

EXhibit I

COUNTY OF SONOMA
BOARD OF SUPERVISORS

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September 29, 2006

Mr. John Tinger
Environmental Engineer
Clean Water Act Standards and Permits
United States Environmental Protection Agency
75 Hawthorne St.
San Francisco, CA 94105

Re: County of Sonoma and Sonoma County Water Agency Comments on the Proposed National Pollutant Discharge Elimination System (NPDES) Permit No. CA 0005241, and Request for Voluntary National Environmental Policy Act (NEPA) Compliance

Dear Mr. Tinger:

I am writing to submit the comments of the County of Sonoma and the Sonoma County Water Agency on the above-identified proposed NPDES permit, as well as a formal request that the United States Environmental Protection Agency (USEPA) voluntarily prepare a NEPA document before taking any further action on the same. Copies of both documents are enclosed.

As we expressed in our March 21, 2006 comments on the permit application, at the May 12 meeting with Congressman Mike Thompson's office, and at the September 7 public hearing, the County and Water Agency are deeply concerned about the proposed permit and the environmental impacts caused by the segmentation of the project proposed and implemented by the Dry Creek Band of Pomo Indians ("the Tribe").

The County and Water Agency specifically remain concerned that the record contains insufficient information to permit a meaningful public review of the proposed wastewater discharges and their likely environmental impacts. The enclosed comments identify twelve categories of missing information and analysis that are crucial to

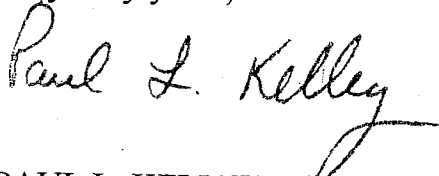
Mr. John Tinger
September 29, 2006
Page 2

informed participation in the permit review process. The County and Water Agency respectfully submit that the USEPA must include this information and analysis in a revised and recirculated proposed permit and proposed statement of basis before taking any further action on the Tribe's application.

The County and Water Agency also respectfully request that before it takes any further action on the application, the USEPA voluntarily prepare a NEPA document under its Policy and Procedures for Voluntary Preparation of NEPA Documents, 63 Fed. Reg. 58045-47 (Oct. 29, 1998). The County and Water Agency note that no NEPA or public review occurred with regard to the Tribe's past development phases, largely because the Tribe did not seek the instant NPDES permit at that time, and that issuance of the proposed permit could allow the Tribe to similarly implement its major expansion plans without any environmental public review. The County and Water Agency respectfully submit that the instant permit review process represents the last best opportunity to comprehensively address the large-scale and cumulative impacts of the Tribe's development, to expand public involvement and address controversial issues, and to meet the USEPA's other criteria for voluntarily preparing a NEPA document.

The County and Water Agency therefore respectfully request that the USEPA revise and recirculate the proposed permit and proposed statement of basis, and voluntarily prepare a NEPA document, before taking any further action on the Tribe's application.

Very truly yours,



PAUL L. KELLEY, Chair
Sonoma County Board of Supervisors
Sonoma County Water Agency Board of Directors

Enclosures

cc: Cheryl Diehm, Office of Congressman Mike Thompson
Bob Van Ness, Esq., Alexander Valley Association

**County of Sonoma and Sonoma County Water Agency
Comments on the Proposed National Pollutant Discharge Elimination System
(NPDES) Permit No. CA 0005241**

Introduction

This document comprises the comments of the County of Sonoma and Sonoma County Water Agency on the NPDES Permit identified above, which the United States Environmental Protection Agency ("USEPA") has proposed to issue to the Dry Creek Band of Pomo Indians ("the Tribe"). The proposed permit would allow the Tribe to approximately triple wastewater output at its Rancheria, from 40,000 to 112,000 gallons per day (gpd), with an average weekend flow of 141,000 gpd and a peak capacity of 200,000 gpd. The Tribe would discharge wastewater via Stream P1 to the Russian River, which is the drinking water supply to approximately 700,000 people in the region. The Tribe also proposes to discharge to Stream A1, a surface fresh water impoundment that terminates on private property and has the potential to impact domestic wells.

Issuance of the proposed permit would remove the last physical and legal restraint on non-gaming development at the Rancheria, and would thus allow the Tribe to approximately triple the size and scope of its operations. Plans for the Tribe's major expansion, which would include a major new hotel and resort, are a matter of public record and have been published in the newspaper. A true and correct copy of the article describing the Tribe's expansion plans, and depicting them in full color, is attached hereto as **Exhibit A**.

The County and Water Agency have taken a very active role throughout this permit process, and have repeatedly expressed to the USEPA their deep concern about the proposed permit. The County Board of Supervisors submitted extensive comments to the USEPA on the permit application on March 21, 2006, County staff entered written objections to the proposed permit at the September 7, 2006 public hearing, and County and Water Agency staff have met and spoken with USEPA staff in an effort to minimize the public health, safety, and environmental impacts of any approved discharge.

The County and Water Agency appreciate the USEPA's willingness to communicate and release some additional information regarding the impacts of the proposed discharge and other issues raised by the proposed permit. The County and Water Agency further appreciate those changes that the USEPA appears to have made as a result of the County's March 2006 comments on the permit application. Many outstanding issues remain, however, and the permit should not be issued on this record. The County and Water Agency respectfully request that the USEPA provide the information and make the changes outlined below, and recirculate a revised proposed permit for additional public review and comment.

