result of your feedback form. It was submitted by () on Thursday, June 20, 2002 at 16:17:24

46-1 S1: Please take into consideration our comments on the Shingle Springs Interchange Project EIR.

The proposed casino takes up only a portion of the 165 acres and the EIR doesn't seem to address what can or can't happen in the future.

46-2 El Dorado County's air quality is horrible now. Don't you think the increased traffic a 238,500 sq. ft. casino and a 250 room hotel won't make it worse?

46-3 In no way does this casino/hotel fit into the County's Greenstone Area Plan. Can you go around local government like that?

46-4 The EIR painted the US 50 corridor from El Dorado Hills to Placerville as unsightly. We take exception to that. I think you'll find residents of El Dorado County think the drive from Sacramento to Placerville is very beautiful. This type of environment is why we choose to live here.

46-5 The EIR says there aren't any wetlands in this area, but it shows in the survey for the Greenstone Area Plan that there are! How can these be ignored?

Sincerely, Paul & Marjorie Coyne

T6: Paul & Marjore Coyne

T2: themarj@directcon.net

T4: 4800 Woodsman Loop, Placerville

T42: 530-621-4166

B1: Submit

Comment Letter #46

46-1 Land uses on the remainder of the Rancheria are subject to the Tribal Land Use Plan, and therefore are not subject to review by non-Tribal members. Please see Response to Comment 27-19.

46-2 The commenter claims that the development of the hotel and casino project would make air quality worse. Any potential deteriorations resulting from increases in mobile source emissions from hotel/casino project are anticipated in emissions planning budgets. California's SIP includes a budget for emissions from mobile sources for the Sacramento area within which new projects must fall. The budget accounts for economic and population growth and the resulting increased mobile source emissions as well as reductions in mobile source emissions anticipated from cleaner engines and fuels, transportation mitigation measures, and so forth. When combined with all other planned transportation-related projects, the increase in mobile source emissions associated with this project is within the level of increases anticipated for the area and, so, planned for through the SIP process, which will provide for regional (and state) compliance with air quality standards. It is considered an insignificant increase.

46-3 The commenter claims that the proposed hotel and casino does not "fit into the County's Greenstone Area Plan", and wants to know if "you" can go around local government. The hotel and casino is not an element of the proposed interchange project. The hotel and casino project is considered by the National Indian Gaming Commission in the EA. An adequate description of the visual setting is presented in §5.8 of the EIR/EA. Please see Responses to Comments 27-8 and 27-19.

46-4 The commenter claims that the EIR/EA described the corridor from El Dorado Hills to Placerville as unsightly. The land surrounding the Rancheria is described as rural residential. This commenter may be referring to the cut granite hills adjacent to U.S. Highway 50. Please see Responses to Comment 27-8.

46-5 The commenter mentions that that Greenstone Area Plan shows wetlands on the project site; however, the EIR/EA states that no wetlands exist. Please see Response to Comment 27-14.

COUNTY OF EL DORADO

ENVIRONMENTAL MANAGEMENT DEPARTMENT

COMMENT LETTER #47

EL DORADO COUNTY
ENVIRONMENTAL MANAGEMENT DEPARTMENT

Jon A. Morgan
Director

Environmental Health Division

Air Pollution Control District

Solid Waste & Hazardous Materials Division

Vector Control Division

PLACERVILLE OFFICE
2850 Fairlane Ct., Building 'C'
Placerville, CA 95667

Ph. 530.621.5300
Fax 530.642.1531
Fax 530.626.7130

SOUTH LAKE TAHOE OFFICE
3368 Lake Tahoe Blvd., Ste. 303
South Lake Tahoe, CA 96150

Ph. 530.573.3450
Fax 530.542.3364

June 19, 2002

Cal Trans
District 3 - Office of Environmental Management
Attn: Karen McWilliams
2800 Gateway Oaks Dr.
Sacramento, CA 95833

RE: Draft Environmental Impact Report
Highway 50 - Shingle Springs Interchange Project

Dear Ms. McWilliams:

47-1 The Environmental Management Department has completed a review of the Draft Environmental Impact Report for the proposed Highway 50 - Shingle Springs Interchange Project. As stated in the Draft Environmental Impact Report/Environmental Assessment, construction of the Flyover or Diamond Interchange would involve soil-disturbing activities such as vegetation removal, grading, and excavation which may result in soil erosion and sediment discharge into surface waters, increased turbidity, and downstream sediment deposition. The discharge of waste, including soil and sediment, which causes pollution or nuisance is prohibited. The Proposed Project will require the preparation of a SWPP under the Caltrans statewide NPDES permit and general construction NPDES permit which is issued by the SWRCB. This Department will monitor the water and sewage disposal activities as it relates to the surrounding parcels.

Often times construction projects of this nature, which utilize significant quantities of construction materials, will generate minimal amounts of solid waste consisting of fragmented timber, concrete and asphalt (C & D Waste). Waste materials such as these, in relatively small quantities, would not create a significant impact on the overall solid waste generated within our community. Although there is no current regulation within our County relative to the special disposal of these materials, it is the desire of this Department that all construction debris generated, as a result of this project, be properly sorted and disposed at a facility that accepts C & D waste materials for recycling. Potential impacts relative to hazardous materials together with the proposed mitigation measures have been adequately addressed within the text and tables of this document.

If you have any questions, I can be reached at (530) 621-5306.

Respectfully,

Jon A. Morgan

Jon A. Morgan, Director

Comment Letter #47

47-1 The commenter claims that the proposed interchange project will require preparation of a Storm Water Pollution Prevention Plan. Caltrans agrees that the project requires a Storm Water Pollution Prevent Plan under its statewide NPDES and general construction NPDES permits.

The relationship between water and sewage disposal activities as they relate to the surrounding parcels and the necessity for a Storm Water Pollution Prevention Plan is unclear. As the entire project is located on land belonging to the Tribe or within the Caltrans right-of-way, the County has no jurisdiction or enforcement and monitoring responsibility or authority.

The County states that potential impacts relative to hazardous materials together with the proposed mitigation measures have been adequately addressed within the EIR/EA. The County also requests that solid waste be properly sorted and disposed at a facility that accepts Construction & Demolition (C&D) waste materials for recycling. The comment is noted and will be included in the record for consideration by the decision-makers prior to a final decision on the interchange project.

June 19, 2002

Caltrans
c/o Karen McWilliams
District 3, Office of Environmental Management
2800 Gateway Oaks Dr.
Sacramento, CA 95833

Dear Ms. McWilliams,

This correspondence is in response to the Draft EIR/EA (Report) for the proposed Shingle Springs interchange on U.S. Highway 50.

First, the Report is based on "assumptions" that are incorrect.

48-1 The Rancheria is not landlocked and the few individuals who have chosen to live on this land are not prohibited from accessing this area. If this is the basis for allowing this project to continue, please see our attached request for an overpass to access our home. We have the same criteria.

48-2 The parcel of land the interchange accesses for connection to the Rancheria is not Rancheria or Indian Trust land. It is private property located in the North Buckeye Road Owners Association. Your maps conveniently do not show the neighbors effected by an overpass in their backyard and in fact do not even show homes, including the home on the designated parcel for the overpass. Your report is voluminous, but we did not see reference regarding this impact. If this overpass can be built on private property without compensation or environmental impact considerations to the neighborhood, again, see our attached request for an overpass to access our home.

48-3 Second, we feel your Report did not accurately reflect the impact of the neighboring parcels, the amount of use, and the effect on US Highway 50 traffic. Where is a report from SACOG? What is the impact of hundreds of tired, intoxicated gamblers on the road daily?

48-4 Lastly, in regards to Caltrans mission and values statement, how does the use of public (Caltrans) right of way benefit the taxpayers of this State? As California and Federal taxpaying citizens of California, we strongly oppose the time and money spent by Caltrans on this merit less project. The sole reason for this interchange is to allow a casino and other California tax-exempt enterprises to be built on the Rancheria. A public need for this interchange does not exist and therefore this project is inappropriate.

Sincerely,

Ron and Juanita Dangerfield

CC: Ronald M. Jaeger, BIA
Governor Gray Davis
US Senator Dianne Feinstein
US Senator Barbara Boxer
US Representative John T. Doolittle
US Representative Richard W. Pombo
US Representative Robert Matsui
State Senator R. Tim Leslie
State Assembly Representative Thomas "Rico" Oller

Request for an Interchange

This is a request for an interchange to access our property located in Shingle Springs, El Dorado County, California.

This is why you should consider an interchange on Highway 50 to access our parcel:

1. We do not have direct access to the freeway. We are landlocked. We have neighbors to the north, south, east and west of our parcel. The freeway is one – two parcels away. By the way, we have a friendly neighbor willing to give Right-of –Way to Caltrans.

2. We have to drive on Association Roads to get from our home to the freeway. We drive on Artesia Rd. to Shingle Springs Rd. to Shingle Springs Dr. (county road) before accessing the freeway via on/off ramps. What a hassle!

3. Our ability for any economic endeavor is squelched. We plan to sell goat's milk (as others in our neighborhood would like to do too), for the benefit of babies, children and adults that are allergic to cow's milk. For the public to access our property, they are stopped at a gate and must wait for us to clear them or enter a code. Additionally, the Association could start to charge for access of this road for business purposes, which they have done in the past. (Contact Nextel, they paid annual dues; because they accessed these roads to maintain their cellular antennae on property in the Association.)

For the reasons above, please approach Governor Davis on proceeding with this project. You have set a precedent; please move forward on our request.

Thank you.

Sincerely,

Ron and Juanita Dangerfield

Comment Letter #48

48-1 The commenter claims that the Rancheria is not restricted access and that residents of the Rancheria are not prevented from accessing the area. Page 3-3 of the EIR/EA states that "(a)t present, the Shingle Springs Rancheria is *effectively landlocked for economic purposes*" (emphases added). This statement was used after a detailed description of why commercial enterprises cannot be developed on the Rancheria. The EIR/EA does not claim that residents of the Rancheria are prevented from accessing the area. The commenter concludes by stating that, since the precedent has been set, they would like to apply for their own freeway connection. The comment is noted and will be included in the record for consideration by the decision-makers prior to a final decision on the interchange project.

48-2 The commenter is correct in stating that, at the present time, the 5± acre parcel is not in federal trust, rather it is private property. An element of the proposed project is for the parcel to be brought into the name of the United States of America. The commenter also claims that the EIR/EA does not address the impact of the proposed interchange on adjacent residences. The comment does not specify what analysis was missing from the EIR/EA. Specifically, the commenter claims that the environmental effects on the existing residential on the 5± acre parcel were not addressed. The environmental analysis does present an analysis of the environmental effects (traffic, noise, air quality, etc) of the proposed project on the project vicinity (see Chapter 5 of the EIR/EA). The environmental effects on the residence residing on the 5± acre parcel is moot since the structure will be removed.

48-3 The commenter does not identify where the EIR/EA falls short of addressing environmental effects on neighboring parcels. The commenter also is concerned about the impact of "hundreds of tired, intoxicated gamblers on the road daily."

The analysis provided within Chapter 5.0 of the EIR/EA addresses the construction related effects (e.g., air emissions, noise, water quality, biology, etc.), as well as the operation related effects of the use of the proposed interchange. Where issues such as noise was evaluated, sensitive receptors were taken into consideration in the analysis. These sensitive receptors would be the nearest residences closest to the interchange.

A detailed study of the traffic effects (existing and cumulative) were presented within the EIR/EA (Section 5.4) extending from the County line to the Greenstone interchange. The commenter does not specify where they feel the analysis is deficient; therefore, no additional response is provided.

It is not known what the commenter intends from the following statement "Where is the report from SACOG?"

For purposes of the EIR/EA it is assumed that the law will be followed as it relates to alcohol consumption and driving. Therefore, no "environmental" effects related to "tired, intoxicated gamblers" are assumed from the proposed interchange project.

48-4 The commenter questions how the project benefits the public, and that they strongly oppose the use of tax dollars on this project. Please see Responses to Comments 23-4 and 23-5.

