

Record of Decision

Trust Acquisition of the Horseshoe Grande Site in
Riverside County, California, for the
Soboba Band of Luiseno Indians, California

United States Department of the Interior
Bureau of Indian Affairs
May 2015

SUMMARY

AGENCY: Bureau of Indian Affairs (BIA)

ACTION: Record of Decision (ROD) for the acquisition by the United States of 410.23+/- acres of land known as the Horseshoe Grande Site (Site) in trust for the Soboba Band of Luiseno Indians, California (Tribe) for gaming and other purposes.

SUMMARY: In 2007, the Tribe submitted a fee-to-trust application to BIA requesting that the Department of the Interior (Department) acquire land in trust in Riverside County, California, for gaming and other purposes. The Tribe's application requested that 534.91+/- acres be taken into trust. The Tribe has agreed, however, to donate 124.68+/- acres of the Site to the Western Riverside County Regional Conservation Authority for perpetual habitat conservation. As a result, the total amount of land to be acquired in trust is 410.23+/- acres.

The Site is contiguous to the Soboba Indian Reservation. Three hundred acres, more or less, of the Site is incorporated by the City of San Jacinto. The remainder is within unincorporated Riverside County. The Tribe plans to construct a destination casino/resort on the Site. The Department analyzed the proposed acquisition in a Draft Environmental Impact Statement (EIS) issued for public review and comment on July 2, 2009. The BIA issued the Final EIS on November 29, 2013. The Draft EIS and the Final EIS considered various alternatives to meet the purpose and need for acquiring the Site in trust and analyzed in detail the potential effects of various reasonable alternatives. The Final EIS and information contained within this ROD fully consider comments received from the public on the Draft EIS and Final EIS. The comments and the Department's responses to the comments are contained in the Final EIS and **Attachment 1** of this ROD, and are incorporated herein.

With the issuance of this ROD, the Department has determined that it will acquire the 410.23+/- acre Site in trust. The Preferred Alternative, identified in the Final EIS as the Proposed Action, includes a 55+/- acre footprint within the 410.23+/- acres on which the gaming facility will be developed. The proposed gaming facility consists of a 729,500 square foot complex that will include a 300-room hotel, restaurant and retail space, an events arena, a spa/fitness center, and a possible convention center. The Preferred Alternative will also include 2 tribal fire stations, a 12-pump gas station with a convenience store, and 5,080 parking spaces contained within 2 parking structures and surface parking lots. The Tribe will relocate its existing gaming facility, lying less than a half mile away, to the Site. The 156.36+/- acre Soboba Springs Golf Course and Country Club (Golf Course) is located within the 410.23+/- acres on land that the Tribe purchased in December 2004. The Tribe will continue to operate the Golf Course. An area of 29.88+/- acres, also within the 410.23+/- acres, contains important habitat that will be preserved by the Tribe as perpetual habitat and managed in partnership

with the Western Riverside County Regional Conservation Authority. The remainder of the Site will be left in its current undeveloped state.

The Preferred Alternative incorporates all of the mitigation measures found in Section 5.0 of the Final EIS.

The Department's decision to acquire 410.23+/- acres of the Site in trust is based on a thorough review and consideration of the Tribe's application, and materials submitted therewith; the applicable statutes and regulations governing trust acquisitions and eligibility of land for gaming; the Draft EIS; the Final EIS; the administrative record; and comments received from the public, Federal agencies, State agencies, and local governmental entities.

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1.0 INTRODUCTION

1.1 Summary

In 2007, the Soboba Band of Luiseno Indians, California, (Tribe) submitted a fee-to-trust application to the Bureau of Indian Affairs (BIA) requesting that the Department of the Interior (Department) acquire land in trust in Riverside County, California, for gaming and other purposes. This land, known as the Horseshoe Grande Site (Site), is contiguous to the Tribe's Reservation. Three hundred acres, more or less, of the Site, are incorporated in the City of San Jacinto (City). The remainder is within unincorporated Riverside County. The Tribe's application requested 534.91+/- acres be taken into trust, however, as discussed below, the Tribe has agreed to donate 124.68+/- acres of the Site to the Western Riverside County Regional Conservation Authority (WRCRCA) for habitat conservation. As a result, the total amount of land to be acquired is 410.23+/- acres.

The proposed acquisition of the Site was analyzed in a Draft Environmental Impact Statement (EIS) issued for public review on July 2, 2009. The BIA issued the Final EIS on November 29, 2013. The Draft EIS and the Final EIS considered various alternatives to meet the purpose and need for acquiring the Site in trust, and analyzed potential effects of various reasonable alternatives in detail. The Final EIS and information contained within this Record of Decision (ROD) fully consider public comments received on the Draft EIS and Final EIS. The comments and the Department's responses to the comments are contained in the Final EIS and **Attachment 1** of this ROD, and are incorporated herein.

The Preferred Alternative consists of the Department acquiring the 410.23+/- acre Site in trust for the benefit of the Tribe and the development of a 55+/- acre footprint on which the gaming facility will be developed (Development Footprint). The gaming facility includes a 729,500 square foot (s.f.) complex that will include a 300-room hotel, restaurant and retail space, an events arena, a spa/fitness center, and a possible convention center. The Preferred Alternative will also include 2 tribal fire stations, a 12-pump gas station with a convenience store, and 5,080 parking spaces contained within 2 parking structures and surface parking lots. The Tribe will relocate its existing gaming facility, lying less than a half mile away, to the Site.

The Tribe will continue to operate the 156.36+/- acre Soboba Springs Golf Course and Country Club (Golf Course) that lies within the 410.23+/- acres. The Tribe purchased this land in December 2004. Excluding the Development Footprint and the Golf Course, the remainder of the Site will be left in its current, undeveloped state.

The Tribe is committed to establishing habitat conservation areas. The U.S. Fish and Wildlife Service (USFWS) identified in its Biological Opinion dated December 2, 2011, (Final EIS Appendix O) portions of the Site as critical habitat for the San Bernardino kangaroo rat, a federally listed endangered species whose traditional range has been reduced by 95 percent. Currently, the only known populations of the San Bernardino kangaroo rat in Riverside County are located within the San Jacinto River wash and the Bautista Creek. These 2 areas contain 607 acres of suitable habitat. Approximately 29.88+/- acres of critical habitat within the 410.23 +/- acre Site will be preserved by the Tribe as perpetual habitat and managed in partnership with WRCRCA. As a separate action, the Tribe will donate in fee 124.68+/- acres at the north end of

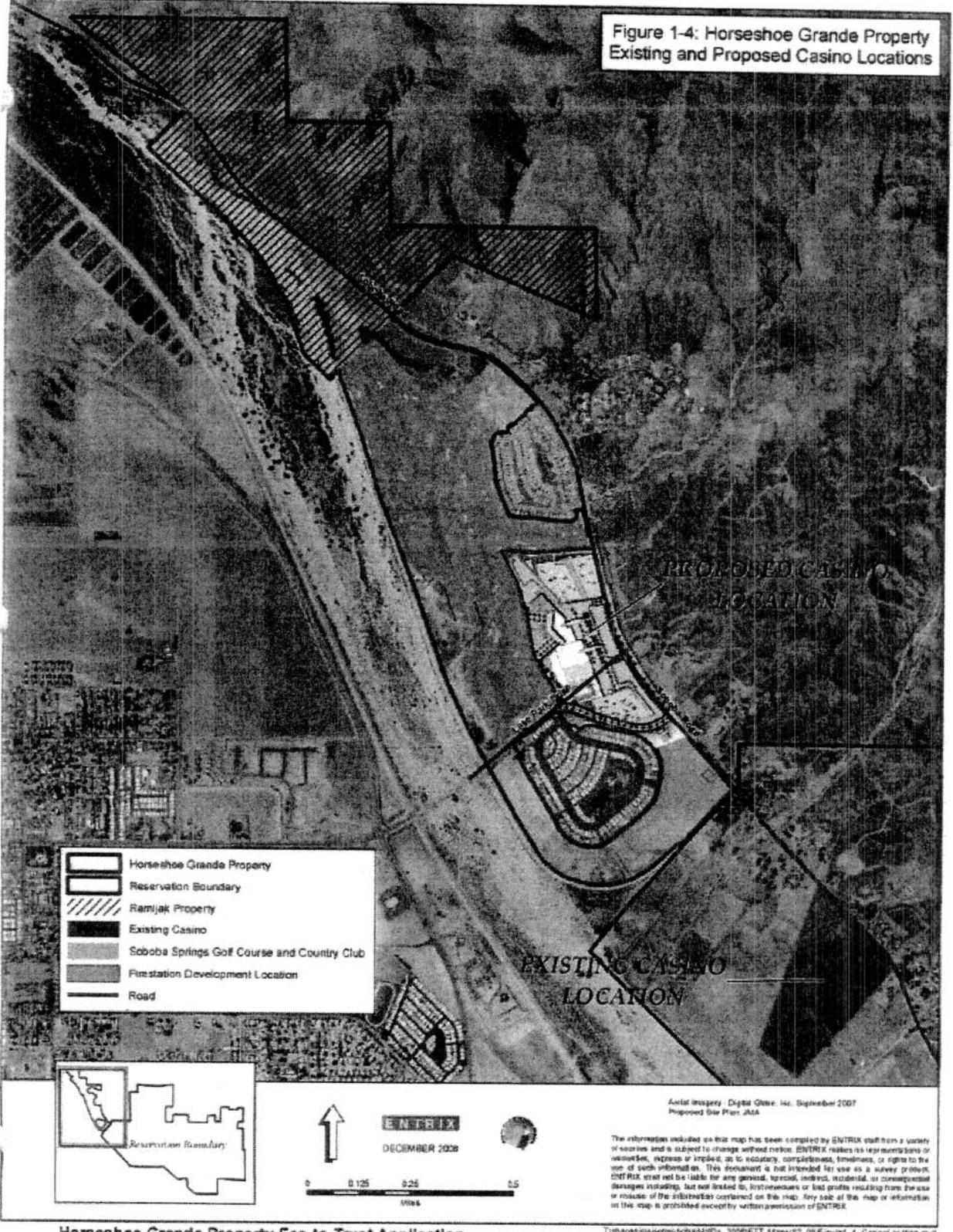
the Site to WRCRCA for conservation of perpetual habitat for threatened and endangered species. In 2010, the Tribe donated another 33.5+/- acres to the WRCRCA to offset other earlier developments at the Site. The Tribe in partnership with the WRCRCA will preserve with these donations of land an area that is 3 percent of the identified San Bernardino kangaroo rat habitat in Riverside County.

The Tribe has also taken steps to mitigate potential impacts to the local community. For example, the Tribe entered into a Memorandum of Understanding with Riverside County (Law Enforcement MOU) (Final EIS Appendix W). Under the Law Enforcement MOU, the Tribe will compensate the Riverside County Sheriff's Department for additional law enforcement personnel. In addition, the Final EIS and this ROD require the Tribe to make a onetime payment and annual payments to offset potential and perceived development-related impacts to local agencies including the San Jacinto School District and transportation authorities. The Tribe will also undertake a variety of non-monetary mitigation measures to further mitigate potential adverse impacts.

The Department has determined that the Preferred Alternative, consisting of the acquisition of the Site in trust and the construction and development of the casino/resort would best meet the purpose and need for acquiring the Site in trust. The Department's decision to acquire the Site in trust is based on a thorough review and consideration of the Tribe's application and the materials submitted therewith; the applicable statutory and regulatory authorities governing acquisition of acquiring land in trust and eligibility of land for gaming; the Draft EIS and Final EIS; the administrative record; and comments received from the public, federal, state, and local governmental agencies.

The Department has also determined that the Site is contiguous to the boundaries of the Reservation, and is, therefore, "Indian lands" pursuant to the Indian Gaming Regulatory Act (IGRA), 25 U.S.C. §§ 2719, *et seq.* Upon acquisition in trust, the Tribe may conduct gaming on the Site.

Figure 1-4: Horseshoe Grande Property Existing and Proposed Casino Locations



Horseshoe Grande Property Fee-to-Trust Application

From Soboba Band of Luiseno Indians Horseshoe Grand Property Fee-to-Trust Application (April 2009). Ramljak property identified on this map will not be acquired in trust (124.68+/- acres).

1.2 Authority

Section 5 of the Indian Reorganization Act of 1934 (IRA), 25 U.S.C. § 465, provides the Secretary of the Interior (Secretary) with general authority to acquire land in trust for Indian tribes in furtherance of the statute's broad goals of promoting Indian self-government and economic self-sufficiency. As discussed below in **Section 8.3** of this ROD, we have determined that the Secretary has authority to acquire the Site in trust.

The IGRA was enacted in 1988 to provide a statutory basis for the operation of gaming by Indian tribes as a means of promoting tribal economic development, self-sufficiency, and strong tribal governments. Section 20 of IGRA, 25 U.S.C. § 2719, generally prohibits Indian gaming on lands acquired in trust after October 17, 1988, subject to several exceptions. One exception is made for lands that are located within or contiguous to the boundaries of the reservation of an Indian tribe on October 17, 1988. 25 U.S.C. § 2719(a)(1). As discussed below in **Section 7.0** of this ROD, we have determined that the Site is contiguous to the Tribe's Reservation and will be eligible for gaming upon acquisition in trust.

1.3 Parcels to be Acquired

The Site to be acquired consists of 33 parcels equaling 410.23+/- acres. The legal descriptions of these parcels are found in **Attachment 2** of this ROD.

1.4 Purpose and Need for Acquiring the Site in Trust

The purpose and need for acquiring the Site in trust is to allow the Tribe to generate a dependable stream of income that would be used to support tribal government functions and meet the needs of its members. Acquisition of the Site would enable the Tribe to meet its needs for economic development and diversification, self-sufficiency and self-governance, and to provide its growing membership with employment, educational opportunities, and needed social and governmental services.

The Tribe's Reservation consists of 7,356.55+/- acres located in Riverside County at the base of the San Jacinto Mountains along the upper San Jacinto River. Much of land is undevelopable or is not available for development. The Reservation consists of rolling hills, deep ravines, river bottom, and a relatively level alluvial fan near the San Jacinto River. Much of the alluvial fan is subject to flood easements that restrict development. Virtually all of the property outside the Site is not suitable for development because it is located either in the San Jacinto River bottom or in the steep foothills of the San Jacinto Mountains. The developable land on the Reservation is currently used by the Tribe and its members for public works, educational and cultural enrichment, housing, economic development, and recreation. In addition, the Tribe has experienced rapid population growth and anticipates that rapid growth will continue. This growth is expected to continue to strain the existing on-reservation land use as well as current governmental services.

The purposes for acquiring the Site in trust are summarized below:

- Restore tribal control and administration over a part of the Tribe's aboriginal territory that is immediately adjacent to the Reservation.
- Facilitate the Tribe's need for cultural and social preservation, expression and identity, political self-determination, self-sufficiency, and economic growth by providing an enhanced tribal land base and homeland that:
 - Is subject to tribal management that facilitates the protection and conservation of the land base and its natural and cultural resources through the Tribe's exercise of governmental powers.
 - Allows for a diversified and productive economic base subject to the Tribe's self-determined management and conservation priorities that will support the Tribe's financial integrity and the well-being of its members by enhancing the total acreage of the land base and by increasing the conservation of natural and cultural resources under tribal jurisdiction and sovereignty.
 - Assures the preservation of a homeland that is restricted against future alienation and is free from state and local regulation and taxation.
 - Allows the Tribe to avail itself of the benefits of Federal laws that apply to lands held in trust status and the consolidation of tribal lands.

1.5 Procedural Background and Cooperating Agencies

In September 2007, the Tribe submitted an application requesting that the Department accept land in trust for the purpose of developing a casino/resort and retail complex. On December 12, 2007, BIA requested that the following agencies be Cooperating Agencies as defined in the National Environmental Policy Act (NEPA) because they possess jurisdiction by law and/or special expertise: Riverside County, the U.S. Environmental Protection Agency (EPA), the National Indian Gaming Commission (NIGC), the City of San Jacinto (the City), the United States Fish & Wildlife Service (USFWS), and the California Department of Transportation (Caltrans). Only the City and EPA agreed to participate as Cooperating Agencies. The Tribe also participated as a Cooperation Agency. The NIGC declined the invitation on the basis that it does not have a Federal action requiring compliance with NEPA. Riverside County, the USFWS, and Caltrans did not respond.

The BIA published a Notice of Intent to prepare an EIS in the *Federal Register* on December 14, 2007, describing the proposed acquisition and project and inviting comments.¹ The initial public comment period lasted from December 14, 2007, to January 22, 2008. The BIA held a scoping meeting on January 8, 2008, at the Hemet Public Library in Hemet, California. The public comment period deadline was extended to January 25, 2008, to ensure that all parties had an opportunity to submit comments; however, comments received after this deadline and until March 11, 2008, were also accepted. The BIA issued a Scoping Report for the Draft EIS on April 8, 2008 (**Final EIS Appendix B**).

The BIA circulated an administrative draft of the Draft EIS to the Cooperating Agencies (EPA and the City) for review and comment prior to public circulation. The BIA made changes to the

¹ 72 Fed. Reg. 71146 (Dec. 14, 2007).

Draft EIS based on these comments before the public release of the document. The BIA published the Notice of Availability (NOA) in the *Federal Register* on July 2, 2009.² The NOA provided a 75-day public comment period, thereby granting a 30-day extension to the normal 45-day public comment period. The BIA held a public hearing in the City of Hemet on August 5, 2009.

The BIA considered comments received during the comment period, including those submitted or recorded at the public hearing, in the preparation of the Final EIS. The BIA's responses to the comments are included in **Appendix E** of the Final EIS. The BIA circulated a preliminary version of the Final EIS to the Final EIS Cooperating Agencies for review and comment. The EPA published an NOA for the Final EIS in the *Federal Register* on November 29, 2013, starting the 30-day review period that ended on December 30, 2013.³ The BIA published its own NOA in the *Federal Register* on November 29, 2013.⁴ At the beginning of the review period, the BIA made the Final EIS available to Federal, tribal, state, and local agencies and other interested parties for review and comment.

A summary of comment letters on the Final EIS that were received from government agencies, businesses, organizations, and individuals, and BIA's responses to them are included in **Attachment 1** to this ROD. After reviewing these comments, BIA determined that only a new traffic count was needed. The new count was conducted to ensure that the traffic analysis conclusions in the EIS were still current.

2.0 SUMMARY OF ALTERNATIVES

A reasonable range of possible alternatives to meet the purpose and need for acquiring the Site in trust, including non-casino alternatives, alternative sites for a casino, and alternative development configurations were considered in the Draft EIS and Final EIS.

2.1 Description of Alternatives Eliminated from Consideration

The Draft EIS and Final EIS considered the following alternative sites that had the potential to fulfill the purpose and need for acquiring the Site in trust. These sites were rejected from further analysis for the reasons discussed below.

Winchester Property

The Winchester property is located an unincorporated area of Riverside County, California, known as the community of Winchester. The property consists of three parcels: EMWD Parcel No. 465-180-016 (67.26+/- acres), EMWD Parcel No. 465-180-022 (38.59+/- acres), MWD

² 74 Fed. Reg. 31747 (July 2, 2009).

³ 78 Fed. Reg. 71606 (Nov. 29, 2013).