The County and Water Agency also respectfully request that the USEPA voluntarily prepare a National Environmental Policy Act ("NEPA") document before taking further action on the proposed permit. The instant permit process represents perhaps the last best chance for resource agencies and the public to review and comment upon the likely significant environmental impacts of the Tribe's tripling of its operations, as well as the cumulative impacts of the Tribe's past, present, and reasonably foreseeable future development. A true and correct copy of the County and Water Agency's formal request that the USEPA prepare a NEPA document is attached hereto as **Exhibit B**.

Discussion

I. The Proposed Permit Should Not Be Issued on this Record.

The public record lacks several categories of information and analysis that are essential to the integrity of the proposed permit and crucial to informed participation in the permit review process. The USEPA should not take further action on the permit until this information and analysis is compiled and/or conducted, a revised proposed statement of basis and proposed permit are recirculated for public review, and additional consultations take place between the USEPA, Tribe, County, and the North Coast Regional Water Quality Control Board.

A. Removal of Stream A1 as a Receiving Water.

Regional Water Quality Control Board staff testified at the September 7 public hearing that discharge to Stream A1 is not permitted under the Water Quality Control Plan for the North Coast Region ("Basin Plan") because Stream A1 is an inland surface water impoundment. The County and Water Agency understand that the USEPA may have already agreed that discharge to Stream A1 would violate the Basin Plan, and intend to remove from the proposed permit Stream A1's designation as a receiving water.

The County and Water Agency concur in the Regional Water Quality Control Board's determination, and request that the USEPA delete Stream A1 from the proposed permit. The County and Water Agency further submit that this change would constitute a substantial revision to the proposed statement of basis and proposed permit, and that both documents should be recirculated and subjected to additional public review and comment.

B. Monitoring Requirements for Receiving Water Limitations.

The proposed permit includes monitoring requirements for some pollutants and discharge characteristics at Outfalls 001, 002, and 003, where the treatment plant would discharge to Streams P1 and A1. (Permit at 2-5.) It would also require weekly

monitoring for pH, dissolved oxygen, turbidity, and temperature both 100 feet upstream of the outfalls, and at the Rancheria boundary. (Permit at 6.)

The proposed permit then identifies fifteen separate limitations on the Russian River and other receiving waters. (Permit at 6-7.) These include important limits on temperature, turbidity, dissolved oxygen, pH, and others necessary to protect human and aquatic health and safety. (Permit at 6-7.) The proposed permit does not appear to require any testing or monitoring to ensure compliance with these limitations, however.

The USEPA should revise the permit to require frequent and independent monitoring and testing of the Russian River to ensure compliance with these limitations. The USEPA should further require the Tribe to submit monitoring and testing results to the Regional Water Quality Control Board and all other agencies having jurisdiction over the Russian River and its resources.

The absence of monitoring and testing requirements is especially problematic with regard to temperature, as the County commented in March 2006. The proposed statement of basis correctly states that the Russian River is listed as an impaired waterbody for sedimentation/siltation and temperature pursuant to Section 303(d) of the Clean Water Act (SOB at 8), and the proposed permit therefore imposes a detailed, three-part temperature limit on discharges to receiving waters. (Permit at 7, ¶ 10.) Yet the proposed permit does not appear to require any downstream testing or monitoring to ensure that these limits are met, and that discharges do not further degrade the Russian River and the listed fish species within it.

Similarly, the proposed permit does not appear to require the Tribe to actually test and verify that its discharges would not unduly increase turbidity (Permit at 6, ¶ 2), create undesirable water discoloration, taste, or odors (*id.* at 7, ¶¶ 5-6), cause pesticide bioaccumulation in aquatic life (*id.*, ¶ 11), or violate any of the other receiving water limitations. The proposed permit should be revised to require impose frequent and independent monitoring and testing requirements, and should be recirculated for public review and comment of the same.

C. Water Balance.

The County has repeatedly commented on the pressing need for some evidence that the Tribe's proposed disposal and storage scheme is actually feasible as a matter of fact. Neither the proposed statement of basis nor the proposed permit include a water balance or other information demonstrating that the Tribe's surface discharges, storage areas, and spray fields could actually accommodate the proposed 300 percent increase in treated wastewater.

This information is crucial, given the Basin Plan's significant restrictions on discharges to A1 and the Russian River, the Tribe's limited reuse opportunities, and the USEPA's reduced enforcement leverage against the Tribe (as opposed to municipal agencies). The USEPA should disclose all information provided by the Tribe regarding the feasibility of its proposed discharge scheme during both typical and extreme weather years. The USEPA should also conduct an independent investigation and analysis of this question, revise the proposed statement of basis and proposed permit accordingly, and recirculate both for additional public review and comment.

D. Effluent Limits for Priority Pollutants.

The proposed statement of basis states that "[n]o data on priority pollutants is available at this time because the WWTP was not required to conduct monitoring of toxic pollutants." (SOB at 7.) This sentence should be rewritten from the passive to the active tense, to disclose that no data is available only because the USEPA has not asked for it, and the Tribe has not provided it.