June 19, 2002
P.O.Box 1544
Shingle Springs, Ca. 95682
(530) 676-9107

Department of Transportation (Caltrans)
Office of Environmental Management
Attn: Che McFarlin, Environmental Specialist
2800 Gateway Oaks Drive, Ste. 100
Sacramento, Ca. 95833

RE: Shingle Springs Rancheria Gambling Casino

49-1 I am writing as a private citizen living at 3201 Sierrama Drive in Shingle Springs, Ca, which is a couple miles west of the proposed Rancheria Gambling Casino. I want to state my feelings, raise some questions, and ask for actions to overcome the unwanted Shingle Springs Rancheria Gambling Casino. I also want to avoid a repeat of the obnoxious treatment the Bureau of Indian Affairs and Caltrans have used in their so called "approvals" of this project. This has been a scam. Their handling of the issues has been an insult to thousands of citizens of western El Dorado County who have opposed this casino. Their high handed methods and ignoring serious comments has been alarming.

In view of the misguided approvals, by the Bureau of Indian Affairs and Caltrans of the Gambling Casino and an un-needed interchange on US. 50, I would like to raise the following questions:

49-2
1.) Are these approvals ignorant attempts to satisfy 40 Indian families at the expense of thousands of taxpaying citizens of the USA and El Dorado County, who have repeatedly objected to this poor location for the Casino? It is poor because of lack of drinking water, lack of fire fighting water, lack of adequate sewage service, environmental problems of asbestos contamination from the serpentine rocks on the casino site, added traffic and ozone contamination of the air (which is already over the government safe levels), inadequate police service to avoid crime and corruption in the area, and the extreme wildfire hazards .This is a residential area and should not be over-run by gambling casino people.
2.) Or are the approvals a payoff to the Minnesota and Texas gambling money that is paying for the studies, the proposed casino, the proposed interchange and who knows what or who else?

49-3 I have objected to this casino as indicated in the enclosed copy of my Feb 19, 2002, comments except I have now added the wildfire problem. I am more aware of this now, since I have just returned from a visit to the Denver and Colorado Springs, Colorado area where the Hayman fire has burned over 100,000 acres and is not yet contained. The proposed casino is in a high fire hazard area which should have careful regulation, not the added people, traffic, drinking, etc.

49-4 As a veteran of World War 2, and a taxpaying citizen of the USA for 56 years since then, and of El Dorado County for the past 35 years, I request that the President

49-4 Cont.

of the United States, of America, the Governor of California, our Senators and Congressmen investigate the above mentioned trampling of our rights as citizens of the USA. The bureaucracy may think they are providing a necessary service to the Miwok Indians. However, this is only a subterfuge for the huge finances of the out of state gambling money, who spend lavishly to get another casino. I request that the government investigate Caltrans and BIA and the need for new legislation to prevent added abuses.

John J. Fleischmann

John J. Fleischmann

cc: President George. W. Bush
Governor Grey Davis
Senator Barbara Boxer
Senator Dianne Feinstein
Representative John T, Doolitttle
Sacramento Bee
Mountain Democrat

Feb 19, 2002

Subject: Comments on Shingle Springs Rancheria Casino

My name is John Fleischmann and I live on Sierrama Drive a couple miles west of the proposed casino. I am a retired engineer speaking for myself and other interested but independent El Dorado Co. citizens that are opposed to the casino and feel that the tribe, it's financial backers and the Bureau of Indian Affairs are trampling on our rights as citizens of the USA. I have been paying taxes on my land for 35 years and have expected my land to remain a two acre residential parcel and the land between mine and the casino and beyond to remain estate residential for rural living. The Rancheria property has had one to five families living on it for most of this time. Recently it has increased to about 40 families. I accept the idea that in-fill development will cause growth, and highway 50 will increase from a 4 lane highway to a 6 lane highway, with added traffic to suit normal population growth. This highway construction will add to the air quality problems that already exist without the increased traffic of the casino.

The Casino's Environmental Assessment (EA-dated December 2001) for the Shingle Springs Rancheria per table 4-4 indicates that the Casino and Hotel will generate over 9,900 trips per day on weekdays and over 14,000 trips on Saturdays. This Motor vehicle traffic will increase all three types of emissions. The Ozone and Particulate Matter Emissions are already above California State standards, per EA table 3-3. Obviously these extra casino trips will increase the existing air pollution problem. How will you handle this? Also what will happen to the air emissions when highway 50 is increased from 4 lanes to 6 lanes as is planned by Caltrans?

I would also like to ask what is being done to investigate the effects of toxic air contamination from the serpentine rocks which are mentioned on page 3-14 of the EA. The very extensive planned grading could cause asbestos fiber inhalation problems, that do not appear to have been adequately investigated.

Much has been made of the Indian tribes lack of access to highway 50. This was not a problem before the casino project was proposed. If the casino and hotel project are dropped, I am sure that further improvements in access could be arranged. Thus a new freeway interchange would not be required. The added air pollution problems caused by the casino would go away.

In conclusion, I would state that I feel that the only thing keeping this casino project alive is the huge financial resources of the gambling money which is offering to pay for the construction. They have also obviously purchased the support of many politicians and bureaucrats. We already have 34 Indian gambling casinos in the state of California. We do not need the crime and further corruption that adding this casino would cause.

John J Fleischmann
P.O.Box 1544
Shingle Springs Ca. 95682

Comment Letter #49

49-1 The commenter provides introductory remarks to the letter requesting Caltrans to act to "overcome the unwanted...casino." The commenter goes on to provide opinions regarding their perceived treatment by the BIA. The comments do not address impacts to the physical environment. Therefore, the comment is noted and will be included in the record for consideration by the decision-makers prior to a final decision on the interchange project.

49-2 The commenter provides opinions related to why the proposed interchange and hotel/casino are being approved by the BIA and Caltrans. The commenter also questions the wisdom of locating the proposed casino on the Rancheria and cites a number of environmental issues related to the hotel and casino project.

Neither Caltrans nor the BIA has approved the proposed hotel/casino or the proposed interchange. The NIGC was the Lead Agency for the environmental review related to the proposed hotel/casino project. The BIA was a Cooperating Agency; however, it did not approve the proposed project. Caltrans and the BIA are joint-lead agencies for the proposed interchange project; however, neither has approved the project.

The environmental issues associated with the proposed hotel and casino have been fully addressed within the NIGC EA approved by the NIGC in January 2002. The analysis of this indirect effect was incorporated into Chapter 9 of the EIR/EA analysis. In addition, Chapters 6 and 7 of the EIR/EA also address the Secondary/Growth Inducing Impacts and Cumulative Impacts, respectively. No additional indirect analysis regarding the hotel and casino is required.

The final statement regarding approvals to pay-off Minnesota and Texas gambling money does not address impacts to the physical environment. Therefore, it does not warrant a response in this environmental document. The comment is noted and will be included in the record for consideration by the decision-makers prior to a final decision on the interchange project.

49-3 The commenter presents concerns regarding wildfire potential. Please see Responses to Comment 29-8. In addition, the NIGC has approved the Hotel and Casino EA that includes a fire protection mitigation measure. The measure includes a requirement for the Tribe to expand their existing fire department to provide fire protection and emergency medical services to the proposed casino. The modified fire station is to provide for operations, training, and administration of the fire department. Modified apparatus will include Telesquirt/Quint and brush truck and other fire fighting and emergency medical service equipment. This measure is incorporated into the EIR/EA analysis by reference from the December 2001 Final Environmental Assessment: Shingle Springs Rancheria Hotel and Casino Project.

49-4 The commenter requests that the various levels of government "investigate the Lead Agencies and the need for new legislation to prevent added abuses." The comment is noted and will be included in the record for consideration by the decision-makers prior to a final decision on the interchange project.

COMMENT LETTER #50

Karen Jackett
2970 Shingle Springs Dr.
Shingle Springs, CA 92680

To: Caltrans / Karen McWilliams

Dear Ms. McWilliams -

I am writing in comment of the Draft EIR/EA regarding the proposed interchange on U.S. 50 to the Shingle Springs Rancheria.

50-1 I am opposed to the interchange because of the increased traffic and associated noise and air pollution which will result. This is in an area "already classified as a 'severe' ozone nonattainment area by the Federal EPA" (per a recent article in the Sacramento Bee).

50-2 My other concern is that the proposed interchange is to be built on non-Rancheria land that is currently a residential land-use area. I don't really understand why the interchange would be built right through an existing neighborhood, rather than directly onto the Rancheria (e.g. where the 'tent building' is located now).

Sincerely,

Karen Jackett

California Department of Transportation
EIR Responses to Comments

Comment Letter #50

50-1 The commenter expresses opposition to the project based on concerns with traffic, noise and air pollution. The EIR/EA addresses the potential impacts of the proposed interchange in each of these areas in Chapters 5.4, 5.5 and 5.6, respectively. See also Responses to Comments 5-1, 23-3 and 25-1. The comment is noted and will be included in the record for consideration by the decision makers prior to a final decision on the project.

50-2 The commenter is concerned that the proposed interchange will be built on a "residential" parcel and questions the location of the interchange through a "neighborhood." As discussed in Section 5.2 of the EIR/EA, land use on this parcel is under the jurisdiction of tribal land use policies and is not subject to review by Caltrans. The residence in question will be demolished prior to construction of the interchange. The interchange will not go through or divide an existing neighborhood. Also, the interchange will resolve a longstanding land use and access conflict by allowing access to the Rancheria without passing through a residential neighborhood as the current access road does. Please see Responses to Comments 36-6 and 42-14.

RONALD E. DOSH
ATTORNEY AT LAW

2700 COLOMA STREET
PLACERVILLE, CALIFORNIA 95667

TELEPHONE: (530) 622-0309 FACSIMILE: (530) 622-7071

June 20, 2002

Steve Hetland
Caltrans, District 3 Office
2800 Gateway Oaks Drive
Sacramento, CA 95833

Re: Shingle Springs Interchange Project - Environmental Impact Report/ Environmental Assessment (May 2002) (SCH No. 2001072018).

Dear Mr. Hetland:

This letter is submitted on behalf of myself as an individual, a business owner and landowner living and working near the Shingle Springs Rancheria and proposed hotel/casino within the County of El Dorado. I submit the following comments regarding the draft environmental impact report/environmental assessment ("DEIR/EA").[1]

In light of the nature, scope and long-term implications of the environmental impacts associated with the proposed Shingle Springs Interchange and hotel/casino project, the California Department of Transportation's ("Caltran's") environmental review process should demonstrate a good-faith effort at full disclosure under both the National Environmental Policy Act ("NEPA") (42 U.S.C. § 4321) and the California Environmental Quality Act ("CEQA") (Pub. Resources Code, § 21000 et seq.; CEQA

---

[1]/ As a preliminary matter, please add my name to the mailing list for any future notices issued in connection with the proposed project under the California Environmental Quality Act ("CEQA") (Pub. Resources Code, § 21000 et seq.) or the National Environmental Policy Act ("NEPA") (42 U.S.C. § 4321), including but not limited to a notice of availability of the Final Environmental Impact Report ("FEIR"), Notice of Determination ("NOD"), preparation of an Environmental Impact Statement ("EIS"), or Finding of No Significant Impact ("FONSI").

Guidelines, § 15151). "The EIR is the heart of CEQA," and the integrity of the process depends on the adequacy of the EIR. (County of Inyo v. Yorty, 32 Cal.App.3d 795, 810 (1973).)[2]

This DEIR/EA, however, does not reflect a good faith effort at full disclosure of the potentially significant (or significant and unavoidable) adverse environmental impacts association with the *entire* project, including the proposed hotel/casino. In particular, the DEIR/EA omits any identification or analysis of the total number of trucks that will travel along Highway 50 ("US-50"), the Shingle Springs Interchange, and the Rancheria access road to deliver, for example, water, natural gas, diesel fuel, propane, pesticides, and/or freon, as required by the hotel/casino. The DEIR/EA, moreover, fails to identify and consider (1) the additional truck trips that will be required for El Dorado Disposal Company to export the anticipated 4.425 tons of solid waste to be generated by the hotel/casino per day (DEIR/EA, at p. 9-9), or (2) the additional trips that will be generated by the proposed convention center and any future special events (e.g., concerts). Because none of these activities would be possible without the Interchange, the activities consist of one "project" under CEQA.[3]

The DEIR/EA released by Caltrans does not squarely confront these issues. The Board of Supervisors and the public are therefore left in the position of considering a project without understanding fully its environmental consequences. Because there are many significant environmental issues that have not been adequately addressed in the DEIR/EA, it is crucial that the document be revised and recirculated to provide the public and decisionmakers with a full and complete understanding of the consequences of the Interchange project. (Pub. Resources Code, § 21092.1; CEQA Guidelines, § 15088.5.)