⁴ 78 Fed. Reg. 71639 (Nov. 29, 2013). The Tribe was erroneously omitted from the list of Cooperating Agencies in this Notice of Availability.

Parcel No. 465-180-033 (21.7+/- acres). The property is less than one mile northwest of Diamond Valley Lake and is regionally accessible via State Highway 79. Title to the Winchester property would be transferred to the Tribe pursuant to a 2004 water rights settlement between the Tribe, the Eastern Municipal Water District, Lake Hemet Municipal Water District, and the Metropolitan Water District of Southern California that resolved the Tribe's claims for infringement of its water rights in the San Jacinto River and associated basins. Under the water rights settlement agreement, the property is, and would remain after transfer to the Tribe, subject to local land use and zoning regulations of Riverside County.

The distance of the Winchester property from the Golf Course would not enable the Tribe to fully capitalize on a close proximity between the casino/resort complex and the Golf Course in order to offer a destination resort. Therefore, this alternative was eliminated from further consideration because it does not meet the purpose and need for acquiring the Site in trust.

On-Reservation Property

The Tribe currently operates a casino on its Reservation. At 47.7+/- acres, the existing on-reservation gaming parcel is too small, however, to meet the Tribe's needs for additional parking to accommodate high demand, accommodate gaming activities, provide for air quality control, and provide for adjacent siting of a hotel and other supporting resort enterprises. Expansion of the on-reservation gaming parcel is also severely restricted by surrounding land uses, flood easements surrounding the parcel, and land assignments to tribal members under tribal law.

Much of land on the Reservation is undevelopable due to topography or is unavailable for use. Although there is vacant land surrounding the present gaming parcel of sufficient size and grade to accommodate additional facilities, most of it is subject to a flood easement, and thus is not developable. All remaining developable land in the vicinity of the Tribe's existing casino is encumbered by assignments to tribal members, who have valid and enforceable rights to the assigned tracts under tribal law. Most of the land assignments near the existing casino outside of the flood easement area are held for residential purposes. Using this residential land for commercial development is inconsistent with the Tribe's need for additional on-reservation housing for its growing membership.

The remaining land assignments near the existing casino are held for agricultural purposes. The Tribal Council asked members holding assignments near the existing casino if they would be willing to lease or sell their assignment to expand the current gaming establishment, but none were willing to do so. As explained in the Final EIS, even if sufficient developable land for the casino existed within current Reservation boundaries, such an alternative would not address the Tribe's need for economic development or fulfill the purpose and need for acquiring the Site in trust. Developing the casino/resort and related enterprises adjacent to the Tribe's Golf Course would create a true destination resort and an integrated complex offering customers many possible activities in one location. That type of economic development could not occur if the facilities were broken up into multiple locations with the casino on the existing Reservation and the hotel and other enterprises situated elsewhere. A destination resort would no longer be a possibility, severely hampering the Tribe's ability to address its need for economic expansion

and diversification. Therefore, on-reservation development was eliminated from further consideration because it does not meet the purpose and need for acquiring the Site in trust.

2.2 Reasonable Alternatives Considered in Detail

The Draft EIS and Final EIS evaluated the following alternatives in detail.

2.2.1 Preferred Alternative (Proposed Action)

Under the Preferred Alternative, the Department would acquire the Site in trust for the Tribe. The Tribe would construct and develop the casino/resort consisting of a 55+/- acre Development Footprint on which the casino/resort will be constructed. The development includes a 729,500 s.f. complex that will include a 300-room hotel, restaurant and retail space, an events arena, a spa/fitness center, and a possible convention center. The casino would employ approximately 1,200 employees, and with the other proposed developments, staffing requirements could potentially exceed 1,600 employees. The Development Footprint also includes 2 tribal fire stations, a 12-pump gas station with a convenience store, and 5,080 parking spaces contained within 2 parking structures and surface parking lots. The Tribe will relocate its existing gaming operation, lying less than a half mile away, to the Site. The 156.36+/- acre Soboba Springs Golf Course and Country Club is located within the 410.23+/- acres on that the Tribe purchased in December 2004. The Tribe will continue to operate the Golf Course. An area of 29.88+/- acres, also within the 410.23+/- acres, contains important habitat that will be preserved by the Tribe as perpetual habitat for threatened and endangered species and managed in partnership with WRCRCA. The remainder of the Site will be left in its current undeveloped state.

The Tribe has indicated that it will pursue the development of a wastewater treatment plant (WWTP) on the Reservation (Final EIS Appendix I). The proposed WWTP would have the capacity to serve the Site, including the Preferred Alternative and other Alternatives. The WWTP would meet California Code of Regulations Title 22 requirements for reuse of treated effluent for activities such as agriculture irrigation, landscape irrigation, and fire control. Because the proposed WWTP could serve the Site and recycled water could be used for irrigation and other similar non-potable uses at the Site, the Draft EIS and the Final EIS included discussions of WWTP as a related development. The proposed WWTP would incorporate percolation ponds that would be located on the Reservation, in an area that could contain jurisdictional waters of the United States, which would require the WWTP to comply with the Clean Water Act through licensing with EPA. The WWTP, as well as using recycled water from WWTP, is expected to have less-than-significant effects because of compliance with California Code of Regulations Title 22 and with EPA licensing when necessary.

Due to earthquake fault lines in the area, the Tribe's engineers have advised the realignment of Lake Park Drive in order to accommodate the proposed developments on the available buildable land. Realignment of Lake Park Drive would adhere to the Road Improvement Standards of the City of San Jacinto Municipal Code, Chapter 12.28. Throughout the Draft EIS and Final EIS process, the casino/resort was evaluated by considering both the realignment of Lake Park Drive and Lake Park Drive with its current alignment.

The Preferred Alternative includes the realignment of Lake Park Drive (referred to as “Proposed Action A” in the Final EIS). The Final EIS also analyzed “Proposed Action B” which is the project without the realignment of Lake Park Drive and with the location of slightly-smaller (by 15,000 s.f.) events arena across Lake Park Drive in the available building space south of Lake Park Drive.

The Preferred Alternative incorporates all of the mitigation measures found in Section 5.0 of the FEIS.

2.2.2 Alternative 1 – Reduced Hotel-Casino Complex

Alternative 1 includes acquisition of the Site in trust and the development of an approximately 20 percent smaller casino/resort than the Preferred Alternative. In Alternative 1, the hotel would be reduced by 60 rooms to 240 total rooms, and the casino would be downsized from 160,000 to 128,000 s.f. The realignment of Lake Park Drive is included in Alternative 1. The gas station and convenience store and 2 tribal fire stations would remain the same as in the Preferred Alternative. The Golf Course would continue to operate, but with no renovations.

2.2.3 Alternative 2 – Hotel and Convention Center (No Casino Relocation from its Current Location)

Alternative 2 includes acquisition of the Site in trust and the development of a 300-room hotel with a convention center and 3 restaurants. The casino would not be relocated from its existing location on the Reservation and Lake Park Drive would not be realigned. The gas station and convenience store and 2 tribal fire stations would remain the same as in the Preferred Alternative. The Golf Course would continue to operate, but with no renovations.

2.2.4 Alternative 3 – Commercial Enterprise (No Casino or Hotel)

Alternative 3 includes acquisition of the Site in trust and the development of an RV park and community/neighborhood retail shopping center in the vicinity of the intersection of Soboba Road and Lake Park Drive. One main retail building, immediately south of the intersection of Lake Park Drive and Soboba Road, would provide space for a retail business. In addition, 5 other facilities would host a variety of local-serving retail and office businesses such as restaurants, a coffee shop, a barber/beauty salon, drug store, hardware store, rental center, clothing stores, and professional offices. The two-story buildings would provide approximately 122,950 s.f. of retail and restaurant space. The gas station and convenience store and 2 tribal fire stations would remain the same as in the Preferred Alternative. The Golf Course would continue to operate, but with no renovations. Lake Park Drive would not be realigned under Alternative 3. The development of Alternative 3 would result in some variations to the anticipated adverse impacts of the Preferred Alternative and Alternatives 1 and 2.

2.2.5 Alternative 4 – No Action Alternative

Alternative 4 is the No Action Alternative. The Site would not be acquired in trust. The land would remain in fee with title held by the Tribe. The Tribe’s government would continue to use the Site in its current state. The Site would remain under the jurisdiction of the City of San Jacinto and Riverside County. The Golf Course would continue to operate, but with no

renovations. Under the No Action Alternative, the Tribe's government would not be allowed to exercise its sovereignty for issues related to the Site.

3.0 ENVIRONMENTAL IMPACTS AND PUBLIC COMMENTS

3.1 Environmental Impacts Identified in the Final EIS

A number of specific issues were raised during the EIS scoping process and through public and agency comments on the Draft EIS. The Preferred Alternative and Alternatives 1 to 3 (collectively, the Development Alternatives), along with the No Action Alternative (Alternative 4) were considered in the Final EIS and evaluated relative to these and other issues. Issues addressed in the scoping document include:

- Land Resources
- Water Resources
- Air Quality
- Biological Resources
- Cultural and Paleontological Resources
- Economic and Socioeconomic Conditions
- Resource Use Patterns (Transportation Networks, Land Use, and Agriculture)
- Public Services (Water Supply, Wastewater Services, Electricity/Natural Gas, Telephone Services, Law Enforcement, Fire Protection, Emergency Medical Services, and School Services)
- Other Values (Hazardous Materials, Noise, Visual Resources, and Recreational Resources)
- Growth-Inducing Effects
- Cumulative Effects
- Indirect Effects

As required under NEPA, each of the alternatives considered in the Final EIS were evaluated for the potential to impact the environment and the issues identified above. The evaluation of the project-related impacts included consultation with entities that have jurisdiction or special expertise to ensure that the impact assessments for the Final EIS were accomplished using accepted industry standard practice and procedures, and the most currently available data and models for each of the issues evaluated in the Final EIS. Mitigation measures were developed in response to environmental concerns identified and substantive issues raised during the EIS process. A summary of the analysis of the environmental issues within the Final EIS, including the issues raised during the EIS process, is presented below. Mitigation measures are identified in **Section 6.0** of this ROD.

3.1.1 Land Resources

Section 4.1 of the Final EIS addresses impacts to land resources. Mitigation measures are identified in Section 5.1 of the Final EIS and **Section 6.1** of this ROD.

Topography: The Site would be altered by grading activities required for the Development Alternatives. Alternative 4/No Action Alternative would not require any grading activities. No significant adverse impacts were identified for any of the Development Alternatives. No mitigation measures were proposed.

Soils/Geology: A potential for flooding and erosion during construction, operation, and maintenance of each of the Development Alternatives was identified. Although the adverse impacts were considered minimal, mitigation measures were proposed to ensure compliance with the Clean Water Act, and that a storm water pollution prevention plan would be required. These measures would result in less-than-significant impacts from construction, operation, and maintenance of the Development Alternatives. Alternative 4/No Action Alternative would create no additional impacts; therefore no mitigation measures were proposed.

Seismicity: The Site is located on a known active portion of the San Jacinto fault. Seismic events associated with the San Jacinto fault and the nearby San Andreas and Elsinore faults pose a potentially significant impact at the Site. Seismic mitigation measures (Final EIS Appendix L), including relocating Lake Park Drive, complying with the Alquist-Priolo Earthquake Fault Zoning Act and the California Building Code for Site Class D, and complying with relevant Federal regulations for fault zone areas will result in less-than-significant seismic threats to the Development Alternatives. Alternative 4/No Action Alternative would create no additional impacts, therefore, no mitigation measures were proposed.

The proposed wastewater treatment plant (WWTP) and its percolation ponds would also be at risk of seismic activities such as ground rupture and/or shaking resulting in possible disruption of service, the discharge of treated or untreated effluent, and public hazards. The Tribe will submit the final plans and percolation pond design to EPA, in cooperation with the Bureau of Reclamation, for Federal review and approval of the WWTP. The final plans for the WWTP must comply with EPA regulations and other relevant Federal and state construction standards for similar structures in fault zone areas.

Mineral Resources: None of the Development Alternatives would result in the loss of critical mineral resources, and no adverse impacts were identified. No mitigation measures were recommended. Alternative 4/No Action Alternative would create no additional impacts, therefore, no mitigation measures were proposed.

3.1.2 Water Resources

Section 4.2 of the Final EIS addresses impacts to water resources. Mitigation measures are identified in Section 5.2 of the Final EIS and **Section 6.2** of this ROD.

Surface Water, Drainage, and Flooding: The Site is affected by runoff from a number of unnamed drainage sources. The Development Alternatives would change up to 55+/- acres of the Development Footprint consisting of existing natural vegetation and replace it with designed landscaping and impervious surfaces including building structures, parking lots, and roadways. The combination of these changes to the natural environment would result in increases in run-off volume and speed. The Development Footprint is also located in a levee-protected 100-year flood area. A change in Federal Emergency Management Agency (FEMA) regulations requires

the levee to be inspected to ensure regulatory compliance. If the levee is not formally certified by U.S. Army Corps of Engineers, then a flood study will be conducted to ensure the Development Alternatives are built above the flood area. Mitigation measures, including a system of detention basins, channels, culverts, storm drainage piping, and elevated structures above the base flood level were included in the Final EIS. These mitigation measures result in less-than-significant impacts from the Development Alternatives on surface water, drainage, and flooding. Alternative 4/No Action Alternative would create no additional impacts, therefore, no mitigation measures were proposed.

Ground Water: The Tribe's 2004 Water Rights Settlement, which resolved the Tribe's claims for infringement of its water rights in the San Jacinto River and associated basins, provides the Tribe with a priority water right of at least 2,900 acre-feet per year. The Development Alternatives have an expected water demand of 1,398 acre-feet per year or less. The Tribe's capacity under its priority water rights exceeds tribal demand and the projected Development Alternatives' related demand. These factors result in a less-than-significant impact to the San Jacinto Groundwater Basin. Alternative 4/No Action Alternative would create no additional impacts, therefore, no mitigation measures were proposed.

Water Quality: Construction of the Development Alternatives will result in ground disturbances that could lead to erosion and potential sediment discharge to surface waters during storm events. Construction may potentially discharge other construction-related materials onto the ground and then into the San Jacinto river and/or into groundwater. Construction would also include the use of diesel powered equipment and would likely involve the temporary on-site storage of fuel and oil. Discharges of pollutants to surface waters and groundwater from construction activities and accidents are a potentially adverse impact. Run-off from project facilities, especially surface parking lots, could flush trash, debris, oil, sediments, and grease into area surface water and/or groundwater adversely impacting water quality. Fertilizers and other chemicals used in landscaping areas could impact water quality if allowed to enter nearby surface waters.

The WWTP, if constructed, must comply with relevant Federal law and regulations. The Tribe intends to comply with the California Code of Regulations Title 22 standards for reuse if it uses any treated water for irrigation.

3.1.3 Air Quality

Section 4.3 of the Final EIS addresses impacts to air quality. Mitigation measures are identified in Section 5.3 of the Final EIS and **Section 6.3** of this ROD.

The Development Alternatives would directly generate volatile organic compounds (VOC) and nitrogen oxide (NOx) emissions during construction and indirectly during use of the proposed facilities. The Development Alternatives have the potential to increase short-term fugitive dust in the air during construction activities, and the potential to increase greenhouse gas emissions during construction and operation.

3.1.4 Biological Resources

Section 4.4 of the Final EIS addresses impacts to biological resources. Mitigation measures are identified in Section 5.4 of the Final EIS and **Section 6.4** of this ROD.

Habitats: The Development Alternatives could have a potentially significant adverse impact on wildlife habitat through clearing, grading, and construction. For example, Alternative 3/Commercial Enterprise would potentially disturb known San Bernardino kangaroo rat habitat resulting in a “take” under the Endangered Species Act of this federally-listed endangered species. Mitigation measures, including surveying for protected or special status species and creation of perpetual habitat, were proposed to ensure that no significant impact would result from the Development Alternatives. Alternative 4/No Action Alternative would create no additional impacts, therefore, no mitigation measures were proposed.

Ponds and Jurisdictional Wetlands: Five jurisdictional waterways exist on portions of the Site, however, none are located within the Site therefore no impacts to the waters of the United States would occur as a result of the Development Alternatives. Alternative 4/No Action Alternative would create no additional impacts, therefore, no mitigation measures were proposed.

3.1.5 Cultural Resources

Section 4.5 of the Final EIS addresses impacts to cultural resources. Mitigation measures are identified in Section 5.5 of the Final EIS and **Section 6.5** of this ROD.

The Development Alternatives would not impact known historical, archeological, or paleontological resources. The Development Alternatives involve ground disturbing activities and have the potential to disturb unidentified subsurface cultural resources. Mitigation measures in accordance with the National Historic Preservation Act and the Native American Graves Protection and Repatriation Act were proposed to ensure no adverse impacts would result from the Development Alternatives. Alternative 4/No Action Alternative would create no additional impacts, therefore, no mitigation measures were proposed.

3.1.6 Socioeconomic Conditions and Environmental Justice

Section 4.6 of the Final EIS addresses impacts to socioeconomic conditions and environmental justice. No mitigation measures were recommended for impacts to socioeconomics and environmental justice under the Preferred Alternative.

Job Creation: The Development Alternatives would create jobs during the construction and operational phases. Job creation is considered to be a beneficial impact. The Preferred Alternative would have the largest beneficial impacts from job creation. Alternative 4/No Action Alternative would not create jobs and would have no additional beneficial impact. No mitigation measures were proposed.

Housing: Job creation associated with the Development Alternatives may increase demand for local housing by as much as 750 housing units. The estimated increase in demand could be met by the available vacant housing within the City. Between 2006 and 2009, the average home

price in Riverside County fell by 50 percent and has only moderately recovered. In 2009, more than 9 percent of Riverside County's households faced default, trustee sale, or repossession. This collapse in the housing market has resulted in excess housing supply in Riverside County. In addition, several projects have been permitted and are expected to be built which would increase the number of available housing units in and near the City. The expected increase in housing demand would be met by an available and expected housing supply which would result in less-than-significant impacts.

Problem Gambling: The Development Alternatives would not increase the number of gaming facilities in the area. The Development Alternatives do not include adding to the available gaming facilities, therefore, no negative impacts were identified. No mitigation measures were proposed. Alternative 4/No Action Alternative would create no additional impacts, therefore, no mitigation measures were proposed.

Urban Decay: Urban decay consists of poorly maintained facilities, deterioration of buildings and improvements, visual and aesthetic impacts, increased property crime, and increased demand for emergency services, resulting from increases in retail closures and long-term vacancies. The Development Alternatives are not expected to compete with other local businesses in a way that would cause urban decay. The hotel included in the Development Alternatives is a high-end resort style hotel, whereas the two existing hotels are lower priced and cater to a budget-conscious customer base. The retail space included in the Development Alternatives is not expected to adversely impact existing retail businesses in San Jacinto; rather, it is expected to attract local residents who would otherwise leave San Jacinto to shop. In addition, the jobs created by the Development Alternatives would increase local demand for retail establishments. The anticipated adverse impacts of the Development Alternatives and Alternative 4/No Action Alternative on local businesses would be less than significant.

Local and state governments: The Development Alternatives could potentially impact local and State governments as a result of lost property tax revenue once the Site is acquired in trust. Increases in income tax and other taxes resulting from new jobs will partially off-set the lost property tax revenue.