The USEPA should require the Tribe to submit information identifying the priority pollutant levels in its existing effluent, including but not limited to three priority pollutant analyses, a "reasonable potential" analysis, and a laboratory analysis of hardness. This information is readily available, given that the Tribe has been operating its treatment plant for the last several years. Indeed, resource agencies routinely require this information when evaluating permit applications to discharge even tertiary treated wastewater.

The USEPA should thereafter derive appropriate priority pollutant effluent limitations, and include them in a revised and recirculated permit. The County understands that the USEPA expects that the proposed discharge may not contain priority pollutants sufficient to trip water quality standards. (SOB at 7.) It would be arbitrary and capricious to issue an NPDES permit on expectation alone, however, especially when the USEPA's hypothesis can be easily tested and verified by requesting data from the existing treatment plant.

E. Biochemical Oxygen Demand (BOD) and Total Suspended Solids (TSS).

The County similarly commented in March 2006 that the USEPA should require the Tribe to disclose BOS and TSS levels in its existing influent water, rather than assuming them to be the same as "typical gaming facility" wastewater. The USEPA does not appear to have done so, even though these values are readily available and easily determined. The County appreciates the USEPA's willingness to impose BOS and TSS standards more stringent than technology-based standards. (SOB at 9, 11.) The USEPA nevertheless appears to have repeatedly refused to ask for readily available and

potentially valuable information. The USEPA's repeated refusals, and its potential issuance of an NPDES permit without this information, appear unreasonable.

F. Physical Capacity of Stream P1.

Mr. Dennis Murphy testified persuasively at the September 7 public hearing that Stream P1 can not physically accommodate the anticipated discharge, and that using Stream P1 as a receiving water would result in significant streambank erosion and other environmental impacts. These concerns will be magnified if Stream A1 is removed as a receiving water, and the Tribe increases discharges to Stream P1.

As Mr. Murphy correctly pointed out on September 7, neither the proposed permit nor the proposed statement of basis provides any information or analysis of Stream P1's capacity to accommodate the anticipated discharge. The proposed permit and proposed statement of basis similarly include no information regarding erosion impacts, except for one sentence requiring the Tribe to "design and install erosion protection measures to prevent erosion from the discharge point to receiving water." (Permit at 9.)

These measures should be designed and submitted for USEPA and public review before any further action is taken on the proposed permit. In addition, the USEPA should analyze whether the proposed measures would be effective, disclose whether the Tribe has the legal authority to enter private property along Stream P1 to implement them, and impose a condition requiring that they be replaced with equal or more effective measures should they fail or prove ineffective. A revised statement of basis and proposed permit including this information and analysis then should be recirculated for additional public review and comment before any action is taken on the permit.

G. Stream A1's Percolation and Evapotranspiration Capacity.

The proposed statement of basis discloses that the Tribe has already "conducted a study to estimate the percolation and evapotranspiration capacity of [Stream A1]." (SOB at 17.) The County specifically requested a copy of this study at the September 7 public hearing, but did not receive it. Indeed, it does not appear that any interested individual or organization has had an opportunity to review this study. If the USEPA decides to retain Stream A1 as a receiving water, it should release this study to the public, and allow an additional round of public review and comment.

Releasing the study is particularly important because, as the USEPA concedes, the study appears to have failed "to predict within a level of accuracy sufficient to demonstrate the permit requirement that no discharge contribute to sheetflow." (SOB at 17.) Moreover, as the County has previously commented, the Tribe has consistently overestimated the percolation characteristics of soils intended for discharge.

Similarly, the Tribe's proposed Adaptive Management Plan appears insufficient to ensure that the proposed discharge would function as intended and not cause sheet flow onto the existing vineyard located near the terminus of Stream A1. This sheet flow would constitute a trespass onto private land, and could adversely impact the viability of downstream lands for agriculture and residential development. The County and Water Agency thus again request that this study be included in the public record, and that the public have a chance to review and comment on it.

H. Analysis of Temperature Limitations.

As noted above, the Russian River is listed as an impaired waterbody for temperature and sedimentation/siltation pursuant to Section 303(d) of the Clean Water Act. With regard to sedimentation/siltation, the proposed statement of basis includes one paragraph attempting to explain why the proposed discharge would not contain materials sufficient to increase sediment levels in the Russian River. (SOB at 11.) Although the County and Water Agency disagree with the USEPA's decision to analyze estimated rather than actual TSS levels, the proposed statement of basis at least provides some analysis of potential sedimentation and siltation impacts on the Russian River.

No similar analysis appears to exist with regard to temperature. The Tribe does not appear to have provided any data suggesting that its proposed discharges would comply with temperature limitations, and neither the proposed statement of basis nor proposed permit offer any evaluation of this issue. Given the importance of water temperature to the Russian River and the protected species within it, the USEPA should not issue any NPDES permit without analyzing the proposed discharge's likely temperature impacts.

I. Adaptive Management Plan.

The proposed statement of basis and proposed permit rely heavily on a proposed Adaptive Management Plan to assuage rampant public concerns that Stream A1 can not accommodate proposed Tribal discharges without causing significant environmental impacts on neighboring, private vineyards. (SOB at 17; Permit at 9.)

