

# ***APPENDIX W***

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***AGREEMENT BETWEEN ARVIN-EDISON WATER STORAGE  
DISTRICT AND TEJON INDIAN TRIBE***

**FOR THE BENEFIT OF THE DISTRICT**  
**RECORDING REQUESTED BY:**

ARVIN-EDISON WATER STORAGE  
DISTRICT, AS OFFICIAL BUSINESS.

**WHEN RECORDED MAIL TO:**

ARVIN-EDISON WATER STORAGE DISTRICT  
Post Office Box 175  
Arvin, California 93203-0175

AGREEMENT BETWEEN  
ARVIN-EDISON WATER STORAGE DISTRICT  
AND  
TEJON INDIAN TRIBE

THIS AGREEMENT (this "Agreement"), is entered into on this \_\_\_\_ day of \_\_\_\_\_, 2020, and shall be effective upon the date the Property (as hereinafter defined) is taken into trust by the United States of America for the benefit of the TEJON INDIAN TRIBE, a federally-recognized Indian tribe, hereinafter referred to as "Water User," (the "Effective Date"). This Agreement is further entered into in pursuance of powers granted by the Water Storage District Law, Division 14 of the California Water Code, between ARVIN-EDISON WATER STORAGE DISTRICT, hereinafter referred to as "District", a California water storage district organized under the California Water Storage District Law, and Water User. District and Water User shall sometimes be referred to herein collectively as the "Parties" and individually as a "Party."

WITNESSETH, that:

### **EXPLANATORY RECITALS**

WHEREAS, District has constructed and operates the Arvin-Edison Water Storage District Distribution System and related facilities to deliver water from the Federal Central Valley Project and other sources to landowners within the District; and

WHEREAS, District's manner and methods of water delivery are governed by the District's enabling statute, the California Water District Law (California Water Code § 34000 *et seq.*), the District's Rules and Regulations for Distribution of Water (as may be amended from time to time, the "Rules"), Contract No. 14-06-200-229AD with the United State Bureau of Reclamation for Project Water Service from the Friant Division of the CVP and for Facilities Repayment (the "Repayment Contract"), the District's standard form of Agreement for Agricultural Water Service, the Sustainable Groundwater Management Act (California Water Code § 10720 *et seq.*) ("SGMA"), and the Groundwater Sustainability Plan for the District (as may be amended from time to time, the "GSP") and other laws and regulations applicable to the District's water storage project; and

WHEREAS, Water User intends to develop and operate a resort hotel and casino project on land to be held in trust for Water User by the federal government, referred to in the Bureau of Indian Affairs draft Environmental Impact Statement for the resort hotel and casino as the "Trust Acquisition and Casino Project" (the "Project") in addition to tribal governmental and community facilities, continued agricultural needs, and other improvements resulting in urban water demands to be determined by Water User at a later date (the "Additional Uses"); and

WHEREAS the land on which Water User plans to construct the Project and Additional Uses (the "Property") consists of approximately 306 acres, is situated entirely within the boundaries of the District and what the Rules define as the District's "Surface Water Service Area" (the "SWSA"), and is subject to that certain Contract for Agricultural Water Service recorded in the Official Records of Kern County as Document No. 0201051529 (the "CAWS"); and

WHEREAS, the Project will rely solely on groundwater rather than surface water made available to the Property under the CAWS; and

WHEREAS, the CAWS is limited to delivery of water for agricultural use only, and the District is prepared to enter into a separate agreement of limited duration with Water User consistent with Section 2(i) of the CAWS as necessary and appropriate to accommodate the Additional Uses to the extent such Additional Uses constitute use for municipal, industrial and domestic purposes; and

WHEREAS, the Parties intend that the development and operation of the Property must maintain a "neutral to positive" water balance as detailed below; and

WHEREAS, Water User desires to assign some or all of its rights to use surface water under the CAWS to other landowners within the District, in exchange for Water User's ability to extract groundwater for the non-agricultural demands for the Property, which exchange will assist in the maintenance of "neutral to positive" groundwater levels in the vicinity of the Property; and

WHEREAS, Water User and the District desire to establish the terms and conditions under which Water User will operate the Property in a manner that is consistent with the District's efforts to effectively and responsibly manage the District's water resources, finances, and facilities.

**NOW, THEREFORE**, in consideration of the mutual promises and covenants and for other good and valuable consideration as set forth herein, the receipt and sufficiency of which are expressly acknowledged, the Parties agree as follows:

1. ADMINISTRATION OF WATER SUPPLIES AVAILABLE UNDER THE CONTRACT FOR AGRICULTURAL WATER SERVICE

(a) The Parties shall coordinate on assignments from time to time of the surface water available to Water User under the CAWS to other landowners within the District that are eligible to receive surface water service from the District. Eligibility will be based on such factors as the District deems relevant in its sole discretion, including without limitation, whether the land to which the water to be transferred is reliant solely on groundwater, and whether the proximity of such land to the Property will further the purpose of this Agreement (i) to effectively and responsibly manage the District's water resources, and (ii) to assist Water User in maintaining the "neutral to positive" groundwater levels in the vicinity of the Property. The Parties acknowledge that, after the Effective Date, the Project will require an initial assignment of approximately 80 acres of Water User's right, title and interest under the CAWS (the "Initial Assignment"). Future assignment(s) of remaining supplies under the CAWS will occur as necessary to accommodate the development of the Property to non-agricultural Additional Uses (the "Future Assignments").

(b) Simultaneously with the transfer of the Property from current owner to the United States of America, the Parties shall enter into an amendment to the CAWS to provide for the elimination of the lien provisions contained therein, to reference this Agreement, and to address other items as necessary to be consistent with this Agreement.

(c) As to the Initial Assignment, Water User shall, in consultation and cooperation with the District and at Water User's sole cost, construct any new pipelines or extensions of existing pipelines and related facilities and grant permanent easements, subject to the approval of the Bureau of Indian Affairs, as are necessary to convey surface water to the lands receiving the transferred water supplies. In no event shall Water User's obligations hereunder involve the construction of new or extended pipeline that exceeds 3,500 linear feet of pipe, and said pipe will not be required to exceed 24 inches of outside diameter.

(d) The Parties shall cooperate in good faith on Future Assignments regarding construction of any new pipelines or extensions thereof, including without limitation facilities and permanent easements related thereto. Water User will not be obligated to make a financial contribution to pipelines associated with Future Assignments.

(e) If Future Assignments do not occur due to conditions outside of District or Water User control, the Parties shall meet and confer to discuss and resolve any potential negative impacts to groundwater levels that might result.

(f) The District confirms that satisfaction of the terms and conditions of this Section 1 shall be deemed to fulfill the requirements under Section III.1.b of the Rules concerning exclusion of lands from the SWSA.

## 2. USE OF GROUNDWATER AND/OR SURFACE WATER

(a) Project and Additional Uses shall be administered in a manner consistent with the terms and conditions of this Agreement. Water User intends to use groundwater produced from the Basin as defined in the Bulletin 118 (Subbasin Number 5-022.14) and which is underlying the District for the construction and operation of the Property as an alternative to the use of surface water provided under the CAWS. Water User shall use no more than 734 acre-feet per year (2.4 acre-feet per acre) of groundwater and/or surface water on the Property. The Parties acknowledge that the restricted water use of 734 acre-feet per year (2.4 acre-feet per acre) is appropriate to assist in maintaining the “neutral to positive” water level objective for the Property based on the historical use of surface water on the Property, as adjusted pursuant to SGMA and the District’s GSP.

(b) Water User agrees the maximum threshold of 734 acre-feet per year (2.4 acre-feet per acre) of water is inclusive of any and all water rights including but not limited to federal or state reserved rights.

(c) Groundwater produced pursuant to this Agreement shall be used only on the Property and only for the Project and the Additional Uses.

(d) To measure Water User’s extraction of groundwater and confirm the Water User’s compliance with Section 2(a) above, Water User shall install metering devices on all extraction wells constructed and operated for production of groundwater on the Property. District shall continue to measure Water User’s use of surface water through its metered turnout facility. No later than March 31 of each year, Water User shall provide the District with a report of the production of groundwater from each well on the Property for the immediately preceding period of March 1 through the last day of February. Water User may not carry over to any following period any unused portion of the water (groundwater or surface water).

(e) Water User intends to install a water treatment facility for the Project and Additional Uses needs. Provided treated water is produced, used, and treated on the Property and metered into a groundwater recharge facility, such recharge shall result in a “credit” for purposes of calculating net groundwater use under this Agreement. The “credit” shall be equal to ninety-five percent (95%) of the meter reading to account for evaporation losses. Delivery of treated water not originating from wells on the Property shall not result in a “credit”.

(f) If Water User’s aggregate net use of groundwater plus any surface water on the Property exceeds 734 acre-feet per year (2.4 acre-feet per acre), then Water User shall, in Water User’s sole and absolute discretion, do one or more of the following to correct for the overage (each, a “Corrective Action”):

- a. Pay the District \$5,000 per acre-foot of water used by Water User on the Property in excess of the 734 acre-feet per year limitation. The amount provided for herein shall be indexed to inflation and shall be adjusted on January 1<sup>st</sup> of each year starting on January 1, 2021, regardless of when the Term commences, using the Consumer Price Index, All Urban Consumers, All Items Index, Western Cities with populations of 50,000 to 330,000 for

December (CPI) of the calendar year immediately preceding the calendar year with respect to which the adjusted amount is being made;

- b. Cause to be imported into the District, at Water User's sole cost, supplemental surface water, other than water available to the District under the Repayment Contract, in a volume equal to 110% of the overage (accounting for District conveyance and distribution system losses) for delivery to the District, which delivery must 1) generally occur in the period immediately following the period when Water User exceeded the limitation, 2) be subject to District approved schedule and 3) be subject to Water User's payment of District's standard turnout delivery charges plus a \$36.09 per acre-foot O&M wheeling charge subject to CPI in 2(f)(a); or
- c. At Water User's sole cost, dedicate a sufficient portion of the Property for recharge purposes and recharge flows in the period immediately following the period when Water User exceeded the limitation supplemental surface water, other than water available to the District under the Repayment Contract in a volume equal to 110% of the overage (accounting for District conveyance and distribution system losses). Such recharge shall occur 1) as soon as reasonably possible following the exceedance, 2) be subject to District approved schedule and 3) be subject to payment of District's standard turnout delivery charges plus a \$36.09 per acre-foot O&M wheeling charge subject to CPI in 2(f)(a);

(g) As examples of these Corrective Actions, for purposes of illustration only, if the total water use on the Property is 800 acre-feet in a period of March 1 through the last day of February, then Water User must do one or a combination of the following:

- a. Pay the District \$330,000 (\$5,000 x 66 acre-feet);
- b. Purchase 73 acre-feet of supplemental water (66 acre-feet plus District conveyance and distribution losses) for importation into the District; or
- c. At Water User's sole cost, dedicate recharge acreage depending on conveyance flowrates, site percolation rates, hydrologic cycles, etc., and recharge water supplies.

(h) Notwithstanding anything in the foregoing to the contrary, if Water User is unable for any reason to accomplish the necessary import or recharge within two (2) years following the period of exceedance, the District shall have the right but not the obligation to impose the remedy provided for in Section 2(f)(a).

(i) Notwithstanding anything in the foregoing to the contrary, Water User can engage in the importation and recharge of new surface water that is of a character described in Sections 2(f)(b) and 2(f)(c) above at any time during the Term, subject to District's schedule, available conveyance capacity and Water User's recharge capacity, as applicable. Any such water not specifically imported as a corrective action under Section 2(f) above will be available to Water User as a credit toward a future overage.

(j) District and Water User shall meet and confer to discuss other mutually agreeable means to reach Corrective Action.

(k) The character and quality of groundwater that is the subject of this Agreement may vary from time to time, and District does not guarantee the character and quality of such groundwater in any respect. Water User shall be responsible for undertaking such measures and developing such facilities as are necessary for making the groundwater usable for purposes of the Project and the Additional Uses.

### 3. PAYMENT OBLIGATIONS

(a) Upon invoicing by District, Water User shall pay to the District the District's annual General Administrative Service Charge and General Project Service Charge (together, the "Charges") in such amounts as the District may establish from time to time for all landowners in the District. For reference such Charges for 2020 are \$114.57 per acre. The Charges provided for herein are authorized by Sections 43006 and 47180 of the California Water Code and are intended to be provisionally in lieu of assessments authorized under said Code.

(b) Payment of the foregoing Charges shall be made at such manner as provided in the Rules, as they may be amended from time to time.

(c) Water User shall comply with (1) any future increases to Charges in accordance with the procedures required by Proposition 218, and (2) any assessment or fees arising from implementation of SGMA or the District's GSP, both in the same manner as will be applicable to all other lands in the District.

(d) In lieu of a lien on the Property, Water User shall prepay to District for the total estimated surface water charges payable under the CAWS in advance by the 1<sup>st</sup> day of each water year (March 1) during each year of the Term. For reference such total water charges for the Property in 2020 were \$169.00 per acre foot.

(e) In the event prepayment is exhausted prior to the year ending, Water User will not have access to surface water until an additional prepayment is made. In the event the actual amount of total surface water used by Water User in any year is less than the amount paid in advance by the Water User for such year, the District shall refund such overpayment within forty-five (45) days following the end of such year.