3.1.7 Resource Use Patterns

Section 4.7 of the Final EIS addresses impacts to resource use patterns. Mitigation measures are identified in Section 5.7 of the Final EIS and **Section 6.7** of this ROD.

Transportation: The Development Alternatives are expected to have negative impacts on traffic. During construction, temporary traffic impacts are expected to include delays, one-way traffic control, traffic detours, and temporary road closures. In addition, these traffic impacts could obstruct emergency services during construction. Increased traffic flow during operation could result in unacceptable levels of service at select intersections. Mitigation measures were proposed to ensure that no significant impacts would result from the Development Alternatives. Alternative 4/No Action Alternative would create no additional impacts, therefore, no mitigation measures were proposed.

Land Use: The Development Alternatives are inconsistent with existing land use designations and could have negative impacts on surrounding land uses, especially the three adjacent residential communities. Increased traffic, noise, air emissions, and artificial lighting and glare generated by the proposed commercial developments would be inconsistent with the existing nearby residential developments. Mitigation measures have been proposed to address each of these concerns to ensure that the impacts are less than significant. Alternative 4/No Action Alternative would create no additional impacts, therefore, no mitigation measures were proposed.

3.1.8 Public Services

Section 4.8 of the Final EIS addresses impacts to public services. Mitigation measures are identified in Section 5.8 of the Final EIS and **Section 6.8** of this ROD.

Utilities: The Tribe has secured “will-serve” commitments from local utilities and service providers. The Eastern Municipal Water District has committed to provide wastewater treatment for the Development Alternatives in the event the Tribe does not build the proposed wastewater treatment plant. The CR&R Waste and Recycling Services has committed to provide construction and operational waste and recycling removal. Southern California Edison and the Southern California Gas Company have committed to continue to provide electric and gas service to the Site under the Development Alternatives. While no significant impacts are expected from the Development Alternatives, mitigation measures were proposed to reduce potential impacts on utility use. Alternative 4/No Action Alternative would create no additional impacts, therefore, no mitigation measures were proposed.

Law Enforcement: The Development Alternatives could have negative impacts on law enforcement through increased traffic, increased service calls, and decreased property tax revenue. The Tribe and Riverside County entered into a Law Enforcement Memorandum of Understanding (MOU) in 2011 (Final EIS Appendix W). Under the Law Enforcement MOU, the Tribe will compensate the Riverside County Sheriff’s Department for additional law enforcement personnel. In addition, the Final EIS and this ROD require the Tribe to make a onetime payment and annual payments to offset potential and perceived development-related impacts to local agencies including the San Jacinto School District and transportation authorities. The Tribe will also undertake a variety of non-monetary mitigation measures to further mitigate potential adverse impacts. The Law Enforcement MOU will mitigate these potential negative impacts resulting in less-than-significant impacts. Alternative 4/No Action Alternative would create no additional impacts, therefore, no mitigation measures were proposed.

Fire and Emergency Medical: The Tribe plans to construct 2 fire stations, 1 in the Development Footprint and 1 on the Reservation. These fire stations would have a positive impact on fire and emergency medical services. Construction activities related to the Development Alternatives could introduce sources of fire to the Site. This risk could result in significant fire related impacts. Mitigation measures were proposed to reduce this potential to a less-than-significant impact. Alternative 4/No Action Alternative would create no additional impacts, therefore, no mitigation measures were proposed.

Schools: The Development Alternatives involve removing the Site from the local property tax rolls including taxes that support the San Jacinto School District. Combined with potential increases in student enrollment, this poses a negative impact on local schools. Mitigation measures were proposed to offset lost tax revenue for the San Jacinto School District resulting in no significant impacts. Alternative 4/No Action Alternative would create no additional impacts, therefore, no mitigation measures were proposed.

3.1.9 Other Values

Section 4.9 of the Final EIS addresses impacts to other values. Mitigation measures are identified in Section 5.9 of the Final EIS and **Section 6.9** of this ROD.

Hazardous Materials: The Development Footprint does not contain any known contamination from hazardous materials. During construction and operation of the Development Alternatives, there exists the potential for dripping of fuels, oil, and grease from construction and maintenance equipment. The small quantities of fuel, oil, and grease that may drip from properly maintained vehicles would occur in relatively low toxicity and concentrations. An accident involving a service or refueling truck would present the worst-case scenario for the release of a hazardous substance. Depending on the relative hazardousness and quantity of the material, the accidental releases could pose a potentially significant hazard.

The Golf Course currently holds 2 permits issued by the Riverside County Department of Environmental Health and the Riverside County Agricultural Commission for the storage and use of herbicides and pesticides. After the Site is taken into trust, EPA standards will govern the use and storage of herbicides and pesticides. Mitigation measures were proposed to reduce the potential impacts to less than significant. Alternative 4/No Action Alternative would create no additional impacts, therefore, no mitigation measures were proposed.

Noise: Construction and operation of the Development Alternatives would have a significant impact on noise levels for the surrounding residential communities. Of particular concern is the Soboba Springs Mobile Estates due to its close proximity to the Development Footprint and the sensitivity of its residents. Mitigation measures including limiting hours of construction work, adding noise shielding on stationary fixtures (*e.g.*, compressors and heating, ventilation, and air conditioning (HVAC)), and constructing a higher, gap-free sound wall around the Soboba Springs Mobile Estates were proposed to ensure less-than-significant impacts. Alternative 4/No Action Alternative would create no additional impacts, therefore, no mitigation measures were proposed.

Visual Resources: The Development Alternatives would have some moderate to strong impacts on existing view-sheds that overlook the Site. Mitigation measures were proposed to ensure less-than-significant impacts on visual resources by blending the structures and landscaping into the surrounding natural environment. Alternative 4/No Action Alternative would create no additional impacts, therefore, no mitigation measures were proposed.

3.1.10 Cumulative Effects

Section 4.10 of the Final EIS addresses cumulative effects. The Development Alternatives, when added to past, present, and reasonably foreseeable future developments, would not result in significant cumulative adverse impacts to land resources, water resources, biological resources, cultural and paleontological resources, air quality and greenhouse gas emissions, economic and socioeconomic conditions, and agricultural resources. The anticipated local growth would have significant impacts on public services and traffic with or without the Development Alternatives. The Development Alternatives could result in significant cumulative impacts to land use, lighting, hazardous materials, noise, and visual resources. With the proposed mitigation measures identified in **Section 6.0** of this ROD relevant to all resources, cumulative impacts would be less than significant. Alternative 4/No Action Alternative would create no additional impacts, therefore, no mitigation measures were proposed.

3.1.11 Indirect Effects

Section 4.11 of the Final EIS addresses indirect effects. There may be indirect impacts from off-site traffic mitigation measures and pipeline installation. Off-site activities must comply with applicable Federal, state, and local laws, policies, and ordinances, resulting in less-than-significant adverse impacts. The Final EIS identified several indirect impacts from the Development Alternatives. With the proposed mitigation measures identified in **Section 6.0** of this ROD relevant to all resources, indirect impacts would be less than significant. Alternative 4/No Action Alternative would create no additional impacts, therefore, no mitigation measures were proposed.

3.1.12 Growth-Inducing Effects

Section 4.12 of the Final EIS addresses growth-inducing effects. The Development Alternatives are expected to create new jobs resulting in an increased demand for housing as well as some commercial and industrial growth. As discussed above, the housing market collapse caused home prices to fall 50 percent and resulted in an excess housing supply. The City is seeking to develop a diversified economic base by attracting a cross-section of businesses and industries as part of its long-term development plan, as described in its Land Use Element. The expected growth-inducing effects from the Development Alternatives could be readily absorbed into the local economy. Less-than-significant adverse impacts are expected from growth induced by the Development Alternatives. Alternative 4/No Action Alternative would create no additional impacts, therefore, no mitigation measures were proposed.

3.1.13 Unavoidable Adverse Effects

The Final EIS did not identify any unavoidable adverse effects from the Development Alternatives. All identified impacts can be adequately mitigated, resulting in less-than-significant impacts.

3.2 Public Comments

Comments on the Final EIS received during the 30-day Final EIS notice period and responses are presented in **Attachment 1** of this ROD. A list of comment letters and a copy of each letter received are also included in **Attachment 1**.

4.0 ENVIRONMENTALLY PREFERRED ALTERNATIVES

Either the Hotel and Convention Center Alternative (Alternative 2) or the No-Action Alternative (Alternative 4) would result in the fewest effects to the physical environment. Alternative 2 is the development alternative with the smallest footprint which will result in fewer on-site biological impacts and off-site traffic impacts. The No Action Alternative would not result in any physical changes to the Site and would be the least environmentally damaging alternative. However, the No Action Alternative would not meet the purpose and need for acquiring the Site in trust because it would not provide a source of stable source of net income that would allow the Tribe to achieve self-sufficiency, self-determination, or a strong tribal government, and would not result in the expansion of the Tribe's land base. The No Action Alternative also would result in no economic benefits to local communities.

In light of the issues discussed above, the Department identifies Alternative 2 and the No Action Alternative as the Environmentally Preferred Alternatives.

5.0 PREFERRED ALTERNATIVE

For the reasons discussed below, the Department has determined that "Proposed Action A" (*see Section 2.2.1* of this ROD) is the Preferred Alternative. The Preferred Alternative is expected to provide a stable source of net income for the Tribe that will allow it to begin to address the needs of its members and pursue its goals for economic development and diversification, self-sufficiency, self-determination, and a strong tribal government without resulting in significant negative impacts on the surrounding environment and community. The Department finds that acquiring the Site in trust for the benefit of the Tribe and the development of the Preferred Alternative is in the best interest of the Tribe.

The Preferred Alternative is expected to provide more net revenue to the Tribe than the other alternatives and, therefore, better meets the purpose and need for acquiring the Site in trust. The Preferred Alternative ("Proposed Action A") will better utilize the developable land on the Site than "Proposed Action B" by relocating Lake Park Drive to avoid known fault lines. Also, the Preferred Alternative will not result in significant adverse impacts on the human environment following the implementation of appropriate mitigation measures identified in the Final EIS. Finally, the Preferred Alternative is economically and technically viable and will likely create substantial socio-economic and other benefits for the Tribe and the surrounding areas.

6.0 MITIGATION MEASURES

All practicable means to avoid or minimize environmental harm from the Preferred Alternative have been identified in the Final EIS and are incorporated by reference in this ROD. A summary list of mitigation measures and best management practices (BMPs) is included below. These mitigation measures and BMPs included herein and in the Final EIS are hereby adopted and are required for the Preferred Alternative. By implementing these mitigation measures and BMPs, it is reasonably expected that the Preferred Alternative will not result in any significant adverse impacts to the surrounding community or the environment.

The following mitigation measures and related enforcement and monitoring programs have been adopted as a part of this decision. The Tribe has also decided to implement all mitigation measures identified in this ROD as a matter of tribal resolution and tribal law. Where applicable, mitigation measures in this ROD will be monitored and enforced pursuant to Federal law, tribal ordinances, and agreements between the Tribe and appropriate governmental authorities. Specific BMPs and mitigation measures adopted pursuant to this ROD are set forth below.

6.1 Land Resources

Section 5.1 of the Final EIS discusses mitigation measures that are recommended to mitigate effects that may arise as a result of the Preferred Alternative on land resources, including topography, geology, soils, seismic hazards, and mineral resources. Mitigation measures were not recommended or required for topography and mineral resources. The following mitigation measures were recommended and will be required to mitigate effects of the Preferred Alternative on land resources.

6.1.1 Geology

Appendix L of the Final EIS (Preliminary Fault Hazard Evaluation Report and Preliminary Geotechnical Investigation) presents recommendations related to the following:

- Site Preparation
- Foundations and Settlements
- Deep Foundations
- Slabs-On-Grade
- Concrete Mixes and Corrosivity
- Excavations
- Lateral Earth Pressures
- Pavements

6.1.2 Soils

No mitigation measures are required. In accordance with standard engineering practices, Development Footprint soils should be tested prior to construction activities to confirm their suitability for use as fill.

6.1.3 Seismic Hazards

Underground Storage Tanks (USTs) associated with the gas station would be installed consistent with Federal regulations for UST installation in or adjacent to identified active fault zones (40 C.F.R. Part 280, Subpart B), as well as with state and county (County of Riverside Ordinance No. 617) regulations. These mitigation measures would reduce these potentially significant effects to be less than significant.

Treated wastewater storage ponds and percolation ponds would be designed and constructed consistent with California Water Code and California Division of Safety of Dams regulations. Additionally, the Tribe would submit the final storage and percolation pond design to EPA for review and approval prior to construction. The EPA would review the design in cooperation with the Bureau of Reclamation based on the Bureau of Reclamation standard design guidelines. Based on the EPA's downstream hazard classification, an Operation and Maintenance Program may be required to promote the safety of people and property downstream. If required, the Tribe would enter into a memorandum of agreement with EPA to implement an Operation and Maintenance Program for the life of the ponds.

For all other proposed structures, engineering designs should comply with the latest edition of the California Building Code for Site Class D using the seismic coefficients provided in the geotechnical report (Final EIS Appendix L). A qualified geologist should inspect any excavations (foundation, utility, etc.) on the Development Footprint during construction for possible indications of faulting.

6.2 Water Resources

Section 5.2 of the Final EIS discusses mitigation measures that are recommended to lessen effects on water resources that may arise as a result of the Preferred Alternative, including surface water (flooding), ground water, and water quality. Mitigation measures were not recommended or required for ground water impacts. The following mitigation measures were recommended and will be required to mitigate effects on water resources from the Preferred Alternative.

6.2.1 Flooding

The proposed developments will not alter the levies present on the Site, and the runoff created by the proposed developments will be properly disposed of by the facilities as discussed in Section 4.3.1 of the Final EIS. In the event that the levee is not formally certified by U.S. Army Corps of Engineers, a floodplain study will be performed to ensure that the structures are adequately elevated (*i.e.* no less than one foot) above the base flood-elevation.

6.2.2 Water Quality

The use of detention basins will control the quality of run-off from the Site. Also, the BMPs provided in the table below would be applied to manage water quality.

A water quality management plan (WQMP) must be developed in order to comply with the Clean Water Act and obtain a National Pollution Discharge Elimination System permit. The WQMP shall identify the pollutants generated by the proposed developments and provide BMPs (*see* Table below) to minimize or eliminate pollutants prior to discharge into the San Jacinto River. The WQMP would meet the water quality objectives for groundwater and surface water on the Site and surrounding area, as specified in the Santa Ana River Basin Plan.

Prescribed Best Management Practices

Non-Structural Source Control BMPs

- Education for property owners, operators, tenants, occupants, or employees
- Activity restrictions
- Irrigation system and landscape maintenance
- Common area litter control
- Street sweeping private streets and parking lots
- Drainage facility inspection and maintenance

Structural Source Control BMPs

- MS4 stenciling and signage
- Landscape and irrigation system design
- Protect slopes and channels
- Provide wash water control for food preparation areas
- Property design criteria:
 - Fueling area
 - Air/water supply area drainage
 - Trash storage areas
 - Loading docks
 - Maintenance bays
 - Vehicle equipment wash areas
 - Outdoor material storage areas
 - Outdoor work areas or processing areas

Treatment Control BMPs

- Vegetated filter strips
- Vegetated swales/bioswales
- Extended detention basin
- Sand filter
- Porous pavement detention
- Fossil catch basin filter
- Infiltration basin
- Infiltration trench

Additionally, prior to construction, the Tribe will prepare a storm water pollution prevention plan (SWPPP). Control measures are required prior to and throughout the rainy season. Water quality control measures identified in the SWPPP could include but not be limited to the following:

- Identify and stabilize key access points prior to commencement of construction.
- Direct most construction traffic to stabilized roadways within the Development Footprint.
- Employ temporary erosion control measures for disturbed areas. These may include silt fences, staked straw bales, temporary revegetation, and wet suppression. Erosion control measures should be employed to protect against storm water erosion during the winter and spring months and wind erosion during the summer months.
- Retain sediment onsite by a system of sediment basins, traps, or other appropriate measures.
- Develop a spill prevention and countermeasure plan to identify proper storage, collection, and disposal measures for potential pollutants used on-site (such as fuel, fertilizers, pesticides, etc.).
- Minimize the impact of dust by anticipating the direction of prevailing winds.
- Scheduling of construction activities to minimize land disturbance during peak runoff periods. Soil conservation practices implemented during the fall or late winter to reduce erosion during spring runoff. Retain existing vegetation where possible. To the extent feasible, limit grading activities to the immediate area required for construction.
- Topsoil removed during construction stored and treated as an important resource. Berms placed around topsoil stockpiles to prevent runoff during storm events.
- Establish fuel and vehicle maintenance areas away from all drainage courses and design these areas to control runoff.

6.3 Air Quality

Section 5.3 of the Final EIS discusses mitigation measures that are recommended to mitigate effects on air quality that may arise as a result of the Preferred Alternative during both the construction and operational phases. The following mitigation measures were recommended and will be required to mitigate effects of the Preferred Alternative on air quality.

6.3.1 Construction Effects

The following mitigation measures and BMPs would be implemented to ensure that fugitive dust emissions do not affect adjacent land users, and that volatile organic compounds (VOC) emissions are minimized:

- Apply soil stabilizers to inactive areas
- Implement equipment loading/unloading controls
- Replace ground cover in disturbed areas quickly
- Water exposed surfaces
- Use of low-VOC exterior and interior paints and coatings

6.3.2 Operational Effects

The following measures would be implemented to ensure that the design and operation of the proposed developments will be consistent with regional efforts to attain the National Ambient Air Quality Standards, as well as the Federal and State goals for reduction of greenhouse gases. Specifically, these measures are identified to reduce the emissions of VOC, nitrogen oxide (NO_x), fine particulate matter, and carbon dioxide equivalent (CO₂e):

- Incorporate into the project economically feasible green energy design elements, such as solar panels on the parking garage roofs, as well as seeking LEED certification for the structures.
- Design the facilities to be at least 10 percent greater efficiency than that of California Code of Regulations Title 24 (2005) standards. Verification calculations shall be provided to the Tribe in a letter format by the project developer/designer identifying steps taken to achieve this additional efficiency over Title 24 (2005). The installation of solar would be an option to achieve this requirement.
- Install Low-Flow Toilets, Urinals, Shower Nozzles, and Faucets having a WaterSense emblem or meeting the EPA standards under the WaterSense specifications.
- Install LED lighting on all existing slot machines or purchase new slot machines equipped with LED lighting.
- The Tribe should voluntarily comply with applicable South Coast Air Quality Management District rules and regulations to minimize emissions of VOC, NO_x, fine particulate matter, and other emissions.
- The Tribe should solicit input from the South Coast Air Quality Management District on the preliminary plans of proposed facilities to reduce VOC, NO_x, fine particulate matter, and other emissions.
- The following measures should be incorporated into the Site design and operation; these measures will also lower greenhouse gas emissions:
 - Utilize vapor recovery equipment in the gas station fuel pumps.
 - Incorporate features to lower ambient temperatures such as lighter roofing and building materials and tree plantings.
 - Maximize energy efficiency in facility design including building design, the use of compact florescent lights and other low-voltage light, the use of energy efficient equipment, and solar panels.
 - Regularly sweep roadways and paved areas.
 - Facilitate public transit system use for employees and patrons by providing incentives for transit use, incorporation of public transit facilities such as bus stops, and coordinate transit service with regional providers.