The proposed Adaptive Management Plan can not carry this weight. The proposed plan is just three pages long, and does not identify how much water Stream A1 can accommodate without causing discharges onto private property. The plan instead proposes a trial and error approach that essentially guarantees that at least some overflow will occur on private property. This approach is wholly inappropriate for this proposed discharge. The USEPA should delete Stream A1 as a receiving water, or require significant modifications to the proposed Adaptive Management Plan, disclose those changes to the public, and decide on and circulate a final plan *before* issuance of any NPDES permit.

J. Quality Assurance (QA) Manual or Plan.

The proposed permit would require the Tribe to develop a QA Manual or Plan that would, among other things, identify the roles and responsibilities of the participants, explain the Tribe's intended sample collection procedures and similar information, identify the laboratory that would analyze the samples, and discuss how the Tribe would perform data review and meet the USEPA's reporting and laboratory certification requirements. (Permit at 13-14.)

None of this information depends on issuance of the proposed permit, and the Tribe could prepare the require manual or plan now, and allow public review of its contents. The USEPA should require the Tribe to do so, and circulate the draft QA Manual or Plan for public review and comment before taking any action on the permit

K. Operation, Maintenance, and Emergency Response.

The County has repeatedly requested that the USEPA require the Tribe to designate and identify independent persons or entities to operate and maintain the wastewater treatment plant and disposal facilities. The proposed statement of basis and proposed permit again do not identify any such persons or entities, nor provide any assurance that they will be independent, and on site or available to respond to emergency conditions.

The only information in this regard in the September 7 public hearing, when one of the Tribe's consultants obliquely referred to an alarm system, remote viewing of the plant, and a protocol for notifying concerned parties when violations occur. The proposed permit and proposed statement of basis should be revised to disclose this information in far greater detail, and to provide an analysis by USEPA staff regarding the feasibility and efficacy of the Tribe's operation, maintenance, and emergency response plans. The USEPA should specifically require that the Tribe immediately report all water quality violations to the Regional Water Quality Control Board, the County, and all other interested State and local entities.

The USEPA may object that this information (or other information identified above) is beyond the usual purview of an NPDES permit. The County and Water respectfully refer the USEPA to page 19 of its proposed statement of basis, which reveals that although the Tribe is not required to comply with State criteria for wastewater reuse on Tribal lands, USEPA staff successfully negotiated with the Tribe on this point, and inserted permit terms requiring compliance. The County and Water Agency respectfully request the USEPA to do the same with regard to the information identified above, and include permit terms establishing standards for the same.

L. Navigability of Stream A1.

The Statement of Basis states that the U.S. Army Corps of Engineers has determined that Stream A1 is hydrologically isolated from all navigable waters of the United States. (SOB at 3.) The USEPA should provide some citation or documentation of that statement.

M. Conclusion.

The missing information and analysis identified above demonstrates that it is premature to issue a discharge permit at this time. The health and water contamination risks to neighboring wells, as well as water sources upon which the community depends, obligate the USEPA to require the collection of additional data, conduct additional analysis of the Tribe's proposed discharge plans, and initiate a consultation process of stakeholders before it takes any further action on the proposed permit. The County and Water Agency therefore respectfully request that at a minimum the proposed permit and proposed statement of basis be revised as set forth above, and subjected to additional public review and comment, before any further action is taken on the proposed permit.

II. The Proposed Permit and Proposed Statement of Basis Should Be Revised.

The County and Water Agency further suggest that the proposed permit and proposed statement of basis be modified as set forth below, to better fulfill the requirements of the Clean Water Act and ensure the safety, feasibility, and efficacy of the proposed discharges.

A. Removal of Stream A1 as a Receiving Water.

The permit should excise Stream A1 as a receiving water, for the reasons stated by the Regional Water Quality Control Board, and as outlined above.

B. Operator Qualifications.

The County and Water Agency have repeatedly commented that the USEPA should require a minimum level of independence and competence (for example, a particular level of wastewater operator license) for personnel operating the facilities. To its credit, the proposed permit would require operators to have "training and/or certification equivalent to the requirements of the State of California, at the level appropriate to the facility and/or system." (Permit at 15.) To obtain a license from the State of California, one must have past experience operating and maintaining wastewater treatment facilities, and not just training to do so. The County and Water Agency respectfully request that the USEPA similarly require all future operators of the instant facilities to have past experience. The County and Water Agency also respectfully

request that the USEPA require all future operators to be independent third parties, rather than Tribal employees themselves.

C. Flow Limitations.

The proposed Statement of Basis improperly includes several pages that improperly and incorrectly suggest that the proposed discharge might qualify for an exception to the Basin Plan's prohibition against discharge to the Russian River between May 15 and September 30 when the discharge flow is greater than one percent of the receiving stream's flow. (SOB at 12-18.) The proposed permit properly does not rely on these suggestions, and limits flows to no greater than one percent of the River as measured at the Cloverdale USGS Gaging Station. (Permit at 3.) These suggestions in the proposed statement of basis thus appear to be superfluous at best. They should be excised from any future statement of basis.