(f) Nothing contained herein shall limit the power of District to levy assessments from time to time, in accordance with benefits as provided by law and to collect such amounts as may be found necessary by District to meet its financial requirements.

(g) Water User's payment obligations set forth in this Section 3 shall be in addition to, and not exclusive of, Water User's payment obligations set forth in Section 2 above.

### 4. TERM OF AGREEMENT

This Agreement shall be effective on the Effective Date, and shall thereafter be effective for a (50) fifty-year term ("Term"). This Agreement shall be renewed on terms and conditions mutually agreeable to the Parties.

### 5. FACILITIES

(a) Water User shall comply with and recognize all existing District easements and rights-of-way within or near the boundaries of the Property.

(b) If necessary or required to do so due to the final Project and Additional Uses road alignments and paving, Water User may, upon approval from the District and at Water User's sole cost, relocate District turnouts, pipelines, valves, air vents or other above-ground appurtenances to avoid District operations and maintenance concerns.

(c) Water User plans to construct new groundwater extraction wells for domestic, municipal and other uses. To support the District's efforts to maintain consistency and compliance with SGMA and the District's GSP, Water User will assist the District in good faith regarding such compliance including cooperating in the monitoring, testing, and reporting of groundwater levels and groundwater quality.

## 6. LIMITED WAIVER OF WATER USER'S SOVEREIGN IMMUNITY

(a) As a federally recognized Indian tribe, Water User possesses sovereign immunity from unconsented suit and other legal proceedings. Water User hereby irrevocably waives its sovereign immunity and all defenses based thereon, with respect only to claims brought by the District, and no other person or entity, against Water User for the limited purpose of enforcing the terms of this Agreement. Water User also consents to the jurisdiction and venue of the court identified in Section 7(j) of this Agreement and the courts having appellate jurisdiction thereof.

(b) Water User's Executive Committee has received a resolution from Water User's General Council that authorizes (i) Water User to waive Water User's sovereign immunity as set forth in this Agreement, and (ii) Water User's Chairman to execute this Agreement on behalf of Water User, and such resolution is attached to this Agreement.

## 7. GENERAL PROVISIONS

(a) Each Party shall defend, indemnify and hold harmless the other Party from and against any and all third-party claims arising from or in connection with any act or omission of the indemnifying Party related to the indemnifying Party's exercise of its rights or obligations under this Agreement.

(b) Any waiver or claim of waiver at any time by either Party of its rights with respect to a default, or any other matter arising in connection with this Agreement, shall not be deemed to be a waiver with respect to any subsequent default or matter.

(c) This Agreement represents the entire agreement of the Parties with respect to the subject matter hereof. All understandings and agreements heretofore had between the Parties respecting this transaction, including without limitation, any offers, counteroffers or letters of intent, are merged in this Agreement, which fully and completely expresses the agreement of the Parties. There are no representations, warranties, covenants or agreements except as specifically and expressly set forth herein and in the exhibits annexed hereto.

(d) When a reference is made in this Agreement to sections, or exhibits, such reference shall be to a section of or exhibit to this Agreement unless otherwise indicated. The headings contained in this Agreement are for reference purposes only and shall not affect in any way the meaning or interpretation of this Agreement. Whenever the words "include," "includes," and "including" are used in this Agreement, they shall be deemed to be followed by the words "without limitation." No provision of this Agreement shall be construed to require any person to take any action that would violate any applicable law, rule, or regulation.



(e) Neither this Agreement nor any of the rights, interests, or obligations set forth herein may be assigned by either Party without the prior written consent of the other Party. Subject to the preceding sentence, this Agreement will be binding upon, inure to the benefit of, and be enforceable by the Parties and their respective successors and assigns. This Agreement (including the documents and instruments referred to herein) is not intended to confer upon any person other than the Parties any rights or remedies hereunder.

(f) No change in or addition to this Agreement or any part hereof shall be valid unless in writing and signed by both Parties.

(g) All notices and other communications required under this Agreement shall be in writing and shall be deemed to have been duly given (a) on the date of service if served personally on the person to whom notice is to be given, (b) on the next business day after deposit with a recognized overnight delivery service, or (c) on the third day after mailing, if mailed to the party to whom notice is to be given by first class mail, registered or certified, postage-prepaid, and properly addressed as follows:

To District:                    Arvin-Edison Water Storage District  
    Attn: Engineer-Manager  
    Post Office Box 175  
    20401 East Bear Mountain Boulevard  
    Arvin, California 93203-0175

To Water User:                Tejon Indian Tribe  
    Attn: Chairperson  
    4941 David Road  
    Bakersfield, CA 93307

or at such other address as any Party may, by like notice, designate to the other Party in writing.

(h) Any term or provision of this Agreement that is invalid or unenforceable in any jurisdiction shall, as to that jurisdiction, be ineffective to the extent of such invalidity or unenforceability without rendering invalid or unenforceable the remaining terms and provisions of this Agreement or affecting the validity or enforceability of any of the terms or provision of this Agreement in any other jurisdiction. If any provision of this Agreement is so broad as to be unenforceable, the provision shall be interpreted to be only so broad as is enforceable.

(i) Notwithstanding any choice of law rule to the contrary, this Agreement shall be governed and construed under and in accordance with the laws of the State of California.

(j) The venue for any action or proceeding filed by either Party to enforce the terms of this Agreement shall be in the Superior Court of the State of California in and for the County of Kern.

(k) The District and Water User shall each take further action, and execute and deliver whatever additional documents may be reasonably required, to effectuate the provisions of this Agreement.

(l) Where the terms of this Agreement provide for action to be based upon the opinion or determination of either party to this Agreement, whether or not stated to be conclusive, said

terms shall not be construed as permitting such action to be predicated upon arbitrary, capricious or unreasonable opinions or determinations.

(m) The Parties do not intend this Agreement or any of its terms or conditions to run with the land, create a lien against or encumbrance upon the Property, or otherwise create any property interests in the Property.

DISTRICT

ARVIN-EDISON WATER STORAGE DISTRICT



By: \_\_\_\_\_

Name: Edwin A. Camp

Title: District Board President

WATER USER

TEJON INDIAN TRIBE



By: \_\_\_\_\_

Name: Octavio Escobedo III

Title: Tejon Tribe Chairman

# ***APPENDIX X***

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## ***SECTION 7 CONCURRENCE LETTER***



# United States Department of the Interior



In Reply Refer to:  
08ESMF00-2020-  
I-1472

FISH AND WILDLIFE SERVICE  
Sacramento Fish and Wildlife Office  
2800 Cottage Way, Suite W-2605  
Sacramento, California 95825-1846

April 9, 2020

## Memorandum

To: Ms. Amy Dutschke, Regional Director, Pacific Region Regional Office, Bureau of Indian Affairs Sacramento, California, amy.dutschke@bia.gov  
*Leticia Cole*

From: Division Chief, San Joaquin Valley, Sacramento Fish and Wildlife Office, Sacramento, California

Subject: Informal Consultation on the Tejon Fee-to-Trust and Casino Project, Kern County, California

Dear Ms. Dutschke:

This memorandum responds to the U.S. Fish and Wildlife Service's (Service) January 30, 2020, request for concurrence from the Bureau of Indians Affair (BIA) with the determination that the proposed Tejon Indian Tribe (Tribe) Fee-to-Trust Acquisition and Casino Project (Project) may affect, but is not likely to adversely affect (NLAA) the following special-status species: San Joaquin Kit Fox (*Vulpes macrotis mutica*, kit fox), blunt-nosed leopard lizard (*Gambelia sila*, lizard), and Tipton kangaroo rat (*dipodomys nitratooides nitratooides*, rat).

The proposed Project includes the construction of an approximately 715,800-square foot (sf) casino resort, recreational vehicle (RV) park, fire and sheriff station, and associated facilities on approximately 110 acres of the Mettler Site. The proposed Project involves the removal of ongoing agricultural activities on the site, the filling of the agricultural ponds, grading and paving of the site, and improvements to surrounding roadways.

The BIA has requested initiation of informal consultation under the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 et seq.) (Act). Our response is based on the following information: (1) an initial request for informal consultation letter dated January 29, 2020, (2) a Biological Assessment (BA) dated October, 2019, and (3) other information available to the Service.

### **Project Description**

The proposed Project is located immediately west of the unincorporated town of Mettler and approximately 14 miles south of the incorporated City of Bakersfield (City), within the southwestern portion of unincorporated Kern County, California. The project site is located west of Highway 99, north of Highway 166, east of Interstate 5, south of Valpredo Road, and is bounded on the south by Wildflower Street. The project site occurs within Section 2, Township 11 North, Range 20 West, San

Bernardino Baseline and Meridian, of the “Mettler, CA” U.S. Geological Survey (USGS) 7.5-minute topographic quadrangle.

The gaming component of the resort would consist of electronic gaming devices and table games within an approximately 166,500-sf gaming floor area. The hotel tower would be approximately 11 stories, or 134-feet high, and contain 400 hotel rooms. Proposed restaurant facilities include a buffet, café, food court, and other specialty restaurants and bars. The Proposed Project also includes the construction of an approximately 38,000-sf multi-purpose event center and an approximately 53,000-sf convention space. The approximately 10,000sf fire/sheriff station would be staffed and operated by Kern County in accordance with an anticipated Memorandum of Understanding (MOU) between the Tribe and County.

The majority of the project site is composed of agriculture fields. Ruderal and developed areas, including unpaved roadways and parking areas, disturbed soils, and residential and farming-related structures, are located in the northwest corner and southeast portion of the project site. Three manmade agricultural ponds and connected drainage ditches are located in the northwest corner of the site.

The areas classified as agriculture within the project site include all areas actively being cultivated for agricultural production. The site has been laser-leveled to facilitate agricultural uses. This accounts for the majority of the project site. No cultivation plant species were growing at the time of the biological surveys.

The areas classified as ruderal/developed habitat within the project site include unpaved dirt roadways and electrical power line access roads, parking areas throughout the site, farming-related structures, landscaped areas, and otherwise disturbed areas. This area contains at least one residential dwelling, storage tanks, and associated outbuildings in the southeastern corner of the Mettler Site. Both the agricultural and ruderal/developed areas represent poor-quality habitat to plants and wildlife.

Aquatic habitats onsite are limited to three manmade agricultural stock ponds, which catch agricultural runoff waters and are located within the northwest corner of the project site. These ponds are ephemeral and do not support any wetland vegetation and are unlikely to significantly support wildlife. The area surrounding these ponds is heavily disturbed due to ongoing agricultural activities on site.

Biological surveys were conducted throughout the project site on August 7, 2013, January 6 and 7, 2014, and October 4, 2018. Habitat types were classified and evaluated for the potential to support special status plant and animal species. Habitat classification utilized methodology in *A Manual of California Vegetation* (MCV; Sawyer et al., 2009), *Preliminary Descriptions of the Terrestrial Communities of California* (Holland, 1986), and *A Guide to Wildlife Habitats of California* (Mayer and Laudenslayer, Jr. 1988). Habitats were further modified based on survey findings. Plant and wildlife species were identified to the lowest possible taxonomic level. Tracks, scat, and other signs of wildlife were noted. Plant species identification, nomenclature, and taxonomy followed *The Jepson Manual: Higher Plants of California* (Hickman, 1993). Wildlife identification, nomenclature, and taxonomy followed standard reference texts including: *Sibley Field Guide to Birds of Western North America* (Sibley, 2003), *Field Guide to Western Reptiles and Amphibians* (Stebbins, 2003), *Mammals of North America* (Reid, 2006), and *Mammals of California* (Jameson and Peeters, 2004).

The blunt-nosed leopard lizard has the potential to occur in the agricultural field's onsite. However, it has not been observed onsite during previous surveys, and due to the absence of vegetation, ongoing agricultural activities onsite, and the laser-leveling and frequent disturbance of soils, it is unlikely that the blunt-nosed leopard lizard occurs on the project site. There are no known occurrences of this species within a five-mile radius of the site within the last fifty years. The Proposed Project has the potential to indirectly impact the blunt-nosed leopard lizard through the development of the site and removal of potential habitat, or directly through mortality.

The Tipton kangaroo rat has the potential to occur in the flat, open agricultural fields on-site; however, due to the ongoing agricultural activities, the laser-leveling and frequent disturbance of soils, and the potential for flooding on-site, it is unlikely that the Tipton kangaroo rat occurs on the project site. There have been no occurrences of Tipton kangaroo rat within five miles of the project site in over forty years. If found on site, the Proposed Project has the potential to indirectly impact the Tipton kangaroo rat through the development of the site and removal of potential habitat, or directly through mortality.

The San Joaquin kit fox has the potential to occur in the agricultural fields on the project site due to the suitability of the site for supporting small mammals the kit fox relies on for prey. However, the site does not provide suitable habitat for subsurface dens due to the ongoing agricultural activities, the laser-leveling and frequent disturbance of soils, and the potential for flooding on-site. No San Joaquin kit foxes or dens have been observed on the project site. According to CNDDDB, the nearest recorded occurrences of the San Joaquin kit fox in relation to the project were in July, 1975, approximately 5 miles northwest, 3 miles west, and 5 miles southwest of the project site. The Proposed Project has the potential to indirectly impact the San Joaquin kit fox through the development of the site and potential foraging habitat, and directly through mortality.