6.4 Biological Resources

Section 5.4 of the Final EIS discusses mitigation measures that are recommended to mitigate effects on biological resources that may arise as a result of the Preferred Alternative. Proposed construction activities could have direct and indirect effects to special status species. The following mitigation measures were recommended and will be required to mitigate effects of the Preferred Alternative on biological resources:

- Conduct preconstruction surveys according to approved USFWS survey protocols, where applicable, for the following special status species: Munz's onion, slender-horned spinyflower, coastal California gnatcatcher, San Bernardino kangaroo rat, Stephens' kangaroo rat, smooth tarplant, Parry's spinyflower, Belding's orange-throated whiptail, coast horned lizard, California horned lark, Southern California rufous-crowned sparrow, Arroyo toad, Cooper's hawk, tricolored blackbird, western burrowing owl, ferruginous hawk, Los Angeles pocket mouse, southern grasshopper mouse, San Diego desert woodrat, northwestern San Diego pocket mouse, and American badger.
- Construction will be monitored by a qualified biologist(s) or their designee for the duration of the project to ensure that practicable measures are being employed to avoid incidental disturbance of habitat and species of concern outside the project footprint.
- Grading, trenching, and associated activities are restricted to daylight hours.
- If coastal California gnatcatchers are found to be nesting within 0.25 mile of the Development Footprint during preconstruction surveys, construction would be timed to avoid the breeding season (*i.e.*, construction would not occur from February 15th through August 31st in any area that is within 0.25 mile of a coastal California gnatcatcher nest).
- Provide on-the-ground training to educate construction workers about the special status species potentially present on the Site. Construction workers should be provided with information to help them identify special status species and instructions on what to do if a special status species is found during construction.
- Install signs along the border of San Bernardino kangaroo rat, critical habitat along the boundary of the Site and within 1 mile from the Site. These signs will identify the importance of critical habitat and prohibit trespassing into suitable/critical habitat.
- Install silt fencing.
- Avoid and/or minimize the use and storage of hazardous materials on the Site. Store hazardous materials on the previously disturbed areas and out of suitable habitat for special status species. Ensure hazardous materials are properly contained.
- Staging areas for vehicles and heavy equipment should be in previously disturbed locations and out of suitable habitat for special status species.

To mitigate potential effects to the Western Riverside Multiple Species Habitat Conservation Plan (MSHCP) sensitive species and habitat, the Tribe and WRCRCA have developed the following set of mitigation and conservation measures to render the Preferred Alternative consistent with the MSHCP.

- The Tribe will convey the northwesterly 124.68 +/- acres of the Site to the WRCRCA for perpetual habitat conservation management under the MSHCP.
- The Tribe, by ordinance and under the terms of a memorandum of understanding with WRCRCA, will conserve in perpetuity 29.88 +/- acres of the Site and manage it in consultation with WRCRCA consistently with the MSHCP.
- The Tribe has conveyed to WRCRCA 33.5 +/- acres to mitigate for the impact of a 12-acre driving range constructed in 2009 on the Site, as well as for potential impacts of the proposed development on sensitive habitat for protected species. This tract, which is northwest of the Site and contiguous to it, was deeded to WRCRCA on December 20, 2010.

As a result of these mitigation and conservation measures, WRCRCA agrees and acknowledges that the Preferred Alternative is consistent with the MSHCP and that any future development within the Site will be consistent with the Reserve Assembly portion of the MSHCP. The USFWS has concluded that, with the land conveyance and preservation mitigation identified above, together with the USFWS Biological Opinion Measures listed below, the proposed development would not be located in designated critical habitat boundaries and no construction related impacts to designated critical habitat would be expected.

6.4.1 USFWS Biological Opinion Measures

The measures listed below are those identified in the USFWS Biological Opinion dated December 2, 2011, (Final EIS Appendix O).

1. The BIA and/or Tribe shall monitor and report on compliance with the Biological Opinion's established take thresholds for San Bernardino kangaroo rat. To implement reasonable and prudent measure number 1 (monitor and report on compliance with established San Bernardino kangaroo rat take thresholds), the BIA and/or Tribe shall:
 - 1.1 Implement the conservation measures described in the project description and evaluated in this biological opinion. If the biological monitor detects impacts to San Bernardino kangaroo rat from project related activities in excess of that described in the above incidental take statement, the BIA and/or Tribe, their agents, or biological monitor will contact the Palm Springs Fish and Wildlife Service Office immediately.
 - 1.2 Ensure the biological monitor (and any project biologists who will trap or handle San Bernardino kangaroo rats, or their burrows) has a valid section 10(a)(1)(A) permit. In addition to the conservation measures outlined in this biological opinion, when trapping, collecting, and releasing any San Bernardino kangaroo rat found in the construction area or vicinity during the course of work, the biological monitor/biologist will implement the following measures:
 - a. Locate all traps in areas that best typify San Bernardino kangaroo rat habitat, and place them in sufficient numbers to provide adequate coverage of suitable habitat. Mark all trap locations with flagging, reflective tape, or other technique that is visible under day and night conditions, and at a distance of at least 16.3 feet.
 - b. Use only 12-in Sherman or wire-mesh live traps; 9-in models may be used only if obtained before March 13, 1990. Ensure all trap models are modified to eliminate or substantially reduce the risk of injury (e.g., tail lacerations or excisions). Do not place any batting in the traps.
 - c. Sterilize traps previously used outside of Riverside County.
 - d. Conduct trapping only if the nightly low temperature is forecast to be 50 degrees Fahrenheit or above, and if no extended periods of wind, rain, fog, or other inclement weather will occur to make conditions unsuitable for trapping or will unduly imperil the lives of the animals.

- e. Adjust traps by hand each time they are placed, set, and baited, at a sensitivity level appropriate for capturing San Bernardino kangaroo rats. Visually inspect all traps before closing, and close them by hand.
 - f. Check all traps at least twice each night, once near midnight and again at sunrise.
 - g. Identify all trap locations with a unique identification code on a log sheet, note the date and time each trap is checked, and periodically review the log sheet to ensure no traps are inadvertently missed. Field documentation shall be available to USFWS personnel upon request.
 - h. Hold individual San Bernardino kangaroo rats, for no longer than 1 hour before release, and relocate as quickly as possible. Do not place the animal in a plastic bag; transfer it in a clean, structurally sound, breathable container with adequate ventilation. Do not allow the animal to become stressed due to temperature extremes (either hot or cold).
2. The BIA and/or Tribe shall monitor and report on compliance with, and the effectiveness of, the conservation measures through the following actions:
 - 2.1 Submit a quarterly report to the Palm Springs Fish and Wildlife Service Office covering results of the biological monitor's visits to the Site during all phases of project (PSFWO) construction, until construction is complete.
 - 2.2 Ensure USFWS personnel have the right to access and inspect the Site during project implementation (with prior notification from us) for compliance with the project description, conservation measures, and terms and conditions of the biological opinion.
 3. Disposition of Sick, Injured, or Dead Specimens:

The BIA and/or Tribe shall notify PSFWO within 3 work days if any endangered species are found dead or injured as a direct or indirect result of project implementation. Notification must include the date, time, and location of the injured animal or carcass, and any other pertinent information. In addition, mark dead animals appropriately, photograph, and leave the carcass on site; transport injured animals to a qualified veterinarian; and contact the PSFWO regarding the final disposition of any treated animals that survive.

Migratory Birds

Conduct preconstruction surveys on the Site to determine whether migratory birds are nesting there. If nesting birds are detected, the nest location(s) and immediately adjacent habitat should be avoided during construction activities, until the breeding season is over or until the birds permanently leave the nest (timing varies by species).

6.5 Cultural and Paleontological Resources

Section 5.5 of the Final EIS discusses mitigation measures that are recommended to mitigate effects on cultural and paleontological resources that may arise as a result of the Preferred Alternative. Mitigation measures were not recommended or required for paleontological

resources because none were found on the Site. The following mitigation measures were recommended and will be required to mitigate the effects of the Preferred Alternative on cultural resources:

- Development of the proposed facilities will adhere to the regulations presented in 36 C.F.R. § 800.13 (regulations of the National Historic Preservation Act) for post-review discoveries.
- For any discovery of archaeological resources, all work within 50 feet of the find shall be halted until a professional archaeologist, or paleontologist if the find is of a paleontological nature, can assess the significance of the find. If any find is determined to be significant by the archaeologist, or paleontologist as appropriate, then representatives of the Tribe shall meet with the archaeologist, or paleontologist, to determine the appropriate course of action, including the development of a treatment plan in accordance with applicable law, if necessary. All significant cultural or paleontological materials recovered shall be subject to scientific analysis, professional curation, and a report must be prepared by the professional archaeologist, or paleontologist, according to current professional standards.
- If human remains are discovered during ground-disturbing activities on tribal lands, the tribal official and BIA representative will be contacted immediately pursuant to 43 C.F.R. § 10.4 (regulations of the Native American Graves Protection and Repatriation Act (NAGPRA)). No further disturbance shall occur until the tribal official and BIA representative have made the necessary findings as to the origin and disposition. If the remains are determined to be of Native American origin, the BIA representative will notify a Most Likely Descendant that will be responsible for recommending the appropriate disposition of the remains and any grave goods.
- If human skeletal remains are encountered during ground-disturbing activities on non-tribal and/or non-Federal lands, the contractor will contact the Riverside County Coroner immediately. If the County Coroner determines that the remains are Native American, the coroner will contact the Native American Heritage Commission, as required by Section 7050.5 of the California Health and Safety Code, and the County Coordinator of Indian Affairs. A qualified archaeologist who meets the Secretary of the Interior's Professional Qualifications Standards (as set forth in 36 C.F.R. Part 61) will also be contacted immediately.
- The Unanticipated Discoveries Plan shall be followed in accordance with applicable law.

6.6 Socioeconomics and Environmental Justice

Section 5.6 of the Final EIS states that mitigation measures were not recommended or required for impacts to socioeconomics and environmental justice under the Preferred Alternative.

6.7 Resource Use Patterns

Section 5.7 of the Final EIS discusses mitigation measures that are recommended to mitigate effects on resource use patterns that may arise as a result of the Preferred Alternative including, transportation networks, land use, and agriculture. Mitigation measures were not recommended

or required for agriculture. The following mitigation measures were recommended and will be required to mitigate effects of the Preferred Alternative on other resource use patterns.

6.7.1 Transportation Networks

On-Site Roadway Improvements: The following mitigation measures are required in order to ensure that effects are less than significant:

- Construct Lake Park Drive adjacent to the Site at its ultimate cross-section width as a Secondary Highway (100 foot right-of-way) including landscaping and parkway improvements in conjunction with development.
- Construct Soboba Road adjacent to the Site at its ultimate half-section width as a Secondary Highway (100 foot right-of-way) including landscaping and parkway improvements in conjunction with development.
- Traffic signals shall be installed when warranted at the Development Footprint entrances/Soboba Road intersections.
- Off-street parking shall be provided at the Development Footprint to meet City of San Jacinto parking code requirements.
- On-site traffic signing/stripping shall be implemented in conjunction with detailed construction plans for the Development Footprint.
- Sight distance at each Development Footprint access shall be reviewed with respect to standard California Department of Transportation/City of San Jacinto sight distance standards at the time of preparation of final grading, landscaping, and street improvement plans.
- The proposed development shall participate in the adopted Transportation Uniform Mitigation Fee (TUMF) program and pay required development impact fees.

Off-Site Road Improvements: The Tribe shall contribute through the TUMF program to the funding of mitigation for traffic improvements to the Site and surrounding area, including those identified in the Traffic Impact Analysis (Appendix U of the Final EIS). Section VI and Appendix G to the Traffic Impact Study are summarized in the table below.

The contribution shall be based on the amount of traffic generated by land uses on the Site as a percentage of the overall traffic volume. The Tribe's contribution shall be provided to the agency undertaking the improvement (*e.g.*, Caltrans, Riverside County, and City of San Jacinto). In the case of improvements that are identified within the Final EIS as the sole responsibility of the Tribe, the Tribe's contribution must provide 100 percent of the necessary funds. The intersections that the Tribe will pay for in full are the ones pertaining to site access and require the creation of new access points.

Intersection and roadway segment improvements:

Notes: NB = Northbound; SB = Southbound; EB = Eastbound; WB = Westbound; X = mitigation recommended; 1 = One lane; 2 = Two lanes; PA-A = Proposed Action A (Preferred Alternative); PA-B = Proposed Action B; Alt 1 = Alternative 1; Alt 2 = Alternative 2; Alt 3 = Alternative 3; Alt 4 = Alternative 4. * Alternative 4 represents the No

Action alternative – no mitigation would be required with this alternative, improvements noted would be required without any project development to provide an adequate level of service for without-project conditions.

INTERSECTION AND ROADWAY SEGMENT IMPROVEMENTS

Intersection Improvements	2010						2025					
	PA-A	PA-B	Alt 1	Alt 2	Alt 3	Alt 4*	PA A	PA B	Alt 1	Alt 2	Alt 3	Alt 4*
Sanderson Avenue at Ramona Expressway • None Identified												
State Street/Gilman Springs Road at Soboba Road • WB Right Turn Overlap • Traffic Signal	X	X							X			
State Street at Ramona Expressway • NB Right Turn Lane • EB Right Turn Overlap							X	X	X	X		X
State Street at Florida Avenue • Additional EB Through Lane • WB Right Turn Lane							X					
San Jacinto St at Ramona Blvd/Main St • NB Right Turn Lane • NB Right Turn Overlap • Additional SB Through Lane • EB Left Turn Lane • EB Right Turn Overlap • WB Left Turn Lanes	X	X	X		X		X	X	X		X	X
San Jacinto St at Esplanade Ave • None Identified												
San Jacinto at Menlo Avenue • None Identified												
San Jacinto at Devonshire Avenue • None Identified												
San Jacinto St at Florida Ave • SB Right Turn Overlap • Additional SB Left Turn Lane • Additional EB Left Turn Lane • Additional WB Through Lane	X	X	X						X	X	X	X
Ramona Expy at Main St/Lake Park Drive • Additional SB Left Turn Lane	X	X										

Intersection Improvements	2010						2025					
	PA-A	PA-B	Alt 1	Alt 2	Alt 3	Alt 4*	PA A	PA B	Alt 1	Alt 2	Alt 3	Alt 4*
<ul style="list-style-type: none"> NB Right Turn Overlap Additional WB Left Turn Lane 							X	X	X			
Ramona Expy at 7th St <ul style="list-style-type: none"> Traffic Signal 	X	X	X	X	X	X						
Mountain Ave at Esplanade Ave <ul style="list-style-type: none"> Additional SB Through Lane 							X	X	X	X	X	X
Soboba St at Mountain Ave <ul style="list-style-type: none"> Traffic Signal 	X	X	X	X	X	X						
Soboba Springs Drive at Lake Park Drive <ul style="list-style-type: none"> Additional EB Through Lane Additional WB Through Lane 	X	X	X	X	X	X						
Soboba Road at Chabella Drive <ul style="list-style-type: none"> Additional SB Through Lane 							X	X	X	X	X	
Soboba Rd at Lake Park Drive <ul style="list-style-type: none"> NB Left Turn Lanes SB Left Turn Lane SB Right Turn Lanes SB Right Turn Overlap Additional EB Left Turn Lane EB Right Turn Overlap Traffic Signal 	1	1	1	1	1			2				1
		X					X			X	X	X
	2	2	2							1	21	1
	X	X	X				X	X	X	X	X	X
	X	X	X	X	X	X	X	X	X	X	X	X
Project Access												
Soboba Road – North Entrance <ul style="list-style-type: none"> NB Left Turn Lane SB Additional Through Lane SB Right Turn Lane Traffic Signal 	1	2	1	1								
	X						X	X	X	X		
	X	X	X									
	X	X	X									
Soboba Road – South Entrance <ul style="list-style-type: none"> NB Left Turn Lane SB Additional Through Lane SB Right Turn Lane Traffic Signal 	X	X	X	X	X							
				X			X	X	X			
	X		X									
	X	X	X	X	X							
Lake Park Drive <ul style="list-style-type: none"> WB Left Turn Lane Additional WB Lane Additional EB Lane EB Right Turn Lane 						X						
		X		X	X							
		X		X	X							
					X		X		X			

Intersection Improvements	2010						2025					
	PA-A	PA-B	Alt 1	Alt 2	Alt 3	Alt 4*	PA A	PA B	Alt 1	Alt 2	Alt 3	Alt 4*
• Traffic Signal				X							X	
I-215 Freeway Southbound Ramps at Bonnie Drive												
• Additional NB Left Turn Lane							X	X	X	X	X	X
• Additional SB Through Lane							X	X	X	X	X	X
• Traffic Signal	X	X	X	X	X	X						
I-215 Freeway Northbound Ramps at State Route 74												
• SB Left Turn Lane							2	2	2	1	2	1
• SB Right Turn Lane							X	X	X	X	X	X
• Traffic Signal	X	X	X	X	X	X						
Beaumont Avenue (State Route 79) at I-10 Freeway Westbound Ramps												
• WB Left Turn Lane	X	X	X	X	X							X
Beaumont Avenue (State Route 79) at I-10 Freeway Eastbound Ramps												
• NB Right Turn Lane							X	X	X	X	X	X
• SB Left Turn Lane							X	X	X	X	X	X
• EB Right Turn Lane							X	X	X	X	X	X
• EB Restriping							X	X	X	X	X	X
Gilman Springs Road North of Soboba Road												
• 4 Lane Secondary	X	X	X	X	X	X						
• 4 Lane Major							X	X	X	X	X	X
Soboba Road Between Gilman Springs Road and Lake Park Drive												
• 4 Lane Secondary	X	X	X							X	X	X
Ramona Expressway West of Sanderson Street												
• None Identified												
Between Sanderson Street and State Street												
• 4 Lane Urban Arterial	X	X	X	X	X	X						
• 6 Lane Urban Arterial							X	X				
Between State Street and San Jacinto Street												
• None Identified												
Between San Jacinto Street and Main Street												
• None Identified												
Mountain Avenue Between Main Street and 7th Street												
• None Identified												
Between 7th Street and												

Intersection Improvements	2010						2025					
	PA-A	PA-B	Alt 1	Alt 2	Alt 3	Alt 4*	PA A	PA B	Alt 1	Alt 2	Alt 3	Alt 4*
Esplanade Avenue												
• 4 Lane Major Between Esplanade Avenue and Soboba Street	X	X	X	X	X	X						
• 4 Lane Major East of Soboba Street	X	X	X	X	X	X						
• None Identified												

Source: Kunzman Associates, Inc., 2010 (see Appendix U of the Final EIS).

Special Events: To ensure that effects are less than significant during special events at the events arena, the following mitigation measures are required. See Appendix AC of the Final EIS (Transpiration Management Plan) for mitigation related to the following:

- Pre-event advertising
- Notification of property owners
- Use of traffic cones
- Manual traffic control points
- Drop-off/pick-up policies
- Temporary “No Event Parking” signs
- Pedestrian crossings

6.7.2 Land Use

Land Use impacts require mitigation for traffic, noise, air emissions, and artificial lighting and glare. Air quality and traffic are addressed above in **Sections 6.3 and 6.6**, respectively. Noise is addressed below in **Section 6.8**. The mitigation provided below is for lighting and glare effects.