D. Acute Bioassay Monitoring.

The proposed permit would require chronic bioassay monitoring in the first, third, and fifth years of the permit (Permit at 2, 4), but does not appear to require acute bioassay testing at all. The North Coast Regional Water Quality Control Board typically requires discharges to the Russian River to conduct 96-hour static, non-renewal acute bioassay monitoring on a monthly basis during discharge. The species is usually rainbow trout with the following conditions: (1) Single sample bioassay result less than 70 percent survival; (2) Median for any three or more consecutive bioassays less than 90 percent survival. The proposed permit should be revised to require acute bioassay testing in addition to chronic bioassay monitoring.

E. Composite Sampling.

Table 1 and Table 2 of the proposed permit use the word "Composite" with regard to seven separate effluent limitations and monitoring requirements, but do not define the type of composite sample being referred to. This confusion is complicated by the fact that Appendix A of the proposed permit ("Standard Definitions") references both an 8-hour "composite sample" and a "24-hour composite sample." The USEPA should revise the proposed permit to clarify the type of composite sample required for each effluent limitation.

Because the Tribe's casino is a 24-hour operation, the USEPA should specifically require that the Tribe take 24-hour flow proportional samples, and take weekly samples on different days (not always on a Monday, for example). The USEPA should also require sampling during at least one weekend per month, since the Rancheria will experience significantly higher flows and pollutant concentrations on weekend days.

F. Chlorine Limitations.

The proposed statement of basis states the USEPA "believes there is a reasonable potential for chlorine residual to be present due to the use of chlorine at the WWTP and its use for reclaimed water applications. Therefore, effluent limits for residual chlorine have been included in the permit to verify compliance." (SOB at 12.)

This does not appear to be accurate. The proposed permit includes chlorine testing in Tables 1 and 2, but states via footnote 3 that there is "[n]o limit set at this time." (Permit at 2-5.) The USEPA should revise the proposed permit to require daily testing of total residual chlorine, and to require that wastewater discharged shall not contain detectable levels of total chlorine using an analytical method or chlorine analyzer with a minimum detection level of 0.1 mg/L.

Conclusion

For the foregoing reasons, the County and Water Agency respectfully request that the USEPA revise the proposed permit as outlined above, and subject it to additional public review and comment.

EXHIBIT A

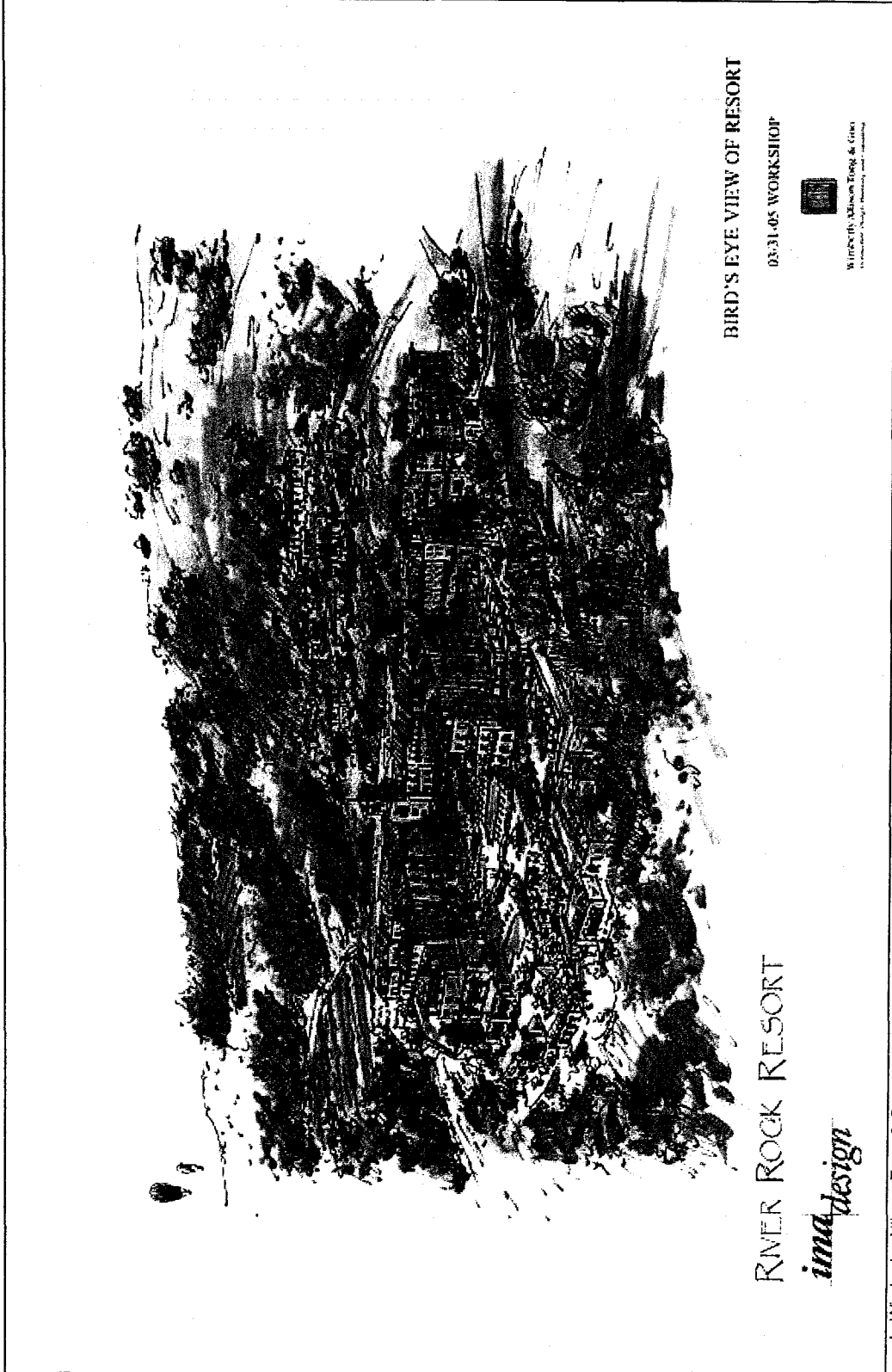
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Article published - Aug 13, 2006