### **Conservation Measures**

To ensure that potential impacts to federally listed species are minimized or avoided, the following mitigation measures have been proposed:

- 1) Potential dens shall be visibly marked by a qualified biologist into an exclusion zone with a 100 foot buffer. No staging of materials or equipment, construction personnel, or other construction activity shall occur within the setback areas. The avoidance buffer shall be maintained until either the completion of construction, or the proper destruction of the den as described below. The provisions of the *Standardized Recommendations for Protection of the San Joaquin Kit Fox Prior to or During Ground Disturbance* published by the Service shall apply for survey protocol and buffer zones.
- 2) A qualified biologist shall conduct a preconstruction survey to assess potential presence of kit fox two calendar weeks to thirty calendar days prior to commencement of ground disturbance for projects located within the Southwest Zone or Southwest/Central Transition Zone. A report summarizing the findings of the survey shall be sent to the Service within five days of completion of any pre-construction surveys. If the construction activities stop on the site for a period of 5 days or more, then an additional pre-construction survey shall be conducted no more than 48 hours prior to the start of construction. If no kit fox or potential dens are found during the preconstruction survey, no further action is required regarding this species.

- 3) If any potential dens are identified on the project site during the preconstruction survey or during construction activities (potential dens are defined as burrows at least four inches in diameter which open up within two feet), the Service shall be notified immediately and no construction activity shall occur within 100 feet of the potential den. An exclusionary zone shall be implemented as described above.
- 4) Potential den entrances shall be monitored with trail cameras for 3 consecutive days, or dusted for 3 consecutive days to register track of any San Joaquin kit fox present. If no kit fox activity is identified, potential dens may be destroyed by careful excavation followed by immediate filling and compacting of the soil. If San Joaquin kit fox activity is identified, a buffer zone of 250 feet shall be maintained around the den until the biologist determines that the den has been vacated. The den will be considered vacant when 3 days of den entrance dusting or trail camera monitoring results in no kit fox sign, at which point only a 100-foot buffer becomes necessary. Should destruction of such a vacated natal den be necessary, the Service shall be contacted for guidance and to initiate formal consultation if necessary. Where San Joaquin kit fox are identified, the provisions of the Service's published *Standardized Recommendations for Protection of the San Joaquin Kit Fox Prior to or During Ground Disturbance* shall apply for den destruction and on-going operational recommendations.
- 5) A qualified biologist shall conduct habitat sensitivity training related to kit fox for project contractors and shall monitor construction during initial grading activities within the project site. Under this program, workers shall be informed about the presence of kit fox and habitat associated with the species and that unlawful take of the animal or destruction of its habitat is not permitted. Prior to construction activities, a qualified biologist shall instruct and distribute informational materials to construction personnel about: (1) the life history of the San Joaquin kit fox; (2) the importance of habitat requirements for kit fox; (3) sensitive areas including those identified on site, and (4) the importance of maintaining the required setbacks and detailing the limits of the construction area. Documentation of this training shall be maintained on site. The standards of the Services' publication include provisions for educating construction workers regarding the kit fox, keeping heavy equipment operating at safe speeds, checking construction pipes for kit fox occupation during construction and similar activities.
- 6) A pre-construction survey for Blunt-nosed leopard lizards shall be performed by a qualified biologist within 30 days prior to construction activities to establish the presence of species on this site. The survey shall occur during the months of April through October to avoid surveying during peak hibernation months when lizards are inactive. Should lizards be observed, the Service shall be contacted to determine appropriate removal or avoidance measures. The survey methods shall be consistent with the California Department of Fish and Wildlife (CDFW)'s *Approved Survey Methodology for the Blunt-nosed Leopard Lizard*.
- 7) Prior to construction activities, a qualified biologist shall instruct and distribute informational materials to construction personnel about blunt-nosed leopard lizards including life history information, habitat requirements, and appropriate response to potential observations. The qualified biologist shall monitor construction during initial grading activities. Documentation of this training shall be maintained on site.

- 8) Should blunt-nosed leopard lizards or other listed federal species be detected within the construction footprint at any point during construction or monitoring, grading activities shall halt, and the Service shall be consulted. No grading activities shall commence until the Service authorizes the re-initiation of grading activities.
- 9) A preconstruction survey for kangaroo rat presence shall be conducted between two weeks and 30 calendar days before the start of ground-disturbing activities. A qualified biologist shall survey for kangaroo rat sign such as scat, burrows, tail drag marks, and tracks. Should a confirmed observation of a kangaroo rat occur, the Service shall be contacted to determine if relocation procedures are necessary. Presence of Tipton kangaroo rat shall be assumed if positive sign for any kangaroo rat is observed due to the difficulty of species-level identification without live trapping. The *2013 Survey Protocol for Determining Presence of San Joaquin Kangaroo Rats*, developed by the Service will be referenced.
- 10) Should an active burrow be observed on site, a 50-foot buffer shall be marked around the burrow entrance by the qualified biologist with high-visibility fencing. Should the active burrow be within the project footprint, the Service shall be contacted for guidance to determine the appropriate avoidance measures or reinitiate formal consultation.
- 11) Prior to construction activities, a qualified biologist shall instruct and distribute informational materials to construction personnel about Tipton kangaroo rat including life history information, habitat requirements, and appropriate response to potential observations. The qualified biologist shall monitor construction during initial grading activities. Documentation of this training shall be maintained on site.

## Conclusion

The Service concurs with your determination that the project may affect, but is not likely to adversely affect federally San Joaquin kit fox, blunt-nosed leopard lizard, and Tipton kangaroo rat. Our concurrence with NLAA for this Project is based on the lack of suitable habitat within the action area and the commitment of the applicant to adhere to avoidance measures as outlined above. This concludes the Service's review of the proposed project. No further coordination with the Service under the Act is necessary at this time. Please note, however, this letter does not authorize take of listed species. As provided in 50 CFR §402.14, initiation of formal consultation is required where there is discretionary Federal involvement or control over the action (or is authorized by law) and if: 1) new information reveals the effects of the agency action that may affect listed species or critical habitat in a manner or to an extent not considered in this review; 2) the agency action is subsequently modified in a manner that causes an effect to the listed species or critical habitat that was not considered in this review; or 3) a new species is listed or critical habitat designated that may be affected by the action.



If you have questions regarding this action, please contact Matthew Nelson, Fish and Wildlife Biologist, at ([matthew\\_nelson@fws.gov](mailto:matthew_nelson@fws.gov)) or Patricia Cole ([patricia\\_cole@fws.gov](mailto:patricia_cole@fws.gov)) at the letterhead address.

ec:

Chad Broussard, Bureau of Indian Affairs, Sacramento, CA

Craig Bailey, California Department of Fish and Wildlife, Fresno, CA

# ***APPENDIX Y***

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***STATE HISTORIC PRESERVATION OFFICER CONCURRENCE  
LETTER***



**DEPARTMENT OF PARKS AND RECREATION  
OFFICE OF HISTORIC PRESERVATION**

Lisa Ann L. Mangat, Director

Julianne Polanco, State Historic Preservation Officer

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July 17, 2020

Reply In Reference To: BIA\_2019\_0926\_001

**VIA ELECTRONIC MAIL**

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

RE: Section 106 consultation for the Fee to Trust and Casino Project for Tejon Indian Tribe, Kern County

*This letter is being sent in electronic format only. Please confirm receipt of this letter. If you would like a hard copy mailed to you, respond to this email to request a hard copy be mailed.*

Dear Ms. Dutschke:

The State Historic Preservation Officer (SHPO) received the Bureau of Indian Affairs (BIA) 5 February 2020 letter continuing consultation on the above referenced undertaking pursuant to 36 CFR Part 800 (as amended 8-05-04) regulations implementing Section 106 of the National Historic Preservation Act (NHPA). BIA requests SHPO agreement on a finding of "No historic properties affected."

BIA initiated consultation on the proposed undertaking in letter of 24 September 2019. The SHPO responded in a letter of 9 November 2019 in which no objections were issued on the agency's determination of the Area of Potential Effects (APE). However, BIA's "Level of effort" identifying (and evaluating historic properties) was found not fully completed pursuant to 36 CFR Part 800.4(a)(1) and a request was made of the agency to apply the "Criteria for evaluation" found at 36 CFR Part 60.4 to three buildings that had been documented in the APE and to consult with all 13 contacts that had been identified by the Native American Heritage Commission (NAHC). The SHPO too requested BIA to submit the results of this work for additional consultation under Section 106.

My following comments are based on a review of submitted materials:

1. In the current submittal, on behalf of BIA the consultants have recorded and evaluated three properties associated with a farm complex on the Mettler site property, a residence, a corrugated metal building, and a shed. The one building and two structures

are approximately 60 years of age. BIA has determined that the properties do not meet National Register Criterion A, B, C, or D because no evidence was located that the properties were associated with significant events or trends (Criterion A), or individuals significant in history (Criterion B). The three properties do not meet Criterion C because the residence, the steel building, and the shed are simple vernacular style buildings with no distinctive characteristics of a type, period, or method of construction. The properties have already been recorded and no apparent information could be recovered through additional investigation (Criterion D).

**I concur** that the three properties do not meet the criteria for the National Register pursuant to 36 CFR Part 60.4.

For future Section 106 submissions please note the following. It is the statutory responsibility of an agency to fulfill the requirements of Section 106, and pursuant to 36 CFR Part 800. 2.(1) to ensure that all actions taken by employees or contractors shall meet the professional standards under the regulations developed by the Secretary.

As such, the identification of historic properties pursuant to 36 CFR Part 800.4 shall be following the Secretary of the Interior's (SOI) Standards and Guidelines, and the evaluation of built-environment properties shall be conducted by professionals meeting the appropriate discipline per the Secretary of the Interior's Professional standards, of either Architectural History or History.

2. In the current submittal, BIA also provided evidence of consultation with the 13 contacts that were identified by the NAHC.
3. Based on the above comments, I have no objections to BIA's "*Level of Effort*" identifying and evaluating historic properties, pursuant to 36 CFR Part 800.4(b)(1).
4. Based on the above comments, I **agree** with the finding of "*No historic properties affected*", pursuant to 36 CFR Part 800.4(d)(1).
5. Be aware that consultation on the potential for inadvertent finds of cultural resources being historic properties should proceed in compliance with 36 CFR Part 800.13 for "*Post Review Discoveries*."

BIA may have additional Section 106 responsibilities for the undertaking under certain conditions such as changes in project scope, description or implementation. Please direct questions to Jeff Brooke, Associate State Archaeologist, at (916) 445-7003 or [Jeff.Brooke@parks.ca.gov](mailto:Jeff.Brooke@parks.ca.gov); or, Michelle Messinger, State Historian III, at (916) 445-7005 or at [Michelle.Messinger@parks.ca.gov](mailto:Michelle.Messinger@parks.ca.gov).

Sincerely,



Julianne Polanco  
State Historic Preservation Officer

# ***APPENDIX Z***

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***FINAL GENERAL CONFORMITY DETERMINATION***

**FINAL GENERAL CONFORMITY DETERMINATION  
FOR THE  
TEJON INDIAN TRIBE TRUST ACQUISITION AND  
CASINO PROJECT**

**September 2020**

**TEJON INDIAN TRIBE ACQUISITION AND  
CASINO PROJECT  
FINAL GENERAL CONFORMITY DETERMINATION**

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## **1.0 INTRODUCTION**

A Final Environmental Impact Statement (EIS) has been prepared pursuant to the National Environmental Policy Act (NEPA) to assess the environmental consequences of the U.S. Bureau of Indian Affairs (BIA) taking land located in Kern County, California into federal trust on behalf of the Tejon Indian Tribe (Tribe) to conduct gaming (Federal Action). The effects of alternatives identified below are analyzed within the EIS.

- Alternative A1 – Casino Resort Alternative (Proposed Project)
- Alternative A2 – Reduced Casino Resort Alternative
- Alternative A3 – Organic Farming Alternative
- Alternative B – Casino Resort on the Maricopa Highway Site
- Alternative C – No Action Alternative

This General Conformity Determination has been prepared for Alternative A1, which proposes the greatest amount of development and thus has the highest potential to effect air quality.

A Draft conformity determination was prepared for the Proposed Project and circulated for public review and comment as an appendix to the Draft EIS in accordance with 40 CFR Part 51. The 45-day public comment period on the Draft EIS and Draft conformity determination began on June 12, 2020 and ended July 27, 2020. The BIA received three comment letters during the comment period regarding the Draft conformity determination. Comment Letter 3 from USEPA, Comment Letter 8 from Sierra Club, and Comment Letter 9 from Stand Up for California can be found in Section 2.0 of Appendix V in the Final EIS. Response to Comments regarding the Draft conformity determination can be found in Section 3.0 of the Appendix V in the Final EIS.