Lighting and Glare: The detailed design phase of the proposed developments will incorporate low-glare materials to minimize the anticipated lighting and glare effects.

As stated in Section 2.1.1 of the Final EIS, all permanent lighting that could increase exterior lighting levels will have the International Dark-Sky Society’s Fixture Seal of Approval for dark sky friendly fixtures. All permanent exterior lighting will incorporate cutoff shields and non-glare fixture design and will be directed onsite and downward. New lighting will be oriented to ensure that no light source is directly visible from neighboring residential areas and will be installed with motion-sensor activation where feasible. Decorative lighting will be directed away from sensitive receptors and will not generate light beyond the Development Footprint’s boundaries.

The lighting fixture mitigation measures would reduce lighting effects on sensitive receptors, when combined with the structural lighting mitigation measures described below. Therefore, parking lot lighting and windshield glare would have a less-than-significant light and glare effect with implementation of these measures.

Exterior Signage: Exterior signage would be considered as part of the exterior architectural design and would enhance the buildings' architecture and the natural characteristics of the site by incorporating native materials with the architectural trim. Illuminated signs would be designed to blend with the light levels of the buildings and landscape lighting in both illumination levels and color characteristics. The maximum height of an outdoor advertising display shall be twenty-five (25) feet from the grade on which is it constructed.

Surface Coatings and Materials: Highly reflective building materials and/or finishes will not be used in the design of proposed structures, including fencing and light poles. Non-reflective glass coatings will be used for all windows and glass doors.

The surface coating and material mitigation measures would reduce building and fixture reflectance effects to sensitive receptors; therefore, glare from reflectance would have a less-than-significant effect with implementation of these measures.

Vegetative Screening: Vegetation selected for landscaping will be selected, placed, and maintained to minimize offsite light and glare in surrounding areas. The vegetative screening mitigation measure would reduce vehicle headlight and windshield glare at-grade effects to sensitive receptors to a less-than-significant level.

Structural Screening: The top floor of the parking structures and open parking lots will incorporate trellises or similar structures along each row of parking and along the perimeter. The trellises will be non-reflective, earth-toned colors, and support climbing vegetation appropriate to the region's climate. These structures will reduce glare from the vehicles and direct and ambient lighting effects on the surrounding communities. Parking structures will have both external screening and a solid three-foot high barrier contiguous from the floor to shield the surrounding communities from vehicle headlights.

The structural screening mitigation measures would reduce parking lighting and windshield glare effects on sensitive receptors when combined with the lighting fixture mitigation measures. Therefore, parking lot lighting and windshield glare would have a less-than-significant light and glare effect with implementation of these measures.

Lighting Professional Review: As stated in section 2.1.1 of the Final EIS, all light and glare reduction plans will be reviewed by a qualified third-party lighting professional who will ensure that light and glare effects will be compliant with the goals of the City's Land Use Element. Implementation of light and glare reduction measures will be confirmed by the lighting professional prior to issuance of occupancy permits to ensure full compliance with the plans.

6.8 Public Services

Section 5.8 of the Final EIS discusses mitigation measures that are recommended to mitigate effects on public services that may arise as a result of the Preferred Alternative including water supply, wastewater service, solid waste, electricity, natural gas, telephone, law enforcement, fire protection, emergency medical service, and schools. Mitigation measures were not recommended or required for solid waste or telephone services. The following mitigation

measures were recommended and will be required to mitigate effects of the Preferred Alternative on other public services.

6.8.1 *Water Supply*

No mitigation measures are required. All reclaimed water that would be used for irrigation of the Golf Course would be treated to the State of California Code of Regulations Title 22 requirements. The Tribe and the Eastern Municipal Water District (EMWD) intend to maintain the existing contract for water supply services to the Country Club.

6.8.2 *Wastewater Service*

The Tribe has indicated it will pursue the development of a WWTP to serve the Reservation. The proposed WWTP would have the capacity to serve the Site, including the Preferred Alternative and Alternatives. The WWTP would meet California Code of Regulations Title 22 requirements for reuse of treated effluent for activities such as agriculture irrigation, landscape irrigation, and fire control. Because the proposed WWTP could serve the Site and recycled water could be used for irrigation and other similar non-potable uses at the Site, the Draft EIS and the Final EIS included discussions of the WWTP as a related development. The proposed WWTP would incorporate percolation ponds that would be located on the Reservation in an area that could contain jurisdictional waters of the United States, which would require the WWTP to comply with the Clean Water Act through licensing with EPA. The WWTP, as well as using recycled water from the WWTP, is expected to have a less-than-significant effect because of both compliance with California Code of Regulations Title 22 and EPA licensing when necessary. In addition to the Tribe's proposed WWTP, the EMWD has committed to serve the Site if the WWTP is not built (Final EIS Appendix K).

6.8.3 *Electricity and Natural Gas*

Construction: At least 2 working days prior to construction, the Tribe shall contact the Underground Service Alert (USA) of Southern California. The USA provides a free "Dig Alert" service to all excavators (e.g. contractors, homeowners, and others) in California. This call shall automatically notify all utility services providers that might have underground facilities at the excavator's work site. In response, the utility service providers shall mark or stake the horizontal path of underground facilities, provide information about the facilities, and/or give clearance to dig.

Operation: The Preferred Alternative will have a less-than-significant effect on electricity and natural gas services. However, the following energy conservation features will be incorporated into the proposed facilities:

- Buildings shall be thoroughly insulated and weatherized so as to minimize energy loss due to heating and cooling waste. Doors and windows shall be regularly inspected for air leaks, and shall be caulked or weather-stripped as appropriate where leaks are identified. Storm windows and double-paned glass shall be used to the extent practicable, shall be maintained in good repair, and shall be weatherized. New windows shall meet energy-saving criteria set forth by the National Fenestration Rating Council (NFRC). Caulk and

seal shall be used as appropriate to prevent air leaks where plumbing, ducting, or electrical wiring penetrates through exterior walls, floors, ceilings, and soffits over cabinets. Rubber gaskets shall be installed as appropriate behind outlet and switch plates on exterior walls. Exterior walls shall be sealed with appropriate sealants.

- For heating systems, filters on furnaces shall be cleaned or changed once a month or as needed. Energy-efficient equipment, such as appliances bearing the ENERGY STAR® logo, shall be selected for purchase and installation.
- The selected HVAC system shall minimize the use of energy by means of using high efficiency variable speed chillers, high efficiency low emission steam and/or hot water boilers, variable speed hot water and chilled water pumps, variable air volume air handling units, and air-to-air heat recovery where appropriate. Pool area dehumidification shall include heat recovery systems. All systems shall be designed in accordance with the American Society of Heating, Refrigerating and Air-Conditioning Engineers (ASHRAE) Standard 90. Complex ventilation shall be designed in accordance with ASHRAE Standard 62. A building automation system shall be integrated with all building support systems.
- Energy efficient lighting shall be installed throughout the facilities. Dual-level light switching shall be installed in support areas to allow users of the buildings to reduce lighting energy usage when the task being performed does not require all lighting to be on. Day lighting controls shall be installed near windows to reduce the artificial lighting level when natural lighting is available. Controls shall be installed for exterior lighting so it is turned off during the day.
- Water systems shall be inspected regularly for leaks or degradation that could lead to leaks, and water heater tanks and pipes shall be insulated or lagged to the extent practicable.
- Non-aerating, low-flow faucets and showerheads shall be installed in the hotel rooms.
- New, energy-efficient water heaters shall be installed, and shall be evaluated for replacement every 7 years.
- Water tanks shall be maintained and cleaned every three months to remove sediment in order to maintain the heat transfer efficiency of water heaters.

6.8.4 Law Enforcement

The Tribe will compensate the Riverside County Sheriff's Department through the Law Enforcement Memorandum of Understanding (Final EIS Appendix W) for the cost of staffing a full-time, sworn deputy over a 24-hour time period at the Site. This equals staffing of 5 sworn deputy positions and 1 non-sworn Community Service Officer.

6.8.5 Fire Protection and Emergency Medical Services

Construction plans and specifications shall include the following notes:

- All construction equipment shall include spark arresters in good working order. This includes, but is not limited to, vehicles, heavy equipment, and chainsaws.
- During construction, 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.

6.8.6 *School Services*

The Tribe shall provide reasonable in-lieu development fees and property taxes to the San Jacinto School District to mitigate recognized effects to the School District. The Tribe shall consult with the School District to determine the amount and schedule of payments to reasonably mitigate fee and tax loss to the School District and increased student enrollment in the School District's schools.

6.9 **Other Values**

Section 5.9 of the Final EIS discusses mitigation measures that are recommended to mitigate effects on other values that may arise as a result of the Preferred Alternative including hazardous materials, noise, and visual resources. The following mitigation measures were recommended and will be required to mitigate effects of the Preferred Alternative on other values.

6.9.1 *Hazardous Materials*

- To reduce the potential for accidental releases, fuel, oil, and hydraulic fluids shall be transferred directly from a service truck to construction equipment tanks and shall not otherwise be stored on-site. Paint, thinner, solvents, cleaners, sealants, and lubricants used during construction shall be stored in a locked utility building, handled per the manufacturers' directions, and replenished only as needed.
- 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 the 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 would be maintained on-site.
 - The amount of hazardous materials used in project construction and operation shall be consistently kept at the lowest volumes needed.

- During construction and operation of the proposed facilities, the least toxic material capable of achieving the intended result shall consistently be used to the extent practicable.
- A hazardous materials and hazardous waste minimization program shall be developed, implemented, and reviewed annually by the Tribe to determine if additional opportunities for hazardous materials and hazardous waste minimization are feasible, for both construction and operation of the Preferred Alternative.
- The contractor shall be requested to avoid and minimize the use of hazardous materials during the construction of the proposed developments to the fullest extent practicable.
- The use of pesticides and toxic chemicals shall be minimized or less toxic alternatives shall be used to the greatest extent feasible in the Golf Course management and landscaping.
- Construction specifications for the USTs and leak detection systems for the gas station and mini mart shall comply with federal regulations for UST installation in or adjacent to identified active fault zones (40 C.F.R. Part 280, Subpart B), as well as with State and County (County of Riverside Ordinance No. 617) regulations.
- All permanent underground and aboveground fuel storage tanks associated with the gas station shall have double walls with integrated leak detection systems and an associated alarm. If a leak occurs within the inner tank, the outer tank would contain the leak, while a pressure sensor signals the leak on the indicator panel of an alarm unit. Personnel, trained in emergency response procedures, shall regularly monitor the leak detection alarm units.

6.9.2 Noise

Construction: To reduce noise effects on noise sensitive receptors, the following mitigation measures are required during construction:

- Restrict construction to the hours of 7:00 AM to 7:00 PM, Monday through Saturday (consistent with the City of San Jacinto noise ordinances found in section 8.40.040).
- Use machinery that is properly fitted with muffling equipment.
- Shield stationary equipment, such as compressors and generators, from exposure to residences wherever possible. Shielding may be in the form of temporary structures, barriers, or other equipment.
- Locate stationary equipment as far as possible from residences.
- Turn off equipment when not in use, including idling truck engines.
- Restrict the use of amplified sources (*e.g.*, stereos) in the vicinity of residences.
- Post signs advising construction personnel of noise mitigation measures.
- Post signs advising residents of the contact number for the compliant and enforcement manager in the event of noise issues, and require follow-up and tracking.

A final noise study should be performed during the design and construction phase of the project to ensure compliance with the above mitigation measures.

Operation: To reduce noise effects from parking structures to a level of less than significant, the following mitigation measures are required:

- Post signs in parking areas advising visitors that due to the presence of nearby residences, unnecessary noise is strongly discouraged.
- Install fireproof (noncombustible) sound absorption materials on the walls, posts, and ceilings of the parking structures, where needed, to attenuate activity noises as described above.
- Treat pavement of the parking structures to reduce tire squeals.
- Install external screening to reduce noise from the parking structures, such as car alarms.
- To ensure that effects are less than significant from the loading docks as well as from loud maintenance equipment, the following mitigation measures are required:
 - Restrict delivery trucks, machinery, and loading docks operations (and any other noise-producing operation) to the hours of 7:00 AM to 7:00 PM.
 - Place refuse collection in areas that will reduce noise exposure to nearby noise-sensitive receptors.
 - Restrict noise producing maintenance activities (lawn mowing, leaf blowing, etc.) to the hours of 7:00 AM to 7:00 PM.
 - To ensure that effects from HVAC equipment and emergency generator operation are less than significant, fixed equipment such as air conditioning condensers, emergency generators, and cooling towers, shall be placed inside enclosures and/or on rooftops of buildings.

To further reduce noise effects on the mobile home park, a higher sound wall will be constructed to 6-7 feet tall, without gaps, between Lake Park Drive and the Soboba Springs Mobile Estates prior to commencing major construction. This measure will lower received noise levels by an additional 3 dBA. The barrier material would have to be solid and massive, with no significant gaps in construction.

6.9.3 Visual Resources

The following mitigations measures are required to reduce the amount of contrast that the proposed developments would have with the existing setting. These mitigation measures should be used in conjunction with each other and where appropriate in order to reduce the amount of contrast from strong to moderate or less. By reducing the contrast rating to moderate or less, the Preferred Alternative and Alternatives would have a less-than-significant visual effect on the existing setting.

Vegetative Screening: A variety of landscape vegetation appropriate to the region's climate shall be placed throughout the Development Footprint in a way to screen the strong contrast of the form, line, color, and texture of the proposed facilities with the existing vegetation. To break up or hide the geometric forms, strong horizontal and vertical lines, and smooth texture of the structures, the following mitigation measures shall be used. Trees that can grow to thirty to sixty feet in height, such as acacia and ana trees, shall be placed around all buildings over two stories tall and around the perimeter of the Development Footprint. The trees shall be at least 24-inch box size and shall be placed within 10 feet from the average full-grown trees' drip line to the building and to each other. They shall also be placed throughout the parking areas

approximately one every 10 parking stalls, including around the parking areas' perimeters. In addition, native shrubs or bushes shall be planted and cultivated along the perimeter in such a way that they would grow into a solid visual barrier up to 3 feet high. All landscaping shall be completed prior to issuance of occupancy permits.

The structures' roofs would be seen from any location in the adjacent foothills and would contribute to the strong contrast rating for form, line, color, and texture. The roof shall be colored an earth tone color, as described below. Mechanical systems shall be screened from view using a solid screen that matches the color of the roof; this would reduce the strong contrast rating to moderate or less. An extensive green roof system is required to further reduce contrast.

The top floor of the parking structures and open parking lots at grade shall have trellises or similar structures along each row of parking spaces and along the perimeter. The trellises shall be non-reflective, earth-toned colors and support climbing vegetation appropriate to the region's climate. These structures shall not only reduce the color and texture contrast with the existing setting, but should also reduce the glare from the vehicles and light-colored roofing materials. This would also reduce the ambient lighting effects at night to the surrounding communities.

For Alternatives 3 and 4, the vegetation mitigation measures described above would reduce the form, line and texture contrast to moderate or less at all key observation points (KOPs) and thus would have a less-than-significant visual effect. In addition, for the Preferred Alternative and Alternatives 1 and 2 at KOPs 1, 2, 3, 4, and 5, these mitigation measures would reduce the form, line and texture contrast to moderate or less and would have a less-than-significant visual effect at those locations. However, at KOP 6, the form contrast would remain strong due to the structures' massing proximate to sensitive receptors (including the homes along the retirement community's eastern and northern border). Therefore, the Preferred Alternative and Alternative 1 would continue to have a significant visual effect after implementation of the mitigation measures.

Earth Tone Color Choices: Structures shall be painted in earth-tone colors that closely match the existing setting's colors, including beige, tan, and brown. From all KOPs for all alternatives, this would reduce any strong color contrast from buildings to moderate or less, and thus would have a less-than-significant visual effect.

Parking and Roof Materials: Light colored materials with a sandy texture, such as concrete with a mixed-in earth tone pigment, are required for all roofs except those using the extensive green roof system, and all parking structures to reduce the color and texture contrast with the existing landscape. From all KOPs for all alternatives, this would reduce any strong color and texture contrast from the parking lots and roofs to moderate or less, when used in conjunction with the trellis structures described above, and thus would have a less than significant visual effect.

6.10 Mitigation Measures Not Adopted

The Council on Environmental Quality NEPA regulations call for identification in the ROD of any mitigation measures specifically mentioned in the Final EIS, but which are not adopted. There are no mitigation measures listed in the Final EIS for the Preferred Alternative that are not included in this ROD.

7.0 ELIGIBILITY FOR GAMING PURSUANT TO THE INDIAN GAMING REGULATORY ACT (IGRA)

Section 20 of IGRA generally prohibits Indian gaming on lands acquired in trust after October 17, 1988, subject to several exemptions and exceptions. One exemption is for lands that are located within or contiguous to the boundaries of the reservation of the Indian tribe on October 17, 1988. 25 U.S.C. § 2719(a)(1) (the Contiguous Exemption). Upon review of IGRA Section 20 and its implementing regulations at 25 C.F.R. Part 292, we find that the Site meets the requirements of the Contiguous Exemption and is eligible for gaming under IGRA.

First, the Tribe's Reservation meets the definition of "reservation" in 25 C.F.R. § 292.2, defined, in relevant part as "land set aside by the United States by final ratified treaty, agreement, Executive Order, Proclamation, Secretarial Order or Federal statute for the tribe, notwithstanding the issuance of any patent," and "land of Indian colonies and rancherias (including rancherias restored by judicial action) set aside by the United States for the permanent settlement of the Indians as its homeland". The Indian Claims Commission (ICC) set forth the history of the establishment of the Tribe's Reservation in a 1976 finding.⁵ The Tribe's Reservation was established by Executive Order dated June 19, 1883.⁶ The Executive Order set aside 3,172+/- acres of land within the San Bernardino base and meridian for the permanent use and occupation of the Mission Indians in the State of California, including the Tribe.⁷

A series of Executive Orders, which at first reduced the land holdings of the Tribe, ultimately added an additional 1,156+/- acres to the Reservation. Lands were added to the Reservation on August 22, 1911, through a purchase agreement between the United States and the State of California when the State ceded approximately 700 acres of land to the United States for the use of the Soboba Indians (1911 Reservation Addition).⁸ The 1911 Reservation Addition is located at the San Bernardino base and meridian in Riverside County and expanded the western boundary of the Reservation to its present location.⁹

Other additions and reductions further altered the size of the Reservation. On June 25, 1900, a fee patent was issued to the Southern Pacific Railroad, reducing the size of the Reservation by 32.84+/- acres.¹⁰ On May 29, 1913, June 10, 1913, January 29, 1918, and May 4, 1936, lands of

⁵ Findings of Fact Regarding Liab. of Defendant for Plaintiff's Loss of Water at 416-19, Soboba Band of Mission Indians v. United States, 37 Ind. Cl. Comm. 326, (1976) (No. 80-A) (hereinafter Findings of Fact)-

⁶ C. Kappler, 1 Indian Affairs. Laws and Treaties 925 (1904) (Exec. Order signed by President Chester A. Arthur (June 19, 1883) (on file with BIA (Binder 2, Tab 21)).

⁷ Findings of Fact at 416-18.

⁸ Title Statement, Soboba Reservation (Feb. 1960) (on file with the BIA (Binder 2, Tab 21) at 2); Findings of Fact at 418-419; Tribe's Application, § 1.2 at 3.

