



United States Department of the Interior

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FINDING OF NO SIGNIFICANT IMPACT FOR THE PROPOSED MECHOOPDA INDIAN TRIBE CHICO CASINO FEE-TO-TRUST ACQUISITION

AGENCY: Bureau of Indian Affairs

ACTION: Finding of No Significant Impact

SUMMARY:

The Mechoopda Indian Tribe of the Chico Rancheria (Tribe) submitted a request to the Bureau of Indian Affairs (BIA) to approve the acquisition in trust of 630 acres of fee land and develop a gaming facility on the property. The land proposed for development and trust acquisition is located within portions of Sections 5 and 6, Township 20N, Range 3E, and a portion of NE $\frac{1}{4}$ of Section 1, Township 20N, Range 2E, Mount Diablo Base and Meridian of the "Shippee, California" U.S. Geological Survey 7.5 minute topographic quadrangle. The land is located approximately ten miles southeast of the City of Chico, immediately adjacent to and east of State Route 149, near its intersection with Highway 99, in unincorporated Butte County, California.

Based upon the analysis documented in the Environmental Assessment (EA), Revised Environmental Assessment (REA), consideration of comments received during the public review period, and implementation of additional mitigation requirements detailed below, the BIA has reached a Finding Of No Significant Impact (FONSI). This finding constitutes a determination that the Proposed Action is not a federal action significantly affecting the quality of the human environment. Therefore, an Environmental Impact Statement (EIS) is not required.

BACKGROUND, REGULATORY AND STATUTORY CONSTRAINTS:

- The Tribe is a federally recognized Indian tribe that has historically used and occupied lands in present day Butte, Yuba, Sutter and Sacramento Counties. In 1992, the Tribe and the United States entered into a Stipulation for Entry of Judgment that reinstated the Tribe and its members status prior to termination and authorized their organization under the provisions of the Indian Reorganization Act, 25 U.S.C. § 461. The BIA approved the tribe's Constitution on February 13, 1998. The Stipulated Judgment provided that the Secretary of the Interior was authorized to take lands in trust on behalf of the Tribe outside of the rancheria's former boundaries and declare these newly acquired lands a reservation. On March 14, 2003, the National Indian

Gaming Commission issued an opinion (concurring by the Department of Interior) that the proposed site will qualify as restored lands pursuant to the Indian Gaming Regulatory Act (25 U.S.C. § 2719 (b)(1)(B)(iii)).

DESCRIPTION OF THE PROPOSED ACTION:

The BIA's Proposed Action is limited to the transfer of the site into federal trust status for the benefit of the Tribe. The proposed fee-to-trust conveyance is for two parcels totaling approximately 630 acres. A concurrent proposed action is the approval of a management contract by the NIGC. A reasonably foreseeable consequence of these actions is the subsequent proposed development of a portion of the site into a gaming facility (Proposed Project). The gaming facility is proposed to include a mixture of uses including food and beverage facilities, casino support areas, administration facilities, a lounge, retail space, and the main gaming hall. Other intended uses of the site include a casino parking area, a new groundwater well and water storage tank, and a wastewater treatment plant.

ALTERNATIVES CONSIDERED:

The BIA considered several alternatives to the Proposed Action which are described in the REA and summarized below. The Alternative On-Site Location Alternative and the No Action Alternative were evaluated in full detail in the REA. Three alternative sites (the Skyway Property, the Live Oak Property, and the Sacramento Property) and a non-gaming alternative (agricultural project) were considered but ultimately eliminated from further consideration.

- 1) Alternative On-Site Location Alternative: The Alternative On-Site Location, like the Proposed Action, consists of the conveyance of the site from private ownership into federal trust status for the benefit of the Tribe, and the subsequent construction of a gaming facility on the site. The conceptual design of the gaming facility under this alternative would be similar to the design under the Proposed Action, but the gaming facility would be constructed north and west of Clear Creek. Primary access to the gaming facility would also be from the terminus of Openshaw Road. Under this alternative, Caltrans would extend Openshaw Road west as part of its current Highway 149 improvement project and construct a bridge over Clear Creek.
- 2) No Action Alternative: Under the No Action Alternative, the two parcels (630 acres) would not be placed into federal trust for the benefit of the Tribe and would not be developed as a gaming facility. Land use jurisdiction would remain with Butte County, and the Tribe would continue to pay property taxes on the parcels. The current uses of the site (grazing and open space) are assumed to continue.
- 3) Skyway Property Alternative: The Skyway Property Alternative consists of the conveyance of the Skyway Property from private ownership into federal trust status for the benefit of the Tribe and the subsequent construction of a gaming facility on the site. The Skyway Property is a 151-acre site located along Skyway Avenue between Paradise and Chico in unincorporated Butte County. This

alternative site was eliminated from further consideration due to the preponderance of environmental impacts (including potential impacts to wetlands, visual resources, topography, and cultural resources) and lack of available electrical utilities.