River Rock expansion a step closer Casino seeks approval to discharge more wastewater



By Clark Mason
THE PRESS DEMOCRAT

The Indian tribe that operates River Rock casino is seeking federal approval to expand its wastewater treatment system, a first step for building its long-planned destination hotel and resort.

The Dry Creek Rancheria Band of Pomo Indians submitted plans to nearly triple the amount of wastewater processed at its casino site in Alexander Valley, indicating it intends to go ahead with a major expansion.

But the timing remains a mystery. Casino and tribal officials declined last week to say when a hotel-resort might be built, or to discuss any expansion plans. They also downplayed drawings by an architectural and design company working with the tribe that show a multistory luxury hotel, swimming pools and a permanent casino replacing the current tentlike structure.

"The tribe has always planned to convert the facility to something more," tribal spokesman David Hyams said. "They have always considered this facility interim and always wanted to do more on the rancheria. They said that at the time they opened."

"The hotel is still in a conceptual stage. Nothing's in concrete. There is no project per se," said casino manager Norm Runyan.

But the wastewater expansion plans have alarmed Sonoma County officials and Alexander Valley residents who have fought the casino since it opened in the picturesque vine-growing region in 2002.

Rep. Mike Thompson, D-St. Helena, met this week with officials from the Environmental Protection Agency to discuss concerns raised by Alexander Valley residents about the impact of the

wastewater on streams, vineyards and wells.

The tribe wants to discharge the effluent into an unnamed creek that flows into the Russian River, as well as another channel where it would evaporate or soak into the ground.

The EPA has a hearing scheduled for Sept. 7 - tentatively in Healdsburg - at which the public can comment on the tribe's application. But the agency has already announced its intent to issue the permit, subject to close monitoring of the wastewater quality.

Thompson was not available for comment.

"It's one more impact coming in our direction," said Candy Cadd, whose property is next to River Rock and contains a small stream into which the tribe would discharge highly treated wastewater.

She said the permit sought by the tribe means "they are preparing for a project, either as soon as they get their permit, or sometime in the near future."

The tribe has been criticized for lack of candor dating back to statements in May 2002 that the initial grading on the rancharia was for homes, roads, water and sewage treatment systems, not a casino.

County officials said they also have had trouble getting information about the Dry Creek Rancharia's latest plans, and how they tie into the wastewater discharge permit application.

"We have concerns about the growth implications for the casino and what the tribe's expansion plans are," said Deputy County Counsel Bruce Goldstein.

He said that under the tribe's state gaming compact, it is supposed to consult with the county on any expansion plans, but has not done so.

Casino manager Runyan said the plans are "just conceptual." He said that any formal expansion plans will be subject to an environmental review separate from the wastewater permit.

Some conceptual drawings of the hotel-resort were done by Wimberly, Allison, Tong & Goo, a leading architectural and design firm that has done work around the world on a number of luxury hotels and casinos. Some of the firm's clients include the Venetian Resort and Caesars Palace in Las Vegas.

But tribal spokesman Hyams downplayed the drawings, saying they were among a number of designs and ideas floated over the past several years for River Rock.

Runyan said the delay in getting a liquor license for the casino has also injected uncertainty into the timing of an expansion.

"We're still waiting for a liquor license. It's hard to make any plans. It's a big issue for us," he said.

Both the county and casino opponents have challenged the issuance of a liquor license, saying it would lead to disaster on the narrow roads to and from the casino. County officials claim it would also increase evacuation problems in the event of a fire at the casino.

Currently, the casino averages about 2,000 patrons a day, according to Runyan, who said that increases by about 30 percent on weekends.

According to the tribe's application, its wastewater treatment plant generated a flow of 40,000 gallons per day in 2005.

The wastewater is spray-irrigated on-site, or recycled through toilet flushing.

But the tribe said it anticipates an average flow of 112,000 gallons per day, almost three times the amount it now produces. It said that could spike as high as 141,000 gallons a day on weekends.

The tribe's inability to get rid of all the extra wastewater triggered the application to the EPA, which is required to issue a permit for any stream and river discharges.

The wastewater would be released primarily in winter, in a similar fashion to how cities in Sonoma County discharge directly or indirectly into the Russian River.

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EXHIBIT B

County of Sonoma and Sonoma County Water Agency
Request that the United States Environmental Protection Agency voluntarily
prepare a National Environmental Policy Act ("NEPA") document regarding
National Pollutant Discharge Elimination System ("NPDES") Permit No. CA
0005241

Introduction

The County of Sonoma and Sonoma County Water Agency hereby request that the United States Environmental Protection Agency ("USEPA") voluntarily prepare a NEPA document before taking further action on NPDES Permit No. CA 0005241. The County and Water Agency make this request pursuant to the USEPA's Policy and Procedures for Voluntary Preparation of NEPA Documents, 63 Fed. Reg. 58045-47 (Oct. 29, 1998).