## **2.0 GENERAL CONFORMITY – REGULATORY BACKGROUND**

The United States Environmental Protection Agency (USEPA) promulgated the General Conformity Rule on November 30, 1993, to implement the conformity provision of Title I, Section 176(c)(1) of the federal Clean Air Act (CAA), which requires that the federal government not engage, support or provide financial assistance for licensing or permitting, or approving any activity not conforming to an approved CAA implementation plan for compliance with the National Ambient Air Quality Standards (NAAQS). NAAQS have been developed for carbon monoxide (CO), lead (Pb), coarse and fine particulate matter (PM<sub>10</sub> or PM<sub>2.5</sub>, respectively), sulfur oxides (SO<sub>x</sub>), and nitrogen dioxide (NO<sub>2</sub>), ozone (O<sub>3</sub>) and its precursors, oxides of nitrogen (NO<sub>x</sub>) and reactive organic gasses (ROGs). CAA conformity is an issue that may be addressed during the NEPA process, and USEPA recommends that the conformity process be coupled with NEPA analysis.



## **2.1 GENERAL CONFORMITY PROCESS**

The general conformity process will be addressed in two phases. The first phase is the conformity applicability process, which evaluates whether the conformity regulations apply to the federal action (i.e., whether a determination is warranted). The second phase is the conformity determination process, which demonstrates how a federal action conforms to the applicable State Implementation Plan (SIP).

### ***Phase One***

The purpose of a conformity review is to evaluate whether the general conformity determination requirements apply to a federal action under 40 Code of Federal Regulations (CFR) 93.153. There are four steps in the review process. The first three steps can be performed in any order; the four steps are listed below:

1. Determine whether the proposed action causes emissions of criteria pollutants.
2. Determine whether the emissions of a criteria pollutant or its precursor (i.e., NO<sub>x</sub> and ROG<sub>s</sub> for ozone) would occur in a nonattainment or maintenance area for that pollutant.
3. Determine whether the federal action or activities to be conducted under the federal action are exempt from the conformity requirement per 40 CFR 93.153(c)(2).
4. Estimate the total emissions of the pollutants of concern from the federal action and compare the estimates to the *de minimis* thresholds of 40 CFR 93.153(b)(1) and (2) and to the nonattainment or maintenance area's emissions inventory for each criteria pollutant of concern.

### ***Phase Two***

The purpose of the conformity determination, if needed, is to show if the Proposed Project conforms to the SIP. Conformity can be shown for ozone (precursors: NO<sub>x</sub> and ROG) by meeting one or more of following four requirements:

1. The applicable SIP specifically includes an allowance for emissions of the Proposed Project, 40 CFR 93.158(a)(1).
2. Offset emission credits are purchased for the total direct and indirect emissions, which fully offsets within the same nonattainment or maintenance area (or nearby area of equal or higher classification provided the emissions from that area contribute to the violations or have contributed in the past, in the area of the federal action) so that there is no net increase in emissions, 40 CFR 93.158(a)(2).
3. NO<sub>x</sub> and ROG emissions from the Proposed Project coupled with the current emissions in the nonattainment area would not exceed the emissions budget in the SIP, 40 CFR 93.158(a)(5)(i)(A).
4. The project proponent can request that the SIP be changed by the State Governor or the State Governor's designee to include the emissions budget of the federal action, 40 CFR 93.158(a)(5)(i)(B).

Conformity can be shown for particulate matter 2.5 microns in size (PM<sub>2.5</sub>) by one of following two options:

1. The applicable SIP specifically includes an allowance for emissions of the Proposed Project, 40 CFR 93.158(a)(1).
2. Modeling of directly emitted PM<sub>2.5</sub> shows that the action does not cause or contribute to any new violation of any standard in any area or increase the frequency or severity of any existing violation of any standard in any area, 40 CFR 93.159(a)(4)(i) and (b).

Even if a project is shown to conform to the SIP by one of the above methods, the project may not be determined to conform to the applicable SIP unless the total of the direct and indirect emissions of the federal action is in compliance or consistent with all relevant requirements and milestones contained in the applicable SIP, including but not limited to the use of baseline emissions that reflect the historical activity levels that occurred in the geographic area, reasonable further progress schedules, assumptions specified in the attainment or maintenance demonstration, prohibitions, numerical emission limits, and work practice requirements (40 CFR 93.158[c]).

### **3.0 APPLICABILITY OF PROPOSED PROJECT**

#### **3.1 EMISSIONS**

The Proposed Project's emissions are evaluated in two phases: construction and operation. The two phases would not overlap. Criteria pollutants will be emitted during both phases. The pollutants of concern are PM<sub>2.5</sub>, and the ozone precursors ROG and NO<sub>x</sub>. Construction emissions include ROG and NO<sub>x</sub>, which are generally a product of combustion, in this case from heavy equipment. PM<sub>2.5</sub> is generated during site grading and through diesel exhaust. Operational emissions are mainly emitted from customer and employee vehicles driving to and from the casino/hotel and consist of ROG, NO<sub>x</sub>, and PM<sub>2.5</sub>. Area emissions and stationary sources are typically minor compared to mobile emissions during operations of facilities such as casinos and hotels. The stationary source emissions attributable to the Proposed Project (boilers, emergency generators, etc.) meet the thresholds requiring a Tribal Minor New Source Review (TMNSR) and require corresponding project review by USEPA and may require a minor New Source Review (NSR) permit prior to the commencement of construction. The EIS gives a detailed account of both operational and construction emissions.

As discussed in Section 3.14 of the EIS, it is reasonably foreseeable that the revenue generated by the Proposed Project could result in potential future development on the project site. As such, emissions from construction and operation of the potential future development will be evaluated as indirect emissions from the Proposed Project, in addition to the Proposed Project's direct emissions.

### 3.2 ATTAINMENT/NONATTAINMENT AREA

The Proposed Project would be constructed within the boundaries of San Joaquin Valley Air Basin (SJVAB), which is currently in attainment for PM<sub>10</sub>, CO, NO<sub>2</sub>, and SO<sub>2</sub>. SJVAB is currently designated serious non-attainment for PM<sub>2.5</sub> and extreme nonattainment for 8-hour ozone (ROGs and NO<sub>x</sub>) (SJVAPCD, 2016a).

### 3.3 EXEMPTION

The federal action that is described in **Section 1.0** (Proposed Project) is not exempt for the following reasons: (1) the action results in emission levels of at least one criteria pollutant exceeding the applicable *de minimis* thresholds; (2) the action does not have criteria pollutant emissions that are associated with a conforming program; (3) the action cannot be analyzed under certain other environmental regulation; and/or (4) the action is not in response to an emergency or natural disaster. The stationary source emissions of the Proposed Project would require the Tribe to apply for a TMNSR permit under the NSR program and, therefore, are exempt emissions under exemption 40 CFR 93.153(d)(1). Accordingly, the area, energy use, and mobile emissions from the Proposed Project are not exempt from a conformity determination under 40 CFR 93.153(c)(2) and are thereby considered the total annual emissions that must be compared to the *de minimis* thresholds.

### 3.4 DE MINIMIS THRESHOLDS

Emissions estimates were provided in the EIS for both construction and operation (mobile, area, stationary, and energy) of the Proposed Project. EIS Section 3.4 gives a more in-depth analysis. Because operation and construction would not overlap, their emissions were evaluated separately by using the most up-to-date USEPA and CARB-approved land use based California Emissions Estimator Model, Version 2016.3.2 (CalEEMod) air model. Area and stationary source emissions were estimated using CalEEMod. Construction emissions were below the 10 tons per year (tpy) *de minimis* threshold for ozone precursors ROG and NO<sub>x</sub> and the 70 tpy *de minimis* threshold for P.M<sub>2.5</sub>. Accordingly, no conformity determination is required for construction emissions. **Table 1** presents the total direct emissions for pollutants of concern during operation.

**TABLE 1**  
OPERATIONAL EMISSIONS OF SIGNIFICANT CRITERIA POLLUTANTS<sup>1</sup>

Sources	ROG	NO <sub>x</sub>	PM <sub>2.5</sub>
	Tons per Year <sup>1</sup>		
Direct Operational Emissions			
Energy	3.32	30.17	2.29
Area	7.24	0.0004	0.0002
Mobile	7.92	81.66	14.58
Waste <sup>2</sup>	0.00	0.00	0.00
Water <sup>2</sup>	0.00	0.00	0.00
<i>Subtotal Direct Emissions</i>	<i>18.48</i>	<i>111.83</i>	<i>16.87</i>
Indirect Operational Emissions			

Sources	ROG	NO <sub>x</sub>	PM <sub>2.5</sub>
	Tons per Year <sup>1</sup>		
Energy	0.24	2.16	0.17
Area	9.12	0.007	0.004
Mobile	0.67	9.25	1.04
Waste <sup>2</sup>	0.00	0.00	0.00
Water <sup>2</sup>	0.00	0.00	0.00
<i>Subtotal Indirect Emissions</i>	<i>10.03</i>	<i>11.42</i>	<i>1.21</i>
<b>Total Emissions</b>	<b>28.51</b>	<b>123.25</b>	<b>18.11</b>
Applicable Conformity Threshold	10	10	70
<i>Exceedance of Threshold</i>	<b>Yes</b>	<b>Yes</b>	No
Notes: 1 - NO <sub>x</sub> , ROGs, and PM <sub>2.5</sub> emissions values were estimated using CalEEMod.2016.3.2. 2 - Emissions are negligible and round to zero. Source: AES, 2020.			

Direct operational emissions for both NO<sub>x</sub> and ROG would exceed the 10 tpy *de minimis* threshold. Additionally, as discussed in Section 3.14 of the DEIS, the Proposed Project could induce growth within the project site as a result of potential future development. **Table 1** also presents the total indirect emissions for pollutants of concern that could occur during operation of potential future growth within the project site. Indirect operational emissions of ROG and NO<sub>x</sub> would exceed the 10 tpy *de minimis* threshold. Therefore, a conformity determination is required for ozone. This requirement is due to the Proposed Project being located in a nonattainment area for ozone and the total NO<sub>x</sub> and ROG emissions being greater than the *de minimis* levels shown in **Table 1**.

## 4.0 CONFORMITY DETERMINATION: OZONE PRECURSORS NO<sub>x</sub> AND ROG

### 4.1 ANALYSIS

Air modeling analysis was performed for the EIS and the general conformity determination concurrently. The results of this analysis can be found in the Final EIS Section 3.4 and Appendix M. As stated above, a general conformity determination is required for ozone precursors NO<sub>x</sub> and ROG. Conformity for NO<sub>x</sub> and ROG can be shown by complying with the criteria detailed in **Section 2.0**, under phase two.

#### *Analysis – Ozone Precursors NO<sub>x</sub> and ROG*

On April 15, 2004, the USEPA designated and classified the SJVAB as serious nonattainment for the federal 1997 8-hour ozone standard. This designation and classification was promulgated on June 15, 2004. The USEPA had allowed San Joaquin Valley Air Pollution Control District (SJVAPCD) until June 15, 2013 to achieve a designation and classification of transitional attainment for the 1997 8-hour ozone standard. The SJVAPCD submitted the original 8-hour ozone plan to the USEPA on June 15, 2007.

The original 8-hour plan would not enable SJVAB to achieve attainment by June 2013; therefore, on April 30, 2007 the SJVAPCD board approved an 8-hour ozone plan that would extend the attainment date from June 15, 2013 to June 15, 2024. In accordance with the April 30, 2007 plan the SJVAB must reduce NOx by 75 percent. On May 5, 2010 the USEPA reclassified the SJVAB as extreme nonattainment for the federal 1997 8-hour ozone standard. This designation and classification became effective on June 4, 2010. Due to the reclassification of the SJVAB to extreme nonattainment the applicable conformity thresholds for NOx and ROG were lowered from 50 tpy of ozone precursors (NOx and ROG) to 10 tpy.

On May 21, 2012, EPA designated the SJVAB as an extreme nonattainment area for the federal 2008 8-hour ozone standard, effective July 20, 2012. The deadline for the SJVAB to attain the 2008 8-hour ozone standard is December 31, 2031 (SJVAPCD, 2016b). This designation did not affect the conformity thresholds. A conformity determination is required for this project due to the Proposed Project emissions exceeding the current conformity thresholds of 10 tpy of NOx and ROG. A conformity determination is required for NOx and ROG because project related emissions exceed the *de minimis* levels within the SJVAB.

#### *SIP Allowance for Project Emissions*

Emission control measures and regulations that have been included in the 2016 SIP do not include the estimated emissions of Alternative A1; therefore conformity cannot be determined though inclusion of the project's emissions in the most recent applicable SIP.

#### *Offsets*

Conformity can be achieved by fully offsetting the Proposed Project's mitigated operational emissions through the acquisition of emission reduction credits (ERCs) for ozone precursors NOx and ROG, which shall be real, surplus, permanent, quantifiable, enforceable, and must be obtained and used in accordance with the federally approved SIP for SJVAB, or an equally enforceable measure. The Proposed Project does not include the purchase of offset credits for NOx or ROG in the EIS project description, but this purchase of offset credits is included as mitigation in Section 4.0 of the EIS.

As stated above, ERCs fully offset project emissions and must be purchased within the same nonattainment or maintenance area (or nearby area of equal or higher classification provided the emissions from that area contribute to the violations or have contributed in the past, in the area of the federal action) so that there is no net increase in emissions. Therefore ERCs can be purchased from the SJVAB or adjacent air basin that meets the above criteria such as the Sacramento Valley Air Basin.