- 4) Live Oak Property Alternative: The Live Oak Property Alternative consists of the conveyance of the Live Oak Property from private ownership into federal trust status for the benefit of the Tribe, and the subsequent construction of a gaming facility on the site. The Live Oak Property is located at the intersection of Sankey Road and SR-99/70 (in the northeast quadrant) in unincorporated Sutter County. This alternative site was eliminated from further consideration due to the difficulties extending an option on the properties, a preponderance of environmental impacts (including potential impacts to farmland of statewide importance, and state and federal special status species), lack of available utilities, and the site's relatively distant location from the Tribe's historical reservation.
- 5) Sacramento Property Alternative: The Sacramento Property Alternative consists of the conveyance of the Sacramento Property from private ownership into federal trust status for the benefit of the Tribe and the subsequent construction of a gaming facility on the site. The Sacramento Property is a 240-acre site located at the intersection of Sankey Road and SR-99/70 (in the southeast quadrant) in unincorporated Sutter County. This alternative site was eliminated from further consideration due to a preponderance of environmental impacts (including potential impacts to farmland of statewide importance, and state and federal special status species), lack of available utilities, and the site's relatively distant location from the Tribe's historical reservation.
- 6) Agricultural Project Alternative: For eleven years the Tribe has operated a 40-acre almond orchard on a site northwest of Chico in unincorporated Butte County. A professional agricultural management firm operates the orchard under a contract with the Tribe to ensure maximum production and revenue generation. Unfortunately, net revenue generated by the orchard has been minimal and the Tribe has not been able to attract investors needed to fund the purchase of sufficient acreage for Tribal revenue-generation needs. The Agricultural Project Alternative consists of continuing agricultural operations as a means for a sustained revenue stream to support Tribal needs. This alternative was eliminated from further consideration because it does not satisfy the purpose and need for the Proposed Action.

ENVIRONMENTAL IMPACTS:

An EA documenting and analyzing the potential impacts of the Proposed Action and Alternatives was completed in December 2003. The EA was distributed for public review from December 27, 2003, to January 27, 2004. The BIA received 11 comment letters regarding the EA completed in December 2003. A Revised EA (REA) completed in June 2006 updated the analysis and reanalyzed issues based on comments received on the EA dated December 2003. The REA was distributed for public review and comment for the period beginning June 26, 2006, and ending July 26, 2006. Extensions of the comment period were granted to those that asked until August 11, 2006. As part of the

REA, potential impacts to land resources, water resources, air quality, biological resources, cultural resources, socioeconomic conditions, resource use patterns, public services, and other values were evaluated, with the following conclusions:

- A. Having considered land resources impacts during project design/planning, Best Management Practices (BMPs) incorporated into the Proposed Project and mitigation measures will ensure impacts to land resources will be less than significant. See REA Sections 2.0, 4.1.1, and 5.1.
- B. Having considered water resources impacts during project design/planning, BMPs incorporated into the Proposed Project, and mitigation measures will ensure that impacts to water resources are not significant. See REA Sections 2.0, 4.1.2, and 5.2.
- C. Impacts to air quality will be less than significant. BMPs incorporated into the Proposed Project and mitigation measures will further reduce impacts to air quality. See REA Sections 2.0, 4.1.3, and 5.3.
- D. Having considered biological resources impacts during project design/planning, BMPs incorporated into the Proposed Project and mitigation measures will ensure that impacts to biological resources are not significant. See REA Sections 2.0, 4.1.4, and 5.4.
- E. There will be no significant impacts to known cultural resources. Mitigation measures will ensure impacts to unknown cultural resources are less than significant. See REA Sections 4.1.5 and 5.5.
- F. Having considered socioeconomic impacts during project design/planning and mitigation measures will ensure that socioeconomic impacts are less than significant. See REA Sections 2.0, 4.1.6, and 5.6.
- G. Having considered transportation networks impacts during project design/planning, BMPs incorporated into the Proposed Project, and mitigation measures will ensure that impacts to transportation networks are not significant. See REA Sections 2.0, 4.1.7, and 5.7.1.
- H. There will be no significant land use impacts. See REA Section 4.1.7.
- I. There will be no significant impacts to agricultural resources. See REA Section 4.1.7.
- J. Having considered public services impacts during project design/planning, BMPs incorporated into the Proposed Project, and mitigation measures will ensure that impacts to public services are not significant. See REA Sections 2.0, 4.1.7, and 5.7.2.
- K. There will be no significant impacts to visual resources. Having considered visual resources impacts during project design/planning, BMPs incorporated into the Proposed Project, and mitigation measures will further reduce impacts to visual resources. See REA Sections 2.0, 4.1.7, and 5.7.3.
- L. Having considered noise impacts (including noise levels during construction) during project design/planning and mitigation measures will ensure that noise impacts are not significant. See REA Sections 2.0, 4.1.8, and 5.8.1.

- M. Having considered hazardous materials impacts during project design/planning, BMPs incorporated into the Proposed Project, and mitigation measures will ensure that hazardous materials impacts are not significant. See REA Sections 2.0, 4.1.8, and 5.8.2.
- N. Cumulative impacts to land resources, water resources, air quality, biological resources, cultural resources, socioeconomic conditions, environmental justice, land use, agriculture, public services, visual resources, noise and hazardous materials would be less than significant. Having considered transportation networks impacts during project design/planning, BMPs incorporated into the Proposed Project, and mitigation measures will ensure that cumulative impacts to transportation networks are not significant. See REA Sections 2.0, 4.4, and 5.7.1.
- O. There will be no significant growth-inducing or other indirect effects. See REA Section 4.5.1.
- P. Mitigation measures will ensure that indirect effects from off-site traffic mitigation would be less than significant. See REA Sections 4.5.2 and 5.2.7.

RESPONSE TO REA COMMENTS:

Twenty-two comment letters were received on the REA (see Decision Package Section 2). Responses to comments are contained in Section 3 of this Decision Package.

SUMMARY OF REA BMPS AND MITIGATION MEASURES:

The BMPs and mitigation measures described in the REA are included either to reduce significant impacts to a less than significant level, to further reduce already less than significant impacts, or both. To ensure that the mitigation measures required to reduce significant impacts to a less than significant level are enforceable as applicable, the mitigation measures will be included as an integral part of the project description, required by Federal law and made enforceable either pursuant to the provisions of a Memorandum of Understanding (MOU) or by the NIGC pursuant to the provisions of an approved Tribal Gaming Ordinance.