The requested NPDES permit would allow the Dry Creek Band of Pomo Indians ("the Tribe") to approximately triple wastewater output at its Rancheria, from 40,000 to 112,000 gallons per day (gpd), with an average weekend flow of 141,000 gpd and a peak capacity of 200,000 gpd. The Tribe's inability to discharge additional wastewater is the limiting factor on its expansion plans, which include construction of a major new hotel and resort. A true and correct copy of an article describing the Tribe's expansion plans, and depicting them in full color, is attached hereto as **Exhibit A**.

The instant permit review process represents the last best chance to subject the Tribe's past and reasonably foreseeable future development plans to environmental review. The instant permit appears to be the only federal approval the Tribe needs to implement its major expansion plans, and is thus the only opportunity to conduct a NEPA review of those plans. Similarly, because the Rancheria is located on trust land, the Tribe likely could implement its proposed major expansion without complying with any state or local environmental review laws. The instant permit process thus may represent the only opportunity for resource agencies and the public to review and comment upon the likely significant environmental impacts of the Tribe's tripling of its operations.

Failure to conduct a NEPA review likely would lead to the segmentation or piecemealing of environmental impacts, contrary to NEPA's statutory goals and legislative intent. By its own terms, the proposed permit would remove a significant legal and physical impediment to future development, and thus should not be viewed in isolation. The proposed permit is an integral part of the Tribe's major expansion project, which has the potential to cause significant environmental impacts. The whole of this action should be subject to a comprehensive NEPA review before any part of it is approved.

Voluntary NEPA review is particularly necessary given the absence of any meaningful environmental review of the Rancheria's development projects to date. The

Tribe developed its casino gaming facilities, including massive grading and earth movement, via a grossly inadequate "Environmental Study" that did not comply with NEPA or state or local environmental law. For example, it was lack of proper analysis of soil permeability and stability as well as water balance that has forced the Tribe to pursue the instant NPDES permit, although no such impact or need was previously identified in its prior environmental work. The segmentation of the casino, parking, and other projects has prevented any comprehensive environmental analysis of the cumulative impacts of the Tribe's Rancheria development. The instant permit thus affords resource agencies and the public their first real opportunity to identify and analyze the cumulative impacts of the Tribe's past, present, and reasonably foreseeable future developments.

Staff from the Regional Water Quality Control Board testified at the September 7, 2006 public hearing on the proposed NPDES permit that they were "stunned" that no NEPA review had yet been conducted for this proposed permit. The County and Water Agency respectfully submit that it is not too late to conduct this review, and that such an analysis is imperative to fulfill NEPA's statutory goals and legislative intent.

Discussion

USEPA policy states that the agency will voluntarily prepare a NEPA document "where the Agency determines that such an analysis would be beneficial." (63 Fed. Reg. at 58046.) The USEPA may consider the following criteria in making such a determination:

- (a) the potential for improved coordination with other federal agencies taking related actions;
- (b) the potential for using an EA or EIS to comprehensively address large-scale ecological impacts, particularly cumulative impacts;
- (c) the potential for using an EA or an EIS to facilitate analysis of environmental justice issues;
- (d) the potential for using an EA or EIS to expand public involvement and to address controversial issues; and
- (e) the potential of using an EA or EIS to address impacts on special resources and public health.

(*Id.*)

An environmental analysis would be "beneficial" here, and the cited factors militate in favor of NEPA review before further action is taken on the proposed permit. The USEPA's policy specifically recognizes NEPA's value in comprehensively addressing large-scale projects, and particularly the cumulative impacts of the same. The instant project is already large-scale, and is slated to triple in size if the proposed permit is issued. The Tribe's existing development has created significant adverse visual impacts by placing massive buildings and new nighttime light sources on a completely undeveloped hillside. It has caused significant adverse traffic and traffic safety impacts

that will be complicated if the Tribe succeeds in its request to serve alcohol. And it has caused significant adverse geologic, land use, noise, and other environmental impacts, all without any NEPA review.

The instant permit would allow the Tribe to triple its wastewater discharges, and thus triple its development, as outlined above. This expansion would cause significant adverse impacts to a wide variety of resource categories, including but not limited to aesthetics (as Exhibit A makes clear), traffic and circulation, land use compatibility, and many others. It would also cause significant adverse cumulative impacts in a similarly wide range of resource categories. As noted above, the significant cumulative impacts of the Tribe's Rancheria development have never been properly addressed under NEPA.

Preparation of a NEPA document would thus allow resource agencies and the public to comprehensively address the ecological impacts of the Tribe's its major expansion project, and the cumulative ecological impacts of its past, present, and reasonably foreseeable future development.

