



**Tribal Council**

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June 11, 2024

Via US Mail and Email to Amy.Dutschke@bia.gov

Amy Dutschke  
Regional Director  
Bureau of Indian Affairs  
Pacific Regional Office  
2800 Cottage Way  
Sacramento, CA 95825

Re: Formal Request to Serve as Cooperating Agency

Dear Amy:

It was wonderful to see you last week at Séka Hills for the ceremonies marking expansion of the Berryessa Snow Mountain National Monument, execution of a co-stewardship agreement for Monument lands, and successful completion of the long-pending fee-to-trust process for our Benewihno Kewe property. Nothing is more important to us than our ancestral Patwin lands, and we deeply appreciate both your work on these issues and the opportunity to celebrate with you.

Unfortunately, I must write today on another, more troublesome matter of ancestral homelands. As you know, the Scotts Valley Band of Pomo Indians has applied to take land in Vallejo into trust for gaming purposes under the Indian Gaming Regulatory Act's "restored lands" exception. You also know that Yocha Dehe, among many others, strongly opposes the application. In claiming a significant historical connection to Vallejo, Scotts Valley has badly misrepresented both its own history and (even more problematic) the history and culture of our Patwin people. Its Project threatens our cultural resources, our ability to provide for our people, and our Patwin heritage. We cannot simply stand by and watch while another tribe misrepresents our history and culture for its own commercial benefit.

But the purpose of this letter is not to litigate the purported "merits" of Scotts Valley's proposed project; rather, it is to seek your assistance in securing a fair, transparent, and fact-based decision-making process in which Yocha Dehe can meaningfully participate.

**Yocha Dehe Wintun Nation**

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We have twice asked the Department of the Interior to establish such a process – first on November 28, 2023, then again on March 19, 2024. The Department has not responded to either request. Other interested tribal governments made similar inquiries and were likewise ignored.

One of our elected representatives subsequently suggested the Department may have instead issued a memorandum – without notice to us or any other interested tribe – instructing your office to process Scotts Valley’s fee-to-trust application and complete a National Environmental Policy Act (NEPA) review. Seeking clarity, we filed Freedom of Information Act requests with several Departmental offices (including yours) to obtain a copy of the memorandum. To date, the only response we have received *claims that no such document exists*.

In short, Yocha Dehe has been kept entirely in the dark. Interior has refused to address – or even to acknowledge – our reasonable requests to set a fair, transparent process. The Department has not provided any documents responsive to our Freedom of Information Act requests. There is no way for us to know whether a NEPA process is under way, and no available information about Scotts Valley’s application that would allow us to meaningfully participate if a NEPA document were, in fact, being prepared.

Of course, it is difficult to imagine the Bureau of Indian Affairs – of all federal agencies – would have initiated a NEPA process without notifying interested and affected tribal stakeholders. But, in an abundance of caution, we must ask you to treat this letter as a formal request for cooperating agency status in any NEPA review of Scotts Valley’s proposed gaming project in Vallejo.

Yocha Dehe is well qualified to serve as a cooperating agency:

- It is beyond reasonable dispute that Yocha Dehe has special expertise on the proposed action’s potential to impact cultural and historic resources. The proposed project site is located within Patwin ancestral territory, near the Patwin village of *Aguasto*. The site itself is known to contain Patwin cultural resources, as are nearby properties. The California Native American Heritage Commission has identified Yocha Dehe as the “most likely descendant” of Native American human remains in Vallejo and Solano County. Pursuant to a cultural easement agreement with the City of Vallejo, Yocha Dehe (along with the Kletsel Dehe Wintun Nation) protects Patwin cultural sites in Vallejo parks. And, over the years, Yocha Dehe has helped evaluate, advise on, and protect dozens of cultural sites in and around Vallejo, the neighboring city of American Canyon, and surrounding areas of Solano and Napa counties.
- The proposed project site is currently designated and set aside for open space and has the potential to contain important biological resources. Yocha Dehe has special expertise on these issues, having worked with local governments and Non-Governmental