The following is a summary of BMPs and mitigation measures contained in the REA (see the REA for a detailed description of all BMPs and mitigation measures):

Land Resources

- Prior to site development, a qualified professional will prepare detailed recommendations regarding foundation design and maximum slopes to minimize erosion. All structures will be designed in accordance with the seismic design criteria of the most recent edition of the Uniform Building Code.
- All site clearing, removal of all unsuitable soil, moisture conditioning, review of imported fill material, fill placement, observation of foundation excavations, and other site grading shall be verified by a registered civil engineer during construction.

Water Availability

- A new well will be installed on the site and tested for water quality and quantity.
- The Tribe shall implement an aggressive water conservation program, including the installation and use of low-flow fixtures in the gaming facility.
- To reduce water loss through evaporation, the Tribe shall water lawns and landscaped areas in the early morning hours when temperatures and winds are low.
- The Tribe shall position sprinklers to ensure that only landscaped areas are watered and sidewalks, streets, and parking areas are avoided.
- The Tribe shall use California native plants in landscaping wherever feasible to reduce the frequency of watering necessary to maintain landscaping vegetation.
- The Tribe shall delineate the location and types of external landscaping to better predict water use.
- The Tribe shall install a groundwater level monitoring network as part of an adaptive management program to protect groundwater supplies.
- The Tribe shall ensure that the project does not disturb or alter creek channels, which are prime recharge areas.

Water Quality

- Prior to construction, a Storm Water Pollution Prevention Plan shall be prepared as required by the U.S. Environmental Protection Agency (EPA) to prevent erosion and prevent pollutants from entering surface and groundwater. Permanent water quality maintenance features shall be incorporated into the design and operation of the gaming facility. Water quality control measures identified in the Storm Water Pollution Prevention Plan shall include, but not be limited to, the following:
 - Vegetation existing on the site shall be retained where possible. Grading activities shall be limited to the immediate development area.
 - Temporary erosion control measures, such as silt fences, staked straw bales, and temporary revegetation, shall be employed for disturbed areas.
 - No disturbed surfaces shall be left without erosion control measures in place during the winter and spring months.
 - Sediment shall be retained on-site by a system of sediment basins, traps, or other appropriate measures.
 - A spill prevention and countermeasure plan shall be developed, if necessary, which identifies proper storage, collection, and disposal measures for potential pollutants (such as fuel storage tanks) used on-site.
 - Storm drains shall be equipped with silt and oil traps to remove oils, debris, and other pollutants. Also, storm drain inlets shall be labeled "No Dumping- Drains to Streams and Rivers."
 - Stormwater runoff will be directed to the stormwater detention basin where flows will be attenuated before being released at rates lower than pre-development peak release rates.
 - The parking lot shall be designed to allow storm water runoff to be directed toward vegetative filter strips to help control sediment.
 - Permanent energy dissipaters shall be included in drainage outlets.

- The detention basin shall be designed to provide effective water quality control measures. Design and operational features of the drainage basins shall meet the following criteria:
 - The drainage basins shall be designed to provide the maximum detention time for settling of fine particles.
 - The distance between basin inlets and outlets shall be maximized to reduce velocities.
 - Maintenance schedules shall be established for periodic removal of sedimentation, excessive vegetation, and debris that may clog basin inlets and outlets.
- All areas within 200 feet of Clear Creek shall be designated building exclusion areas during all construction activities. Temporary fencing shall be installed to provide a 200-foot wide buffer prior to construction. The fence shall remain in place until all construction activities on the site have been completed.
- Treated effluent from the wastewater treatment plant (WWTP) shall be applied on the sprayfield at such a rate that it does not run off the field. The sprayfield shall be monitored on a daily basis by qualified personnel to ensure that the treated effluent is applied at the proper rate.
- Treated effluent from the WWTP or sprayfield shall not migrate beyond the boundaries of the WWTP.
- All tailwater and stormwater shall be collected and returned to the storage pond at all times when treated effluent is being applied to the sprayfield.
- Treated effluent shall not be applied on the sprayfield 24 hours before forecasted precipitation, during periods of precipitation, or for 24 hours after treated effluent application has ceased.
- A tailwater recapture system shall be operated to capture treated effluent runoff, as well as any stormwater runoff that occurs within 24 hours of the last application of treated effluent.
- Sprayfield irrigation shall cease when winds exceed 30 miles per hour. During wet conditions, or when soils are saturated, treated effluent shall be pumped into the storage reservoir to avoid runoff impacts.
- A plan shall be prepared that provides safety measures in the event that human error or equipment malfunction results in improper discharge.
- A WWTP utilizing membrane bioreactor technology would provide tertiary level treatment of project wastewater.
- All effluent produced by the WWTP will be treated to Title 22 standards for the use of recycled water.
- Within six months of the commencement of construction, the Tribe will develop a contingency plan that outlines procedures that would be implemented immediately if the WWTP were to fail to preclude any environmental contamination from occurring.
- The Tribe will implement the recommendations contained in the Site Grading, Stormwater Drainage and Erosion Control Plan, which is contained in Appendix J of the REA.