⁹ See Findings of Fact at 419.

¹⁰ U.S. Patent No. 69 (filed June 28, 1900) (on file with the BIA (Binder 2, Tab 21)); Findings of Fact, Attachment 3; Tribe's Application, § 1.2 at 3.

the Reservation were variously patented by the United States to the San Jacinto, the Tribe or Village Indians.¹¹ These various patents were trust patents under which the United States was to hold the lands in trust for 25 years and thereafter patent them to the Tribe. In subsequent years, several additional modifications were made to the Reservation land base.¹² Presently, the Reservation includes 7,356.55+/- acres of trust land. It is indisputable that the Tribe's Reservation meets the definition of Section 292.2.

In addition to finding that the Tribe's Reservation meets the definition of "reservation" in section 292.2, we also conclude that the Site is contiguous to the Tribe's Reservation as it existed on October 17, 1988, and thus eligible for gaming under IGRA. *See* 25 C.F.R. §292.4(a). Section 292.2 defines "contiguous" as: "two parcels of land having a common boundary notwithstanding the existence of non-navigable waters or a public road or right-of-way and includes parcels that touch at a point."

The Site shares a common boundary with the 1911 Reservation Addition.¹³ Accordingly, it satisfies the definition of "contiguous" and meets the requirements of the Contiguous Exemption as described in section 292.4(a). The fact that a public road bisects the Site does not affect this conclusion. Indeed, as no road or right-of-way exists between the Site and the 1911 Reservation Addition, the presence of a public road is not relevant to whether the Site is contiguous to the Reservation. We, thus, conclude that the Site is a singular piece of lands that contiguous to the Reservation.

In comments responding to the BIA's Notice of (Gaming) Land Acquisition Application dated January 11, 2012, the State asserts that only one of the parcels that make up the Site is contiguous to the Reservation, and therefore the Department's acquisition of the Site cannot be treated as an on-reservation acquisition evaluated under 25 C.F.R. §151.10.¹⁴ The State makes the same assertion with respect to the contiguity of the parcels for the purposes of IGRA. The State asserts that each parcel within the Site must be individually evaluated to determine its contiguity to the Reservation. The State further asserts that the entirety of the Site is not contiguous to the Reservation because the 3 parcels of the Site closest to the Reservation are separated from the remaining parcels of the site by a road – Lake Park Drive – that bisects the Site.

¹¹ Findings of Fact at 419. *See* U.S. Patents No. 69 (June 28, 1900); No. 338,255 (May 29, 1913); No. 340,660 (June 10, 1913); No. 615,350 (Jan. 29, 1918); No. 1,082,996 (May 4, 1936).

¹² On July 2, 1963, the Army Corps of Engineers took 19.97+/- acres from the Reservation. In 2003, the United States accepted in trust for the Tribe a tract of land known as the Jones Ranch, adding 950 acres to the Reservation. Tribe's Supp. at 4. In November 2010, the United States accepted in trust for the Tribe a tract of land known as The Oaks, adding 491.87 acres to the Reservation. Tribe's Supp. at 4. In November 1988 an additional 880+/- acres was added. Act of Nov. 1, 1988, Pub. L. No. 100-581, 102 Stat. 2938.

¹³ *See* FEIS, Figure 1-3 (Existing Soboba Reservation) at 1-8; Memorandum from Jamie Schubert, GIS Coordinator, to Arvada Wolfen, Supervisory Realty Specialist (Nov. 18, 2011).

¹⁴ *See* Letter from Kathleen E. Gnekow, Deputy Attorney General, State of California, to Amy Dutschke, Regional Director, BIA Pacific Regional Office (March 14, 2012).

Nothing in the Department's regulations, the Indian Reorganization Act, or IGRA suggests, much less requires, that we approach the contiguity analysis as proposed by the State. The fact that the State and its subdivisions have delineated the Site into separate parcels for their own purposes is not relevant to the Department's determination whether the Site is contiguous to the Reservation. The Tribe proposes the acquisition of the Site in trust as a single transaction. The Tribe will convey its fee title which will be recorded as a single tract on a single deed when the Site is taken into trust. The fact that the Tribe acquired the land that makes up the Site through multiple transactions is of no consequence for determining whether the Site meets the requirements of the Contiguous Exemption.¹⁵

We determine that the Site is contiguous to the Reservation, and upon acquisition in trust, the Tribe may game on the Site pursuant to the Contiguous Exemption found in 25 U.S.C. § 2719(a)(1) and 25 C.F.R. § 292.4(a).

8.0 TRUST ACQUISITION DETERMINATION PURSUANT TO 25 C.F.R. PART 151

The Secretary's general authority for acquiring land in trust is found in Section 5 of the Indian Reorganization Act, 25 U.S.C. § 465. The regulations found at 25 C.F.R. Part 151 set forth the procedures for implementing Section 5.

8.1 25 C.F.R. § 151.3 – Land acquisition policy.

Section 151.13 sets forth the conditions under which land may be acquired in trust by the Secretary for an Indian tribe:

- (1) When the property is located within the exterior boundaries of the tribe's reservation or adjacent thereto, or within a tribal consolidation area; or
- (2) When the tribe already owns an interest in the land; or
- (3) When the Secretary determines that the acquisition of the land is necessary to facilitate tribal self-determination, economic development, or Indian housing.

Although the application need only satisfy one of the abovementioned conditions, the Tribe's application satisfies all three. The Tribe's application satisfies the first prong of this section because the Tribe's request is for the acquisition of land located adjacent to the boundaries of its "Indian reservation" as defined in 25 C.F.R. § 151.2(f).¹⁶ As discussed in detail above in **Section 7.0**, the Site shares a common boundary with the 1911 Reservation Addition and is, thus, adjacent to the Reservation.

¹⁵ See Soboba Band of Luiseno Indians Horseshoe Grand Property Fee-to-Trust Application (April 200) at 1-2, for list of transactions.

¹⁶ Section 151.2 (f) defines "Indian reservation" to mean, in relevant part, that area of land over which the tribe is recognized by the United States as having governmental jurisdiction.

The Tribe's application satisfies the second prong of this section because the Tribe owns the Site in fee. We also determine that the third prong of this section is satisfied because the acquisition of the land is necessary to facilitate self-determination and economic development. Acquisition of the Site will facilitate self-determination by providing a homeland that is protected against future alienation. Through the exercise of tribal governmental authority, the Site will be subject to the Tribe's management, protection, and conservation after it is acquired in trust. The Tribe's development of 2 fire stations and the possible use of the existing casino building as a cultural center, tribal meeting space, and tribal office space will improve the governmental services the Tribe is able to offer its members.

Trust acquisition of the Site will also facilitate economic development for the Tribe. The Tribe's current gaming facility is located on a 47.7+/- acre parcel located on the Reservation, in a 62,400 s.f. complex that is a combination of temporary (40,400 s.f.) and permanent structures (22,000 s.f.). The existing complex contains 2,000 slot machines, 30 table games, 3 restaurants, and a sports lounge. The existing complex suffers, however, from poor indoor air-quality control, insufficient parking, and restricted access in the form of a narrow two-lane road. The Tribe is unable to expand the existing complex or its parking at the on-reservation site.

The acquisition of the Site will allow the Tribe to relocate its gaming establishment to a permanent structure near the intersection of Soboba Road and Lake Park Drive. The casino portion of the Site in the Preferred Alternative would be 160,000 s.f., and more than double the size of existing gaming establishment. No additional gaming would be offered, however. As a result, the Tribe will improve access to the Site and provide sufficient parking to meet current and future demand at the relocated gaming facility. Acquisition of the Site will facilitate these improvements to the overall quality of the gaming establishment and, thus, will facilitate economic development.

Development of the casino/resort near the Golf Course will also facilitate economic diversification by offering recreational amenities in addition to gaming. The proposed events arena will provide space for a variety of uses ranging from business conferences to sporting events. Depending on configuration, seating would range from 2,595 to 3,891 seats. The Tribe intends to market the events arena to attract businesses and non-local visitors. The Tribe is also considering development of a 40,000 s.f. convention center. Like the events arena, the Tribe will market the convention center to businesses and non-local visitors. An integrated complex will offer customers many possible activities in one location and would act as a destination center for tourists and businesses, while also catering to local interests. Development of the 6,000 s.f. convenience store and 12-pump gas station will provide further economic diversification.

The present gaming parcel requires additional parking to accommodate high demand. It also requires a permanent structure to house gaming activities and to provide for enhanced air-quality control and public safety. The Site will provide the acreage necessary to meet these needs. The location of the proposed casino/resort near the intersection of Soboba Road and Lake Park Drive would also allow easier access to and from the facilities relative to the existing casino and would increase customer safety in case of an emergency. Furthermore, the location of the Site would allow the Tribe to fully capitalize on the proximity to the Golf Course and Country Club in order to offer a destination resort.

In addition to economic benefits that will accrue to the Tribe, the Preferred Alternative is projected to generate direct, indirect, and induced economic benefits within the City and Riverside County. The Preferred Alternative is projected to create 1,084 jobs during the two-year construction period. The operational phase is projected to create 1,635 new direct jobs at the Site and 731 new jobs in Riverside County as a result of indirect and induced effects. The Preferred Alternative is projected to expend \$400.3 million in direct, indirect, and induced construction-related spending, and produce \$159.9 million annually in wages during operation. The Preferred Alternative is also expected to have a net positive impact on state and local tax revenues.

The Regional Director determined, and we concur, that the acquisition of the Site is necessary to facilitate tribal self-determination and economic development.

8.2 25 C.F.R. § 151.10 - On-reservation acquisition

The Site shares a common boundary with the 1911 Reservation Addition and is, thus, adjacent to the Reservation. Section 151.10 requires the Secretary to evaluate requests for acquisition of land under the on-reservation criteria when the land is located “within or contiguous to an Indian reservation.” As discussed in **Sections 7.0 and 8.1** of this ROD, the Site is contiguous to the Tribe’s Reservation.

As discussed under **Section 7.0** of this ROD, the State asserts that only 1 of the parcels that make up the Site is contiguous to the Reservation, and therefore the Department’s acquisition of the Site cannot be treated as an on-reservation acquisition evaluated under 25 C.F.R. §151.10.¹⁷ There is no requirement that the Department adopt the State’s view. The fact that the State and its subdivisions have delineated the Site into separate parcels for their own purposes is not relevant to the Department’s determination whether the Site is contiguous to the Reservation. The BIA will record the Tribe’s conveyance of its fee title as a single tract on a single deed. The State further asserts that 3 parcels are separated from the remaining parcels of the Site by a road that bisects the Site, and therefore the parcels are not contiguous. The fact that parcels are bisected by a road does not change our analysis.¹⁸ Accordingly, the Tribe’s application to acquire the Site in trust is properly evaluated under the on-reservation acquisition criteria listed in Section 151.10.

8.3 25 C.F.R. § 151.10(a) – The existence of statutory authority for the acquisition and any limitations contained in such authority.

¹⁷ See Letter from Kathleen E. Gnekow, Deputy Attorney General, State of California, to Amy Dutschke, Regional Director, BIA Pacific Regional Office (March 14, 2012).

¹⁸ See Acquisition of Title to Land Held in Fee or Restricted Fee Status (Fee-to-Trust Handbook), Section 2.0 (Version III issued 06/16/14) (defining contiguous parcels as “two parcels of land having a common boundary notwithstanding the existence of non-navigable waters or a public road or right-of-way, including parcels that touch at a point”).

Section 151.10(a) requires consideration of the existence of statutory authority for the acquisition and any limitations on such authority.

In *Carcieri v. Salazar*, 555 U.S. 279 (2009), the United States Supreme Court held that the Secretary's authority to acquire land in trust for Indian tribes under the first definition of "Indian" in the IRA extended only to those tribes that were "under federal jurisdiction" when the IRA was enacted on June 18, 1934. We have evaluated the applicability of *Carcieri* to the Tribe's application and have determined that the Secretary is authorized to acquire land in trust for the Tribe under 25 U.S.C. § 465.

The Department has determined that the question of whether a tribe was "under federal jurisdiction" for purposes of *Carcieri* entails a two-part inquiry.¹⁹ The first question is to examine whether there is a sufficient showing in the Tribe's history, at or before 1934, that it was under Federal jurisdiction, *i.e.*, whether the United States had taken an action or series of actions – through a course of dealings or other relevant acts for or on behalf of the Tribe or in some instances tribal members – that are sufficient to establish Federal obligations, duties, or responsibility for or authority over the tribe by the Federal Government.²⁰ Once having identified that the tribe was under Federal jurisdiction prior to 1934, the second question is to ascertain whether the Tribe's jurisdictional status remained intact in 1934.²¹ The Department recognizes however that some activities and interactions could so clearly demonstrate Federal jurisdiction over a federally recognized tribe as to render elaboration of the two-part inquiry unnecessary.²² The Section 18 elections under the IRA held between 1934 and 1936 are such an example of unambiguous Federal actions that obviate the need to examine the tribe's history prior to 1934.²³

Section 18 of the IRA provides that "[i]t shall be the duty of the Secretary of the Interior, within one year after the passage [of the IRA] to call . . . an election" regarding application of the IRA to each reservation.²⁴ If "a majority of the adult Indians on a reservation . . . vote against its application," the IRA "shall not apply" to the reservation.²⁵ The vote was either to reject the application of the IRA or not reject its application. Section 18 required the Secretary to conduct such votes "within one year after June 18, 1934," which Congress subsequently extended until June 18, 1936.²⁶ In order for the Secretary to conclude that a reservation was eligible for a vote, a determination had to be made that the relevant Indians met the IRA's definition of "Indian" and

¹⁹ See M-37029, The Meaning of "Under Federal Jurisdiction" for Purposes of the Indian Reorganization Act (Mar. 12, 2014) (M-37029).

²⁰ *Id.* at 19.

²¹ *Id.*

²² *Id.* at 20.

²³ *Id.*

²⁴ Act of June 18, 1934, 48 Stat. 984 (codified at 25 U.S.C. § 478); Act of June 15, 1935, ch. 260, § 2, 49 Stat. 378.

²⁵ *Id.*

²⁶ Act of June 15, 1935, ch. 260 § 2, 49 Stat. 378.

were thus subject to the Act.²⁷ Such an eligibility determination would include deciding the Tribe was under Federal jurisdiction, as well as an unmistakable assertion of that jurisdiction.²⁸ A vote to reject the application of the IRA does not alter this conclusion. In 1983, Congress enacted the Indian Land Consolidation Act (ILCA).²⁹ The Act amended the IRA to provide that Section 5 of the IRA applies to “all tribes notwithstanding section 18 of such Act,” including Indian tribes that voted to reject the IRA.³⁰ As the Supreme Court stated in *Carcieri*, this amendment “by its terms simply ensures that tribes may benefit from [Section 5] even if they opted out of the IRA pursuant to Section 18, which allowed tribal members to reject the application of the IRA to their tribe.”³¹

As stated in the report prepared in 1947 by Theodore H. Haas, Chief Counsel for the United States Indian Service, a majority of the adult Indians residing at the Band’s reservation voted to reject the IRA at a special election duly held by the Secretary on December 15, 1934.³² The calling of a Section 18 election at the Band’s reservation unambiguously and conclusively establishes that the Band was under Federal jurisdiction in 1934. Although the tribal members voted to reject the IRA, the 1983 amendment to the IRA makes clear that Section 5 applies to Indian tribes whose members voted to reject the IRA. Accordingly, the IRA vote is dispositive as to a finding a Federal jurisdiction.³³

²⁷ M-37029 at 21.

²⁸ *Id.*

²⁹ Act of Jan. 12, 1983, 96 Stat. 2515, 2517-19 (codified at 25 U.S.C. §§ 2201 *et seq.*).

³⁰ 25 U.S.C. § 2517.

³¹ *Carcieri*, 555 U.S. at 394-95.

³² Haas Report at 15.

³³ In addition to the IRA vote, there exists a wealth of indicia demonstrating that the Band was under federal jurisdiction in 1934. For example, the Federal Government established a reservation for the Soboba Indians through a series of presidential and congressional acts beginning in 1883. Executive Order of June 19, 1883 (setting aside land for the “permanent use and occupation of the Mission Indians,” including a portion of the present day Soboba reservation); Executive Order of March 22, 1886 (canceling the June 19, 1883 withdrawal in part); Executive Order of January 29, 1887 (restoring some portions of the reservation to the public domain and withdrawing additional lands to add to the reservation); Mission Indian Relief Act, 26 Stat. 712 (1891) (creating a commission for the purpose of settling Mission Indians upon reservations); Smiley Commission Report at 28–31 (describing the existing reservation at San Jacinto for the Soboba Indians and recommending that adjacent lands be added); Executive Order of December 19, 1891 (adopting the recommendations of the Smiley Commission); *Soboba Band of Mission Indians v. United States*, 37 Ind. Cl. Comm. 326, 419–24 (1976) (describing the historical controversy surrounding Tract 8 of the reservation that resulted in 1911 with the United States’ purchase of the tract for the benefit of the Soboba Indians in a state tax sale); Patent No. 338255 (May 29, 1913) (placing in trust 3,304 19/100 acres of the existing reservation land); Patent No. 340660 (June 10, 1913) (placing in trust 80 acres newly added to the reservation from the public domain). In addition, the Federal Government maintained jurisdiction over the Band by employing a Bureau of Indian Affairs (BIA) superintendent at the Reservation. *See, e.g.*, Annual Report of the Comm’r of Indian Affairs to the Sec’y of the Interior at 45 (1912) (describing the death of the federal superintendent at Soboba after he was shot and wounded “by Indians under his jurisdiction”). The BIA also continuously provided services to the Soboba Band prior to 1934. *See, e.g.*, Annual Report of the Comm’r of Indian Affairs to the Sec’y of the Interior (1909), at 47 (noting that \$22,128.42 plus engineering costs was spent on irrigation for seven Mission Indian communities, including Soboba); *id.* at 144 (noting that 140 Soboba Band members were enrolled at the Soboba School); Annual Report of the Comm’r of Indian Affairs to the Sec’y of the Interior (1923), at 6 (discussing medical

8.4 25 C.F.R. § 151.10(b) – The need of the individual Indian or tribe for additional land.

Section 151.10(b) requires consideration of “the need of the . . . tribe for additional land.” The Tribe has a need for additional land. The current Reservation consists of 7,356.55 +/- acres located in Riverside County at the base of the San Jacinto Mountains along the upper San Jacinto River. The Reservation consists of rolling hills, deep ravines, river bottom, and an alluvial fan near the San Jacinto River. Much of the alluvial fan is subject to flood easements that restrict development. Virtually all of the property outside the Site and the Reservation is not suitable for development because it is located either in the San Jacinto River bottom or in the steep foothills of the San Jacinto Mountains. The developable land on the Reservation is currently used by the Tribe and its members for public works, educational and cultural enrichment, housing, economic development, and recreation.

The Tribe has experienced rapid population growth and anticipates continued rapid growth. From 2007 to the present, membership increased by 53 percent, with similar increases in prior years. This growth is expected to continue, and will strain the existing on-reservation land uses as well as current governmental services. The Tribe has stated its need for additional residential land given increases in the adult membership and the growing needs of young families in the foreseeable future.