1. Unauthorized "Piecemeal" Environmental Review

---

[2]/ The federal equivalent of CEQA, NEPA requires preparation of an EIS herein prior to approval of the proposed Interchange because the project "may" significantly affect the environment. (See DEIR/EA, Appendix A, CEQA Checklist (noting potentially significant air quality impacts), see also Foundation for North American Wild Sheep v. U.S. Forest Service, 681 F.2d 1172, 1177-1178 (9th Cir. 1982).

51-1

[3]/ See, for example, the FONSI issued by the National Indian Gaming Commission on January 22, 2002, stating "[t]his FONSI is expressly made contingent upon the provision of direct access to the Shingle Springs Rancheria from US Interstate 50 via a dedicated interchange off US 50." (Ibid, at p. 2.) The DEIR/EA also admits that "without direct interchange access to Highway 50, no commercial facilities can be constructed on the Rancheria." (DEIR/EA, at p. 3-3.)

51-1 Cont.

In light of the profound implications of the proposed Interchange, and its sole purpose to provide direct access to the Rancheria to accommodate the traffic associated with the hotel/casino, the Interchange and the hotel/casino are one "project" under CEQA and must be considered together in a revised DEIR/EA.[4] (See DEIR/EA, at p. 5.4-9 (the casino development will comprise nearly all of the traffic volumes for the Interchange); see also Table 2-1, Impact 5.5-1 ("under the No Project alternative, neither the proposed interchange nor the proposed hotel/casino would be constructed").)

Where, as here, future projects or activities are foreseeable at the time of the EIR preparation, the EIR must analyze the impacts of those future activities in one EIR. (CEQA Guidelines, § 15130, subd. (b).) Caltran's may not lawfully piecemeal review of the proposed project and hotel/casino under CEQA. (Napa Citizens for Honest Government v. Napa County Board of Supervisors, 2001 Cal. App. LEXIS 703* (EIR required to discuss such housing needs as reasonably might be generated by the project).) The proposed construction of the hotel/casino on sovereign tribal land does not excuse identification and consideration of its potentially significant adverse environmental impacts under CEQA. The California Attorney General, for example, has issued an opinion that when considering the effects of a project under CEQA the lead agency should consider the entire project, including any portions outside the state. (58 Ops. Cal. Atty. Gen. 614 (1975).) The same is true for this project and the Rancheria.

CEQA therefore requires that *all* potentially significant adverse environmental effects associated with the hotel/casino be identified and analyzed, in part, because those effects will impact the local and regional environment. The fact that 'components' of the whole project are located outside California's jurisdiction does not relieve the lead agencies from their responsibility to disclose the nature and extent of the resultant potential environmental impacts. (See 58 Ops. Cal. Atty. Gen. 614 (1975); see also CEQA Guidelines, § 15151 (in evaluating the adequacy of an EIR, courts look for a good faith effort at full disclosure).)

---

[4]/ The project description must describe the "whole of the action" that may result in either a direct or indirect physical change in the environment. (CEQA Guidelines, § 15378, subd. (a); see also 58 Ops. Cal. Atty. Gen. 614 (1975).) "'Project' is given a broad interpretation in order to maximize protection of the environment." (McQueen v. Board of Supervisors, 202 Cal.App.3d 1136, 1143 (1988).)

The hotel/casino must be analyzed in conjunction with the proposed Interchange because: (1) the hotel/casino is a reasonably foreseeable consequence of the initial (Interchange) project; and (2) the future action will be significant in that it will likely change the scope and or nature of the initial project or its environmental effects. (Laurel Heights Improvement Association v. Regents of the University of California, 47 Cal.3d 376 (1988).) This approach ensures "that environmental considerations do not become submerged by chopping a large project into many little ones, each with a potential impact on the environment, which cumulatively may have disastrous consequences." (Burbank-Glendale-Pasadena Airport Authority v. Hensler, 233 Cal.App.3d 577, 592 (1991); see also Bozung v. Local Agency Formation Commission, 13 Cal.3d 263, 283-284 (1975).)

51-1 Cont.

First, the DEIR/EA admits that the hotel/casino is a reasonably foreseeable consequence of the proposed Interchange stating "[t]he new interchange will provide open access to the Rancheria so that the property can be developed with uses consistent with the Tribe's Land Use Plan. The immediate plan for development on the Rancheria is a hotel and casino project . . ." (DEIR/EA, at p. 1-1.) Second, the hotel/casino will be significant in that it will change the scope and or nature of the Interchange project and its environmental effects by directly increasing the amount of traffic traveling to/from the area on US-50, including an unidentified number of trucks trips to provide services to the hotel/casino. The mischaracterization of the hotel/casino project as having only "growth inducing/indirect impact(s)" violates CEQA by unduly limiting the scope of analysis required. (DEIR/EA, at p. 2-6.) The DEIR/EA must therefore include a complete analysis of the direct and indirect effects associated with the proposed hotel/casino, in part, to assure Caltran's ability to adequately mitigate for the increase in traffic along US-50, and avoid piecemeal review under CEQA. (*Ibid.*; see also, CEQA Guidelines, § 15130.)[5]

---

[5]/ Even if direct access to the Rancheria via a new Shingle Springs Interchange was, in fact, "needed with or without the proposed hotel and casino project" the proposed size and scope of the Interchange is not required at this time to accommodate existing Rancheria access needs. (See DEIR/EA, at p. 2-7; see also DEIR/EA, at p. 4-2 (need for eastbound auxiliary lane to improve ramp diverge LOS to accommodate traffic traveling to hotel/casino).) Because the type of Interchange proposed is needed only for the hotel/casino the Interchange and the hotel/casino are one project under CEQA and require a comprehensive, rather than "piecemeal" environmental analysis.

2. Inadequate Project Description

To the extent that the DEIR/EA fails to consider the Interchange and the hotel/casino as one project for purposes of evaluating the potentially significant adverse environmental impacts, the document does not provide an accurate project description.[6] It is crucial for decisionmakers and the public to know what the "project" is that the decisionmaker is approving. "Only through an accurate view of the project may affected outsiders and public decisionmakers balance the proposal's benefit against its environmental cost . . ." an "accurate, stable and finite project description is the *sine qua non* of an informative and legally sufficient EIR." (County of Inyo v. City of Los Angeles, 71 Cal.App.3d 185, 192-193 (1977); CEQA Guidelines, § 15124.)

The project description section of the DEIR/EA asserts that "the interchange is needed with or without the proposed hotel and casino project . . . the hotel and casino issues are indirect effects of the interchange project, not as a component of the project description." (DEIR/EA, at p. 2-7.) By unduly limiting the project description, the EIR/EA encourages the agency decisionmakers to ignore the activities the Interchange
51-2 will facilitate over the Rancheria border, and to avoid consideration of the project's actual impacts through the "fallacy of division" — overlooking its impact by separately focusing on isolated parts or segments of the whole. (See, e.g., McQueen, supra, 202 Cal.App.3d at p. 1143; see also 58 Ops. Cal. Atty. Gen. 614 (1975).) "A curtailed, enigmatic or unstable project description draws a red herring across the path of public input." (County of Inyo I, supra, 71 Cal.App.3d at pp. 197-198.) Caltran's failure to accurately describe and analyze the proposed Interchange and hotel/casino project vitiates the usefulness of the process "as a vehicle for intelligent public participation." (Id., at p. 197.)

Because the NIGC's approval of the hotel/casino is contingent upon the approval by Caltrans and the BIA of the Interchange, a vote to approve the Interchange is tantamount to a vote to approve the hotel/casino. (NIGC, FONSI, at p. 2.) Accordingly the DEIR/EA, and the project description contained therein, must be revised to provide a

---

[6]/ CEQA Guidelines section 15124 requires each EIR to contain a project description setting forth the following: the precise location and boundaries of the proposed project; the project's objectives; and a general description of the project's technical, economic, and environmental characteristics. An agency must consider "[a]ll phases of project planning, implementation, and operation." (CEQA Guidelines, § 15063, subd. (a)(1).)

51-2 Cont. discussion of the direct and cumulative environmental effects of the Interchange and hotel/casino, and including any other reasonably foreseeable future projects within or surrounding the Rancheria such as a proposed tribal clinic south of US-50.

3. Inconsistency with Applicable Local and Regional Plans

CEQA requires the DEIR/EA to discuss inconsistencies between the proposed project and applicable local and regional plans such as the El Dorado County General Plan. (CEQA Guidelines, § 15125, subd. (d); see also Marin Municipal Water District v. KG Land California Corporation, 235 Cal.App.3d 1652, 1668 (1991).)[7] While the DEIR/EA acknowledges that the General Plan acts as "the overall guiding policy document for land uses in the County and is the principal tool for evaluating public and private projects," it includes a discussion of only a handful of the policies and objects with which the proposed project conflicts. (See DEIR/EA at p. 5.2-4.)[8]

A. The DEIR/EA Conflicts With the Land Use Element.

The County's "goals and policies with regard to land use are contained in the Land Use Element of the General Plan." (DEIR/EA at p. 5.2-4.) In making a good faith effort at full disclosure, the DEIR/EA must be revised to include a discussion of all the relevant General Plan goals and policies and the project's potential land use conflicts therewith. (CEQA Guidelines, § 15151.) Some of the goals and policies that should be addressed in the revised DEIR/EA include, but are not limited to, the following:

51-3

---

[7]/ The General Plan is the "constitution for all future developments within the city or county," and "[t]he propriety of virtually any local decision affecting land use and development depends upon consistency with the applicable general plan and its elements." (Citizens of Goleta Valley v. Board of Supervisors ("Goleta II") 52 Cal.3d 553, 570 (1990), quoting O'Loane v. O'Rourke 231 Cal.App.2d 774, 782 (1965); see also Lesher Communications, Inc. v. City of Walnut Creek (1990) 52 Cal.3d 531, 540.)

[8]/ Because the 5-acre parcel leading up to the Rancheria is presumably within the County's jurisdiction, until subject to eminent domain by the BIA, the DEIR/EA must consider the proposed project's inconsistency with the General Plan. (But see, DEIR/EA, at p. 5.2-9, stating the "proposed interchange is not inconsistent with the [GP], as the parcel would no longer be under County jurisdiction").) The ability of the BIA to pursue eminent domain action to acquire the 5-acre parcel at some future date does not excuse the obligation of the DEIR/EA to engage in a thorough analysis of the proposed project's inconsistency with the General Plan.

Land Use Goal 2.1 includes the "protection and conservation of existing communities and rural centers," "curtailment of urban/suburban sprawl," and "location and intensity of future development consistent with the availability of adequate infrastructure." (General Plan, at p. 12.) In Community Regions within the County, including Shingle Springs, the General Plan provides that the "character and extent of existing rural centers and urban communities" should be preserved, "emphasizing both the natural setting and build design elements which contribute to the quality of life and economic health of the County." (Ibid.)[9]

Similarly, Land Use Goal 2.2 provides for "[a] set of land use designations which provide for the maintenance of the rural and open character of the County and maintenance of a high standard of environmental quality" (Id., at p. 19), and Objective 2.2.1 advocates the distribution of growth and "development in a manner that maintains the rural character of the County. . . ." (Ibid.) Construction of the Interchange to serve the hotel/casino project is inconsistent with the Land Use Goal of protecting and conserving existing communities and rural centers. The Interchange would facilitate increased traffic in a sparsely populated rural area. Indeed, the project site currently consists of a five acre parcel that currently contains one single family residence and one accessory building. The remainder of the parcel is covered with mixed-oak woodlands and annual grassland. (DEIR/EA, at p. 5.2-2.) The surrounding land uses are "rural residential, agricultural residential, and open space located on relatively large parcels ranging from 5 to 20 acres. Parcels of eighty acres ad larger are located in the project vicinity. . . ." (Ibid.) There are "no major urban developments or commercial land uses in the area. There are also no industrial land uses." (Ibid.) The proposed project conflicts with the existing rural setting and low density surrounding designations and should be so disclosed in the DEIR/EA.