#### *Emission Budget*

The NOx and ROG emissions of the Proposed Project coupled with the most recent SJVAB emissions inventory (2013) exceeds the applicable ozone SIP's emission budget.

*Addendum to SIP*

The Proposed Project does not anticipate that the Governor or State Governor designee will approve an addendum to applicable provisions of the SIP, which would include the Proposed Project’s estimated NOx and ROG emissions. Therefore conformity will not be determined using this option.

**4.2 MITIGATION**

Mitigation measures for the Proposed Project emissions of NOx and ROG are outlined in Section 4.0 of the Final EIS. To reduce impacts under NEPA the BIA shall demonstrate conformity for the Proposed Project through the purchase of ERCs or by entering into a Voluntary Emissions Reduction Agreement (VERA) with the SJVAPCD. This ensures compliance with the applicable conformity regulatory requirements. Real, surplus, permanent, quantifiable, and enforceable ERCs will be purchased or a VERA entered into prior to potential impacts. The Tribe will provide the BIA and thereby the USEPA and other agencies with documentation necessary to support the emission reductions through offset purchase or a VERA, such as certification of ERC purchase or a binding agreement requiring ERC purchase prior to operation or SJVAPCD approved VERA agreement.

Prior to operation of the Proposed Project, the Tribe will purchase **18.48** tons of ROG ERCs and **111.83** tons of NOx ERCs in the SJVAB and/or another adjacent district with an equal or higher nonattainment classification (extreme) meeting the requirements outlined in 40 CFR 93.158(a)(2) or enter into a VERA with the SJVAPCD. Prior to operation of the potential future development associated with the Proposed Project, the Tribe will purchase **10.03** tons of ROG ERCs and **11.42** tons of NOx ERCs in the SJVAB and/or another adjacent district with an equal or higher nonattainment classification or enter into a VERA with the SJVAPCD. The total ERCs required to offset the direct and indirect emissions from operation of the Proposed Project are presented in **Table 2**.

**TABLE 2**  
MITIGATION – EMISSION REDUCTION CREDITS

Sources	ROG	NO <sub>x</sub>
	Tons of ERCs	
Direct <sup>1</sup>	18.48	111.83
Indirect <sup>1</sup>	10.03	11.42
<b>Total</b>	<b>28.51</b>	<b>123.25</b>

Notes: 1) Refer to **Table 1**. Source: AES, 2020.

**5.0 CONCLUSION**

This Final General Conformity Determination will be submitted to all required parties in accordance with 40 CFR 93.155(a) and (b) and made available for public comment in accordance with 40 CFR 93.0156. In compliance with the mitigation measures detailed in the EIS, that the Tribe has committed to purchasing ERCs or entering into a VERA agreement with the SJVAPCD, as described above, to completely offset the operational emissions in accordance with 40 CFR 93.158 of the general conformity

regulations. At the time these credits are purchased or the VERA agreement is approved by the SJVAPCD, the Proposed Project will have met the requirements of conformity and conformed to the applicable SIP.

Through Tribal Resolution No. T2020-117 (see **Attachment 1**), the Tribe has affirmed its commitment to:

1. Reduce ROG emissions by 18.48 tons and NOx emissions by 111.83 tons, either through the purchase of ERCs or entering into a VERA, prior to the start of operation of the Proposed Project, and
2. Reduce ROG emissions by 10.03 tons and NOx emissions by 11.42 tons, either through the purchase of ERCs or entering into a VERA, prior to operation of the potential future development associated with the Proposed Project.

Therefore, the federal action complies with the current SIP, as outlined in Section 4.0 per 40 CFR 93.160.

## 6.0 REFERENCES

SJVAPCD. 2016a. Ambient Air Quality Standards & Valley Attainment Status. Available online at: <http://www.valleyair.org/aqinfo/attainment.htm>. Accessed December 2018.

SJVAPCD. 2016b. 2016 Ozone Plan for 2008 8-Hour Ozone Standard. Available online at: [http://www.valleyair.org/Air\\_Quality\\_Plans/Ozone-Plan-2016/Adopted-Plan.pdf](http://www.valleyair.org/Air_Quality_Plans/Ozone-Plan-2016/Adopted-Plan.pdf). Accessed December 2018.

SJVAPCD. 2016c. 2016 Moderate Area Plan for the 2012 PM2.5 Standard. Available online at: [http://www.valleyair.org/Air\\_Quality\\_Plans/docs/PM25-2016/2016-Plan.pdf](http://www.valleyair.org/Air_Quality_Plans/docs/PM25-2016/2016-Plan.pdf). Accessed December 2018.



# Attachment 1

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**Tribal Resolution No. T2020-117**



## Tejon Indian Tribe Tribal Executive Committee Resolution No. T2020-117

**WHEREAS**, the Tejon Indian Tribe (“Tribe”) is a federally recognized Indian Tribe possessing inherent sovereign authority; and

**WHEREAS**, pursuant to the Tejon Indian Tribe Constitution and Bylaws, as amended April 21, 2013, and as further amended April 21, 2018 (“Constitution”), the Tribal Executive Committee (“Executive Committee”) has the authority and power (i) to engage in any business or other economic transaction that is intended to further economic development of the Tribe; (ii) to represent the Tribe in negotiations with federal, state and local governments; (iii) to manage the property of the Tribe, including tribal lands and all other resources; and (iv) to promote and protect the health, education and general welfare of the members of the Tribe; and

**WHEREAS**, the Tribe has requested that the Secretary of the Interior (the “Secretary”) accept approximately 306 acres of land within an unincorporated area of Kern County into trust for the benefit of the Tribe for gaming and other purposes (the “Project”) pursuant to Tribal Executive Committee Resolution T2020-115; and

**WHEREAS**, the Bureau of Indian Affairs (“BIA”) must comply with the Federal Clean Air Act and the final revised General Conformity Rule, which was issued in April 2010 by the United States Environmental Protection Agency (the “USEPA”) and requires federal agencies to ensure that their actions conform to applicable implementation plans for achieving and maintaining the National Ambient Air Quality Standards for criteria air pollutants; and

**WHEREAS**, the Project will be constructed within the boundaries of the San Joaquin Valley Air Basin (“SJVAB”), which is currently in attainment for PM<sub>10</sub> (fine particulate matter), CO (carbon monoxide), NO<sub>2</sub> (nitrogen dioxide), and SO<sub>2</sub> (sulfur oxides). SJVAB is currently designated serious non-attainment for PM<sub>2.5</sub> and extreme nonattainment for 8-hour ozone (ROGs (reactive organic gasses) and NO<sub>x</sub> (nitrogen oxides)); and

**WHEREAS**, on June 12, 2020, the BIA published in the *Federal Register* a notice of availability of the Draft Environmental Impact Statement (“DEIS”) for the Project that evaluates the environmental impacts of the Project and identifies mitigation measures; and

**WHEREAS**, as part of the DEIS, the BIA also published a Draft General Conformity Determination for the Tejon Indian Tribe Trust Acquisition and Casino Project Fee-to-Trust (the “Draft General Conformity Determination”); and

**WHEREAS**, air modeling performed for the DEIS and the Draft General Conformity Determination indicate that the operation-related emissions (but not the construction-related emissions) of the Project exceed the existing conformity thresholds per year of ROGs and NO<sub>x</sub>; and



**WHEREAS**, air modeling performed for the DEIS and the Draft General Conformity Determination indicate that the operation-related emissions (but not the construction-related emissions) of the Project exceed the existing conformity thresholds per year of ROG and NOx; and

**WHEREAS**, the Draft General Conformity Determination requires the BIA to demonstrate conformity for the Project through one of the following two mitigation mechanisms: (i) the purchase of Emission Reduction Credits (“ERCs”) or (ii) entering into a Voluntary Emission Reduction Agreement (“VERA”) with the San Joaquin Valley Air Pollution Control District (“SJVAPCD”); and

**WHEREAS**, the Draft General Conformity Determination recommends that the Tribe take the following emissions reduction mitigation measures (collectively, the “Emissions Reduction Mitigation Measures”):

1. Reduce ROG emissions by 18.48 tons and NOx emissions by 111.83 tons, either through the purchase of ERCs or by entering into a VERA, prior to the start of operation of the Project, and
2. Reduce ROG emissions by 10.03 tons and NOx emissions by 11.42 tons, either through the purchase of ERCs or by entering into a VERA, prior to operation of the potential future development associated with the Project.

**WHEREAS**, the Emissions Reduction Mitigation Measures and other mitigation measures to be included in the Record of Decision are binding on the Tribe and subject to the regulatory authority of the USEPA and potentially other federal agencies and commissions; and

**WHEREAS**, the Tribal Executive Committee is committed to preserving air quality in the region; and

**WHEREAS**, the Tribal Executive Committee wishes to confirm that the Tribe agrees to implement the Emissions Reduction Mitigation Measures and to provide the USEPA and if required, other agencies with documentation of ERCs and/or VERAs prior to the time periods specified in the Emissions Reduction Mitigation Measures.

**NOW THEREFORE BE IT RESOLVED**, that the Tribe hereby agrees to implement the Emissions Reduction Mitigation Measures in the Final General Conformity Determination prior to the time periods specified in the Emissions Reduction Mitigation Measures.

**NOW BE IT FURTHER RESOLVED**, that the Tribe will provide the USEPA and if required, other agencies with documentation of ERCs and/or VERAs evidencing the Emissions Reduction Mitigation Measures prior to the time periods specified in the Emissions Reduction Mitigation Measures.

**CERTIFICATION**

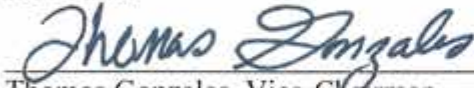
We, the undersigned Chairperson and Secretary of the Tejon Indian Tribe's Tribal Executive Committee, as representatives of the Tribal General Council, do hereby certify that the Tribal Executive Council met as a body of whom 5, constituting a quorum, were present at a meeting thereof, duly and regularly called, noticed, convened, and held on the 19<sup>th</sup> day of September, 2020, and that the foregoing Resolution was duly adopted by the affirmative vote of 7 members, with 0 opposing, and with 0 abstaining.

DATED this 19<sup>th</sup> day of September, 2020.



\_\_\_\_\_  
Octavio Escobedo III, Chairman  
Tejon Indian Tribe

ATTEST:



\_\_\_\_\_  
Thomas Gonzales, Vice-Chairman  
Tejon Indian Tribe

# ***APPENDIX AA***

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***NOTICES OF AVAILABILITY FOR THE FINAL EIS***

# *NOTICE OF AVAILABILITY (NOA)*

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## DEPARTMENT OF THE INTERIOR

### Bureau of Indian Affairs

#### Notice of Availability of a Draft Environmental Impact Statement and Draft Conformity Determination for the Tejon Indian Tribe's Proposed Fee-to-Trust Acquisition and Casino Resort Project, Kern County, California

**AGENCY:** Bureau of Indian Affairs, Interior.

**ACTION:** Notice of availability.

**SUMMARY:** This notice advises the public that the Bureau of Indian Affairs (BIA), as lead agency, with the Tejon Indian Tribe (Tribe), Kern County (County), National Indian Gaming Commission (NIGC), and the United States Environmental Protection Agency (EPA) serving as cooperating agencies, has filed a Draft Environmental Impact Statement (DEIS) with the EPA in connection with the Tribe's application for acquisition in trust by the United States of approximately 306 acres for gaming and other purposes to be located west of the Town of Mettler, Kern County, California. At the request of the Tribe, this EIS has been prepared to comply with the expected requirements of a tribal environmental ordinance, which may require a Tribal Environmental Impact Report (TEIR). To reduce paperwork and eliminate redundancy, the EIS and the TEIR have been prepared in coordination, resulting in a joint EIS/TEIR, hereinafter referred to as an EIS. This notice also announces that the DEIS is now available for public review and that a public hearing will be held to receive comments on the DEIS. In accordance with Section 176 of the Clean Air Act 42 U.S.C. 7506, and the U.S. EPA's general conformity regulations 40 C.F.R. Part 93, Subpart B, a Draft Conformity Determination (DCD) has been prepared for the proposed project. The DCD is contained within Appendix N of the DEIS.

**DATES:** Comments on the DEIS or DCD must arrive no later than July 27, 2020, which is 45 days after publication of Notice of Availability by the USEPA in the *Federal Register* on June 12, 2020. A virtual public hearing will be held on July 8, 2020, starting at 6:00 p.m, and will run until the last public comment is received. Please go to <https://www.tejoneis.com/> for information on how to attend the virtual public hearing.

**COMMENT SUBMITTAL:** You may mail or hand-deliver written comments to Amy Dutschke, Regional Director, Bureau of Indian Affairs, Pacific Region, 2800 Cottage Way, Sacramento, California 95825. Please include your name, return address, and "DEIS Comments, Tejon Indian Tribe Casino Project" on the first page of your written comments. You may also submit comments through email to Chad Broussard, Environmental Protection Specialist, Bureau of Indian Affairs, at [chad.broussard@bia.gov](mailto:chad.broussard@bia.gov). If emailing comments, please use "DEIS Comments, Tejon Indian Tribe Casino Project" as the subject of your email. Additionally, you may submit verbal comments (up to three minutes) by calling 916-755-0181 and following the prompts.