Hydrology and Flooding

- The Tribe will work with appropriate Federal, State, and local agencies to comply with the National Flood Insurance Program.
- To avoid potentially significant impacts to the floodplain and to reduce potential flood hazards the measures contained in the Butte County Flood Hazard Prevention Ordinance (Ordinance No. 3598) contained in Article IV of the Butte County Code shall be substantially incorporated. Mitigation measures shall include, but not be limited to, the following:
 - Base flood elevations shall be established in the 91± acre study area. Development shall not increase the water surface elevation on neighboring properties and shall not increase the water surface elevation of the base flood more than one foot at any point. Prior to construction, a registered professional engineer shall certify that the project design and methods of construction comply with these standards.
 - All electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities shall be designed and/or located to prevent water from entering or accumulating within those components during flood conditions.
 - The lowest floor elevation of new structures and attendant utility and sanitary facilities shall be elevated a minimum of one foot above the regulatory flood elevation or be flood-proofed so that below the regulatory flood elevation the structure is watertight with walls impermeable to the passage of water, and shall have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. Upon completion of structures, the elevation of the lowest floor, or proper flood-proofing, shall be certified by a registered engineer or surveyor.
 - New water and sewer systems shall be constructed to eliminate or minimize infiltration of floodwaters into systems and discharge from systems into floodwaters. Moreover, on-site waste disposal systems shall be designed and located to avoid impairment to them or contamination from them during flooding.
 - Construction materials and utility equipment that are resistant to flood damage will be used for the gaming facility.
 - Construction methods and practices that minimize flood damage will be incorporated into the gaming facility.
 - All structures will be designed or anchored to prevent floatation, collapse, or lateral movement of the structure or portions of the structure due to flooding.

Air Quality

- To minimize the emission of pollutants and impacts to air quality during construction phases of the gaming facility, the construction contractor shall be required to implement the following mitigation measures (as recommended by the Butte County Air Quality Control Management District (BCAQMD)) for the duration of the construction operations:

- Water shall be applied by means of truck(s), hoses, and/or sprinklers as needed prior to any land clearing or earth movement to minimize dust emission.
 - Haul vehicles transporting soil into or out of the property shall be covered.
 - A water truck shall be on site at all times. Water shall be applied to disturbed areas a minimum of 2 times per day or more as necessary.
 - On-site vehicles shall be limited to a speed of 15 mph on unpaved roads.
 - A publicly visible sign shall be posted with the telephone number and person to contact regarding dust complaints. This person shall respond and take corrective action within 24 hours.
 - All visibly dry disturbed soil surface areas of operation shall be watered to minimize dust emission.
 - Existing roads and streets adjacent to the project will be cleaned at least once per day unless conditions warrant a greater frequency.
 - All visibly dry, disturbed, unpaved roads, and surface areas of operation shall be watered to minimize dust emission.
 - Unpaved roads may be graveled to reduce dust emissions.
 - Haul roads shall be sprayed down at the end of the work shift to form a thin crust. This application of water shall be in addition to the minimum rate of application.
 - Vehicles entering or exiting construction areas shall travel at a speed which minimizes dust emissions.
 - Construction workers shall park in designated parking areas(s) to help reduce dust emissions.
 - Soil pile surfaces shall be moistened if dust is being emitted from the pile(s). Adequately secured tarps, plastic, or other material may be required to further reduce dust emissions.
- Public transportation service to the gaming facility shall be provided at frequent intervals. The Tribe has authorized a one-time expenditure of \$50,000 to assist in establishing public transportation to the gaming operation. An annual expenditure of \$5,000 has also been authorized to maintain the public transportation service.
 - The Tribe shall provide at least two transit shelters with benches and at least one bus turnout.
 - The Tribe shall ensure that buses will comply with the California Air Resource Board's Airborne Toxic Control Measure to Limit Diesel-Fueled Commercial Motor Vehicle Idling (California Code of Regulations, Title 13, Division 3, Article 1, Chapter 10, Section 2485), which requires that the driver of any diesel bus not idle for more than 5 minutes at any location, except for periods of 10 minutes prior to passenger boarding, or when passengers are on board.
 - The Tribe will use energy-efficient lighting and process systems, such as water heaters, furnaces, and boiler units.
 - The Tribe will use fleet vehicles that use clean-burning fuel as may be practicable.
 - The Tribe shall incorporate shade trees, adequate in number and proportion to the project size, throughout the project site to reduce building heating and cooling requirements.

- The Tribe shall establish a development pattern that encourages pedestrian and bicycle use by providing paths and building access which are physically separated from street and parking lot traffic and that eliminates physical barriers such as walls, berms, landscaping, and slopes that impede the use of pedestrian or bicycle facilities, or public transportation vehicles.

Biological Resources

- A bridge shall be installed which spans the vernal pool located near the entrance of the property, thereby eliminating direct impacts to wetlands, vernal pools, and endangered fairy shrimp. All features associated with the construction of the bridge shall be located outside the boundaries of the identified wetland areas. BMPs shall be employed to avoid impacts to the area from construction-related activities.
- Should installation of a bridge not be possible due to failure to obtain construction approvals (despite the applicant's good faith effort to obtain such approvals) or some other barrier to construction that is beyond the Tribe's control, mitigation for the loss of vernal pool habitat conducive to the species (*Branchinecta lynchi* and *Lepidurus packardii*) would be obtained at a USFWS and Army Corps of Engineers-approved mitigation bank. The 0.035 acres of impacts to vernal pool habitat would need to be mitigated according to a revised biological opinion issued by the USFWS.
- Indirect impacts to vernal pools or seasonal wetland features within 250 feet of construction areas will be subject to the provisions of the biological opinion issued by the USFWS (REA Appendix R). All conservation measures identified by the USFWS must be implemented prior to ground disturbance activities. These measures include: compensatory mitigation for habitat loss (2:1 ratio) of 10.25 acres of vernal pool habitat, or preservation of vernal pool habitat (3:1) ratio at an off-site location approved by the USFWS; seasonal restrictions on construction, protective fencing and signs, worker education programs, biological monitoring and reporting for activities within 250 feet of vernal pool crustacean habitat, and implementation of BMPs to prevent the accidental release of disturbed soils, fuel, oil, or other materials associated with construction activities into sensitive habitats.
- The Sacramento USFWS and BIA shall be notified within three working days of the finding of any dead federally listed species or any unanticipated harm to the species addressed in the biological opinion as well as any other federally listed species not authorized in the biological opinion.
- If construction activities are to occur during the nesting season (approximately March through September), pre-construction surveys for nesting Cooper's hawk, white-tailed kite, and other raptor species shall be conducted by a qualified biologist within 500 feet of the proposed construction areas. If active nests are identified in these areas, the USFWS shall be consulted to develop measures to avoid the *take* of active nests prior to the initiation of any construction activities. Avoidance measures may include the establishment of buffers and biological monitoring.
- A pre-construction survey for burrowing owls shall be conducted by a qualified biologist within the 30 days immediately prior to construction activities to establish the status of this species on the project site. If ground disturbing activities are delayed or suspended for more than 30 days after the pre-construction survey, the site shall be resurveyed. If burrowing owls are detected within approximately 500 feet of