51-3 Cont.

Although the DEIR/EA identifies the project site as falling within the "Low-Density Residential" designation the document fails to realize that the construction of the proposed Interchange is inconsistent with this designation. (DEIR/EA, at p. 5.2-4.) Land Use Policy 2.2.1.2, defines Low-Density Residential areas as including "areas for single-family residential development in a rural setting" with parcel sizes ranging from "5.0 to 10.0 acres." (General Plan, at p. 20.) Land Use Policy 2.2.1.3 provides for a "range of

---

[9]/ To this end, if the Board of Supervisors decides to approve the proposed project, we urge that as conditions of approval to mitigate the visual and nighttime resource impacts to the entire community, the tribe be required to involve the community in approving the final hotel/casino architectural design plan, as well as the detailed site, landscape, lighting and off-site signage plans.

51-3 Cont.

population densities in the respective land use designation based upon the permitted range of dwelling units per acre and number of persons per acre." (Id., at p. 24.) Within the Low-Density Residential designation, the permitted uses include 0.20 - 0.1 units per acre. (Ibid.) A new Interchange, estimated to facilitate approximately 9,918 trips during a typical weekday and 14,600 trips on a Saturday during the peak month of the project (DEIR/EA, at p. 5.4-9), is inconsistent with a rural, single-family residential area and should be denied.

B. The DEIR/EA Conflicts With the Circulation Element.

51-4

Contrary to the claim contained within the DEIR/EA, the proposed project is inconsistent with the Circulation Element of the General Plan. (DEIR/EA, at p. 5.2-9.) The principle underlying the Circulation Element is that "[t]he Plan must integrate and coordinate the transportation plan with the land use plan so that the roadway capacity improvements, road safety improvements, mass transit development and alternative transportation modes can be provided in the most cost effective and efficient manner feasible." (General Plan, at p. 49.) An important objective of the Circulation Element is to "recognize and promote transportation modes and facilities of regional as well as local significance in order to contribute to efforts to meet air quality standards." (Ibid.) The DEIR/EA does little to address the increased traffic, road safety, air pollution, or public health impacts that will be generated by the project. It also does not consider conditioning project approval of the Interchange on the Tribe's willingness to adopt mitigation measures that include, for example, alternative modes of transportation that would reduce traffic in and around the Rancheria. Specifically, the DEIR/EA should be revised to include consideration of the following:

Circulation Objective 3.1.2 provides for the development and enforcement of "safe and efficient roadway design standards that consider the variety of terrain and environmental conditions throughout the County and minimize the degradation of environmental quality." (General Plan, at p. 51.) The DEIR/EA is inconsistent with this objective because it omits any information regarding the total number of trucks that will travel on US-50, the Interchange, and future Rancheria access roads, to deliver or export water, solid waste, natural gas, freon, pesticides etc., to and from the hotel/casino. Health and safety issues associated with the transport of water, trash and chemicals, as well impacts associated with diesel trucks generally (e.g., particulate air emissions), must be addressed in the DEIR/EA.

Circulation Goal 3.2 is to "[p]rovide a regional highway system which supports land use policies of the County and cities." (General Plan, at p. 52.) As stated above, land use goals include maintaining the rural character of the County and maintaining a

high standard of environmental quality. The DEIR/EA states that a traffic count, conducted in early 1999, along the route which is currently used to access Shingle Springs Rancheria (Grassy Run Road, Rolling Rock Road, and Reservation Road), showed that during the PM peak hour "approximately 15 inbound vehicles and 7 outbound vehicles were traveling to and from the Rancheria." (DEIR/EA, at p. 5.4-2.) The traffic at the Rancheria, without the project, is expected to have an annual growth rate of 1% per year. (Id., at p. 5.4-9.) The Interchange and hotel/casino project is, however, inconsistent with the County's goal of maintaining the existing rural character.

Policy 3.2.1.4 states that "[w]here no improvement or other acceptable mitigation measures are proposed to alleviate project induced situations concurrent with development, land development projects shall be denied." (General Plan, at p. 52.) The mitigation measures proposed by Caltrans include (1) signalization of the two newly created intersections under [Alternative] AC, and coordination of the signals to assure that queues would not develop and block the westbound ramp intersection (DEIR/EA, at p. 5.4-31); (2) providing an eastbound auxiliary lane between the eastbound East Shingle Springs Drive on-ramp and the eastbound off-ramp to the Rancheria (Id., at p. 5.4-37), and (3) tribal "fair share contribution[s]" to future master planned improvement for the section of US-50 between the El Dorado County Line and El Dorado Hills Boulevard (Id., at p. 5.4-47). However, the DEIR/EA does not propose any measures to alleviate "project induced situations" including the negative environmental impacts associated with increased traffic, such as air pollution, road safety, public health, and degradation of the area's rural character. In accordance with the General Plan, absent any measures to alleviate these traffic impacts, the proposed project should be denied.

51-4 Cont.

Circulation Objective 3.5.1 is to "[m]aintain LOS 'E' on all County roads." (General Plan, at p. 55.) Policy 3.5.1.1 states that "[t]he County shall adopt a roadway plan consistent with planned land use and shall maintain an operating Level of Service ("LOS") of 'E' or better on all roadways, consistent with Objective 3.5.1. In addition, all road segments projected in the roadway plan at the year 2015 to be operating at LOS A, B, or C shall not be allowed to fall below LOS C and all road segments at LOS D shall not fall below LOS D." (Ibid.) The DEIR/EA provides unidentified standards of significance for local roads, finding an impact significant if it adds more than 2% to the existing roadway volume, and does one of the following: (1) degrades acceptable LOS without the project to unacceptable (LOS D or worse) with the project; (2) degrades unacceptable LOS D to unacceptable LOS E (when the cumulative LOS is D or better) or to unacceptable LOS F; or (3) degrades unacceptable LOS E or F to unacceptable LOS F. (DEIR/EA, at pp. 5.4-23 - 5.4-24.) While the DEIR/EA purports to comply with the General Plan, the 2% increase in volume appears - for the first time - in the DEIR/EA and

is not an adopted General Plan standard for measuring LOS. Please explain how the DEIR/EA derived the apparently novel and unsubstantiated 2% standard relied upon for the finding of a less than significant impact to local roads.

In Table 5.4-18, moreover, the DEIR/EA provides a summary of all of the local roadway and highway segments along which the project is expected to increase existing traffic volumes by 2% or more. The Table provides that the existing daily volume on East Shingle Springs Road is 1,886, and that the existing daily volume on Greenstone Road is 1,085 between Mother Lode and US 50, and 2,659 between US and Green Valley Road. (DEIR/EA, at p. 5.4-32.) In contrast, the DEIR/EA's environmental setting, which describes the average existing daily traffic on roadways surrounding the proposed Interchange, states that East Shingle Springs Drive has a present average daily traffic volume of less than 1,000 vehicles per day, and Greenstone Road has a present average daily traffic volume of approximately 2,000 vehicles per day north of US-50, and less than 1,000 vehicles per day south of US-50. (Id., at p. 5.4-1.) Please grapple with these discrepancies and clarify how the level of service on these local roads will not deteriorate below acceptable levels of service in the future and particularly with respect to Mother Lode Drive.

51-4 Cont.

Finally, many of the goals and policies set forth in the Circulation Element relate to the facilitation of alternative transportation. Specifically, Circulation Goal 3.6 is to "[s]erve the people of El Dorado County by encouraging and supporting high quality public transportation services that are convenient, safe, efficient, and effective" (General Plan, at p. 58); Objective 3.7.2 plans for "the extension of rail service from Sacramento into El Dorado County" (Id., at p. 59); Goal 3.9 includes reducing "the level of demand on County roadways through implementation of policies and programs that minimize congestion, improve level of service, conserve energy, and minimize air pollution" (Id., at p. 60); and Objective 3.9.2 is to "[i]ncrease employer and developer participation in trip reduction programs and to maximize private sector participation." (Id., at p. 61.)

Despite these goals and objectives the DEIR/EA does not propose - as a condition of the Interchange project approval - any public transportation, employee car pool program, or trip reduction program that would mitigate the estimated 9,918 weekday and 14,600 weekend (peak Saturday) trips the project will facilitate. (DEIR/EA, at p. 5.4-9). Moreover, Caltrans anticipates that 80% of the peak hour trips to and from the proposed hotel/casino will be to/from Sacramento and the San Francisco Bay Area. (Id., at p. 5.4-13.) An analysis of alternative transportation, including monetary incentives, extended bus service, car pool programs, rail service, or other alternatives aimed at reducing traffic, should be provided in the DEIR/EA.

4. The Conclusions found within the Transportation/Circulation Section are Skewed and not Supported by Substantial Evidence.

A. Improper Baseline

The DEIR/EA adopts an improper "baseline" under CEQA for purposes of determining significance of the proposed project's effects upon transportation/circulation. Before assessing the effects of a proposed project, lead agencies under CEQA must identify the existing "environmental setting." (CEQA Guidelines, § 15063, subd. (d)(2).) "Environmental setting" is defined as "'the physical environmental conditions in the vicinity of the project, as they *exist at the time . . . environmental analysis is commenced*, from both a local and regional perspective. *This environmental setting will normally constitute the baseline physical conditions by which a lead agency determines whether an impact is significant . . .*'" (Fat v. County of Sacramento, 97 Cal.App.4th 1270, 1277 (2002), quoting CEQA Guidelines, § 15125, subd. (a), emphasis added).)

CEQA also requires EIRs to include a description of the physical environmental conditions in the vicinity of the project. (CEQA Guidelines, § 15125, subd. (a).)
51-5 "Knowledge of the regional setting is critical to the assessment of environmental impacts." (CEQA Guidelines, § 15125, subd. (c).) This is so because the EIR "must demonstrate that the significant environmental impacts of the proposed project were adequately investigated and discussed and it must permit the significant effects of the project to be considered in the full environmental context." (Ibid.) The DEIR/EA makes three main errors with respect to gauging the existing environment.

First, the "existing" daily traffic volumes used for the local roads analysis are from the "2000 Traffic Count Annual Summary." (DEIR/EA, at p. 5.4-3.) Similarly, the daily traffic volumes used for the mainline (US-50) analysis are also, in part, from data collected from 1998-2000, and as reflected in the "2000 Caltrans Traffic Volume on California State Highways. (DEIR/EA, at pp. 5.4-2 thru 5.4-3.) Caltrans has a duty under CEQA to update the already 2 _ year old traffic volume data relied on to more accurately reflect the existing environment.

In Berkeley Keep Jets Over the Bay v. Board of Port Commissioners, 91 Cal.App.4th 1344, 1382-1383 (2001), the First District Court of Appeal required Respondents to complete a supplementary environmental analysis to provide the public with "more accurate information" than was given previously with respect to aircraft noise. The court noted that "'[i]n some cases, conditions closer to the date the project is approved are more relevant to a determination whether the project's impacts will be significant.'" (Id., at p. 1383, citing Save Our Peninsula Committee v. Monterey County

Board of Supervisors, 87 Cal.App. 4th 99, 125 (2000).) Because the baseline data used in the DEIR/EA is 2 _ years old, Caltrans has a duty to update the analysis contained within the EIR prior to certification of the DEIR/EA.

Second, the DEIR/EA reflects a misunderstanding of the existing environment as reflected under the heading "Baseline Rancheria Traffic." The DEIR/EA, for example, improperly adds the newly generated trips anticipated from the proposed hotel/casino to the "existing" 15 inbound trips and 7 outbound trips to/from the Rancheria (and adjacent private development) during the PM peak hour. (DEIR/EA, at p. 5.4-9 (citing 1999 traffic counts).) The DEIR/EA further adds an annual growth rate of 1% to the "existing baseline Rancheria peak hour traffic volumes" to establish "cumulative baseline Rancheria volumes." (Ibid.) Using this improper "baseline," the DEIR/EA concludes that the trips generated by the hotel/casino will have a less than significant effect on the environment. (See, e.g., DEIR/EA, at pp. 5.4-24 thru 5.4-47.) Such an approach violates CEQA and, if approved, would constitute an abuse of discretion.[10] (CEQA Guidelines, § 15125, subd. (a) (EIR must include a description of the physical environmental conditions . . . as they exist at the time the NOP is published . . . from both a local and regional perspective).) Caltrans and the BIA must revise the DEIR/EA to examine the effects of the proposed Interchange on the existing physical environment rather than on some hypothetical "build-out" condition that includes the hotel/casino.