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

**SUPPLEMENTARY INFORMATION:** Public review of the DEIS is part of the administrative process for the evaluation of the Tribe's application to the BIA for the placement of approximately 306 acres of fee land in trust in Kern County, California. The Tribe proposes to construct a casino resort on the trust property.

**Background:** The Tribe's proposed project consists of the following components: 1) the Department's transfer of the approximately 306-acre fee property into trust status; 2) issuance of a determination by the Secretary of the Interior pursuant to the Indian Gaming Regulatory Act 25 USC 2701 et seq.; 3) the

approval of a management contract by the Chairman of the National Indian Gaming Commission under 25 USC § 2711; and 4) the Tribe's proposed development of the trust parcel and the off-site improvement areas. The proposed casino-resort would include a hotel, convention center, multipurpose event space, several restaurant facilities, parking facilities, a recreational vehicle (RV) park, fire, and sheriff stations and associated facilities.

The following alternatives are considered in the DEIS: (1) Proposed Project; (2) Reduced Casino Resort; (3) Organic Farm; (4) Alternate Site for the Proposed Project; and (5) No Action Alternative.

Environmental issues addressed in the DEIS include geology and soils, water resources, air quality, biological resources, cultural and paleontological resources, socioeconomic conditions (including environmental justice), transportation and circulation, land use, public services, noise, hazardous materials, aesthetics, cumulative effects, and indirect and growth inducing effects. The Clean Air Act requires federal agencies to ensure that their actions conform to applicable implementation plans for achieving and maintaining the National Ambient Air Quality Standards for criteria air pollutants. The BIA has prepared a DCD for the proposed action/project described above. The DCD is included in Appendix N of the DEIS.

**Locations where the DEIS is Available for Review:** The DEIS is available for review at the BIA Pacific Regional Office by appointment by contacting Chad Broussard, Bureau of Indian Affairs, Pacific Regional Office (see contact information listed in the FOR FURTHER INFORMATION CONTACT section of this notice). Additionally, the DEIS can be reviewed by appointment at the Kern County Planning and Natural Resources Department, 2700 M Street Ste 100, Bakersfield , CA 93301, by emailing Dennis McNamara, Division Chief for Permitting at [mcnamarad@kerncounty.com](mailto:mcnamarad@kerncounty.com) or calling 661-862-8624. The DEIS is also available online at <https://www.tejoneis.com/>. To obtain an electronic copy of the DEIS on compact disc (CD) or flash drive, please provide your name and address in writing or by phone to Chad Broussard, Bureau of Indian Affairs, Pacific Regional Office. Individual paper copies of the DEIS will be provided upon payment of applicable printing expenses by the requestor for the number of copies requested.

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

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



# *FEDERAL REGISTER*

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**DEPARTMENT OF THE INTERIOR**

**Bureau of Indian Affairs**

[201A2100DD/AAKC001030/  
A0A501010.999900]

**Draft Environmental Impact Statement and Draft Conformity Determination for the Tejon Indian Tribe's Proposed Fee-to-Trust Acquisition and Casino Resort Project, Kern County, California**

**AGENCY:** Bureau of Indian Affairs, Interior.

**ACTION:** Notice of availability.

**SUMMARY:** This notice advises the public that the Bureau of Indian Affairs (BIA), as lead agency, with the Tejon Indian Tribe (Tribe), Kern County (County), National Indian Gaming Commission (NIGC), and the U.S. Environmental Protection Agency (EPA) serving as cooperating agencies, intends to file a Draft Environmental Impact Statement (DEIS) with the EPA in connection with the Tribe's application for acquisition in trust by the United States of approximately 306 acres for gaming and other purposes to be located west of the Town of Mettler, Kern County, California. This notice also announces that the DEIS is now available for public review and that a public hearing will be held to receive comments on the DEIS.

**DATES:** Comments on the DEIS must arrive no later than 45 days after publication of this notice in the **Federal Register**. The date and time of the public hearing will be announced at least 15 days in advance through a notice to be published in a local newspaper (the *Bakersfield Californian*) and online at <http://www.tejoneis.com>.

**ADDRESSES:** You may submit written comments:

- *By mail or hand-delivery to:* Amy Dutschke, Regional Director, Bureau of Indian Affairs, Pacific Region, 2800 Cottage Way, Sacramento, CA 95825. Please include your name, return address, and "DEIS Comments, Tejon Indian Tribe Casino Project" on the first page of your written comments.

- *By email to:* Chad Broussard, Environmental Protection Specialist, Bureau of Indian Affairs, at [chad.broussard@bia.gov](mailto:chad.broussard@bia.gov), using "DEIS Comments, Tejon Indian Tribe Casino Project" as the subject of your email.

The DEIS will be available for public review at:

- BIA Pacific Region, 2800 Cottage Way, Sacramento, CA 95825
- Kern County Public Library, Lamont Branch, 8304 Segre Road, Lamont, CA 93241
- <http://www.tejoneis.com>.

The location of the public hearing will be announced at least 15 days in advance through a notice to be published in a local newspaper (the *Bakersfield Californian*) and online at <http://www.tejoneis.com>.

**FOR FURTHER INFORMATION CONTACT:**

Chad Broussard, Environmental Protection Specialist, Bureau of Indian Affairs, Pacific Regional Office, telephone: (916) 978-6165; email: [chad.broussard@bia.gov](mailto:chad.broussard@bia.gov).

**SUPPLEMENTARY INFORMATION:** Public review of the DEIS is part of the administrative process for the evaluation of the Tribe's application to the BIA for the placement of approximately 306 acres of fee land in trust in Kern County, California. The Tribe proposes to construct a casino resort on the trust property. A Notice of Intent (NOI) to prepare an EIS was published in the *Bakersfield Californian* and **Federal Register** on August 13, 2015. The BIA held a public scoping meeting for the project on September 1, 2015, at the East Bakersfield Veteran's Building, in Bakersfield, California.

**Background**

The Tribe's proposed project consists of the following components: (1) The Department's transfer of the approximately 306-acre fee property into trust status; (2) issuance of a determination by the Secretary of the Interior pursuant to the Indian Gaming Regulatory Act, 25 U.S.C. 2701 *et seq.*; (3) the approval of a management contract by the Chairman of the National Indian Gaming Commission under 25 U.S.C. 2711; and (4) the Tribe's proposed development of the trust parcel and the off-site improvement areas. The proposed casino resort would include a hotel, convention center, multipurpose event space, several restaurant facilities, parking facilities, a recreational vehicle (RV) park, fire, and sheriff stations and associated facilities.

The following alternatives are considered in the DEIS: (1) Proposed Project; (2) Reduced Intensity Hotel and Casino; (3) Organic Farm; (4) Alternate Site for the Proposed Project; and (5) No Action Alternative. Environmental issues addressed in the DEIS include geology and soils, water resources, air quality, biological resources, cultural and paleontological resources, socioeconomic conditions (including environmental justice), transportation and circulation, land use, public services, noise, hazardous materials, aesthetics, cumulative effects, and indirect and growth inducing effects. In accordance with Section 176 of the

Clean Air Act, 42 U.S.C. 7506, and the EPA general conformity regulations 40 CFR part 93, subpart B, a Draft Conformity Determination (DCD) has been prepared for the proposed project. The Clean Air Act requires Federal agencies to ensure that their actions conform to applicable implementation plans for achieving and maintaining the National Ambient Air Quality Standards for criteria air pollutants. The BIA has prepared a DCD for the proposed action/project described above. The DCD is included in Appendix N of the DEIS.

*Locations Where the DEIS Is Available*

*for Review:* The DEIS is available for review during regular business hours at the BIA Pacific Regional Office at the address noted above in the **ADDRESSES** section of this notice. To obtain a compact disc copy of the DEIS, please provide your name and address in writing or by phone to Chad Broussard, Bureau of Indian Affairs, Pacific Regional Office. Contact information is listed in the **FOR FURTHER INFORMATION CONTACT** section of this notice.

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

*Public Comment Availability:*

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

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

requirements for conformity determinations.

Tara Sweeney,

Assistant Secretary – Indian Affairs.

[FR Doc. 2020–12697 Filed 6–11–20; 8:45 am]

BILLING CODE 4337–15–P

## DEPARTMENT OF THE INTERIOR

### Bureau of Land Management

[LLCOF02000 L51100000.GL0000 LVEMC2000600 20X]

#### Notice of Availability of the Final Environmental Impact Statement for the Proposed Competitive Mineral Materials Sale (COC–078119) at Parkdale, Fremont County, CO

**AGENCY:** Bureau of Land Management, Interior.

**ACTION:** Notice of availability.

**SUMMARY:** In accordance with the National Environmental Policy Act of 1969, as amended, and the Federal Land Policy and Management Act of 1976 (FLPMA), as amended, the Bureau of Land Management (BLM) Royal Gorge Field Office, Canon City, Colorado, has prepared a Final Environmental Impact Statement (EIS) for a proposed competitive mineral materials sale at Parkdale, Fremont County, Colorado, and by this notice is announcing its availability.

**DATES:** The BLM will not issue a final decision until July 13, 2020.

**ADDRESSES:** Copies of the Final EIS for the Proposed Competitive Mineral Materials Sale (COC–078119) at Parkdale, Fremont County, Colorado are available for review by appointment at the BLM Royal Gorge Field Office, 3028 East Main Street, Canon City, CO 81212. Please call (719) 269–8500 to request an appointment. The Final EIS is also available online at <https://go.usa.gov/xy6tn>. Click the “Documents” link on the left side of the screen to find the electronic version of the document.

**FOR FURTHER INFORMATION CONTACT:** Stephanie Carter, Geologist; telephone: (719) 269–8551; address: 3028 East Main Street, Canon City, CO 81212; email: [sscarter@blm.gov](mailto:sscarter@blm.gov). Persons who use a telecommunications device for the deaf (TDD) may call the Federal Relay Service (FRS) at 1–800–877–8339 to contact Ms. Carter during normal business hours. The FRS is available 24 hours a day, 7 days a week, to leave a message or question. You will receive a reply during normal business hours.

**SUPPLEMENTARY INFORMATION:** The BLM has prepared a Final EIS to evaluate an

application from Martin Marietta Materials, Inc. for a contract to mine 400-million net tons of aggregate reserves located on BLM managed lands, adjacent to their existing hard rock quarry northwest of Canon City, Colorado. The aggregate reserves consist of a granodiorite bedrock that will be mined utilizing blasting, crushing, and screening methods. The mining activity would be conducted on up to approximately 700 acres of BLM lands for up to 100 years, at a production of 4-million tons annually. The aggregate would be used in the production of asphalt and concrete, as well as a source of railroad ballast.

On July 31, 2019, the BLM published a Notice of Intent to prepare an EIS, initiating public scoping to identify issues through public participation and collaboration with partners (84 FR 37334). Initial scoping with internal staff, cooperating agencies and the public identified concerns related to air quality, inventoried lands with wilderness characteristics, wildlife and plant habitat, visual resources, as well as local and regional economies.

The purpose of this action is to respond to the applicant’s request to obtain a renewable competitive contract to sell mineral materials located immediately adjacent to the existing Parkdale Quarry in Fremont County, Colorado. The need for the action is based on the BLM’s multiple-use mission as set forth in FLPMA, which mandates that the public land resources be managed for a variety of uses, including mining. Pursuant to 30 U.S.C. 1602, the project would assist in the pursuit of measures that would assure the availability of materials critical to commerce, the economy and national security, and facilitate development of domestic resources to meet critical materials needs.

The BLM published a Notice of Availability on February 7, 2020, announcing the public comment period for the Draft EIS (85 FR 7329). The Draft EIS included alternatives that responded to the purpose and need, quantified the impacts to visual resources and air quality, and addressed strategies to minimize impacts to bighorn sheep populations. The Draft EIS was available for a 45-day public comment period. The BLM hosted a public meeting on February 26, in Canon City, Colorado, and received 145 comment submissions.

The Draft EIS evaluated in detail the Proposed Action (Alternative A), the No Action Alternative (Alternative B) and one action alternative (Alternative C). After the public comment period closed, the BLM prepared a Final EIS, which

reflects changes and adjustments based on information received during both internal and public comment on the Draft EIS. These changes specifically target surface and groundwater monitoring, design features, the mitigation framework, a more detailed performance-based reclamation protocol and revocation of two federal water reserve withdrawals.

In all alternatives, reclamation would be ongoing, following mining activity in an area, as soon as conditions would be feasible. Details of Alternative A include: Mined material would be used for concrete, asphalt, and railroad ballast products and would take place on approximately 700 acres of BLM-administered public lands for up to 100 years; the southwestern boundary of the proposed mining area would border the Arkansas River Canyonlands Area of Critical Environmental Concern (ACEC); surface mining would progress in five phases; mining direction for each phase would be from northwest to southeast, creating a “mine from behind” visual scenario from the Highway 50 corridor. Alternative B (no action) does not include any Federal interests and involves the continuation of surface mining on the existing private aggregate reserves, anticipated to last 15–30 years, with aggregate produced only for concrete and asphalt products. Alternative B consists of three phases, with the mining direction for phases 1 and 2 being west to east and phase 3 being north to south. Details on Alternative C include: Mined material would be used for concrete, asphalt, and railroad ballast products and would take place on approximately 633 acres of BLM-administered public lands for up to 100 years; the boundary of this footprint would not border the Arkansas River Canyonlands ACEC; surface mining would progress in six phases; mining direction for each phase would vary, so a “mine from behind” visual scenario from the Highway 50 corridor may not always be achieved.