the proposed project site, the USFWS shall be consulted to develop measures to avoid the *take* of this species prior to the initiation of any construction activities. Avoidance measures may include seasonal restrictions on construction, the establishment of buffers, compensatory mitigation for impacts to active burrow sites, and biological monitoring.

- A 200-foot *no disturbance* buffer shall be maintained along Clear Creek (giant garter snake aquatic habitat) during project construction. Temporary fencing shall be installed outside the 200-foot buffer prior to any construction and remain in place until all construction activities on the site have been completed. An on-site biological monitor shall be present during all initial ground disturbance activities associated with the proposed project within the 200-foot buffer. If implementation of this measure is not feasible, the USFWS shall be consulted to develop measures to avoid or permit the *take* of the giant garter snake. All conservation measures identified by the USFWS shall be implemented. Measures may include compensatory mitigation for habitat loss, seasonal restrictions on construction, protective fencing and signs, worker education programs, biological monitoring and reporting, and implementation of BMPs to prevent the accidental release of disturbed soils, fuel, oil, or other materials associated with construction activities into sensitive habitats.
- To minimize the potential effects of lighting on listed species, reflectors directing lighting shall be installed on all exterior lighting, low intensity halogen bulbs shall be used, and all lighting shall be less than or equal to full moon intensity 100 feet outside of the project site.
- A Department of the Army permit shall be obtained from the U.S. Army Corps of Engineers, and any required wetland mitigation credits shall be purchased from an approved wetlands mitigation bank prior to the discharge of any dredged or fill material within jurisdictional waters of the United States.
- Indirect impacts to wetlands and vernal pool crustacean habitat shall be mitigated as prescribed by the biological opinion issued by the USFWS.
- Construction activities occurring within wetland areas shall be conducted during the dry season to minimize the potential for erosion.
- Temporary fencing shall be installed around areas of wetland habitat to remain undisturbed. Fencing shall be located as far as feasible from the edge of wetland habitats and installed prior to any construction. Fencing shall remain in place until all construction activities on the site have been completed.
- Staging areas shall be located at least 250 feet away from wetland habitats that are to be preserved. Temporary stockpiling of excavated or imported material shall occur only in approved construction staging areas. Excess excavated soil shall be used on site or disposed of at a regional landfill or other appropriate facility. Stockpiles that are to remain on the site through the wet season shall be protected to prevent erosion (e.g., with silt fences or straw bales).
- Standard precautions shall be employed by the construction contractor to prevent the accidental release of disturbed soils, fuel, oil, lubricant, or other potentially hazardous materials associated with construction activities into wetland habitats. All workers shall be informed of the importance of preventing spills and appropriate measures to take, should a spill occur. A contaminant containment program shall be developed and implemented in the event of release of hazardous materials. Any spills of

hazardous materials shall be cleaned up immediately. Such spills shall be reported in the post-construction compliance reports.

Cultural Resources

- Prior to the start of construction, a set of engineering drawings shall be provided to a senior archaeologist designated by the Tribe. The senior archaeologist, in consultation with the Tribal monitor, will then determine if areas exist where construction work will require monitoring. This information will then be provided to the job superintendent or foreperson, who will then be responsible for notifying the monitors 24 hours in advance of work being performed in areas requiring monitoring.
- In the event of discovery of significant archaeological resources, the BIA will follow the regulation concerning unanticipated discoveries on tribal lands as set forth under 36 CFR § 800.13(d), before land disturbing activities in the area of discovery will be allowed to resume.
- The Tribe shall include the following requirement in construction contract specifications for construction activities on the site:
 - In the event that any prehistoric, historic, or paleontological resources are discovered during construction-related earth-moving activities, all work within 50 feet of the resources shall be halted, and the Tribe shall consult with a qualified archaeologist or paleontologist and the BIA Regional Archaeologist to assess the significance of the find. If any find is determined to be significant by the qualified archaeologist and BIA Regional Archaeologist, then representatives from the Tribe, the qualified archaeologist and/or paleontologist, and BIA Regional Archaeologist would meet to determine the appropriate course for action.
- If human remains are discovered or suspected, work shall halt in that area and procedures set forth in the Native American Graves Protection and Repatriation Act (25 USC 3001 *et seq.*) shall be followed.