51-5 Cont.

Third, the DEIR/EA understates the significance of the proposed project's impacts to US-50 and the cumulative future level of service conditions with build-out of the hotel/casino, by limiting the area of analysis to those freeway segments that include: (1) for Eastbound US-50 between E. Shingle Springs & Rancheria, and between Rancheria & Greenstone; and (2) for Westbound US-50 between Greenstone & Rancheria, and between Rancheria & E. Shingle Springs. (See e.g., DEIR/EA, at pp. 5.4-3, 5.4-19, 5.4-27.) By limiting the analysis to these freeway segments, the DEIR/EA provides the public and agency decisionmakers with only a snapshot of the potential impacts of the project to existing and future levels of service along US-50 and originating from the Sacramento/San Francisco Bay Area hotel/casino "target areas." (CEQA Guidelines, § 15125, subd. (c).)

---

[10]/ An agency commits a prejudicial abuse of discretion "if the agency has not proceeded in a manner required by law or if the determination or decision is not supported by substantial evidence." (Pub. Resources Code, § 21168.5.)

51-5 Cont.

The DEIR/EA overstates the existing quality of the LOS on US-50 (between the limited interchange area considered) as ranging between LOS B and D. The State Route 50 Transportation Concept Report Summary describes the *present* LOS for Segment 6 (from the Sacramento/El Dorado County line to just east of the W. Placerville under-crossing) as LOS D, reaching LOS F by 2007. (DEIR/EA, at pp. 5.4-22, 5.4-27.) The revised DEIR/EA must evaluate whether, if approved, the Interchange and hotel/casino will cause Segment 6 of US-50 to deteriorate to LOS F within the next four years and prior to 2007. As proposed, the DEIR/EA is devoid of this analysis. The DEIR/EA therefore must be revised to include an analysis of the proposed project's impacts to the existing regional environment, and including the mainline traffic LOS along US-50 from the Sacramento/El Dorado County line to Placerville.

51-6

B. Improper Incorporation by Reference

The Transportation/Circulation section refers the reader to the "Transportation/ Circulation Technical Study - Shingle Springs Rancheria Interchange Project" ("Technical Study") prepared by David Evans and Associates, Inc. (April 2002), for a discussion of the "detailed methodologies" of the traffic study no less than five times. (See DEIR/EA, at pp. 5.4-1, 5.4-5, 5.4-8, 5.4-10, 5.4-15.) CEQA does not allow such a scattershot approach.

While an agency may incorporate by reference existing environmental analyses into an EIR, the agency must first meet certain criteria. (CEQA Guidelines, § 15150, subd. (a).) If, for example, a "EIR uses incorporation by reference, the incorporated part of the referenced document shall be briefly summarized where possible or briefly described if the data or information cannot be summarized. The relationship between the incorporated part of the referenced document and the EIR shall be described." (CEQA Guidelines, § 15150, subd. (c).)

The DEIR/EA fails utterly to comply with this requirement by repeatedly referring the reader to the Technical Study stating "[d]etailed methodologies for the above traffic operations [casino project trip generation, and passer-by capture rates] were established as part of the detailed traffic study prepared for this EIR. The detailed methodologies are hereby incorporated by reference from the technical study . . ." (DEIR, at p. 5.4-8; see also 5.4-10, 5.4-15.) By not providing the reader with even a summary of the methodologies used to calculate the traffic operations, casino project trip generation, and passer-by capture rates assumed in the DEIR/EA, the public and agency decisionmakers are deprived of an essential point of reference with which to evaluate the document.

51-6 Cont.

Caltrans has thus attempted to substitute incorporation by reference for meaningful analysis in a manner that is inconsistent with CEQA. As the CEQA Guidelines note, "[i]ncorporation by reference is most appropriate for including long, descriptive, or technical materials that provide general background but do not contribute directly to the analysis of the problem at hand." (CEQA Guidelines, § 15150, subd. (f).) The Technical Study briefly referenced by the DEIR/EA is the backbone of the DEIR/EA's Transportation/Circulation analysis and should have been included as an appendixes to the document. Inclusion in this manner is also warranted because the study was released to the public only two (2) months ago. At the very least, CEQA requires inclusion of a summary of the traffic assumptions and methodologies used to reach the conclusions found in the DEIR/EA.

C. The Assumed Internal Capture and Pass-by Rates are not Supported by Substantial Evidence.

51-7

The footnote to Table 5.4-6, "Casino-Hotel Project Trip Generation," states that the estimated hotel trip generation rates are based on "ITE Trip Generation - Hotel (Land Use 310). Rate reduced by 75% to account for internal capture to/from casino." (DEIR/EA, at p. 5.4-10.) A 75% hotel trip reduction rate is generous and must be justified within the EIR/EA. Caltrans own "Guide for the Preparation of Traffic Impact Studies" ("Caltrans Guide") (January 2001) states that "[c]aptured trip reductions greater than 5% requires consultation and acceptance by Caltrans. The justification for exceeding a 5% reduction should be discussed in the TIS." (Caltrans Guide, at p. 4.) The revised DEIR/EA must include a discussion justifying the assumed 75% hotel trip reduction rate as neither the DEIR/EA nor the Technical Study include this analysis. (See, e.g., Technical Study, at p. 33.)

The DEIR/EA also assumes an excessively high Passer-By Capture rate of 38.8 to 40% (i.e. 40% of peak hour trips generated by the proposed casino are trips that are assumed to already exist within the US-50 traffic volumes). Again, the reader is referred to the Technical Study for information on how the "conservative" 40% capture rate was derived. (DEIR/EA, at p. 5.4-15.)[11] Rather than conduct a comprehensive market survey of the Sacramento/San Francisco target areas, the Technical Study looks to geographically dissimilar casino projects such as those within the Mississippi Coast and

---

[11]/ The Caltrans Guide provides that "[p]ass-by trips are only considered for retail oriented development. Reductions greater than 15% requires consultation and acceptance by Caltrans. The justification for exceeding a 15% trip reduction should be discussed in the TIS." (Caltrans Guide, at p. 4.)

51-7 Cont.

Primm, Nevada. (Technical Study, at p. 42.) The Technical Study also assumes, without any explanation, that the proposed hotel/casino will draw 10% more passer-by capture trips than was considered in the Auburn Rancheria Environmental Assessment. (Technical Study, at p. 44.) Therefore, the assumed internal capture and passer-by rates as proposed are not supported by substantial evidence.

51-8

D. An Analysis of the Potentially Significant Impacts Associated with Providing Services to the Hotel/Casino must be Included in the Revised DEIR/EA.

The Technical Study discloses to the public and agency decisionmakers for the first time that the hotel/casino will generate an additional twenty five (25) trucks per day - or fifty (50) trips - to deliver water to the project site. The Technical Study admits that the potentially significant direct and cumulative adverse environmental impacts (e.g., traffic and air quality) associated with the additional fifty (50) trips were not analyzed. (Technical Study, at p. 39 ("[a]lthough not specifically identified within the trip generation breakdown described elsewhere in this report, they [the 50 trips] could conceivably be included within the total . . . [t]rip generation breakdowns . . . [which] were performed prior to the decision to include water delivery trucks").) The unsubstantiated opinion that "the addition of water trucks would likely be negligible" is not supported by substantial evidence in the record of proceedings. (Technical Study, at p. 40.)[12]

Similarly, both the DEIR/EA and Technical Study are devoid of any information identifying the number of trucks that will travel to/from the hotel/casino to export the project's solid waste and to provide natural gas, diesel, propane, freon, pesticides, and/or any other necessary and potentially hazardous substances to the project. Therefore, please (1) identify the total number of trucks/trips that will be required to serve the hotel/casino per day; (2) identify and describe the substances that will be transported to/from the hotel/casino; (3) identify the origination/destination area(s) of the truck trips and routes to be used (including where the water would be trucked from and which landfill the hotel/casino solid waste would be trucked to); (4) consider where the water would be imported from and whether there will be any adverse environmental impacts to that area's water supply; and (5) consider the potentially significant adverse

---

[12]/ An enforceable mitigation measure, moreover, should be included to limit or preclude delivery of any substance during peak hours of congestion. (Technical Study, at p. 40 ("it is likely that very few, if any, deliveries would be made during the AM or PM peak periods due to congestion").)

environmental impacts (direct and cumulative) associated with each of the above, including the already identified number of bus trips (20), delivery trips (20), and vehicle trips (employee, visitor etc.). (See, e.g., DEIR/EA, at pp. 9-8 thru 9-12.)

51-8 Cont. Lastly, the revised DEIR/EA must consider the extent to which the County will be precluded, in light of Measure Y, from approving future commercial and/or residential development projects between the Sacramento/El Dorado County line and Placerville because of the deteriorating LOS traffic conditions along US-50 that will be exacerbated by the hotel/casino.

5. The Air Quality Impacts Analysis is Wanting under CEQA.

The deadline within which the Sacramento region must achieve conformance with federal air quality standards, as required by the Clean Air Act, is rapidly approaching (i.e. June, 2002). (NOP, at p. 6.) Because the Greater Sacramento region is presently designated a "severe" non-attainment area for ozone by the U.S. Environmental Protection Agency (and a "moderate" non-attainment area for PM10), the degradation of air quality in the region is of the highest concern. It is therefore crucial that Caltrans use the most current available data, including data that considers the increase in vehicle miles traveled ("VMT"), and the use of trucks and Sport Utility Vehicles ("SUVs") within the region when making air quality projections under the proposed project.[13]

51-9

[13]/ The California Air Resources Board Clean Air Plan (March 15, 2002), for example, notes that over the last twenty (20) years, the state has experienced an 87% increase in VMT which has "cut into the considerable gains of cleaner technology." (Plan, at p. I-D-7; see www.arb.ca.gov/planning/caplan/caplan.htm. We also suggest that the revised DEIR/EA consider the data contained within a study released last year by the University of California, Davis, Institute of Transportation Studies. That study found that use of updated vehicle figures for the Sacramento region would result in a 54% increase over current estimates for the smog-causing hydrocarbons that would result from planned roads. According to the Davis study, the increase stems, in part, from the changing consumer preferences for SUVs and trucks, of which made up approximately 54% of all vehicles sold last year in the Sacramento region. In a good faith effort at full disclosure, and in an attempt to avoid "non-attainment" status for the region in the future, the DEIR/EA must consider this recent data in its air quality analysis. (CEQA Guidelines, § 15151.)

Despite the acknowledgment within the DEIR/EA of the region's "severe" ozone nonattainment status, the document fails to make a finding of significance for impacts to ozone under the proposed project. Ignoring the unique responsibilities of state agencies under CEQA the DEIR/EA repeatedly states that federal agencies must make a determination of conformity with the applicable State Implementation Plan ("SIP") before taking any action on a proposed project, and that "[t]he U.S. EPA has established 'de minimis' emissions thresholds that are used to determine whether a general conformity determination is required." (See, e.g., DEIR/EA, at pp. 5.5-7, 5.5-12.) The purportedly applicable "de minimis" thresholds, based on the current "severe" nonattainment classification of the County are 25 tons per years for VOC emissions, 25 tons per year for NOx, and 100 tons per year for PM10. (DEIR, at p. 5.5-7.)

Using these "de minimis" EPA thresholds, the DEIR/EA concludes that because the proposed project would purportedly result in 2.02 tons per year of VOC emissions, 16.00 tons per year of NOx emissions, and 55.98 tons per year of PM10 emissions, that a general conformity determination with the SIP is not needed and, therefore, the proposed project will not result in significant impacts and no mitigation is required. (DEIR/EA, at p. 5.5-13.) The same faulty logic is demonstrated with respect to the "no significant cumulative impact" finding relating to carbon monoxide ("CO") levels that will be generated by the proposed project. (DEIR/EA, at pp. 5.5-20, 7-6.)

51-9 Cont.