The BLM did not identify a preferred alternative in the Draft EIS, but has identified a preferred alternative (Alternative A) in the Final EIS, as required by the Council on Environmental Quality regulations. Alternative A includes the footprint that appears to minimize the effects to visual resources from key observation points, and groundwater in areas to the south, as it relates to the proposed mining. The BLM considered comments on the Draft EIS received from the public, cooperating agencies and internal BLM review, and made changes in the Final EIS as appropriate. Public comments resulted in adding clarifying text and

email of new filings and issuances related to this or other pending projects. For assistance, contact FERC Online Support.

*p. Procedural schedule and final amendments:* The application will be processed according to the following preliminary schedule. Revisions to the schedule will be made as appropriate. Issue Deficiency Letter (if necessary)—July 2020

Request Additional Information—July 2020

Issue Acceptance Letter—October 2020  
Issue Scoping Document 1 for comments—November 2020

Request Additional Information (if necessary)—January 2021

Issue Scoping Document 2 (if necessary)—February 2021

Issue Notice of Ready for Environmental Analysis—February 2021

Commission issues EA—September 2021

Comments on EA—October 2021

Final amendments to the application must be filed with the Commission no later than 30 days from the issuance date of the notice of ready for environmental analysis.

Dated: June 8, 2020.

**Kimberly D. Bose,**  
*Secretary.*

[FR Doc. 2020–12719 Filed 6–11–20; 8:45 am]

**BILLING CODE 6717–01–P**

## ENVIRONMENTAL PROTECTION

### AGENCY

[ER–FRL–9051–3]

#### Environmental Impact Statements; Notice of Availability

Responsible Agency: Office of Federal Activities, General Information 202–564–5632 or <https://www.epa.gov/nepa>. Weekly receipt of Environmental Impact Statements (EIS)  
Filed June 1, 2020, 10 a.m. EST Through June 8, 2020, 10 a.m. EST  
Pursuant to 40 CFR 1506.9.

Section 309(a) of the Clean Air Act requires that EPA make public its comments on EISs issued by other Federal agencies. EPA’s comment letters on EISs are available at: <https://cdxnodengn.epa.gov/cdx-enepa-public/action/eis/search>.

EIS No. 20200119, Draft, USFWS, BLM, UT, Northern Corridor—Highway Right-of-way, Issuance of an Incidental Take Permit, Draft EIS and Draft Resource Management Plan Amendments, Comment Period Ends: 09/10/2020, Contact: Gloria Tibbetts 435–865–3063.

EIS No. 20200120, Draft, FRA, DC, Washington Union Station Expansion Project, Comment Period Ends: 07/27/2020, Contact: David Valenstein 202–493–6368.

EIS No. 20200121, Draft, BIA, CA, Tejon Trust Acquisition and Casino Project, Comment Period Ends: 07/27/2020, Contact: Chad Broussard 916–978–6165.

EIS No. 20200122, Final, BLM, CO, Proposed Competitive Mineral Materials Sale (COC–078119) at Parkdale, Fremont County, CO. Review Period Ends: 07/13/2020, Contact: Stephanie Carter 719–269–8551.

EIS No. 20200123, Draft Supplement, BOEM, MA, Vineyard Wind 1 Offshore Wind Energy Project, Comment Period Ends: 07/27/2020, Contact: Michelle Morin 703–787–1722.

#### Amended Notice

EIS No. 20200118, Draft, BR, UT, Lake Powell Pipeline Project, Comment Period Ends: 09/08/2020, Contact: Rick Baxter 801–379–1078. Revision to FR Notice Published 6/5/2020; Extending the Comment Period from 9/3/2020 to 9/8/2020.

Dated: June 9, 2020.

**Cindy S. Barger,**  
*Director, NEPA Compliance Division, Office of Federal Activities.*

[FR Doc. 2020–12732 Filed 6–11–20; 8:45 am]

**BILLING CODE 6560–50–P**

## ENVIRONMENTAL PROTECTION AGENCY

[FRL–10010–54–OW]

#### The National Drinking Water Advisory Council: Request for Nominations

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Request for nominations.

**SUMMARY:** The Environmental Protection Agency (EPA) is inviting nominations from a diverse range of qualified candidates to be considered to fill vacancies on the National Drinking Water Advisory Council (NDWAC or Council). The 15-member Council was established by the Safe Drinking Water Act (SDWA) to provide independent advice, consultation, and recommendations to the EPA Administrator on matters relating to the activities, functions, policies, and regulations required by the SDWA. This announcement solicits nominations to fill five vacancies with three-year appointments from December 2020

through December 2023. The EPA may also consider nominations received through this solicitation in 2021 and in the event of unplanned vacancies on the Council. To enable the EPA to maintain the representation required by statute, the Agency is seeking nominees who are from appropriate state and local agencies concerned with water hygiene and public water supply; representatives of private organizations or groups demonstrating an active interest in the field of water hygiene and public water supply, including nominees associated with small, rural public water systems; and from the general public.

**DATES:** Nominations should be submitted no later than July 13, 2020.

**ADDRESSES:** We encourage you to submit nominations electronically, with the subject line “NDWAC Membership 2020,” to [corr.elizabeth@epa.gov](mailto:corr.elizabeth@epa.gov), as there may be a delay in processing U.S. mail and no hand deliveries are currently accepted due to the COVID–19 pandemic. If you have concerns about submitting your nomination electronically, you may contact Elizabeth Corr, the Designated Federal Officer (DFO) for the NDWAC, by email at [corr.elizabeth@epa.gov](mailto:corr.elizabeth@epa.gov), with the subject line “NDWAC Membership 2020,” or by phone at (202) 564–3798, to discuss a possible alternative delivery method.

#### FOR FURTHER INFORMATION CONTACT:

Email your questions to Elizabeth Corr at [corr.elizabeth@epa.gov](mailto:corr.elizabeth@epa.gov); or call (202) 564–3798. You may also mail Elizabeth Corr, at the Office of Ground Water and Drinking Water, MC: 4601M, Environmental Protection Agency, 1200 Pennsylvania Avenue NW, Washington, DC 20460, but be advised that there may be a delay in processing U.S. mail and no hand deliveries will be accepted due to the COVID–19 pandemic.

#### SUPPLEMENTARY INFORMATION:

*National Drinking Water Advisory Council:* The Council was created by Congress on December 16, 1974, as part of the Safe Drinking Water Act of 1974, Public Law 93–523, 42 U.S.C. 300j–5, and is operated in accordance with the provisions of the Federal Advisory Committee Act (FACA), 5 U.S.C. App. 2. The Council consists of 15 members, including the chairperson, all of whom are appointed by the EPA Administrator. Five members are from appropriate state and local agencies concerned with water hygiene and public water supply; five members represent private organizations or groups demonstrating an active interest in the field of water hygiene and public water supply—of which two such

# *NOTICE OF COMPLETION (NOC)*

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**Notice of Completion & Environmental Document Transmittal**

Mail to: State Clearinghouse, P.O. Box 3044, Sacramento, CA 95812-3044 (916) 445-0613  
 For Hand Delivery/Street Address: 1400 Tenth Street, Sacramento, CA 95814

<b>SCH # 2015084002</b>
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**Project Title:** Tejon Indian Tribe Trust Aquisition and Casino Project

Lead Agency: Bureau of Indian Affairs

Contact Person: Chad Broussard

Mailing Address: 2800 Cottage Way, Room W-2820

Phone: 916-978-6165

City: Sacramento

Zip: 95825

County: Sacramento

**Project Location:** County: Kern

City/Nearest Community: Mettler

Cross Streets: State Route 99, Maricopa Highway 166, Interstate 5

Zip Code: 93313

Longitude/Latitude (degrees, minutes and seconds): 35 ° 06 ' 9149 " N / 118 ° 08 ' 0237 " W Total Acres: 306

Assessor's Parcel No.: 238-204-02238-204-04, 238-204-07

Section: 2

Twp.: 11N

Range: 20W

Base: SBBM

Within 2 Miles: State Hwy #: 99, 166, I-5

Waterways: N/A

Airports: N/A

Railways: N/A

Schools: Mettler Elementary

**Document Type:**CEQA:  NOP Draft EIRNEPA:  NOIOther:  Joint Document Early Cons Supplement/Subsequent EIR EA Final Document Neg Dec

(Prior SCH No.) \_\_\_\_\_

 Draft EIS Other: Tribal EIR and Mit Neg Dec

Other: \_\_\_\_\_

 FONSI

Draft Conformity Determination

**Local Action Type:** General Plan Update Specific Plan Rezone Annexation General Plan Amendment Master Plan Prezone Redevelopment General Plan Element Planned Unit Development Use Permit Coastal Permit Community Plan Site Plan Land Division (Subdivision, etc.) Other: Fee-to-Trust**Development Type:** Residential: Units \_\_\_\_\_ Acres \_\_\_\_\_ Office: Sq.ft. \_\_\_\_\_ Acres \_\_\_\_\_ Employees \_\_\_\_\_ Commercial: Sq.ft. \_\_\_\_\_ Acres \_\_\_\_\_ Employees \_\_\_\_\_ Industrial: Sq.ft. \_\_\_\_\_ Acres \_\_\_\_\_ Employees \_\_\_\_\_ Educational: \_\_\_\_\_ Recreational: Gaming Facility Water Facilities: Type \_\_\_\_\_ MGD \_\_\_\_\_ Transportation: Type \_\_\_\_\_ Mining: Mineral \_\_\_\_\_ Power: Type \_\_\_\_\_ MW \_\_\_\_\_ Waste Treatment: Type \_\_\_\_\_ MGD \_\_\_\_\_ Hazardous Waste: Type \_\_\_\_\_ Other: \_\_\_\_\_**Project Issues Discussed in Document:** Aesthetic/Visual Fiscal Recreation/Parks Vegetation Agricultural Land Flood Plain/Flooding Schools/Universities Water Quality Air Quality Forest Land/Fire Hazard Septic Systems Water Supply/Groundwater Archeological/Historical Geologic/Seismic Sewer Capacity Wetland/Riparian Biological Resources Minerals Soil Erosion/Compaction/Grading Growth Inducement Coastal Zone Noise Solid Waste Land Use Drainage/Absorption Population/Housing Balance Toxic/Hazardous Cumulative Effects Economic/Jobs Public Services/Facilities Traffic/Circulation Other: \_\_\_\_\_**Present Land Use/Zoning/General Plan Designation:**

Agriculture/ Limited Agriculture (A-1)/Intensive Agriculture

**Project Description:** (please use a separate page if necessary)

The proposed action is the acquisition of approximately 306-acres of fee land in trust by the United States upon which the Tejon Indian Tribe would construct a gaming facility and associated facilities. The Proposed Project consists of the construction of an approximately 715,800-sf casino resort, an RV park, fire and sheriff stations, and associated facilities such as water treatment and disposal facilities on the subject property, which is located in unincorporated Kern County, immediately west of the town of Mettler and approximately 14 miles south of the City of Bakersfield.



## Reviewing Agencies Checklist

Lead Agencies may recommend State Clearinghouse distribution by marking agencies below with an "X".  
If you have already sent your document to the agency please denote that with an "S".