The Tribe has utilized most of its developable land for housing, education, cultural enrichment, economic development, public works, and youth recreation. All the remaining developable land in the vicinity is encumbered by tribal law for housing and agricultural assignments to tribal members. Agriculture is an important land use for the Tribe because of its historical and cultural importance. In addition, most of the vacant land surrounding the existing gaming complex is subject to a flood easement held by Riverside County Flood Control and Water Conservation District and, thus, is not developable.

The Regional Director found, and we concur, that acquisition of the Site in trust will address the Tribe’s need for additional land.

8.5 25 C.F.R. § 151.10(c) – The purposes for which the land will be used.

Section 151.10(c) requires consideration of the purposes for which the land will be used. The Department will acquire the 410.23 +/- acre Site in trust for the Tribe. As discussed above in **Section 2.2.1** of the ROD, the Preferred Alternative includes a 55 +/- acre Development Footprint on which the gaming facility will be constructed. The development includes a 729,500 s.f. complex that will include a 300-room hotel, restaurant and retail space, an events arena, a spa/fitness center, and a possible convention center. Development also includes 2 tribal fire stations, a 12-pump gas station with a convenience store, and 5,080 parking spaces contained within 2 parking structures and surface parking lots. The Tribe will relocate its existing gaming

care provided by the Bureau, including the conversion of buildings into a hospital at Soboba); Request for allotment from C.L. Ellis, Superintendent, to Comm’r of Indian Affairs (June 10, 1924) (requesting \$1,400 for fruits, vegetables, and beef at Soboba Hospital);

operation, located less than a half mile away, to the Site. The 156.36+/- acre Soboba Springs Golf Course and Country Club is located within the 410.23+/- acres on that the Tribe purchased in December 2004. The Tribe will continue to operate the Golf Course. The remainder of the Site will be left in its current undeveloped state. An area of 29.88+/- acres, also within the 410.23+/- acres, contains important habitat that will be preserved by the Tribe as perpetual habitat and managed in partnership with the WRCRCA.

8.6 25 C.F.R. § 151.10(e) – If the land to be acquired is in unrestricted fee status, the impact on the State and its political subdivisions resulting from the removal of the land from the tax rolls.

Section 151.10(e) requires consideration of the impact on the state and its political subdivisions resulting from removal of land from the tax rolls. The Tribe owns the Site in fee status. By correspondence dated January 11, 2012, the Department solicited comments from the following state and local governments on the potential impacts of the proposed acquisition on regulatory jurisdiction, real property taxes, and special assessments:

- California State Clearinghouse, Office of Planning and Research
- Office of the Governor, State of California
- Office of the Attorney General, State of California
- Riverside County Board of Supervisors
- County of Riverside, Planning Department
- Riverside County Treasurer & Tax Collector
- Riverside County Sheriff's Department
- City of San Jacinto

The BIA extended the time for comments to March 14, 2012. In response, BIA received comments from:

- State of California, Department of Justice
- City of San Jacinto
- Riverside County Counsel
- Assessor - County Clerk - Recorder's
- California Regional Water Quality Control Board

The BIA also received comments from the group Save Our Communities, from a San Jacinto homeowner, and from owners of Soboba Spring Mobile Estates through the group Lake Park Soboba Springs during this comment period.³⁴ The Department solicited comments from

³⁴ Save Our Communities expressed concern about the "immediate and irreversible impact [from] the removal of this property [from] tax rolls and city/county zoning and ordinances." Letter from Save Our Communities to Amy Dutschke, Regional Director, BIA Pacific Regional Office (Jan. 30, 2012). The homeowner expressed concern that the proposed use was inconsistent with the current zoning. Letter from San Jacinto Homeowner to Arvada Wolfen, BIA Pacific Regional Office (Jan. 31, 2012). Lake Park Soboba Springs expressed concerns about the environmental impacts from the proposed development and the anticipated loss of local governmental control. Letter from Lake Park Soboba Springs to BIA Pacific Regional Office (Feb. 8, 2012). While these groups are not

federally recognized Indian tribes within Riverside County, but did not receive any comments from the contacted tribes.³⁵

We analyze the tax impact below, but we also note that the Final EIS fully evaluated the impact on the State and its political subdivisions resulting from the removal of the land from the tax rolls in Section 4.6.

8.6.1 *Current Property Tax Impacts*

The State of California, Department of Justice, in its March 14, 2012, letter from Deputy Attorney General Kathleen E. Gnekow (Gnekow letter), and the City of San Jacinto in its February 23, 2012, letter from Tim Hults, City Manager (Hults letter), raised concerns about the adverse impacts to the City and County resulting from the loss of current property tax revenue.³⁶

The County of Riverside reported in its letter dated July 21, 2014, from Natalie M. Rabone, Supervisor, Riverside County Treasurer-Tax Collector, that the total taxes paid by the Tribe for the Site during the 2103-2014 tax year were \$256,675.60.³⁷ The total budget for the County for 2014/2015 is \$4.9 billion with General Fund requirements of \$2.7 billion.³⁸ The General Fund's primary source is property taxes.

The City reported in its Hults letter, that the General Levy amount for the fiscal year 2011-2012 was \$194,522.88. Of that amount, \$25,054.55 was to go to the City's General Fund which represents 1.2 percent of the City's general fund revenue for the fiscal year 2011-2012.

While the County and City will not receive taxes from the Site after it is acquired in trust, the amounts that are currently being assessed represent only a small portion of the budgets of both. Even if the Site is not acquired in trust, the taxes received from the Site would be reduced because the Tribe will donate 124.68 +/- acres of the Site to WRCRCA prior to the land being acquired in trust. The 124.68 +/- acres will be removed from the tax rolls of the County and the

governmental entities, their comments regarding taxation, zoning, and environmental impacts are addressed elsewhere in the FEIS and this ROD.

³⁵ Notice was sent to The Agua Caliente Band; Augustine Band of Mission Indians; Cabazon Band of Mission Indians; Cahuilla Band of Mission Indians; Morongo Band of Cahuilla Missions Indians; Pechanga Band of Luiseno Indians; Ramona Band of Mission Indians; Santa Rosa Band of Mission Indians; Torres-Martinez Desert Cahuilla Indians; and the Twenty-Nine Palms Band of Mission Indians.

³⁶ Letter from Kathleen E. Gnekow, Deputy Attorney General, State of California, to Amy Dutschke, Regional Director, BIA, Pacific Regional Office (March 14, 2012); Letter from Tim Hults, City Manager, City of San Jacinto, to BIA Pacific Regional Office (Feb. 23, 2012); *See also* Letter from Tim Hults, City Manager, City of San Jacinto, to Amy Dutschke, Regional Director, Pacific Regional Office, Bureau of Indian Affairs (Dec. 26, 2013)

³⁷ Letter from Natalie M. Rabone, Supervisor, Riverside County Treasurer-Tax Collector, to Chad Broussard, BIA Pacific Regional Office (July 21, 2014). This letter updates the response from the Riverside County Assessor - County Clerk - Recorder dated February 9, 2012.

³⁸ County of San Bernardino 2014/2015 Adopted Budget 2-3, at <http://www.sbcounty.gov/Uploads/CAO/Budget/2014-2015-0/County/Adopted/2014-2015-0-CountyAdopted.pdf> (last visited December 21, 2014).

City regardless of their trust status because WRCRCA is exempt from state taxation under California law.

To mitigate impacts to the County, the Tribe entered into a Law Enforcement memorandum of understanding on December 13, 2011, (Final EIS Appendix W) to offset the increased demand for law enforcement services resulting from the Preferred Alternative. The Sheriff's Department estimates that it will need an additional 5 deputies and one community service officer to ensure adequate coverage for the proposed activities that will occur on the Site after the trust acquisition. These officers will be assigned to the Site and the surrounding area that may be impacted. The Tribe will compensate the Sheriff's Department for these positions at rates determined by the County Board of Supervisors, which was estimated at \$1.2 million based on fiscal year 2011-2012.

The City and State raised concerns about impacts to schools.³⁹ The Tribe will make in-lieu payments to the San Jacinto School District to compensate for lost revenue from property taxes and special development fees. These in-lieu payments will reasonably offset the lost revenue and compensate the School District for any additional student enrollment.

The Tribe will provide fire protection and emergency medical services to the Site and plans to build 2 additional fire stations. By providing this service, the Tribe further mitigates adverse impacts to the City of San Jacinto and Riverside County from lost tax revenue used to fund fire protection. The Tribe will also compensate the appropriate authority (Caltrans, Riverside County, and/or San Jacinto) for transportation infrastructure improvements that are required in order to develop the Preferred Alternative. This compensation will be in the form of participating in the County's Transportation Mitigation Uniform Fee Program, and in certain circumstances, compensating the appropriate authority for all costs associated with the required road improvements.

These coordinated efforts will mitigate lost tax revenue for the County and City.⁴⁰ Accordingly, any impacts regarding the loss of taxes are not significant.

³⁹ See letter from Tim Hults, City Manager, City of San Jacinto, to Chad Broussard, Pacific Regional Office, Bureau of Indian Affairs (January 13, 2012); letter from Andrea Lynn Hoch, Legal Affairs Secretary, Office of the Governor, State of California (September 15, 2009).

⁴⁰ In addition to the mitigation described in this section, the Tribe continues to provide mitigation by contributing a portion of its gaming revenues to the State. The Tribe entered into a Tribal-State Compact for class III gaming with the State in 1999, which was approved by the Department in 2000. The Compact requires the Tribe to contribute to the State's Special Distribution Fund which is used to compensate the State for the costs incurred in the administration and oversight of compact compliance, for grants to gambling addiction programs, and for governmental agencies impacted by tribal gaming. The fund is also used to fund law enforcement services, fire and emergency medical services, environmental programs, water supplies and waste disposal, public health, roads, and recreation and youth programs.

8.6.2 Future Property Tax, Use Tax, and Sales Tax

The State in its Gnekow letter, the City in its Hults letter, and County in its letter from Pamela J. Walls & Karin Watts-Bazan, County Counsel, County of Riverside, dated March 12, 2102, (Walls letter)⁴¹ raised additional concerns about adverse impacts resulting from the loss of future property tax revenue, special assessments, and development fees from the Preferred Alternative that would accrue after construction is completed.

The City expressed concern about the loss of projected increases to tax assessments from the Site under current zoning after construction is completed, as well as the loss of sales and use tax on the proposed developments, especially gas, tobacco, and hotel transient occupancy taxes. The City expressed concern about the loss of future increased property taxes and fees if the Site is developed under its current zoning. The City estimated that its portion of the future tax value of the Site at completion under current zoning would be 9.93 percent (\$124,807) of the City's budget for the fiscal year 2011-2012. The City also stated that it will lose an additional development assessment for infrastructure development and maintenance, in particular, roadways, street lights, and landscaping, as well as public safety and education.

The City's potential loss of future tax revenue cannot be determined with certainty by the City or the Department. Nonetheless, the Department is not required to consider speculative losses of future tax revenue. Under Section 151.10(e), the analysis of tax impacts is based on existing circumstances, *i.e.*, taxes actually assessed and paid. The Department is not required to speculate on potential revenue impacts from future development or improvement of the Tribe's lands. *See, e.g., Skagit County, Washington v. Northwest Regional Director*, 43 Interior Board of Indian Appeals (IBIA) 62, 81-82 (2006); *Shawano County, Wisconsin, Board of Supervisors v. Midwest Regional Director*, 40 IBIA 241, 249 (2005); *Rio Arriba, New Mexico, Board of Commissioners v. Acting Southwest Regional Director*, 38 IBIA 18, 21 (2002); *City of Eagle Butte, South Dakota v. Aberdeen Area Director*, 33 IBIA 246, 248 (1999).

While the County and City may be impacted by the projected loss of property tax revenue, the Tribe's mitigation measures will help to offset this lost revenue as discussed above. The Regional Director found, and we concur, that the benefits to the Tribe from the proposed land use outweigh the mitigated financial loss to the County and the City resulting from the removal of the Site from the current tax rolls.

8.7 25 C.F.R. § 151.10(f) – Jurisdictional problems and potential conflicts of land use which may arise.

The Site is surrounded by vacant land to the north and west, and by residential communities and vacant land to the east. The southern portions of the Site are bounded by agricultural and undeveloped lands. The Site is currently zoned for residential development. Three hundred acres, more or less, of the Site, is incorporated in the City of San Jacinto.

⁴¹ Letter from Pamela J. Walls & Karin Watts-Bazan, County Counsel, County of Riverside, to Amy Dutschke, Regional Director, BIA Pacific Regional Office (March 12, 2012).

The Final EIS fully evaluated potential jurisdictional problems and potential conflicts of land use which may arise in Sections 4.7 and 4.8.

8.7.1 Jurisdiction, Zoning, Construction, and Operational Standards

The State in its Gnekow letter expressed concern about the conflicts between the proposed developments and the existing zoning scheme that currently governs the property as well as the adverse impacts that the development would have on the existing communities that border it. The State in its Gnekow letter, and the City in its Hults letter raised concerns about the adverse impacts to the City, the County, and local residents resulting from the loss of regulatory jurisdiction, particularly zoning, construction, and operational standards over the Site. The State in its Gnekow letter and the City in its Hults letter also raised concerns about the loss of regulatory authority over environmental protections.

Regulatory impacts

Following acquisition of the Site in trust, Federal environmental laws will apply to the Site. In addition to this, the Tribe enacted Resolution No. CR11-MMHGP-64 (Dec. 6, 2011) to address regulatory concerns. The Resolution adopts all mitigation measures required in the Final EIS. Section 5.0 of the Final EIS calls for extensive mitigation to address land use conflicts, including traffic, noise, air quality, artificial lighting, and glare. As discussed in detail above in **Section 6.0** of this ROD, mitigation measures include significant improvements to roads and intersections, noise reducing coatings on parking surfaces, a sound wall, vegetative screening built into the landscape, International Dark-Sky Society approved lighting, and non-reflective glass coatings on windows. The implementation of the mitigation measures called for in the Final EIS and in **Section 6.0** of this ROD result in less-than-significant impacts to the surrounding residential communities from the Preferred Alternative.

Further, the Tribe intends to take additional steps to mitigate potential jurisdictional conflicts. As discussed in Section 5.0 of the Final EIS and **Section 6.1** of this ROD all proposed structures must comply with the latest edition of the California Building Code for Site Class D using the seismic coefficients provided in the geotechnical report. Underground storage tanks will comply with applicable Federal, state, and county regulations for similar structures in fault zones.

In 1999, the Tribe entered into a Tribal-State Compact with the State for the regulation of class III gaming, notice of Departmental approval of which was published in the Federal Register in May 2000.⁴² The Tribal-State Compact at Section 4.2 (b) also requires that the Tribe adopt building codes for the gaming facility that meet the standards of either Riverside County's Building Code or the Uniform Building Code. The Tribal-State Compact at Section 10(e) further requires the Tribe to adopt and enforce public and workplace health and safety standards that either meet or exceed the relevant state health and safety standards. These mitigation measures

⁴² See 65 Fed. Reg. 31189 (May 16, 2000).

will result in building codes and operational standards that are no less stringent than the State or County regulations that would otherwise apply to the project if it remained in fee.

The proposed wastewater treatment plant (WWTP) would have the capacity to serve the Site including the Preferred Alternative and the other Development Alternatives. The WWTP would meet California Code of Regulations Title 22 requirements for reuse of treated effluent for activities such as agriculture irrigation, landscape irrigation, and fire control. **Section 6.1** of this ROD requires that WWTP be constructed and operated consistent with the California Water Code and the California Division of Safety of Dams' regulations. Additionally, the construction and operation of WWTP would be subject to federal approval by EPA.

Impacts to nearby residents

The State in its Gnekow letter and the City in its Hults letter commented that acquiring the Site in trust would result in jurisdictional problems and conflicts of land use.

The development of the Site would result in its transformation from a vacant, rural setting to retail and service development setting that is characteristic of urban environments. The residential community of Soboba Mobile Estates is located south of Lake Park Drive and lies within the southern boundary of the Site. The closest proposed structures to that development would be the arena and the southern parking garage. The arena and parking garage would be located approximately 80 feet and 100 feet from the nearest residences, respectively. The Golf Court community to the north of the Site development would be approximately 360 feet from the northern parking garage, and the hillside community located northeast of the Site development is located at a greater distance from the proposed developments.

The increased traffic, noise, air emissions, and artificial lighting and glare generated by the proposed commercial developments on the Site would be inconsistent with the nearby open space and residential communities. As discussed in Section 4.0 of the Final EIS and in detail above in **Section 6.0** of this ROD, however, mitigation measures to be adopted by the Tribe will reduce impacts to these communities. These measures include noise reducing coatings on parking surfaces, a sound wall, vegetative screening built into the landscape, International Dark-Sky Society approved lighting, and non-reflective glass coatings on windows. Exterior signage, architecture, and the natural characteristics of the site would incorporate native materials. Illuminated signs would be designed to blend with the light levels of the buildings and landscape lighting in both illumination levels and color characteristics. The maximum height of an outdoor advertising display will be 25 feet from the grade on which it is constructed. Traffic, noise, and air quality are addressed below, and mitigation measures are discussed in detail in **Section 6.0** of this ROD.

These steps, as required by this ROD, will reduce impacts to nearby residents.

8.7.2 Public Access and Easements

Public access

The State in its Gnekow letter and the City in its Hults letter raised concerns about the adverse impacts to the City, the County, and local residents resulting from the creation of jurisdictional islands that could only be accessed by crossing tribal land. The State and City were concerned about the possibility of the Tribe attempting to block the two access roads that would effectively cut off access to Soboba Springs Mobile Estates. They also expressed concerns about the continued enforceability of easements on the Site after it is acquired in trust.

The Tribe adopted Tribal Resolution No. CR07-HGFTT-51 (Dec. 4, 2007), which recognizes and accepts the right of the public to freely use and access the public roads that cross the Site. The roads are currently under the jurisdiction of the City and/or the County and would remain under those governments' jurisdiction after the Site is acquired in trust. Additionally, the Tribe's Resolution acknowledges all existing rights-of-way and easements over the Site. All easements that provide public utilities to the residential communities around the Site will not be disrupted. Further, public access to the residential communities will not be disturbed or impeded beyond the impacts of required road improvements. These measures will result in less-than-significant impacts to public access. The City, in its subsequent comments on the Final EIS dated December 26, 2013, stated that it was satisfied that public access would not be impeded.⁴³

Infrastructure

The State in its Gnekow letter, the City in its Hults letter, and the County in its Walls letter raised concerns about adverse impacts to their jurisdictions and local residents resulting from increased strain on the local infrastructure, particularly the roads and intersections leading to the Site. Mitigation measures identified in Section 5.0 of the Final EIS and **Section 6.0** of this ROD require the expansion of key access roads and several key intersections to accommodate the projected increased traffic. Also, during special events, additional steps will be taken to ensure safe movement of traffic to and from the events and minimal impacts to local residents. These measures include pre-event advertising, notification of property owners, use of traffic cones, manual traffic control points, drop-off/pick-up policies, temporary "No Event Parking" signs, and pedestrian crossings. In addition, the development by the Tribe of the wastewater treatment plant and two fire stations will ease any strain on infrastructure.

Flowage Easement

The County in its Walls letter expressed concerns about the footprint of the proposed structures conflicting with an existing flowage easement over the Site held by Riverside County Flood Control and Water Conservation District. As noted above, the Tribe adopted a Tribal Resolution No. CR07-HGFTT-51 (Dec. 4, 2007) that recognizes and accepts all existing rights-of-way and easements over the Site.