Socioeconomic Conditions

- The Tribe has agreed to make a \$25,000 annual contribution to a fund addressing problem and pathological gambling.
- Brochures, pamphlets, videos, and other materials promoting responsible gambling, including a help line at the proposed casino, will be developed and made available to patrons.
- Exclusion, self-exclusion, and self-limitation policies will be instituted.
- All employees will be trained on the issue of problem gambling, including education on the nature of problem gambling, how to recognize such behavior, and resources available to help problem gamblers.
- Underage gambling will be strictly prohibited, by requesting identification of gambling customers, displaying/advertising legal age to gamble, heightening awareness of customer responsibility when bringing children to the proposed casino, and working with educational institutions and other local organizations to raise awareness of problem gambling.
- The Tribe shall enact an ordinance creating a standard policy encouraging responsible drinking and designated-driver programs. As part of this policy, the gaming and

entertainment facility employees serving alcohol shall undergo Responsible Beverage Service Training (RBST), also known as *server training*. RBST educates managers, servers, and sellers at alcohol establishments about strategies to avoid illegally selling alcohol to underage youth or intoxicated patrons. The goal of RBST is to decrease the number of illegal alcohol sales to underage youth and intoxicated patrons through education programs. Information provided in server training must at a minimum include:

- The importance of checking age identification of customers who appear to be under age 30.
 - How to identify fake IDs and what to do once a fake ID is confiscated.
 - How to recognize situations in which adults are buying alcohol for underage youth.
 - How to refuse sales to individuals who may supply alcohol to underage youth.
 - How to identify intoxicated customers.
 - How to refuse service to underage youth and intoxicated customers.
- The Tribe has agreed to contribute \$25,000 annually to alcohol awareness programs.
- While the final amount agreed upon may differ, the Tribe has authorized an annual expenditure of \$351,000 and a one-time expenditure of \$50,000 for law enforcement services.
- While the final amount agreed upon may differ, the Tribe has authorized an annual expenditure of \$168,000 and a one-time expenditure of \$100,000 for fire protection and emergency response services.

Transportation Networks

- The access driveway will include two inbound lanes and one outbound lane to minimize traffic on Openshaw Road.
- The following intersections shall be temporarily signalized until the completion of the Caltrans SR-149 improvements (unless Caltrans does not recommend signalization due to conflicts with their construction plans): SR-149/Shippee Road, SR-149/SR-99, and SR-149/SR-70.
- All improvements, temporary and otherwise, shall be coordinated to the maximum extent possible with the Caltrans SR-149 improvement project.
- A permanent, new signal shall be at the location of the realigned Shippee Road and SR-149 intersection, with associated geometric improvements on the Openshaw approach of the intersection to accommodate casino traffic. The east leg of Shippee Road connecting to Openshaw Road will be stop-controlled with one lane in the eastbound direction and with a left-shared-through and right-turn lane in the westbound direction.
- If project timelines for the Caltrans SR-149 and/or SR-99 improvements are coincidental with the proposed project, the Tribe will be responsible for obtaining environmental approvals, permits, and the added cost for the signal improvements. If the timelines do not coincide, Caltrans will process the signal project through the standard encroachment process as a separate project.

- The Tribe shall continue to work with Caltrans to develop an MOU that will address mitigation implementation.
- The Tribe has authorized a one-time expenditure of \$750,000 for signal and general road improvements. It has also agreed to an annual expenditure of \$25,000 for County road maintenance.
- Close coordination with the Caltrans SR-149 improvement project for casino-related improvements along SR-149 shall occur and will be required by Caltrans. Casino-related improvements may require amendment of the traffic management plan or construction phasing for the SR-149 improvement project, which, if required, will be the financial responsibility of the casino project.
- The Tribe shall work with Butte Regional Transit to allow a transit stop and associated amenities at the casino. Serving the project site would require a small route deviation and should not impact the transit agency's ability to manage their current service area in a timely fashion. If Butte Regional Transit does not wish to provide bus service, the Tribe shall sponsor shuttles or charter buses from population centers to reduce automobile traffic to the casino. Preferential carpool or vanpool spaces shall be provided at the project site to encourage ridesharing by patrons and employees.
- It is recommended that an additional lane be added to the southbound approach on Shippee Road.
- The casino shall provide for the expected fair share of the costs of the widening improvements necessary as noted below based on the *Ca/trans' Guide for the Preparation of Traffic Impact Studies*.
 - *Widen SR-70 south of SR-149.* The casino should contribute two percent of the cost of the widening in each direction.
 - *Widen SR-70 north of SR-149.* The casino should contribute two percent of the cost of the widening in the westbound direction and three percent for widening in the eastbound direction.
 - *Widen SR-99 north of SR-149.* The casino should contribute two percent of the cost of the widening in each direction.
 - *Widen SR-99 south of SR-149.* The casino should contribute six percent of the cost of the widening in each direction.
- The Tribe shall provide for a fair share to the following traffic improvements on SR-99:
 - Extending the deceleration length of the SR-99 northbound Durham Pentz Road off-ramp to 215 feet.
 - Extending the acceleration length of the SR-99 northbound Durham Pentz Road on-ramp to 420 feet.
 - Extending the acceleration length of the SR-99 southbound Durham Pentz Road on-ramp to 400 feet.
- The barrier rails on the Openshaw Road Dry Creek Bridge shall be improved and guardrails installed (and safety rails upgraded where present along Openshaw Road between the project site and the SR-149/Shippee Road intersection), according to current applicable standards, to maximize traffic safety during operation.