- |   |  |
|---|--|
| <input checked="" type="checkbox"/> Air Resources Board                         | <input checked="" type="checkbox"/> Office of Historic Preservation                      |
| <input type="checkbox"/> Boating & Waterways, Department of                     | <input type="checkbox"/> Office of Public School Construction                            |
| <input type="checkbox"/> California Emergency Management Agency                 | <input checked="" type="checkbox"/> Parks & Recreation, Department of                    |
| <input checked="" type="checkbox"/> California Highway Patrol                   | <input type="checkbox"/> Pesticide Regulation, Department of                             |
| <input checked="" type="checkbox"/> Caltrans District #6                        | <input type="checkbox"/> Public Utilities Commission                                     |
| <input type="checkbox"/> Caltrans Division of Aeronautics                       | <input checked="" type="checkbox"/> Regional WQCB #5                                     |
| <input type="checkbox"/> Caltrans Planning                                      | <input checked="" type="checkbox"/> Resources Agency                                     |
| <input type="checkbox"/> Central Valley Flood Protection Board                  | <input type="checkbox"/> Resources Recycling and Recovery, Department of                 |
| <input type="checkbox"/> Coachella Valley Mtns. Conservancy                     | <input type="checkbox"/> S.F. Bay Conservation & Development Comm.                       |
| <input type="checkbox"/> Coastal Commission                                     | <input type="checkbox"/> San Gabriel & Lower L.A. Rivers & Mtns. Conservancy             |
| <input type="checkbox"/> Colorado River Board                                   | <input type="checkbox"/> San Joaquin River Conservancy                                   |
| <input checked="" type="checkbox"/> Conservation, Department of                 | <input type="checkbox"/> Santa Monica Mtns. Conservancy                                  |
| <input type="checkbox"/> Corrections, Department of                             | <input checked="" type="checkbox"/> State Lands Commission                               |
| <input type="checkbox"/> Delta Protection Commission                            | <input type="checkbox"/> SWRCB: Clean Water Grants                                       |
| <input type="checkbox"/> Education, Department of                               | <input checked="" type="checkbox"/> SWRCB: Water Quality                                 |
| <input type="checkbox"/> Energy Commission                                      | <input type="checkbox"/> SWRCB: Water Rights   |
| <input checked="" type="checkbox"/> Fish & Game Region #4                       | <input type="checkbox"/> Tahoe Regional Planning Agency                                  |
| <input type="checkbox"/> Food & Agriculture, Department of                      | <input type="checkbox"/> Toxic Substances Control, Department of                         |
| <input checked="" type="checkbox"/> Forestry and Fire Protection, Department of | <input checked="" type="checkbox"/> Water Resources, Department of                       |
| <input type="checkbox"/> General Services, Department of                        |  |
| <input checked="" type="checkbox"/> Health Services, Department of              | <input checked="" type="checkbox"/> Other: <u>Patty Brandt, CA Department of Justice</u> |
| <input type="checkbox"/> Housing & Community Development                        | <input checked="" type="checkbox"/> Other: <u>Sara Drake, CA Department of Justice</u>   |
| <input checked="" type="checkbox"/> Native American Heritage Commission         |  |

### Local Public Review Period (to be filled in by lead agency)

Starting Date June 12, 2020 Ending Date July 27, 2020

### Lead Agency (Complete if applicable):

Consulting Firm: <u>Analytical Environmental Services</u>	Applicant: <u>Tejon Indian Tribe</u>
Address: <u>1801 7th Street, Suite 100</u>	Address: <u>4941 David Road</u>
City/State/Zip: <u>Sacramento, CA, 95811</u>	City/State/Zip: <u>Bakersfield, CA 93307</u>
Contact: <u>David Zweig</u>	Phone: <u>661-834-8566</u>
Phone: <u>916-447-3479</u>	

Signature of Lead Agency Representative: CHAD BROUSSARD Digitally signed by CHAD BROUSSARD  
Date: 2020.06.11 14:32:07 -07'00' Date: 6-11-2020

Authority cited: Section 21083, Public Resources Code. Reference: Section 21161, Public Resources Code.

# *NEWSPAPER NOTICE*

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# PROOF OF PUBLICATION

The BAKERSFIELD CALIFORNIAN  
3700 PEGASUS DRIVE  
BAKERSFIELD, CA 93308

Analytical Environmental Services  
1801 7th Street, Suite 100  
Sacramento, CA 95811

Ad Number: 14724819 PO #:   
Edition: CALC Run Times 1  
Class Code Legal Notices  
Start Date 6/12/2020 Stop Date 6/12/2020  
Billing Lines 109 Inches 649.25  
Total Cost \$ 966.02 Account 98485969  
Billing Analytical Environmental Services  
Address 1801 7th Street, Suite 100  
Sacramento,CA 95811

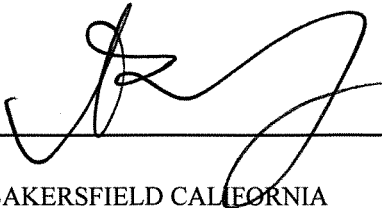
STATE OF CALIFORNIA  
COUNTY OF KERN

I AM A CITIZEN OF THE UNITED STATES AND A RESIDENT OF THE COUNTY AFORESAID: I AM OVER THE AGE OF EIGHTEEN YEARS, AND NOT A PARTY TO OR INTERESTED IN THE ABOVE ENTITLED MATTER. I AM THE ASSISTANT PRINCIPAL CLERK OF THE PRINTER OF THE BAKERSFIELD CALIFORNIAN, A NEWSPAPER OF GENERAL CIRCULATION, PRINTED AND PUBLISHED DAILY IN THE CITY OF BAKERSFIELD COUNTY OF KERN,

AND WHICH NEWSPAPER HAS BEEN ADJUDGED A NEWSPAPER OF GENERAL CIRCULATION BY THE SUPERIOR COURT OF THE COUNTY OF KERN, STATE OF CALIFORNIA, UNDER DATE OF FEBRUARY 5, 1952, CASE NUMBER 57610; THAT THE NOTICE, OF WHICH THE ANNEXED IS A PRINTED COPY, HAS BEEN PUBLISHED IN EACH REGULAR AND ENTIRE ISSUE OF SAID NEWSPAPER AND NOT IN ANY SUPPLEMENT THEREOF ON THE FOLLOWING DATES, TO WIT: 6/12/20

ALL IN YEAR 2020

I CERTIFY (OR DECLARE) UNDER PENALTY OF PERJURY THAT THE FOREGOING IS TRUE AND CORRECT.



DATED AT BAKERSFIELD CALIFORNIA

6.12.2020

Solicitor I.D.: 0

First Text

DEPARTMENT OF THE INTERIOR Bureau of Indi

Ad Number 14724819

**DEPARTMENT OF THE INTERIOR**

**Bureau of Indian Affairs**

**Notice of Availability of a Draft Environmental Impact Statement and Draft Conformity Determination for the Tejon Indian Tribe's Proposed Fee-to-Trust Acquisition and Casino Resort Project, Kern County, California**

**AGENCY:** Bureau of Indian Affairs, Interior.

**ACTION:** Notice of availability.

**SUMMARY:** This notice advises the public that the Bureau of Indian Affairs (BIA), as lead agency, with the Tejon Indian Tribe (Tribe), Kern County (County), National Indian Gaming Commission (NIGC), and the United States Environmental Protection Agency (EPA) serving as cooperating agencies, has filed a Draft Environmental Impact Statement (DEIS) with the EPA in connection with the Tribe's application for acquisition in trust by the United States of approximately 306 acres for gaming and other purposes to be located west of the Town of Mettler, Kern County, California. At the request of the Tribe, this EIS has been prepared to comply with the expected requirements of a tribal environmental ordinance, which may require a Tribal Environmental Impact Report (TEIR). To reduce paperwork and eliminate redundancy, the EIS and the TEIR have been prepared in coordination, resulting in a joint EIS/TEIR, hereinafter referred to as an EIS. This notice also announces that the DEIS is now available for public review and that a public hearing will be held to receive comments on the DEIS. In accordance with Section 176 of the Clean Air Act 42 U.S.C. 7506, and the U.S. EPA's general conformity regulations 40 C.F.R. Part 93, Subpart B, a Draft Conformity Determination (DCD) has been prepared for the proposed project. The DCD is contained within Appendix N of the DEIS.

**DATES:** Comments on the DEIS or DCD must arrive no later than July 27, 2020, which is 45 days after publication of Notice of Availability by the USEPA in the Federal Register on June 12, 2020. A virtual public hearing will be held on July 8, 2020, starting at 6:00 p.m. and will run until the last public comment is received. Please go to <https://www.tejoncis.com/> for information on how to attend the virtual public hearing.

**COMMENT SUBMITTAL:** You may mail or hand-deliver written comments to Amy Dutschke, Regional Director, Bureau of Indian Affairs, Pacific Region, 2800 Cottage Way, Sacramento, California 95825. Please include your name, return address, and "DEIS Comments, Tejon Indian Tribe Casino Project" on the first page of your written comments. You may also submit comments through email to Chad Broussard, Environmental Protection Specialist, Bureau of Indian Affairs, at [chad.broussard@bia.gov](mailto:chad.broussard@bia.gov). If emailing comments, please use "DEIS Comments, Tejon Indian Tribe Casino Project" as the subject of your email. Additionally, you may submit verbal comments (up to three minutes) by calling 916-755-0181 and following the prompts.

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

**SUPPLEMENTARY INFORMATION:** Public review of the DEIS is part of the administrative process for the evaluation of the Tribe's application to the BIA for the placement of approximately 306 acres of fee land in trust in Kern County, California. The Tribe proposes to construct a casino resort on the trust property.

**BACKGROUND:** The Tribe's proposed project consists of the following components: 1) the Department's transfer of the approximately 306-acre fee property into trust status; 2) issuance of a determination by the Secretary of the Interior pursuant to the Indian Gaming Regulatory Act 25 USC 2701 et seq.; 3) the approval of a management contract by the Chairman of the National Indian Gaming Commission under 25 USC § 2711; and 4) the Tribe's proposed development of the trust parcel and the off-site improvement areas. The proposed casino-resort would include a hotel, convention center, multipurpose event space, several restaurant facilities, parking facilities, a recreational vehicle (RV) park, fire, and sheriff stations and associated facilities.

The following alternatives are considered in the DEIS: (1) Proposed Project; (2) Reduced Casino Resort; (3) Organic Farm; (4) Alternate Site for the Proposed Project; and (5) No Action Alternative. Environmental issues addressed in the DEIS include geology and soils, water resources, air quality, biological resources, cultural and paleontological resources, socioeconomic conditions (including environmental justice), transportation and circulation, land use, public services, noise, hazardous materials, aesthetics, cumulative effects, and indirect and growth inducing effects. The Clean Air Act requires federal agencies to ensure that their actions conform to applicable implementation plans for achieving and maintaining the National Ambient Air Quality Standards for criteria air pollutants. The BIA has prepared a DCD for the proposed action/project described above. The DCD is included in Appendix N of the DEIS.

**LOCATIONS WHERE THE DEIS IS AVAILABLE FOR REVIEW:** The DEIS is available for review at the BIA Pacific Regional Office by appointment by contacting Chad Broussard, Bureau of Indian Affairs, Pacific Regional Office (see contact information listed in the FOR FURTHER INFORMATION CONTACT section of this notice). Additionally, the DEIS can be reviewed by appointment at the Kern County Planning and Natural Resources Department, 2700 M Street Ste 100, Bakersfield, CA 93301, by emailing Dennis McNamara, Division Chief for Permitting at [mcnamarad@kerncounty.com](mailto:mcnamarad@kerncounty.com) or calling 661-862-8624. The DEIS is also available online at <https://www.tejoncis.com/>. To obtain an electronic copy of the DEIS on compact disc (CD) or flash drive, please provide your name and address in writing or by phone to Chad Broussard, Bureau of Indian Affairs, Pacific Regional Office. Individual paper copies of the DEIS will be provided upon payment of applicable printing expenses by the requestor for the number of copies requested.

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

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

June 12, 2020  
14724819

# ***APPENDIX AB***

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***KERN COUNTY OFFICE OF PLANNING AND NATURAL  
RESOURCES DEPARTMENT LETTER***

**Lorelei H. Oviatt, AICP, Director**

2700 "M" Street, Suite 250

Bakersfield, CA 93301-2323

Phone: (661) 862-5050

Fax: (661) 862-5052 TTY Relay 1-800-735-2929

Email: kerncd@kerncounty.com

Web Address: <http://kernplanning.com>



**PLANNING AND NATURAL  
RESOURCES DEPARTMENT**

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Planning  
Community Development  
Administrative Operations

August 21, 2020

US Department of Interior  
Bureau of Indian Affairs  
Pacific Regional Office  
Amy Dutschke Regional Director  
Attn: Chad Broussard  
2800 Cottage Way Room W- 2820  
Sacramento, California 93825

**RE; Kern County Position – DEIS – Tejon Indian Tribe Casino Resort  
Alternative B – Casino Resort on Maricopa Highway Site**

Dear Ms. Dutschke,

On August 18, 2020 the Kern County Board of Supervisors, on the regular agenda, affirmed the boundaries of all the Agricultural Preserves in the unincorporated areas of Kern County. The purpose of the Agricultural Preserve Program is to identify areas with land zoned A (Exclusive Agriculture) with water for irrigation and surrounding agricultural resources that are intended for long term agricultural use. Alternative B- Maricopa Highway Site (APN 238-203-14 and 238-203-22) are actively farmed in vineyards for grapes, have an allocated agricultural water supply, is zoned A (Exclusive Agriculture) and was included, by resolution, within the boundaries of Agricultural Preserve No. 12.

Alternative A – Mettler Site, although zoned for Limited Agriculture (A-1) and farmed in the past, is not qualified to be included in an Agricultural Preserve.

Kern County is opposed to Alternative B – Maricopa Site as the selected site as it would take productive irrigated farmland permanently out of production. The county is faced with the loss of significant farmland beginning in 2020, that produces both jobs and tax revenue, through the implementation of the Sustainable Groundwater Management Act which cuts allocations for specific parcels of land. If they are fallow now, it is unlikely they would be allocated water in the future for farming. The Maricopa site is currently planted, is zoned for Exclusive Agricultural uses and is within an established Agricultural Preserve and is important to the county for long term preservation of Agricultural uses.

Further the location of the regional Fire and Law enforcement facility, that will be constructed and operated in support of this project, on the Mettler site ( Alternative A) is centrally located to provide service for the entire area of residential, commercial and industrial uses in the Grapevine from both I-5 and Highway 99.

Kern County continues to support approval of the Mettler Site location (Alternative A) and opposes the Maricopa Highway Site location (Alternative B) as interfering with the county's long-term program to conserve agricultural uses.

Sincerely,

*Lorelei H. Oviatt*

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

LHO

Cc: County Administrative Officer  
County Counsel