The Site is partially protected from flooding by a levee that has not yet been recertified by FEMA. As discussed in **Sections 3.1.2 and 6.2** above, if the levee is not recertified, a floodplain

⁴³ Letter from Tim Hults, City Manager, City of San Jacinto, to Amy Dutschke, Regional Director, BIA Pacific Regional Office (Dec. 26, 2013).

study will be conducted to ensure that all structures are above the floodplain and are in compliance with the flowage easement. In addition, sections 2.1.1 and 4.2.1 of the Final EIS discuss a capture-and-transfer plan that would continue to allow surface water flows to cross the Site and flow into the San Jacinto River.

The Regional Director found, and we concur, that the mitigation measures required by the Final EIS and this ROD, which the Tribe recognizes as its obligation to implement in the form of a Tribal Resolution, along with the Tribal-State Compact for the regulation of class III gaming address concerns about changes in jurisdictional status and conflicting land uses resulting in no significant impacts.

8.7.3 Law Enforcement, Fire Protection, and Emergency Medical Services

The State in its Gnekow letter, the City in its Hults letter, and the County in its Walls letter raised concerns about the adverse impacts to their jurisdictions and local residents resulting from an increased strain on law enforcement, fire protection, and emergency medical services.

Under Public Law 280, the State will maintain criminal jurisdiction over the Site after it is acquired in trust. The Riverside County Sheriff's Department will continue to provide law enforcement services to the Site, while the increased costs to the Sheriff's Department would be covered by the Tribe under the Law Enforcement Memorandum of Understanding (MOU) (Final EIS Appendix W). The Law Enforcement MOU and Public Law 280 will result in no adverse impacts to law enforcement services provided to the Site and to the residential communities around the Site.

Currently, the Riverside County Fire Department and the California Department of Forestry and Fire Protection provide services to the Site and neighboring residential communities. The Tribe, however, will provide these services to the Site after the land is acquired in trust. The Tribe will build 2 fire stations, one on the Site and one on the Reservation. These stations will be closer to the Site and neighboring communities than the closest Riverside County Fire Station, which is approximately two miles from the Soboba Springs Mobile Estates. The Tribe is in consultation with the Riverside County Fire Department to establish a Mutual Aid Agreement which would enable the Tribe and the Fire Department to share resources (*see* Final EIS, § 4.8.1 at 4-179). This Mutual Aid Agreement would also extend services to the residents of the City because Riverside County Fire Department provides fire protection to the City. The Preferred Alternative's 2 tribal fire stations would not adversely impact fire protection and emergency medical services to the Site and the residential communities around the Site. The increased tribal services will benefit the surrounding jurisdictions.

With these measures, there will be no adverse impacts to law enforcement, fire protection, and emergency medical services.

8.8 25 C.F.R. § 151.10(g) – If the land to be acquired is in fee status, whether the BIA is equipped to discharge the additional responsibilities resulting from the acquisition of the land in trust status.

As stated above, title to the subject parcel is currently held in fee by the Tribe. The BIA does not anticipate that it will not be required to administer any additional responsibilities over the Site once it is placed in trust. The construction, maintenance, and operation of the proposed development would be the responsibility of the Tribe, with the Tribe assuming responsibility for all related costs. The Regional Director found, and we concur, that accepting the Site in trust would not impose any additional responsibilities or burdens on the BIA beyond those already inherent in the federal trusteeship over the existing Reservation.

8.9 25 C.F.R. § 151.10(h) – The extent of information to allow the Secretary to comply with 516 DM 6, appendix 4, National Environmental Policy Act Revised Implementing Procedures and 602 DM 2, Land Acquisitions: Hazardous Substances Determinations.

This ROD documents the Department's compliance with NEPA through the preparation of an EIS. The BIA published a NOI on December 14, 2007, announcing its intent to prepare an EIS and inviting comments.⁴⁴ A 75-day review and comment period on the Draft EIS began on July 2, 2009. A public hearing was held in the City of Hemet on August 5, 2009. The EPA NOA for the Final EIS was published on November 29, 2013, starting the 30-day review period that ended on December 30, 2013.⁴⁵ A similar NOA was published by the BIA on November 29, 2013.⁴⁶

The Department must complete an Environmental Site Assessment (ESA) pursuant to the Departmental Manual at 602 DM 2 to determine if there are any environmental contamination-related concerns and/or liabilities affecting the land being considered for acquisition. The Department finalized a Phase 1 ESA on March 23, 2012, determining that there were no hazardous materials or contaminants. An updated site inspection will be conducted by BIA prior to acceptance of the Site in trust.

9.0 DECISION TO IMPLEMENT THE PREFERRED ALTERNATIVE

The BIA has determined that it will implement the Preferred Alternative based upon the environmental impacts identified in the Final EIS, as well as a consideration of economic and technical factors. While the No-Action Alternative (Alternative 4) would result in reduced environmental impacts when compared with the Preferred Alternative, this alternative would limit the ability of the Tribe to facilitate and promote tribal economic development, self-determination and self-sufficiency. The No-Action Alternative would result in no increased net income or other economic benefits to the Tribe, and thus, does not meet the purpose and need. With mitigation measures, all direct impacts from the Preferred Alternative would be reduced to less than significant. Accordingly, BIA will implement the Preferred Alternative, subject to implementation of the mitigation measures and best management practices discussed above in **Section 6.0**.

⁴⁴ 72 Fed. Reg. 71146 (Dec. 14, 2007).

⁴⁵ 78 Fed. Reg. 71606 (Nov. 19, 2013).

⁴⁶ 78 Fed. Reg. 71639 (Nov. 29, 2013).

9.1 The Preferred Alternative Results in Substantial Beneficial Impacts and No Direct Significant Negative Effects After Mitigation

The Preferred Alternative is reasonably expected to result in beneficial effects for Riverside County, the City, the Tribe, and its members. Key beneficial effects include the following:

- Needed revenues to the Tribe to allow it to begin to meet the Tribe's and its members' significant needs and to help develop the political cohesion and strength necessary for tribal self-sufficiency, self-determination and strong tribal government.
- The operation of the Preferred Alternative is estimated to provide a total of 2,384 jobs on a stabilized basis, including 1,653 direct project related jobs, 349 indirect jobs, and 382 induced jobs.
- The development of the facilities stated under the Preferred Alternative would result in a destination resort combining the existing Golf Course near the new casino/hotel, which is needed to diversify operations and increase revenues thereby enhancing tribal self-sufficiency.
- Approximately 32.5 percent of the \$400.3 million construction costs (\$130.4 million) will result in the employment of approximately 1,084 direct project related jobs, indirect jobs and induced jobs.
- At the time of Final EIS publication, the existing unemployment rate in Riverside County and the City of San Jacinto was 13.9 and 20.7 percent, respectively. The employment and overall economic activity created by the Preferred Alternative would result in the reduction of unemployment and welfare rolls, and place a significant number of workers back into productive participation in the economy. The practical effect of the new employment would also increase the total labor force as people who are currently seeking employment find new job opportunities that draw them into the productive economy.
- The total estimated income benefits to the region would increase (\$189.3 million per year) as a result of employment opportunities and earnings supported by the casino operation and its indirect and induced effects.
- The proposed facilities would generate new income to be managed by the Tribe's government. Revenues would be used to fund tribal governmental programs and decrease the Tribe's dependence on Federal and State funding. The Tribe also plans to use the revenues to support social and cultural preservation and educational programs for tribal members.
- Revenues would allow the Tribe's government to upgrade equipment, hire additional staff, and expand environmental, and health and safety programs. Tribal members would also have access to new jobs created by the casino. The Preferred Alternative would fulfill tribal goals for economic development and self-sufficiency.

The Preferred Alternative may also have potential negative impacts on several resource areas. As previously mentioned, it is predicted to result in potential increases in traffic volume, air emissions, erosion, and sedimentation during construction, surface water runoff, problem gambling, and demand for public services and infrastructure. With appropriate mitigation measures as discussed above in **Section 5.0**, however, none of these impacts are expected to be significant based on the criteria discussed in the Final EIS.

9.2 No-Action Alternative Fails to Meet Purpose and Need for Acquiring the Site in Trust

Under the No-Action Alternative, the Site would remain in its current state. This alternative would not result in tribal government revenue and employment impacts. As a result, neither area residents nor the Tribe would receive the economic and related benefits that the Preferred Alternative is reasonably anticipated to provide. Implementation of the No-Action Alternative would maintain existing economic conditions and limited economic opportunities for the Tribe and surrounding community.

9.3 Proposed Action B – Hotel-Casino Complex Without Realignment of Lake Park Drive – Limits Ability of Tribe to Meet Purpose and Need

Proposed Action B is reasonably expected to provide fewer beneficial effects for the community and the Tribe and its members than the Preferred Alternative. Proposed Action B's key beneficial effects include the following:

- Although to a lesser extent than the Preferred Alternative, Proposed Action B would result in a project that would allow the Tribe to manage, preserve and conserve the expanded land base, as well as provide for a diversified and productive economic base.
- The operation of the casino under Proposed Action B is expected to provide 2,381 direct project-related jobs, indirect jobs and induced jobs.
- The development of the casino/hotel near the existing Golf Course would result in a destination resort, which meets one of the Tribe's needs to diversify operations and revenues.
- Approximately 32.5 percent of the \$370.9 million construction costs, or \$120.8 million, will go to labor (\$9.6 million less than under the Preferred Alternative), which will result in the employment of approximately 1,004 direct project-related jobs, indirect jobs and induced jobs (80 fewer jobs than under the Preferred Alternative).
- The employment and overall economic activity created by Proposed Action B would result in the reduction of unemployment and welfare rolls and productive participation in the economy; however, this movement would be less under Proposed Action B than the Preferred Alternative.
- Labor income (estimated to be \$189.2 million annually) would also increase as a result of employment opportunities and earnings supported by the casino operation and its indirect and induced effects. Labor income under Proposed Action B would be \$100,000 less than under the Preferred Alternative.
- Revenues would allow the Tribe's government to upgrade equipment, hire additional staff, and expand environmental, and health and safety programs. Tribal members would also have access to new jobs created by the casino. Proposed Action B would fulfill tribal goals for economic development and self-sufficiency.

As shown above, Proposed Action B is reasonably expected to result in less revenue compared to the Preferred Alternative. The Preferred Alternative, like Proposed Action B, would not result in significant effects to the environment after the implementation of mitigation measures. The BIA

believes that the reduced economic and related benefits of Proposed Action B do not warrant its selection over the Preferred Alternative.

9.4 Alternative 1 – Reduced Hotel-Casino Complex - Limits Ability of Tribe to Meet Purpose and Need

Alternative 1 is reasonably expected to provide beneficial effects for the community and the Tribe and its members. However, these benefits would be substantially reduced as compared to the Preferred Alternative. Key beneficial effects include the following:

- Although to a lesser extent than the Preferred Alternative, Alternative 1 would result in a project that would allow the Tribe to manage, preserve and conserve the expanded land base, as well as providing for a diversified and productive economic base.
- The operation of the casino under Alternative 1 is expected to provide 2,170 direct project related jobs, indirect jobs and induced jobs, which is 9 percent less than expected under the Preferred Alternative.
- The development of the casino/hotel near the existing Golf Course would result in a destination resort, which meets one of the Tribe's needs to diversify operations and revenues.
- Approximately 33 percent of the \$296.7 million construction costs, or \$96.6 million (26 percent less than under the Preferred Alternative) will result in the employment of approximately 803 direct project related jobs, indirect jobs and induced jobs (26 percent less than under the Preferred Alternative).
- The employment and overall economic activity created by Alternative 1 would result in the reduction of unemployment and welfare rolls into productive participation in the economy; however, this would be less under Alternative 1 than the Preferred Alternative.
- Labor income (estimated to be \$184.3 million annually) would also increase as a result of employment opportunities and earnings supported by the casino operation and its indirect and induced effects. Labor income under Alternative 1 would be 3 percent less than under the Preferred Alternative.
- Revenues would allow the Tribe to upgrade equipment, hire additional staff, and expand environmental and health and safety programs. Tribal members would also have access to new jobs created by the casino. Alternative 1 would fulfill tribal goals for economic development and self-sufficiency.

As shown above, Alternative 1 is reasonably expected to result in less revenue compared to the Preferred Alternative. The Preferred Alternative, like Alternative 1, would not result in significant effects to the environment after the implementation of mitigation measures. We conclude that the reduced economic and related benefits of Alternative 1 do not warrant its selection over the Preferred Alternative.

9.5 Alternative 2 – Hotel and Convention Center (No Casino Relocation) – Limits Ability of Tribe to Meet Purpose and Need

Alternative 2 is reasonably expected to provide beneficial effects for the community and the Tribe and its members. However, these benefits would be substantially reduced as compared to the Preferred Alternative. Key beneficial effects include the following:

- Although to a lesser extent than the Preferred Alternative, Alternative 2 would result in needed revenues to the Tribe to allow it to manage, preserve and conserve the expanded land base, as well as providing for a diversified and productive economic base.
- Alternative 2 would not result in the relocation of the existing casino, which would not meet the Tribe's intent to create a hotel-casino complex near the Golf Course, which would provide added economic diversity by offering customers a destination report.
- The operation of the casino under Alternative 2 is expected to provide 1,920 direct project related jobs, indirect jobs, and induced jobs, which is 20 percent less than expected under the Preferred Alternative.
- Approximately 33 percent of the \$136.6 million construction costs, or \$44.5 million, will go to labor (66 percent less than under the Preferred Alternative), which will result in the employment of approximately 370 direct project related jobs, indirect jobs, and induced jobs (66 percent less than under the Preferred Alternative).
- The employment and overall economic activity created by Alternative 2 would result in the movement of people off of unemployment and welfare rolls and back into productive participation in the economy; however, this movement would be less under the Preferred Alternative.
- Labor income (estimated to be \$166.9 million annually) would also increase as a result of employment opportunities and earnings supported by the development and its indirect and induced effects. Labor income under Alternative 2 would be 12 percent less than under the Preferred Alternative.
- The proposed facilities would generate new income to be managed by the Tribe's government. This new income would be less than under the Preferred Alternative. As is the case for the Preferred Alternative, these revenues would be used to fund tribal governmental programs and decrease the Tribe's government's dependence on Federal and State funding. The Tribe also plans to use the revenues to support social and cultural preservation and educational programs for tribal members, but to a lesser extent than under the Preferred Alternative.
- Revenues would allow the Tribe's government to upgrade equipment, hire additional staff, and expand environmental, health and safety programs. Tribal members would also have access to new jobs created by the casino. Alternative 2 would fulfill tribal goals for economic development and self-sufficiency.

As shown above, Alternative 2 is reasonably expected to result in less revenue, compared to the Preferred Alternative, to help the Tribe meet its and its members significant needs and to help develop the political cohesion and strength necessary for self-sufficiency, self-determination, and strong tribal government. The Preferred Alternative, like Alternative 2, would not result in significant effects to the environment after the implementation of mitigation measures, so BIA

believes that the reduced economic and related benefits of Alternative 2 do not warrant its selection over the Preferred Alternative.

9.6 Alternative 3 – Commercial Enterprise Alternative (No Casino or Hotel) – Limits Ability of Tribe to Meet Purpose and Need

Alternative 3 is reasonably expected to provide beneficial effects for the community and the Tribe and its members. However, these benefits would be substantially reduced as compared to The Preferred Alternative. Key beneficial effects include the following:

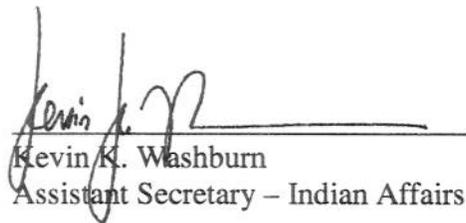
- Although to a lesser extent than the Preferred Alternative, Alternative 3 would result in needed revenues to the Tribe to allow it to manage, preserve and conserve the expanded land base, as well as providing for a diversified and productive economic base.
- Alternative 3 would not result in the relocation of the existing casino, which would not meet the Tribe's intent to create a hotel-casino complex near the Golf Course, which would provide added economic diversity by offering customers a destination resort.
- The operation of the casino under Alternative 3 is expected to provide 2,000 direct project related jobs, indirect jobs, and induced jobs, which is 16 percent less than expected under the Preferred Alternative.
- Approximately 33 percent of the \$87.7 million construction costs, or \$28.6 million, will go to labor (78 percent less than under the Preferred Alternative), which will result in the employment of approximately 238 direct project related jobs, indirect jobs, and induced jobs (78 percent less than under the Preferred Alternative).
- The employment and overall economic activity created by Alternative 3 would result in the movement of people off of unemployment and welfare rolls and back into productive participation in the economy; however, this movement would be less under Alternative 3 than the Preferred Alternative.
- Labor income (estimated to be \$168.6 million annually) would also increase as a result of employment opportunities and earnings supported by the developments operation and its indirect and induced effects. Labor income under Alternative 3 would be 11 percent less than under the Preferred Alternative.
- The proposed facilities would generate new income to be managed by the Tribe's government, which would be less than under the Preferred Alternative. As is the case for the Preferred Alternative, these revenues would be used to fund tribal governmental programs and decrease the Tribe's government's dependence on Federal and State funding. The Tribe also plans to use the revenues to support social and cultural preservation and educational programs for tribal members, but to a lesser extent than under the Preferred Alternative.
- Revenues would allow the Tribe's government to upgrade equipment, hire additional staff, and expand environmental, health and safety programs. Tribal members would also have access to new jobs created by the casino. Alternative 3 would fulfill tribal goals for economic development and self-sufficiency.

As shown above, Alternative 3 is reasonably expected to result in less revenue, compared to the Preferred Alternative, to help the Tribe meet its needs and to help develop the political cohesion and strength necessary for self-sufficiency, self-determination, and strong tribal government.

The Preferred Alternative, like Alternative 3 would not result in significant effects to the environment after the implementation of mitigation measures, so BIA believes that the reduced economic and related benefits of Alternative 3 do not warrant its selection over the Preferred Alternative.

10.0 DECISION

I find that the statutory and regulatory requirements for acquiring the Site in trust pursuant to Section 5 of the IRA and its implementing regulations at 25 C.F.R. Part 151 have been satisfied. Section 20 of IGRA generally prohibits Indian gaming on lands acquired in trust after October 17, 1988, subject to several exemptions and exceptions. One exemption is for lands that are located within or contiguous to the boundaries of the reservation of the Indian tribe on October 17, 1988. 25 U.S.C. § 2719(a)(1). Upon review of IGRA Section 20 and its implementing regulations at 25 C.F.R. Part 292, I find that the Site meets the requirements of the Contiguous Exemption and will be eligible for gaming after it is acquired in trust. I, therefore, announce that the Department will implement the Preferred Alternative and acquire the Site in trust for the Tribe. The Regional Director will be authorized to approve the conveyance document accepting the Site in trust for the Tribe subject to any remaining regulatory requirements and approval of all title requirements.


Kevin K. Washburn
Assistant Secretary – Indian Affairs

MAY 19 2015
Date

ATTACHMENT LIST

Attachment 1 – Final EIS Comments and responses to comments.

Attachment 2 – Legal Description