Not only does the DEIR/EA fail to identify and consider the additional truck trips that will be generated by the hotel/casino, it also fails to consider the cumulative local and regional impacts from the proposed project to ozone and PM10 under CEQA. While the BIA may rely on "de minimis" thresholds, it is unwise for Caltrans to do the same. (See Communities for a Better Environment v. California Resources Agency (Sacramento Sup. Court No. 00CS00300) (2001), at pp. 6-7 (invalidating the "de minimis" approach under CEQA and finding that "a contribution by a proposed project to an existing cumulative impact may be cumulatively considerable even if it is relatively minor and could be characterized as insignificant").) Caltrans therefore does not have the luxury of relying on the federal "de minimis" thresholds when making its air quality determinations and further analysis is required under CEQA.

In Kings County Farm Bureau v. City of Hanford, 221 Cal.App.3d 692, 712-718 (1990), for example, an EIR for a proposed cogeneration power plan was found invalid under CEQA for wrongly concluding that the project's impacts to air quality would be less than significant. The court ruled that the agency erred by failing to consider "on-site" and "secondary" emissions *together* in assessing the significance of the overall project's impacts. In that case, as here, the proposed facility required truck trips to deliver supplies and those trips were not considered in the EIR. The revised DEIR/EA

51-9 Cont.

must therefore consider the additional truck trips to be generated by the hotel/casino, and whether the air quality emissions generated by the *entire* project will result in significant cumulative air quality impacts to either the project area or the region (i.e. either the Sacramento, Mountain Counties or Lake-Tahoe air basins). (CEQA Guidelines, § 15130, subds. (a), (b); see also San Joaquin Raptor, supra, 27 Cal.App.4th at pp. 740-741).)

6. The Discussion of Growth-Inducing Impacts Requires Elaboration.

51-10

The DEIR/EA states that adoption of the proposed project would "not likely induce 'disorderly' growth within El Dorado County either directly or indirectly," yet makes no finding of significance with respect to growth-inducement - "disorderly" or otherwise. (DEIR/EA, at p. 6-3.) CEQA requires an EIR to "[d]iscuss the ways in which the proposed project could foster economic or population growth, or the construction of additional housing, either directly or *indirectly*, in the surrounding environment." (CEQA, Guidelines, § 15126.2, subd. (d) (emphasis added).) Because the proposed modifications will remove an impediment to growth by providing direct access to the Rancheria, it is reasonably foreseeable that demand for housing and secondary services will cause commercial and/or population growth in those locations. The DEIR/EA must consider the extent to which the proposed Interchange, if approved, will direct growth to the Rancheria or immediately surrounding and otherwise rural communities. (See Stanislaus Audubon Society, inc. v. County of Stanislaus, 33 Cal.App.4th 144 (1995) (noting that market forces set in motion by one project approval can create pressure to change general plan and zoning designations on other lands in the future).)

7. Failure to Consider the Potentially Significant Indirect Environmental Impacts of the Proposed Project from Socio-Economic Effects.

The guiding principle of CEQA is the legislative intent that courts interpret the act "'in such manner as to afford the fullest possible protection to the environment within the reasonable scope of the statutory language.'" (Mountain Lion Foundation v. Fish & Game Com., 16 Cal.4th 105, 112 (1997) quoting Friends of Mammoth v. Board of Supervisors, 8 Cal.3d 247, 259 (1972).) Although, "economic and social changes resulting from a project shall not be treated as significant effects on the environment," CEQA nonetheless requires an EIR to identify and consider economic and social changes of a project if indirect environmental impacts are reasonably foreseeable. (Kings County, supra, 221 Cal.App.3d 692, 721 (1990); Stanislaus, supra, 48 Cal.App.4th at pp. 190-191 (1996); Citizens Association for Sensible Development of Bishop Area v. County of Inyo

172 Cal.App.3d 151, 170 (1985).)[14] Thus, physical changes in the environment caused by economic and social factors are indirect physical changes that must be considered prior to project approval. (CEQA Guidelines, § 15064, subd. (d)(2); Citizens for Quality Growth et al. v. City of Mount Shasta 198 Cal.App.3d 433, 445-446 (1988); County of Inyo, supra, 172 Cal.App.3d at p. 170 (A "lead agency *shall* consider the secondary or indirect environmental consequences of economic and social changes, but *may* find them to be insignificant." (original emphasis).) The general rule, therefore, does not limit Caltran's obligations in the instant case.

A. Blight to South Lake Tahoe

Here, indirect changes on the physical environment due to the hotel/casino's siphoning of gamblers that would ordinarily choose to frequent the casino's located in South Lake Tahoe must be considered. Will the anticipated diversion of gamblers away from South Shore (and to the Rancheria conveniently located directly off US-50) cause "blight" or negate the roughly $250 million dollar redevelopment effort currently underway on the South Shore of Lake Tahoe? The DEIR/EA does not address this issue.

51-11 In Citizens for Quality Growth, supra, 198 Cal.App.3d at pp. 445-447, for example, the court invalidated an EIR because the lead agency failed to determine whether the economic and social effects of the proposed project (a new shopping center) would lead to adverse environmental impacts on the downtown area (i.e. "blight"). (Id. at p. 447.) The court noted that "[a]n identical dispute was raised in [County of Inyo], in which the court held . . . that subdivision (f) [of CEQA Guidelines, § 15064] 'expressly gives the agency discretion to determine whether the consequences of economic and social changes are significant, *which is not the same as discretion to not consider these consequences at all.*'" (Citizens for Quality Growth, supra, 198 Cal.App.3d at p. 446, quoting County of Inyo, supra, 172 Cal.App.3d at p. 170 (emphasis added).)

While the personal choices of gamblers may be difficult to anticipate, we suspect that the tribe or BIA has conducted an economic study of the fiscal viability of such a hotel/casino, with some data pertaining to the number of visitors anticipated to be attracted to the Rancheria. This information must be disclosed, rather than simply referenced, in the DEIR/EA (CEQA Guidelines, § 15144 (a lead agency must use "its

---

[14]/ An indirect physical change in the environment is one that is not immediately related to the project, but that is caused by the project. (CEQA Guidelines, § 15064, subd. (d)(2).) CEQA requires consideration of indirect physical changes if they are reasonably likely to occur. (CEQA Guidelines, § 15064, subd.(d)(3).)

51-11 Cont. *best efforts* to find out and disclose all that it reasonably can"); see also CEQA Guidelines, § 15145.) An agency is, therefore, required to forecast potential environmental impacts to the extent that an activity could reasonably be expected under the circumstances. (Laurel Heights, supra, 47 Cal. 3d at p. 410.)

B. Lack of Housing for Hotel/Casino Employees

Affordable housing, close to workplaces, is essential both to ensure the continued vitality of the state's economy and to minimize harm to the physical environment. Accordingly, a mix of housing opportunities, distributed with regard to timing and location, throughout all phases of a development project, is central to solving traffic and air-pollution problems. (Calthorpe & Fulton, The Regional City (2001) at p. 74.) The California Legislature has also found that a lack of affordable housing results in a corresponding "lack of housing to support employment growth, imbalance in jobs and housing, reduced mobility, urban sprawl, excessive commuting, and air quality deterioration." (Gov. Code, § 65589.5, subd. (a)(3); see also § 65580, subds. (a),(c),(d).)

51-12 Impacts on housing demands are social and economic effects that may result in adverse changes in the physical environment by affecting, among other things, air quality and traffic levels of service. (San Franciscans for Reasonable Growth et al. v. City and County of San Francisco et al. (1989) 209 Cal.App.3d 1502, 1521, citing CEQA Guidelines, §§ 15064, subd. (f), 15131, subd. (a).) It is insufficient for the DEIR/EA to simply provide the current residential vacancy rate for the entire County (17.3%), calculate that 2,725 housing units are available for purchase or rent (throughout the County), and conclude that the 1,500 plus employees of the hotel/casino will therefore find adequate accommodations. (DEIR/EA, at p. 6-2.)

Caltrans, rather, is required to use its best efforts to identify and consider the average wage that the hotel/casino employees will make and whether they could afford housing in the immediate area based on that wage. The revised DEIR/EA must also identify and consider the closest available affordable housing stock to the Rancheria and, if forced to commute, the reasonably foreseeable air quality and traffic impacts caused by low-wage commuters. Because the proposed project is located in rural El Dorado County it is reasonably foreseeable that, without adequate affordable housing at the Rancheria, at least 1,500 low-wage commuters will drive one hour each day (round-trip on already congested US-50), thereby causing adverse air quality and traffic impacts. These potentially significant adverse impacts must be explored and discussed.

8. Identification and Analysis of Mitigation Measures

There is no substantial evidence to support the finding within the DEIR/EA that Transportation/Circulation Mitigation Measure 5.4-9 will reduce the otherwise significant cumulative plus project impact on future US-50 LOS (between the El Dorado County line and El Dorado Hills Boulevard) to a less-than-significant level. Prior to making this determination Caltrans must specify exactly how the tribe's "fair share contribution to future master planned improvements," as identified by Caltrans and El Dorado County for the section of US-50 between the El Dorado County Line and El Dorado Hills Boulevard, shall be computed under Mitigation Measure 5.4-9. (DEIR/EA, at pp. 5.4-46 thru 5.4-47.)

Mitigation Measure 5.4-9 is inadequate under CEQA because it is vague and not fully enforceable as a condition of the Interchange project approval. The measure also fails to consider specifically how the tribe's contributions would be calculated in relation to Measure Y's requirements (General Plan Policy 3.2.2.4) that traffic impact fees paid
51-13 by developers "shall fully pay for road capacity improvements necessary to mitigate all direct and cumulative traffic impacts from new development upon any highways, arterial roads and their intersections in unincorporated areas of the county during weekday peak-hour periods." It is crucial that the DEIR/EA clearly identify the method that will be used to calculate the tribe's future "fair share contribution" to mitigate LOS impacts to US-50, give the public an opportunity to comment on the adequacy thereof, and condition approval of the proposed Interchange on the inclusion of this clarified mitigation measure.

CEQA requires Caltrans to find, based on substantial evidence, that the mitigation measures are "required in, or incorporated into, the project" and are "fully enforceable through permit conditions, agreements, or other measures." (Pub. Resources Code § 21081.6, subd. (b); CEQA Guidelines, § 15091.) The purpose of these requirements is to ensure that feasible mitigation measures will actually be implemented as a condition of development, and not merely adopted and then neglected or disregarded. (See Pub. Resources Code, § 21002.1, subd. (b).)

Gentry v. City of Murrieta 36 Cal.App.4th 1359 (1995), is on point. In that case, the City approved a residential subdivision, subject to the requirement "to comply with any existing ordinance protecting the Stephens' kangaroo rat," a protected species. The measure also provided that the city could request the project applicant "to obtain a biological report regarding the Stephens' kangaroo rat" and to "comply with any recommendations in the report." According to the Court, this measure represented impermissible deferral of specific mitigation measures because the measure "required the

applicant [to] comply with any recommendations in a report that had yet to be performed." (*Id.* at p. 1396.) A vague commitment to develop a plan is insufficient basis for concluding that a project will not have significant environmental effects. (Ibid.)

Similarly, a vague commitment to determine the tribe's "fair share contribution" to future master planned improvements is also an insufficient basis for concluding that the project will have a less than significant cumulative impact to US-50 LOS conditions. (See Pub. Resources Code, §§ 21081, 21081.6, subd. (b); see also Federation of Hillside and Canyon Associations v. City of Los Angeles, 83 Cal.App.4th 1252, 1261-1262 (2000) (holding that substantial evidence did not support a finding that the city made a binding commitment to implement the mitigation measures proposed in a general plan amendment).) In Save Our Peninsula, however, the court upheld an agency's traffic analysis, in part, because a time schedule for road improvements was inherent in the County's traffic impact program, providing trigger thresholds for the improvements, and assuring that the funds would be available to pay for the improvements. (Save Our Peninsula, supra, 87 Cal.App.4th at p. 141.) The mitigation measures as currently proposed in the DEIR/EA, however, lack both assured funding and the trigger thresholds necessary to guarantee that the required roadway improvements will be realized.

51-13 Cont.

