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DRAFT ENVIRONMENTAL ASSESSMENT AND TRIBAL ENVIRONMENTAL IMPACT REPORT FOR THE PAUMA CASINO AND HOTEL

The County of San Diego (County) has reviewed the Draft Environmental Assessment and Tribal Environmental Impact Report (Draft EA/TEIR), dated July 27, 2007 and received August 8, 2007, for the Pauma Casino and Hotel (Proposed Project). The Draft EA/TEIR was prepared for the National Indian Gaming Commission and Pauma Band of Mission Indians.

It is stated on page 11 of the document that the Proposed Project includes the construction and operation of an approximately 65.7-acre resort with a casino, 23-story hotel, retail and food and beverage venues, luxury spa, pool and associated resort facilities, multi-purpose events center, conference and meeting center, administrative and back-of-house facilities, parking, additional water wells, new water reservoir and expanded wastewater treatment system.

The County is a political subdivision of the State of California responsible for the governance, health, and welfare of the People of San Diego County. County comments will relate to issues within its statutory responsibilities and are as follows:

Project Description

1. The Proposed Project description needs clarification and consistency. In order to appropriately evaluate the project's impacts, the Proposed Project's scope needs to be clarified as requested below:
 - a) Disposition (retention or demolition) of existing casino facilities needs to be clarified.

- b) Draft EA/TEIR states the new casino will contain 83,100 square feet of gaming area but information is not provided regarding how much of an expansion this presents compared to the existing casino's gaming area square footage.
- c) Draft EA/TEIR identifies a 110,000-square foot new casino but the Traffic Impact Analysis (TIA), Appendix F, page 1, identifies a 171,000 -square foot new casino.
- d) Draft EA/TEIR identifies 1,500 space parking garage and 2,400 surface parking spaces but TIA identifies 2,000 space parking garage and 2,500 surface parking spaces.
- e) Need to describe the Multi-Purpose Events Center and its uses, and delineate which uses will be outdoor and which uses will occur during night-time hours.
- f) To clarify the project scope and how it compares to existing facilities and uses and so that analysis of the Proposed Project's impacts can occur, a table should be provided that details existing and post-expansion uses at the project site.

Alternatives

- 2. Project description of each alternative needs to be clarified. Similar to the above comment regarding the Proposed Project's description, each alternative needs to be described and compared to the Proposed Project.
- 3. Alternatives Analysis is inadequate. The degree of analysis devoted to each alternative in the Draft EA/TEIR should be substantially similar to that devoted to the "proposed action." Section 1502.14(b) of NEPA specifically requires "substantial treatment" of each alternative including the proposed action. This regulation prescribes a level of treatment to enable a reviewer to evaluate and compare alternatives. This level of analysis of the Alternatives is totally lacking and the Draft EA/TEIR should be revised to fully analyze each of the Alternatives.
- 4. The Draft EA/TEIR should provide maps that show the alternative locations that were considered for the proposed project as described in Section 2.5, page 18.

Aesthetics

- 5. Proposed Project will result in significant impacts to scenic vistas and visual resources because the project will introduce a massive, urban development in an area of rural development. The Draft EA/TEIR concludes that there are less than significant impacts to scenic vistas and visual resources from the project. County does not agree with either this conclusion or with the reasoning that significant impacts will be reduced because of the design of the building and the fact that the building will not prevent long-distance

views. The scale and intensity of the proposed development and its 23-story hotel are in no way compatible with the surrounding rural area and clearly will result in significant impacts to the scenic qualities of the rural Pauma Valley. County does not agree that such a massive development will not dominate all surrounding vistas. The evidence in the Draft EA/TEIR does not support such a conclusion. Feasible alternatives and mitigation measures must be further explored to reduce the significance of impacts to visual resources.

6. The proposed mitigation measure regarding exterior light fixtures is incomplete. The project site is located 6 miles away from the Palomar Mountain Observatory (Observatory) closer than any other casino facility in San Diego County. The Draft EA/TEIR states that all outdoor lighting from the Proposed Project will comply with the Dark Skies Ordinance, but then proposes a mitigation measure that would only partially comply with the ordinance: "all exterior lighting associated with the Proposed Project shall be focused toward the facilities and shall be fully-shielded to prevent any direct upward illumination or spill-over of light onto adjacent properties." To prevent significant impacts to the Observatory, this proposed mitigation measure needs to be revised to clearly direct all fixtures downward, rather than toward the facilities. To avoid significant direct and cumulative impact to the Observatory, an additional mitigation measure must be added requiring all exterior lighting to be low pressure sodium lighting.
7. Light pollution analysis fails to examine light pollution from the Proposed Project's 23-story high-rise hotel. The Proposed Project and each of the alternatives should be analyzed for light pollution impacts associated with the tall hotel structure, and mitigation measures must be identified to protect the observatory from significant impacts.
8. Light pollution analysis fails to examine light pollution from the Proposed Project's night-time, outdoor events. As stated above, it is unclear from the Project Description what the scope and magnitude of outdoor events will be – this needs to be described, light pollution analysis needs to be expanded to address this form of light pollution, and mitigation measures must be identified to protect the Observatory from significant impacts.
9. Use of special lighting such as upward-directed search lights needs to be prohibited. Use of special exterior lights such as upward-directed search lights to attract customers or for any other purpose should be prohibited from the Proposed Project due to the rural setting and close proximity to the Observatory. Such lights clearly cause significant, unmitigable impacts to the Observatory and the rural community.