- Organizations on open space issues throughout Patwin ancestral territory – including, most recently, the 1,500-acre Patwino Worrtila Kodoi Dihi Open Space Park (a place name meaning “Southern Rock Home of the Patwin People” in our Patwin language) in nearby Fairfield. We also help plan and implement native plant and habitat restoration projects in Solano County, often in partnership with local agencies. And, more generally, our Patwin people have unique indigenous knowledge of the plants, animals, and habitats in these Patwin ancestral lands.
- One of the most critical issues to be addressed in the NEPA process is the nature and extent of the socioeconomic impacts of Scotts Valley’s project – including impacts on other tribal governments like ours. It goes without saying that Yocha Dehe has special expertise on this issue.
- Yocha Dehe also has special expertise directly bearing on the identification and consideration of a range of reasonable alternatives capable of meeting the proposed action’s purpose and need. Our deep connection to Vallejo, Solano County and the surrounding region, our extensive work on environmental, cultural, and economic development matters there, our extensive work on traffic and transportation issues in the area (an important environmental constraint for which alternatives will need to be developed), and our own experience with successful gaming and non-gaming development in Patwin ancestral territory all provide unique and important expertise that will be needed to identify an appropriate range of reasonable alternatives to the proposed action.

In sum, Yocha Dehe has special expertise on the Scotts Valley project’s potential to impact cultural and historic resources, biological resources and habitats, land use and open space, and socioeconomics, among others, as well as the availability of reasonable alternatives to Scotts Valley’s proposal – all key issues in the environmental review process.

Indeed, Yocha Dehe’s participation as a cooperating agency is particularly important under the unique circumstances presented here. Scotts Valley’s claim of a historical connection to Vallejo is not based on any aboriginal or ancestral tie; in fact, in previous litigation it has conceded that “its villages were located further north, around Clear Lake, in pre-contact times, with Patwin villages located in the south near the [project site].” Instead, Scotts Valley has suggested that its people may have labored on ranchos in the area during the Spanish colonial period. Even if there were concrete evidence to support that contention (which there is not), and even if that evidence could somehow demonstrate a tribal presence (which it does not), and even if it were possible to interpret any of this as creating a historical connection to the proposed project site (which defies law, history, and common sense), it would still be undisputed that *Yocha Dehe and other Patwin tribes – and not Scotts Valley – have the special expertise and knowledge necessary to address impacts of cultural concern.* For example: If Scotts Valley were to disturb Native

American human remains on the project site, **Patwin cultural monitors would be called to the property to determine the most culturally appropriate treatment plan** – an absurdity that highlights both the absence of any genuinely significant historical connection between Scotts Valley and Vallejo, and the importance of confirming Yocha Dehe’s cooperating agency status.

It is not enough to suggest that Yocha Dehe might someday participate in the public review and comment process NEPA requires. Consistent with the trust relationship owed to all tribal governments, BIA guidance makes clear that “Tribes are not viewed as members of the public, but as partners in the NEPA process and should be invited to participate as cooperating agencies when developing EAs as well as EISs.”

In that connection, we note the Bureau of Indian Affairs (BIA) NEPA procedures at 516 DM 10.5, § 10.3, which specify that “[w]hen BIA determines that Tribal governments could be affected by a proposed action, Tribal governments are to be consulted during the preparation of environmental documents and, *at their option*, may cooperate in the review or preparation of such documents.” The highly unusual facts presented here – including, not least, prior representations in litigation and previous administrative proceedings – confirm BIA’s recognition that approval of Scotts Valley’s project (*i.e.*, the “proposed action”) could affect Yocha Dehe. Accordingly, we exercise our option to play a cooperating agency role in the preparation and review of the NEPA document(s) relating to Scotts Valley’s proposed gaming project in Vallejo. We expect to participate in full at each step in the process: scoping, initial determination of the appropriate level of NEPA review, development of a draft environmental document, comments and responses on the draft, development of a final environmental document, and relevant decision-making.

Thank you for your consideration of this critically important matter. Please contact Sarah Choi (530-796-3400 or [schoi@yochadehe.gov](mailto:schoi@yochadehe.gov)) if there is any additional information that would be helpful to your determination.

Wile bo,

 _____ Anthony Roberts Tribal Chairman	 _____ Mia Durham Tribal Secretary	 _____ Leland Kinter Tribal Treasurer
 _____ Yvonne Perkins Member-at-Large	 _____ Seth Lowell Member-at-Large	

cc: Felix Kitto, Deputy Regional Director, Bureau of Indian Affairs [Felix.Kitto@bia.gov](mailto:Felix.Kitto@bia.gov)  
Chad Broussard, Environmental Protection Specialist, Bureau of Indian Affairs [Chad.Broussard@bia.gov](mailto:Chad.Broussard@bia.gov)