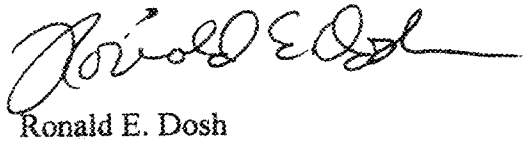
* * * *

Substantial evidence demonstrates that the proposed Interchange project will cause significant adverse consequences to the environment that have not been analyzed. Both Caltrans and the BIA have the continuing duty under CEQA and NEPA to identify and consider all the detrimental impacts that will occur at both the local and regional level. Under CEQA, moreover, Caltrans may not legally continue to piecemeal its environmental review of the Interchange and hotel/casino project.

51-14

I urge the lead agencies to address the above concerns in a revised DEIR/EA and circulate the document for additional public review and comment. The proposed project entails much more than consideration of a typical freeway interchange reconstruction and will result in long-lasting and irreversible significant effects to the area and its residents. Thank you in advance for your consideration of our comments.

Sincerely,



Ronald E. Dosh
Attorney at Law

Comment Letter #51

51-1 The EIR/EA contains full disclosure of potentially significant effects of the proposed freeway interchange project as required by both NEPA and CEQA. Neither Caltrans nor BIA believe additional analysis is required. As discussed in Response to Comment 36-2, Caltrans has not "piecemealed" the environmental review of the proposed freeway interchange project.

Caltrans agrees with the commenter that all potentially significant adverse environmental effects, including direct and indirect effects, associated with the hotel/casino be identified and analyzed and has appropriately incorporated the EA for the hotel/casino by reference into the EIR/EA.

See also Response to Comment 36-1 for detailed response on tiering.

51-2 The commenter incorrectly reads CEQA's requirements for a project description. A project description should be limited to the specific project being reviewed. Indirect and cumulative impacts or impacts from other projects should be analyzed in a CEQA document in the appropriate circumstances, but such projects should not be included in the description of the project at issue. The project that the EIR/EA analyzes is the interchange project and that is accurately and completely described therein. Other projects included in the cumulative or indirect impacts analysis are listed and described in the appropriate sections of the EIR/EA.

51-3 Comment re land use inconsistency/invalid general plan. Please see Responses to Comment 39-2.

51-4 Comment re inconsistency with circulation element/safe roadway designs. Please see Responses to Comment 45-7.

51-5 The commenter asserts (1) that Caltrans relied on an improper baseline for traffic volumes and has a duty to update them; (2) that it was improper to evaluate the increased traffic volumes anticipated with the build-out of the hotel/casino in its evaluation of the impact of the interchange; and (3) that the trip segments evaluated were too short and should have extended to San Francisco and Sacramento.

The proper baseline under CEQA is the conditions as they existed at approximately the time the lead agency issued the Notice of Preparation. The traffic counts used in the analysis are current with reference to that timeframe; therefore, they are appropriate and satisfy CEQA's requirements. A purpose of the interchange is to allow the development of economic self-sufficiency for the Tribe. Therefore, a use of the interchange that is anticipated and that is a purpose for which it is being built is that commercial enterprise. To include the

commercial enterprise in the analysis of the impact of the interchange is correct, is far from speculative, and is precisely what is required by CEQA Guideline 15130. Finally, with respect to the traffic segments, please see Response # 43DT-5.

51-6 This comment asserts that incorporation of the NIGC EA by reference into the EIR/EA is improper. Caltrans disagrees for the reasons previously stated in Responses to Comments 36-1, 39-1 and 40-1.

51-7 The comment asserts that the 75% hotel trip reduction must be justified. Please see Responses to Comment 43DT-8. The comment notes that Caltrans' own "Guide for the Preparation of Traffic Impact Studies" states that captured trip reductions greater than 5% requires consultation and acceptance by Caltrans, The assumed pass-by capture rate of 40% was established in coordination with Caltrans traffic engineering personnel, and thus was approved for incorporation within the study. The comment states that the revised EIR/EA must include a discussion justifying the assumed 75% hotel trip reduction rate as neither the EIR/EA nor the Technical Study include this analysis. This comment is incorrect. Pages 34-39 of the Transportation/Circulation Technical Study provides detailed validation of the 75% hotel trip reduction rate, and is summarized in the Response to Comment 43DT-8.

The comment asserts that the EIR/EA uses an excessively high passer-by capture rate, and questions why rather than conducting a comprehensive market survey of the Sacramento/San Francisco target areas, the technical study looks to geographically dissimilar casino projects such as those with the Mississippi Coast and Primm, Nevada. The proposed casino is in a unique location along a route with existing heavy gaming oriented traffic, and is unique due to a variety of characteristics which does not facilitate easy collection of data at similar facilities since none match the unique location of the proposed casino. A comprehensive market survey of the Sacramento/San Francisco target areas would not be practical or provide meaningful results for this study. Thus a reasoned approach was used to estimate pass-by capture rate based on a variety of approaches.

The comment asserts that the technical study assumes, without explanation, that the proposed hotel-casino will draw 10% more passer-by capture trips than was considered in the Auburn Rancheria Environmental Assessment. As stated in the Transportation/Circulation Technical Study, since the Auburn Rancheria is located a few miles from I-80, it was considered reasonable that the passer-by capture for a facility located immediately next to a major freeway, Highway 50, such as Shingle Springs would attract a higher passer-by percentage than 30%.

51-8 The commenter maintains that the statement "the addition of water trucks would likely be negligible" is not supported by evidence in the record. The commenter also claims that the EIR/EA should identify the substances being carried to the casino/hotel in trucks and evaluate the impact of those substances on the

environment. The commenter provides the examples of "natural gas, diesel, propane, freon, pesticides, and/or other necessary and potentially hazardous substances." The EIR/EA should identify the landfill in which waste will be disposed. The EIR/EA should include consideration of the source of water supply and the impact to that source of supply to the hotel/casino.

Please also see Response to Comment 51-13. Furthermore, the project mitigates its contribution to cumulative traffic impacts on Highway 50. Regardless of the project, Highway 50 is projected to be at and remain at LOS F. Thus, the project will not itself preclude the approval of any future projects.

Approximately 35 trucks are projected to travel to and from the site per day, which results in 70 truck trips per day (inbound + outbound). Of these 35 vehicles, 25 are assumed to be water delivery vehicles, and the remaining 10 are assumed to be all other truck types including typical deliveries (i.e. mail, food, office supplies), and landfill vehicles. In addition, 10 buses a day (20 trips) are projected to travel to and from the site per day.

The waste generated by the hotel/casino will be municipal solid waste. Mitigation for spills or releases of hazardous substances has been provided in the EIR/EA. Mitigation 5.11-2 addresses the risk for contingencies which includes both construction and operational mitigation:

Mitigation 5.11-2 – Risk of Accidental Release of Hazardous Materials: The following mitigation will assure that the proposed project will result in a less than significant impact. (A) The project applicant shall ensure, through the enforcement of contractual obligations, that all contractors transport, store and handle construction related hazardous materials in a manner consistent with relevant regulations and guidelines, including those recommended and enforced by the U.S. Department of Transportation, RWQCB, EDCEMD and the El Dorado County Fire Protection District. The project applicant shall also ensure that all contractors immediately control the source of any leak and immediately contain any spill utilizing appropriate spill containment and countermeasures. If required by any regulatory agency, contaminated media shall be collected and disposed of at on off-site facility approved to accept such media. In addition, all precautions required by the RWQCB issued NPDES construction activity storm water permits will be taken to ensure that no hazardous materials enter any storm drains or nearby waterways.

Caltrans notes that natural gas will not be delivered via trucks.

Water will be supplied to the hotel/casino either through EID or another supplier of water. The source of the water will not be able to supply Shingle Springs more than the amount contracted for. That is, the water supplier will have only so much water available. It cannot increase the amount it has available because of

the contract with Shingle Springs. The supplier cannot sell -- or at least deliver -- what it does not have. Therefore, there is no impact to be considered.

With respect to Measure Y, under the State Compact and principles of tribal sovereignty in federal law, Measure Y as a County measure does not apply to development on the Tribe's land. Also, Measure Y as a County measure does not apply to Caltrans approval of an interchange or to BIA actions relating to the IRR System, because County measures do not govern state and federal agency approvals. Thus Measure Y as a County measure does not apply to the activities evaluated in this EIR/EA (or to the Tribe's proposed development evaluated in the NIGC EA and incorporated into this EIR/EA). Also, Measure Y's provision that developers shall fully pay for all road capacity improvements (General Plan Policy 3.2.2.4) also applies only to residential developments (please see Responses to Comment 51 and General Plan Policy 3.2.1.5 contained within Measure Y which requires findings of consistency with Measure Y for "a residential development project of 5 or more units"). Because Measure Y imposes requirements on developers of residential projects, Measure Y does not apply to the calculation of mitigation measures for a freeway interchange (the subject of this EIR/EA) and also does not apply the calculation of mitigation measures for a tribal casino (the subject of the EA prepared by the National Indian Gaming Commission, and also an indirect impact of the interchange, and thus analyzed by incorporation by reference in this EIR/EA).

51-9 According to the commenter, Caltrans should use the most recent data available, including data developed by the University of California, Davis, regarding vehicle fleet mix, because the area is a federal and state ozone nonattainment area with a federal attainment date of 2002 and a state nonattainment area for PM10. The commenter also claims that the EIR/EA fails to make a finding of significance for impacts to ozone under the proposed project, and fails to consider the cumulative local and regional impacts from the proposed project to ozone and PM10 under CEQA. Lastly, the commenter claims that it is "unwise" for Caltrans to rely on *de minimis* thresholds in the EIR/EA "even though BIA does in the EA."

In order to ensure that information is universally understood, it is important for an analysis to be conducted pursuant to protocols and practice in the industry. This is not to say that there are not other protocols available, such as the study performed by the University of California at Davis, that are valuable. However, the Air Resources Board is the agency responsible for developing state emissions data, including for emissions from vehicles dependent upon fleet mix in California. Please see Response to Comment 43SR-2.

Contrary to the commenter's assertion, the EIR/EA does, indeed, address impacts to ozone air quality under the proposed project. The increased traffic associated with the construction and operation of the hotel/casino project, made possible by the construction of the interchange, which is the project that is the subject of this

EIR/EA, is the source of any impacts to air quality resulting from ozone. By determining that the project conforms with the transportation budget for the region, the ozone impact has been addressed. Likewise, PM10 was addressed in the context of the state air quality standard and under federal general conformity. The *de minimis* thresholds do reflect the county's attainment/nonattainment status for the various pollutants and are the thresholds applicable in El Dorado County.

The emissions from the construction phase and then the operational phase of the project are serial; that is, emissions will result from construction and then from operation. It is not the nature of either ozone or PM10 to remain indefinitely in the atmosphere. Ozone in particular is quite unstable and changes form constantly. Any contribution to ozone during the construction phase will not contribute to ozone formation during the operational phase. Any contribution to ambient levels of PM10 during the construction phase will have been mitigated by the time of the operational phase of the project. In this sense, then, any contributions to ozone and PM10 ambient levels resulting from this project are serial and not simultaneous. That said, the analyses provided in the EIR/EA consider the cumulative impacts of the project to ozone and PM10 relative to ambient conditions anticipated at the time the project commences and continues.

The greatest impacts to ozone, with respect to this project, result from mobile source emissions. That impact was adequately addressed in the transportation conformity determination for the EIR/EA as well as satisfying the independent federal requirement that the transportation conformity analysis be performed and be subject to its own public participation process. The additions of emissions of ozone precursors during the construction phase are temporary in nature but are considered in the analysis of the project. See page 5.5-13 of the EIR.

The greatest impacts to PM10 occur during the construction phase of the project. As the area is attainment for PM10 under the federal standards, that pollutant is a concern only at the state level. As a pollutant of concern only at the state level, it is precisely for the EIR/EA that the analysis was conducted. It is typical to include PM10 in transportation conformity analyses, and that analysis informs the CEQA analysis regarding cumulative PM10 impacts. That is, although the greatest impacts relative to PM10 will result during the construction phase of the project, the information gained from the inclusion of PM10 in the transportation conformity analysis addresses the cumulative impact of the project on PM10.