Agricultural Resources

10. The evaluation of impacts to agricultural resources is incomplete and needs additional analysis. The proposed project is located in an important agricultural area of the County of San Diego and could have significant indirect effects to off-Reservation agricultural operations due to the incompatibility of placing a high-volume entertainment and gaming facility in a rural agricultural area. The placement of incompatible uses near agricultural operations often results in complaints to farmers to change farming practices involving pesticide use, noise, dust and odors. Land use incompatibilities and associated conflicts can ultimately cause the permanent conversion of agricultural uses as farming becomes more difficult given new conditions and land use conflicts. The Draft EA/TEIR should be revised to add information which fully discloses these potential indirect impacts to agriculture and explore options to minimize these significant adverse effects.

11. Farmland Conversion Impact Site Assessment Criteria is incomplete. The Draft EA/TEIR concluded that impacts to agricultural resources are less than significant based on completion of the USDA Farmland Conversion Impact Rating, Form AD-1006. However, Form AD-1006 (included in Appendix B), did not include any scores under Part VI, Site Assessment Criteria. The Site Assessment Criteria portion of the rating is the part that addresses the land uses surrounding the site, including whether existing off-site agriculture exists and whether the proposed project would be compatible with surrounding agricultural uses. Based on the criteria contained in CFR 685.5b and the significant rural agricultural uses surrounding the project site, the addition of the site assessment score would likely raise the significance of the agricultural value of the site to above a significant level. This would further justify the need to fully explore the significance of placing a high-volume gaming and entertainment facility in an agricultural area of the County and for exploring feasible mitigation measures to minimize the potentially significant off-site impacts to agricultural resources surrounding the site. This further analysis should be provided to ensure that the EA/TEIR adequately addresses this important issue.

Air Quality

12. Draft EA/TEIR lacks credible analysis that it will not conflict with the Regional Air Quality Strategy (RAQS), that it will not create direct significant impacts, that it will not create a significant health risk with the increase in diesel particulates (PM2.5) during construction and operation of the Proposed Project and that it will not cumulatively contribute pollutants for which the San Diego Air Basin (SDAB) is already in violation of Federal Standards.

13. Incorrect screening-level thresholds of significance were used in the air pollution analysis. The analysis and discussion in this technical study should be revised to reflect the daily thresholds, because Ambient Air Quality Standards refer to 1 hour, 8 hour and 24 hour concentrations. The tons per year thresholds used in the Draft EA/TEIR analysis only apply to major stationary sources.
14. Air Quality Analysis does not substantiate conclusions. On page 86, the Draft EA/TEIR claims that the Proposed Project does not conflict with the RAQS, based on expected mobile source emissions, which are forecasted using the trips from land uses in the County's General Plan. When a project increases vehicular emissions greater than what is expected by the current growth projections used in the RAQS (which is the case for this project), the project would jeopardize the region's attainment of Federal and State ozone standards. The Draft EA/TEIR must provide substantial evidence that the project will not conflict with the RAQS. In order to demonstrate conformance with the RAQS when a project increases density, a growth projection analysis for the applicable SRA and/or MSA comparing the SANDAG growth projections with the actual development expected to occur (based on GIS data for development recently approved or currently in the discretionary process for a specific SRA) must be completed. If the project, in conjunction with other projects within a defined boundary, contributes to growth projections that exceed SANDAG's growth projections for that defined boundary, the project would be in conflict with the RAQS, and would have significant impact on air quality.
15. Assumptions used in estimating construction and operational air pollution emissions are not justified or complete. The URBEMIS2002 model, used to calculate construction and operational emissions, changed most of the standard assumptions used in the calculations without justification for the changes. Changes to default values and assumptions used to calculate emissions must be explained. In addition, the analysis fails to show emission levels before mitigation and then how the mitigation measures reduce emissions below a level of significance. This information is vital in order to disclose impacts from the project to the public.
16. The Draft EA/TEIR fails to conduct any type of health risk assessment on increased diesel-fired particulate matter which will result from the 4,512 average daily trips that the project would generate and the resulting impact to the surrounding residential receptors. Diesel exhaust is mainly composed of particulate matter and gases, which contain potential cancer-causing substances. Emissions from diesel engines currently include over 40 substances that are listed by EPA as hazardous air pollutants (HAPs) and by the ARB as toxic air contaminants. On August 27, 1998, the ARB identified particulate matter in diesel exhaust as a toxic air contaminant,

based on data linking diesel particulate emissions to increased risks of lung cancer and respiratory disease. The Draft EA/TEIR needs to assess the increased cancer risk level based on the increase of diesel-fired particulates and identify appropriate mitigation measures.

