



July 11, 2024

**Tribal Council**

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Amy Dutschke  
Director, Pacific Regional Office  
Bureau of Indian Affairs  
2800 Cottage Way Room W-2820  
Sacramento, CA 95825

Re: Request to Extend Public Comment Period - Scotts Valley Band of Pomo Indians  
Environmental Assessment

Dear Regional Director Dutschke:

I write on behalf of the Yocha Dehe Wintun Nation to request a 30-day extension of the comment period for the Environmental Assessment ("EA") on the Scotts Valley Band of Pomo Indians Casino Project (the "Project").

For the following reasons, the extension is both necessary and appropriate:

1. An EA is supposed to provide a concise environmental analysis for projects with insignificant environmental consequences. Here, the Project's environmental consequences would be quite significant and, as a result, the EA is anything but concise. The main body of the document is 191 pages, more than double the 75-page legal limit established by Congress, even after excluding citations and cover pages (*see* 42 U.S.C. § 4336a(e)) and well over ten times the Bureau of Indian Affairs' own "guideline" for EA length (*see* 59 IAM 3-H, § 6.3). The appendices include *at least* (*see* point 2, below) 1,967 additional pages of technical analysis. It is simply not possible for our tribal government – or the broader public – to meaningfully review and comment on a document of this size in just 30 days.
2. Although the EA is over-length, it is also incomplete. Important parts of the analysis have not yet been made available to our Tribe for review. Examples include missing information about water supply and demand; unavailability of documents used to justify eliminating off-site alternatives from detailed study; and withholding of an entire appendix addressing cultural resources. These issues have been flagged for Pacific Regional Office staff, and we look forward to working with them toward a resolution. In the meantime, however, we are left without a meaningful opportunity to review key portions of the EA.
3. The EA was released over a holiday weekend, without advance notice to affected stakeholders. Our offices were closed for the holiday and, like many governmental bodies – tribal and otherwise – our Tribal Council has very limited meetings in July.

Yocha Dehe Wintun Nation

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If the Department were intending to time its release of the EA to minimize our opportunity for meaningful review, it could hardly have done a better job.

4. Applicable Bureau of Indian Affairs procedures for implementing the National Environmental Policy Act (“NEPA”) require you to involve affected tribal governments in the preparation of EAs. That did not happen here. Bureau of Indian Affairs NEPA procedures also require you to invite potentially affected tribes to serve as cooperating agencies (a role providing enhanced procedural and participatory rights) in the preparation of EAs. That did not happen either. As a result, we and other affected tribes have had no notice or opportunity for prior input. We are seeing Scotts Valley’s written project proposal and environmental analysis for the first time, making the 30-day time limit especially unreasonable.

5. A strict 30-day comment period would be inconsistent with the Department of the Interior’s approach to other environmental reviews. As an initial matter, it’s important to note that no gaming proposal comparable to Scotts Valley’s (a 614,000 square-foot casino on an environmentally sensitive site in an urban area, opposed by numerous tribal and non-tribal governments) in the last 20 years has *proceeded* on the basis of an EA. In fact, the Koi Nation proposal in Windsor, California, is the only arguably-similar project for which an EA has even been *prepared*. For the Koi project, the Department of the Interior issued a formal notice to all interested parties that an EA would be prepared; conducted a public scoping process, including a 30-day scoping comment period, before the document was drafted; invited cooperating agencies to participate in the EA’s preparation; released the EA for a 45-day public comment period; subsequently extended the public comment to a full 60 days; and ultimately concluded, on the basis of all the information provided, that a full Environmental Impact Statement (“EIS”) was required. Here, in contrast, the Department issued no notice of preparation; conducted no public scoping process and allowed no public scoping comments; invited no cooperating agencies (and has not even answered our letter requesting to become one, *see* below); has released the EA for just a 30-day comment period; and appears to have predetermined that no EIS will be prepared. There is no defensible basis to treat the Scotts Valley environmental review so differently – and no just cause to find that a 60-day review period would be excessive.

For the reasons described above, it is simply not reasonable or appropriate to expect tribal governments like ours to review and provide comments on thousands of pages of technical analysis within the limited time provided.

Context is important, too. *For more than eight months*, we have repeatedly asked the Department of the Interior to set up a fair, transparent, fact-based process in which all stakeholders can meaningfully participate. The Department did not respond – or even acknowledge – any of those requests.

Concerned about the absence of any response, *two and a half months ago* we submitted Freedom of Information Act (“FOIA”) requests seeking, among other things, any Department of the Interior direction to initiate a NEPA review of the Project. At the time of the EA’s release, the only response we had received was an April 30, 2024, letter from the Office of the Assistant Secretary-Indian Affairs stating there was no record of any such direction. Not until *after* the

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EA had been issued – and well beyond the response period allowed by FOIA – did we receive from you a letter revealing that the Department had, in fact, issued a written direction to proceed with the NEPA process on March 29, 2024.

But there is more. On June 11, 2024 – *nearly a month before the EA was issued* – we sent you a letter explaining that Yocha Dehe had received no response to its prior inquiries and that we remained extremely interested in and concerned about the possibility of a Scotts Valley casino proposal. Our letter formally requested cooperating agency status (which, again, would have ensured notice and an opportunity to participate in the preparation of any EA) in any environmental review process and explained, in detail, the legal and factual basis for our entitlement to that role. There was plenty of time to disclose the Department's ongoing environmental review and to address the request. Instead, you ignored the letter and issued the EA.

Let's be clear: We might not be in this situation if the Department of the Interior had responded to reasonable questions from affected stakeholders, complied with its legal obligations under FOIA, followed applicable Bureau of Indian Affairs NEPA procedures, or had the decency to answer a direct request for information and cooperating agency status from a federally recognized tribal government. But the Department's pattern of deception has left tribes like ours in the dark and rendered a 30-day extension of the public comment process necessary.

Please grant the extension so that our Tribe – and others – have a chance to meaningfully participate in the EA process.

*Wile bo,*



Anthony Roberts  
Tribal Chairman

cc: Hon. Alex Padilla, United States Senator  
Hon. Laphonza Butler, United States Senator  
Hon. Mike Thompson, United States Representative  
Hon. John Garamendi, United States Representative  
Hon. Gavin Newsom, Governor  
Hon. Eleni Kounalakis, Lieutenant Governor  
Hon. Cecilia Aguiar-Curry, Majority Leader, California Assembly  
Hon. Lori Wilson, Member, California Assembly  
Laura Daniel-Davis, Acting Deputy Secretary, Department of the Interior  
Bryan Newland, Assistant Secretary-Indian Affairs, Department of the Interior  
Wizipan Garriott, Principal Deputy Assistant Secretary, Indian Affairs, Department of the Interior  
Mitch Mashburn, Chair, Solano County Board of Supervisors  
Bernadette Curry, Solano County Counsel  
Hon. Robert McConnell, Mayor, City of Vallejo  
Andrew Murray, City Manager, City of Vallejo  
Veronica Nebb, City Attorney, City of Vallejo