- Signage should be placed to alert northbound and southbound Openshaw Road drivers that the bridge over Dry Creek is a narrow bridge.
- To avoid the SR-149/SR-70 intersection, trucks traveling to the borrow pit from the project site shall turn right from the SR-149/Shippee Road intersection onto SR-149; they shall then turn right at the SR-149/SR-99 intersection, and continue north to Durham Pentz Road; they shall then turn right onto Durham Pentz road and continue along Durham Pentz Road to Pentz Road; they shall then turn right at Pentz Road and then right at SR-70; finally they shall turn right onto Wheelock Road.
- Construction of an access to the site from a temporary right-in/out driveway off of SR-149 shall take place during construction, if possible. This would require a temporary access easement and an encroachment permit from Caltrans as well as design of the access. Construction traffic shall adhere to the terms of the Caltrans encroachment permit in using this access. The access should only be used for overweight/oversize vehicles that cannot use the Dry Creek Bridge. All other construction vehicles should use the Shippee Road access.
- The pavement on Openshaw Road from the project site to the SR-149/Shippee Road intersection should be overlaid during project construction but prior to the public opening of the proposed casino, if the road has not already been overlaid by Caltrans at that time.
- A construction traffic management plan should be prepared in consultation with Butte College and Butte County to ensure construction traffic is managed efficiently with as little impact on area traffic and roadways as possible, without disturbing the timely construction of the proposed project. The construction traffic management plan should be implemented for the duration of the proposed project's construction. The plan should include provisions for training construction delivery vehicle drivers. Construction material importation should be scheduled outside of the areawide commute peak hours. Debris along the truck route caused by trucks should be monitored daily and the roadways cleaned as necessary.
- The Tribe shall provide flagging and associated traffic controls when necessary in consultation with the California Highway Patrol (CHP), Caltrans, and the Butte County Sheriffs Department.

Public Services

- The Tribe shall provide compensation for the incremental cost of providing police, fire, transportation, and other services to the gaming facility. The Tribe shall enter into a negotiation with each service provider on an individual basis to determine levels and conditions for compensatory mitigation.
- The gaming facility's air conditioning and refrigeration systems shall utilize refrigerants approved for use in California. The facility shall use high-efficiency chillers.
- The air handling systems shall utilize outside air economizer cycles to take advantage of efficient cooling when the outside air temperature is below 55 °F.
- The gaming facility building shall be equipped with a direct digital energy management and control system to perform energy conservation measures such as optimum start/stop, duty cycling, and demand limiting. This management system will insure that the gaming facility minimizes energy usage.

- The gaming facility shall comply with the intent of energy building standards within the California Code of Regulations, Title 24, Part 6e.
- The final design of the gaming facility shall consider solar orientation for energy efficiency to the extent practicable.
- Security personnel shall be sworn officers of the Tribal Government and be trained as peace officers with specialized training in gaming facility security.
- All surveillance officers shall be fully trained in observation and report writing.
- Security officers shall be trained in basic first aid, cardiopulmonary resuscitation, and customer service.
- The Tribe shall also make arrangements with the Butte County Sheriffs Department and/or other local jurisdictional agencies to coordinate the handling of criminal investigations and the handing over of criminal suspects.
- Trained security staff shall be provided to address security issues within the gaming facility during operating hours. All security guards shall carry two-way radios to respond to backup and emergency-related calls.
- All parking areas shall be well-lit and monitored by parked and/or roving security guards at all times during operation.
- Areas surrounding the gaming facility shall be well-lit and patrolled regularly by security guards.
- The Tribe shall provide traffic control with appropriate signage and the presence of peak-hour traffic control staff
- An appropriately sized water storage tank equipped for emergency fire flows shall be constructed and maintained by the Tribe.
- All Uniform Fire Code requirements shall be incorporated into the design and operation of the gaming facility.
- Construction equipment and power tools shall be equipped with spark arrestors, as applicable, and maintained in good working order.
- Staging areas, welding areas, or areas slated for development using spark-producing equipment shall be cleared of dried vegetation or other materials that could serve as fire fuel. To the extent feasible, the contractor shall keep these areas clear of combustible materials in order to maintain a firebreak.
- Casino security personnel and other employees will receive first aid training, to include CPR and use of an automatic external defibrillator (AED). An AED will be kept in the gaming facility.
- Construction waste shall be recycled to the extent practicable by diverting green waste and recyclable building materials from the solid waste stream.
- Environmentally preferable materials shall be acquired to the extent practicable for construction of facilities.
- The Tribe shall adopt public health standards for the handling of food and beverages. The Tribe shall permit inspection of the food and beverage facilities by the Indian Health Service, State, or County inspectors.
- The Tribe shall submit water samples for routing testing and permit inspection of the water treatment facility by Federal, State, or County inspectors.
- The Tribe will adopt a solid waste management plan that addresses recycling and solid waste reduction at the site.

Visual Resources

- Signage will be designed to reflect and accentuate the natural elements of the project.
- The gaming facility shall be designed in a manner that compliments the natural landscape. The design of the gaming facility and all on-site parking shall be generally consistent with design standards set forth in the Butte County Zoning Ordinance.
- Signage for the proposed project shall not conflict with applicable County, State, or Federal requirements in place at the time for signs along a State highway.
- Downcast lighting fixtures and low-pressure sodium bulbs shall be utilized so that nighttime lighting for the parking areas shines only on the parking areas, and not on surrounding areas.

Noise

- The construction contractor shall be required to muffle and shield intakes and exhaust on construction equipment, in accordance with the manufacturer's specifications, and shroud and shield impact tools.