17. Cumulative construction air quality analysis inexplicably limited analysis to a ¼ mile radius. On page 90, a ¼ mile cumulative radius was used for a cumulative construction boundary area. The selection of such a limited boundary appears arbitrary. The cumulative analysis boundary must be based on the planning area or on a topographical boundary (valley), and should include a scientific explanation for the geographic limitation used.
18. Analysis of sensitive receptors is incomplete. Figure 2 on page 8, identifies the Pauma Elementary School and page 65 lists the Valley Center High School as the schools closest to the Proposed Project. The location of the schools should be disclosed to determine if they should be listed as sensitive receptors. In addition, page 35 states that the nearest sensitive receptors are 450 to 550 feet from the project boundaries, while page 91 states the nearest sensitive receptor is 1,150 feet away. The analysis must be revised for consistency and to appropriately consider the schools as sensitive receptors.

Biological Resources

19. Figure 11 on page 38 needs additional information. The document should be revised to indicate the disturbed sage scrub on the vegetation map and give the acreages of each habitat type on the property in order to properly assess impacts.
20. Additional analysis of sage scrub is needed. Based on the vegetation existing south of the property, the County believes that the disturbed sage scrub on the site is Riversidean rather than Diegan as referenced on page 37. In addition, Table 12 on page 93 fails to include this resource as part of the biological impacts. The document should be revised to provide this information to properly assess impacts.
21. Analysis of raptor foraging habitat is needed in Section 4.4a, page 93. Three raptor species were observed during the biological resources surveys of the site and many others have the potential to occur. The document should be revised to describe the potential for raptors to nest and the likelihood of the area being used for raptor foraging. If raptor foraging habitat exists on the site and would be impacted by the Proposed Project, the acreage of raptor foraging habitat should be quantified and appropriate mitigation should be proposed.

22. Additional analysis is needed to assess potential impacts to bald eagles and golden eagles. Even though they were federally de-listed by the USFWS, bald eagles and golden eagles are still protected by two federal acts: the Migratory Bird Treaty Act and the Bald and Golden Eagle Protection Act. These Acts require measures to continue to prevent bald eagle "take" resulting from human activities. The USFWS published the National Bald Eagle Management Guidelines in May 2007. Bald and/or golden eagles occur in northeastern San Diego County and may use the habitats on site.
23. The project may cause indirect impacts to off-Reservation Riversidean sage scrub and Pauma Creek. The Draft EA/TEIR does not describe the off-Reservation Pauma Creek and the habitat between the southern project boundary and the creek channel. As described in section 1.4 of the Draft EA/TEIR, the project site is located on a broad alluvial fan. This area is part of the fan. The County believes the vegetation community is Riversidean sage scrub growing on the slightly sloping land between the project site and the creek. The vegetation is heavily dominated by California buckwheat (*Eriogonum fasciculatum*) with scattered California sagebrush (*Artemisia californica*). At the upstream end (eastward) are widely scattered western sycamores (*Platanus racemosa*); a couple of coast live oaks (*Quercus agrifolia*) are amid the Riversidean sage scrub shrubs between the project site and the creek channel closer to SR 76. Off-Reservation impacts could include, but are not limited to, noise and dust during construction, stormwater runoff, and night-lighting of off-Reservation habitat. The document should be revised to assess the impact to these resources.
24. Analysis of impacts to Off-Reservation coast live oak trees is needed. Coast live oak trees are growing along the west side of SR 76, south of Pauma Reservation Road, within the area of the Proposed Project's intersection improvements. These trees are interspersed among non-native trees. Impacts to these oak trees should be considered in the off-Reservation impact assessment.

Cultural Resources

25. Documentation to support conclusions for off-Reservation cultural impacts is incomplete. Without a current cultural resources report, the County cannot adequately comment on the Cultural resources sections of the Draft EA/TEIR. Survey and/or evaluation reports that cover the proposed improvement areas should be provided to the County to adequately assess the environmental impacts to cultural resources. The cultural resources reports and project-specific archaeological/cultural site location maps and figures can be submitted under separate cover directly to County archaeologists to protect the confidentiality of the contents.