The Clean Air Act includes only minimal areas where that Act supersedes state law, and in those cases, there is provision, particularly in the area of vehicles emissions, for the State of California to establish standards different from the federal standards. California has traditionally been a national leader in the area of environmental protection. If the State of California believed that the federal thresholds in the areas analyzed for this project were insufficient, the State of California would have established more stringent thresholds. However, it has not.

Therefore, the standards against which this project was analyzed represent the most stringent applicable and available to provide a rational comparison.

51-10 The commenter states that the EIR/EA must consider the extent to which the proposed interchange will direct growth to the Rancheria or surrounding communities. The interchange has been specifically designed as a single purpose interchange with significant design restrictions incorporated to avoid growth to the South of U.S. Highway 50. Please see Responses to Comment 42-9.

51-11 The commenter claims that the EIR/EA failed to consider the potentially significant indirect environmental impacts of the proposed project from socioeconomic effects. Potential economic impacts of a project are generally not required to be analyzed in an EIR/EA. Moreover, speculative impacts or outcomes should not be included in an environmental document. Blight or other impacts on South Lake Tahoe, approximately 65 miles from the proposed interchange project, are highly speculative. Accordingly, the EIR/EA does not contain a detailed analysis of such potential impacts. In any case, millions of people visit South Lake Tahoe each year to ski, recreate and sightsee, as well as gamble. The number of anticipated visitors at the casino/hotel that the proposed interchange would serve is but a small portion of that. Moreover, only a fraction of that number would be persons diverted from South Lake Tahoe. Thus, it is unlikely that the proposed interchange project could induce "blight" in South Lake Tahoe. Please see Response to Comment 41-3.

51-12 The commenter claims that the EIR/EA needs to address the housing issue for hotel/casino employees in more detail. Caltrans believes that the issue is adequately addressed from an indirect impact standpoint. Please see Responses to Comments 21-3, 32-10, 32-12, 42-9, and 45-6.

51-13 The commenter claims that Mitigation Measure 5.4-9 is inadequate and is not fully enforceable, and is not considered in relation to Measure Y requirements. The commenter further claims that the EIR/EA must identify the method that will be used to calculate the fair share contribution, and the mitigation must be enforceable.

The evidence supporting the adequacy of the mitigation measures is set forth in the EIR/EA as well as in the supporting record. Specifically, this evidence supports the conclusion that Mitigation Measure 5.4-9 will reduce the identified cumulative impact to a less-than-significant level.

Measure Y is a County measure. Under the State Compact and principles of tribal sovereignty in federal law, Measure Y does not apply to development on the Tribe's land. Also, Measure Y as a County measure does not apply to Caltrans' approval of an interchange or to BIA actions relating to the IRR System, because County measures cannot govern state and federal agency approvals. Thus

Measure Y measure does not apply to the activities evaluated in this EIR/EA (or to the Tribe's proposed development evaluated in the NIGC EA and incorporated into this EIR/EA). Also, Measure Y's provision that developers shall fully pay for all road capacity improvements (General Plan Policy 3.2.2.4) also applies only to residential developments (see Response to Comment 51 and General Plan Policy 3.2.1.5, which requires findings of consistency with Measure Y for "a residential development project of 5 or more units"). For these reasons, Measure Y also does not apply to the calculation of mitigation measures for this project.

The following clarifies the means by which Mitigation Measure 5.4-9 will be implemented. The Tribe's off-reservation environmental impact ordinance is also reflected in this mitigation measure. In addition to the tribal ordinance on off-reservation impacts, the Tribe has also specifically adopted a resolution confirming that the mitigation set forth below shall be carried out. Mitigation Measure 5.4-9 requires the following:

(A) Pursuant to the Tribal Off-Reservation Ordinance adopted by the Tribal Council in May 2002, the Tribe will contribute a fair share contribution to future master planned improvements as identified by Caltrans and El Dorado County for the section of US 50 between the El Dorado County Line and El Dorado Hills Boulevard. This contribution will be set aside, enforced, and implemented as follows:

> (1) As set forth in the tribal council resolution adopting this mitigation measure, the Tribe will establish a separate interest-bearing account for the deposit of fair share funds to implement this mitigation measure. The status of this account will be included in the mitigation monitoring report on this mitigation measure. The funds in this account shall be maintained for the purpose of implementing this mitigation measure, and shall not be released or used for any other purpose until the mitigation set forth below has been implemented.
>
> (2) To insure that these fair share funds are used for mitigation that will offset the contribution to the identified cumulative impact, the funds shall be disbursed at the direction of the Tribe in consultation with Caltrans and El Dorado County. Under the Tribe's adopted resolution, these funds can only be used for such mitigation and any excess funds can be released back to the Tribe only after such mitigation is completed.
>
> (3) The traffic consultants assisting Caltrans and the Tribe in the preparation of this EIR/EA have identified specific mitigation that will reduce the projected cumulative impact to a less than significant level. This mitigation will consist of specific mainline improvements to Highway 50 between El Dorado Hills Boulevard and the proposed Empire

Ranch Road interchange. These mainline improvements will be auxiliary lanes:

(a) Auxiliary lanes are lanes that extend from one interchange to the next. Vehicles entering the freeway from an on-ramp enter into their own lane. This lane in turn will terminate at the next interchange as an "exit only" lane. Traffic operations benefit from auxiliary lanes in that there is more room for vehicles to conduct merge and diverge movements. Auxiliary lanes are particularly appropriate where there is an impact focused on a particular freeway segment, because the level of service on the segment is increased but the overall capacity of the system is not increased.

(b) Such auxiliary lanes would be constructed between El Dorado Hills Blvd and Empire Ranch Road by median widening. The mainline high occupancy vehicle (HOV) lane project currently under construction will leave an unimproved median width of 14.14 m (46.4 feet). The addition of two paved lanes within the median (with construction of concrete median barrier) would leave a median width of 6.94 m (22.77 feet), which is the same as the recently constructed U.S. Highway 50 segment between Folsom Boulevard and Hazel Avenue. Also, the existing 2.4 m (8 feet) outside shoulders would need to be widened to 3.0 m (10 feet) within the limits described. The HOV lanes currently under construction would then transition into this median area, with subsequent shifting of lanes 2 and 3, with the outside lanes becoming auxiliary lanes between the two interchanges. Appropriate transitions would need to be provided (290 m minimum), with the additional assumption that the median widening would include median decking of the undercrossing at El Dorado Hills Blvd.

(4) Fair share funds have been determined and shall be deposited into this account on the following basis:

(a) The estimated construction cost of these improvements is $11.5 million. With engineering and administration costs, the total project cost is estimated at $15.5 million.

(b) The project's fair share contribution to these improvements is calculated as follows:

Table 1 - Existing and Cumulative Conditions

Scenario	Avg Daily Traffic (ADT)	ADT Increase Due to Project	ADT With Project

Existing SR 50	70,000	4,235	74,235
Cumulative SR 50	135,000	4,235	139,235

There is a forecasted increase in mainline traffic of 65,000 without the project, and 69,235 with the project. The project's fair share for improvements is calculated as 4,235/69,235=6.12%. Therefore, the project's share of contributions towards auxiliary lane improvements would be $15.5 million x 6.12%, or $948,000. To provide a conservative estimate of the fair share, the amount will be set for purposes of this mitigation measure at $1 million.

Tables 2 and 3 below demonstrate that this contribution will result in the elimination of the potentially significant impact. As shown in Table 2, the projected cumulative LOS on this segment of Highway 50 is F with and without the proposed interchange project. The proposed interchange project, coupled with the operation of the proposed hotel and casino, is projected to result in an increase of 4,235 average daily trips along this segment of highway. This increase of average daily trips translates to a 3 percent increase over the cumulative no project conditions. Table 3 below shows that the construction of the auxiliary lane will effectively mitigate the overall cumulative conditions on this segment of Highway 50 back to LOS D. Caltrans' Concept Report, and interchange EIR/EA, identifies LOS E as an acceptable LOS for this segment of Highway 50. Therefore, the auxiliary lane and the Tribe's agreement to provide fair share funding for that cumulative mitigation measure will reduce to a less than significant level both the project's contribution to the cumulative impact as well as the overall cumulative condition.

TABLE 2
2025 Unmitigated Highway Segment Conditions

Highway Segment	LOS E/F Threshold (Capacity)[1]	2025 No Project Volume	2025 No Project LOS	Project Volume	2025 Plus Project Volume	Volume Over Capacity	Unmitigated Cumulative Plus Project LOS
County Line to EDHB/La trobe	120,400	135,000	*F*	4,235	139,235	18,835	*F*

[1]/ Assumes no auxiliary lane.

TABLE 3
2025 Mitigated Highway Segment Conditions

Highway Segment	LOS E/F Threshold (Capacity)[2]	2025 Plus Project Volume	Volume Under Capacity	Mitigated Cumulative Plus Project LOS
County Line to EDHB/Latrobe	160,600	139,235	***21,365***	*D*

[2]/ Assumes auxiliary lane

(c) The cumulative condition requiring this mitigation is forecasted by the EIR/EA analysis to arise sometime around 2022. To ensure that sufficient funds are deposited to the account, this sum shall be paid into this account over the first five years of the operation of the casino, with the first annual installment to be paid during the first calendar year in which the casino is operating as of June 30 of that year.

(5) Caltrans will further evaluate the traffic mitigation set forth in paragraph (3) above, and will consult with El Dorado County regarding this mitigation. Once Caltrans (or any other agency responsible for traffic improvements) has determined the specific cumulative traffic mitigation to be completed on this portion of Highway 50, the Tribe will arrange or agree with Caltrans or the other agency upon the proper method and timing of disbursing the funds in the special account, in order to ensure that the funds are expended for improvements that actually mitigate the cumulative impact in question.

(6) The funds shall be applied as part of an overall mitigation program that shall reduce the cumulative traffic level of service to a level less than LOS F. (See Table 2 and Table 3, above.)

The comment also suggests that Mitigation Measure 5.4-9 is vague and unenforceable. The measure is now set forth as specifically as is possible. The enforcement of the measure will be ensured through the adoption of this mitigation measure by the tribal government, which has been done, and also by the required monitoring and reporting program that will be adopted in connection with the certification of this EIR/EA and Caltrans' approval of the interchange. The mitigation measure will not be adopted and then neglected or discarded, as the comment suggests. Instead, the account for the mitigation funds will be established, those funds will be set aside, and they will be applied to traffic mitigation as determined to be appropriate by other agencies, as set forth above.

The comment cites the mitigation measure rejected by the court in *Gentry v. City of Murrieta*, 36 Cal. App. 4th 1359. This case is one of several cases governing the adequacy of mitigation measures in a negative declaration, following the lead

case of *Sundstrom v. County of Mendocino*, 202 Cal. App. 3d 296. As noted above, this mitigation has been clarified in response to this comment. The Lead Agencies note further in response, however, that the cases governing mitigation measures in EIRs include *Sacramento Old City Ass'n v. City Council*, 229 Cal. App. 3d 1011 and *National Parks & Conservation Ass'n v. County of Riverside*, 71 Cal. App. 4th 1341. In *Sacramento Old City*, for example, the court upheld an EIR/EA which included a range of mitigation measures for parking impacts, which measures would be studied further to determine which of the specified measures should be imposed. In this Final EIR/EA, the mitigation measure for this cumulative impact has been set forth in substantial detail. The specific implementation of the mitigation measure does depend on the actions of other agencies, as is often the case in the CEQA process, but the adequacy and specificity of the mitigation measure comply with the holdings set forth in the case law.

Finally, the comment regarding the lack of substantial evidence regarding identification and analysis of mitigation measures is based in significant part on the ruling in *Save Our Peninsula Committee v. Monterey County Board of Supervisors*, 87 Cal. App. 4th 99. The above clarification of Mitigation Measure 5.4-9 is intended to respond to this comment as well. The required reasonable plan for cumulative mitigation based upon the payment of a fee is set forth in the mitigation measure, and the implementation of the mitigation measure is tied to the triggering level of service that requires the mitigation to be implemented.

51-14 Caltrans and the BIA believe that the EIR/EA is adequate, complete, comprehensive and in compliance with applicable law. Accordingly, no additional environmental review or recirculation is necessary. The commenter's concerns have been noted and will be forwarded, along with the responses thereto, to decision-makers for their consideration.