Hazardous Materials

- If contaminated soil, groundwater, or other suspected contamination is encountered during project construction, work shall be halted in the affected area and the type and extent of the contamination shall be determined. A qualified professional, in consultation with appropriate regulatory agencies, shall then develop an appropriate method to remediate the contamination. If necessary, the Tribe shall implement a remediation plan in conjunction with continued project construction.
- The Tribe shall develop, implement, and review annually a hazardous materials and hazardous waste minimization program to determine if additional opportunities for hazardous materials and hazardous waste minimization are feasible, for both construction and operation of the gaming facility.
- Personnel shall follow written standard operating procedures (SOPs) for filling and servicing construction equipment and vehicles. The SOPs, which are designed to reduce the potential for incidents involving hazardous materials, shall include the following:
 - Refueling shall be conducted only with approved pumps, hoses, and nozzles.
 - Catch-pans shall be placed under equipment to catch potential spills during servicing.
 - All disconnected hoses shall be placed in containers to collect residual fuel from the hose.
 - Vehicle engines shall be shut down during refueling.
 - No smoking, open flames, or welding shall be allowed in refueling or service areas.
 - Refueling shall be performed away from bodies of water to prevent contamination of water in the event of a leak or spill.
 - Service trucks shall be provided with fire extinguishers and spill containment equipment, such as absorbents.

- Should a spill contaminate soil, the soil shall be put into containers and disposed of in accordance with local, State, and Federal regulations.
 - All containers used to store hazardous materials shall be inspected at least once per week for signs of leaking or failure. All maintenance and refueling areas shall be inspected monthly. Results of inspections shall be recorded in a logbook that shall be maintained on site.
- The amount of hazardous materials used in construction and operation of the gaming facility shall be consistently kept at the lowest volumes needed.
- The least toxic material capable of achieving the intended result shall consistently be used to the extent practicable.
- The contractor shall be requested to avoid and minimize the use of hazardous materials during construction to the fullest extent practicable.
- The use of pesticides and toxic chemicals shall be minimized to the greatest extent feasible in landscaping, or less toxic alternatives shall be utilized.
- All personnel who handle herbicides or pesticides will be trained in safe handling and disposal of hazardous materials.

SUMMARY OF ADDITIONAL BMPS AND MITIGATION MEASURES:

In addition to the BMPs and mitigation measures detailed in the REA, the following BMPs and mitigation measures have been added in responses to comments on the REA:

- As construction plans are finalized, the Tribe will coordinate with Pacific Gas & Electric (PG&E) to determine the exact modifications to utilities that will be necessary to serve the project.
- The Tribe will coordinate with PG&E and the California Department of Health Services to ensure information on the possible or perceived risks of electromagnetic field exposure are readily available to employees and patrons.
- Final design calculations and construction drawings and drainage plans will be provided to Caltrans for review prior to construction.
- As necessary and consistent with the Federal Safe Drinking Water Act, appropriate treatment methods would be employed to treat the water to State potable water quality standards.
- The WWTP will be staffed with operators who are qualified to operate the plant safely, effectively, and in compliance with all permit requirements and regulations. The operators would have qualifications similar to those required by the State Water Resources Control Board Operator Certification Program for municipal wastewater treatment plants. This program specifies that for tertiary level wastewater treatment plants with design capacities of 1.0 MGD or less, the chief plant operator must be a Grade III operator. Supervisors and Shift Supervisors must be Grade II operators. An Operations and Maintenance Program will be followed by the plant operators. Emergency preparedness will include all appropriate measures, including a high level of redundancy in the major systems. Monitoring of discharge would be in accordance with the National Pollutant Discharge Elimination System (NPDES) permit issued by the EPA. This monitoring would include both continuous and grab monitoring of various parameters.

- A new water well location is proposed that provides further separation between the water supply and wastewater treatment facilities (see Decision Package Attachment B).
- The following additional air quality BMPs will be implemented during project construction (see Attachment D): use aqueous diesel fuel, use cooled exhaust gas recirculation, and use a shuttle to transport workers to retail establishments at lunch.
- All parking lots will be landscaped.
- The Tribe will prepare a list of hazardous materials used at the site and a Spill Prevention Control and Countermeasure (SPCC) Plan for submission to the Butte County Environmental Health Division.
- The USFWS and NIGC NEPA Compliance Officer for this project will be contacted within three working days of the finding of any dead federally listed species or any unanticipated harm to the species addressed in the biological opinion, as well as any other Federally listed species not authorized in the biological opinion.
- The BIA and NIGC NEPA Compliance Officers will be notified of which areas are determined to require archaeological monitoring during construction.
- The NIGC NEPA Compliance Officer will be contacted in the event of any spill or should contamination be encountered during project construction.
- To ensure that native plants are indeed used wherever feasible, the landscaping for the Proposed Project shall be planned in consultation with the California Native Plant Society. To prevent the introduction of invasive species, which would impact the surrounding environment, the California Invasive Plant Council shall also be consulted on the specific list of plants proposed for use in the landscaping.

DETERMINATION:

After review and independent evaluation, the BIA has determined that the proposed Federal action, to approve the Mechoopda Indian Tribe of the Chico Rancheria's request to take the proposed 630-acre site into trust for the purpose of operating a gaming facility, does not constitute a major Federal action that would significantly affect the quality of the human environment within the meaning of NEPA. This conclusion is based on the analysis contained in the REA, public comments made on the REA, the response to those comments, and the mitigation imposed. Therefore, an Environmental Impact Statement is not required and the BIA is issuing this mitigated FONS!.

Issued in Washington, D.C., this 4th day of Jan., 2007.



Assistant Secretary – Indian Affairs

PUBLIC AVAILABILITY:

This FONSI will be distributed to all persons and agencies known to be interested in the Proposed Action as indicated by their comments on the REA. Additionally, all persons and agencies on the initial EA and REA mailing lists will receive a copy.