Preparation of a NEPA document would also expand public involvement and allow resource agencies to address the impacts caused by the Tribe's development, which has already created serious environmental problems both on and off the Rancheria. As noted above, very little public involvement accompanied the Tribe's past development projects, and little is likely to accompany implementation of its major expansion plans. Indeed, if the USEPA issues the proposed permit, the Tribe likely could implement its expansion plans without any further significant environmental or public review. NEPA review is therefore necessary at this stage, to ensure the public an opportunity to review and comment on the environmental impacts of the proposed wastewater discharges and likely expansion of the Tribe's operations.

The remaining criteria similarly support preparation of a NEPA document here. Preparation of an EA or EIA would allow for improved coordination between the agencies with jurisdiction over the resources impacted by the proposed permit, including the Regional Water Quality Control Board, NOAA National Marine Fisheries Service, California Department of Fish and Game, and the County. A NEPA document would also facilitate analysis of environmental justice issues, and the proposed project's likely significant impacts on the public health and the Russian River, groundwater basin, scenic hillside, and other special resources.

The County and Water Agency therefore respectfully request that the USEPA voluntarily prepare a NEPA document before taking further action on the proposed permit.

County of Sonoma and Sonoma County Water Agency
Request that the United States Environmental Protection Agency voluntarily
prepare a National Environmental Policy Act ("NEPA") document regarding
National Pollutant Discharge Elimination System ("NPDES") Permit No. CA
0005241

Introduction

The County of Sonoma and Sonoma County Water Agency hereby request that the United States Environmental Protection Agency ("USEPA") voluntarily prepare a NEPA document before taking further action on NPDES Permit No. CA 0005241. The County and Water Agency make this request pursuant to the USEPA's Policy and Procedures for Voluntary Preparation of NEPA Documents, 63 Fed. Reg. 58045-47 (Oct. 29, 1998).

The requested NPDES permit would allow the Dry Creek Band of Pomo Indians ("the Tribe") to approximately triple wastewater output at its Rancheria, from 40,000 to 112,000 gallons per day (gpd), with an average weekend flow of 141,000 gpd and a peak capacity of 200,000 gpd. The Tribe's inability to discharge additional wastewater is the limiting factor on its expansion plans, which include construction of a major new hotel and resort. A true and correct copy of an article describing the Tribe's expansion plans, and depicting them in full color, is attached hereto as **Exhibit A**.

The instant permit review process represents the last best chance to subject the Tribe's past and reasonably foreseeable future development plans to environmental review. The instant permit appears to be the only federal approval the Tribe needs to implement its major expansion plans, and is thus the only opportunity to conduct a NEPA review of those plans. Similarly, because the Rancheria is located on trust land, the Tribe likely could implement its proposed major expansion without complying with any state or local environmental review laws. The instant permit process thus may represent the only opportunity for resource agencies and the public to review and comment upon the likely significant environmental impacts of the Tribe's tripling of its operations.

Failure to conduct a NEPA review likely would lead to the segmentation or piecemealing of environmental impacts, contrary to NEPA's statutory goals and legislative intent. By its own terms, the proposed permit would remove a significant legal and physical impediment to future development, and thus should not be viewed in isolation. The proposed permit is an integral part of the Tribe's major expansion project, which has the potential to cause significant environmental impacts. The whole of this action should be subject to a comprehensive NEPA review before any part of it is approved.

Voluntary NEPA review is particularly necessary given the absence of any meaningful environmental review of the Rancheria's development projects to date. The

Tribe developed its casino gaming facilities, including massive grading and earth movement, via a grossly inadequate "Environmental Study" that did not comply with NEPA or state or local environmental law. For example, it was lack of proper analysis of soil permeability and stability as well as water balance that has forced the Tribe to pursue the instant NPDES permit, although no such impact or need was previously identified in its prior environmental work. The segmentation of the casino, parking, and other projects has prevented any comprehensive environmental analysis of the cumulative impacts of the Tribe's Rancheria development. The instant permit thus affords resource agencies and the public their first real opportunity to identify and analyze the cumulative impacts of the Tribe's past, present, and reasonably foreseeable future developments.

Staff from the Regional Water Quality Control Board testified at the September 7, 2006 public hearing on the proposed NPDES permit that they were "stunned" that no NEPA review had yet been conducted for this proposed permit. The County and Water Agency respectfully submit that it is not too late to conduct this review, and that such an analysis is imperative to fulfill NEPA's statutory goals and legislative intent.

Discussion

USEPA policy states that the agency will voluntarily prepare a NEPA document "where the Agency determines that such an analysis would be beneficial." (63 Fed. Reg. at 58046.) The USEPA may consider the following criteria in making such a determination:

- (a) the potential for improved coordination with other federal agencies taking related actions;
- (b) the potential for using an EA or EIS to comprehensively address large-scale ecological impacts, particularly cumulative impacts;
- (c) the potential for using an EA or an EIS to facilitate analysis of environmental justice issues;
- (d) the potential for using an EA or EIS to expand public involvement and to address controversial issues; and
- (e) the potential of using an EA or EIS to address impacts on special resources and public health.

(*Id.*)

An environmental analysis would be "beneficial" here, and the cited factors militate in favor of NEPA review before further action is taken on the proposed permit. The USEPA's policy specifically recognizes NEPA's value in comprehensively addressing large-scale projects, and particularly the cumulative impacts of the same. The instant project is already large-scale, and is slated to triple in size if the proposed permit is issued. The Tribe's existing development has created significant adverse visual impacts by placing massive buildings and new nighttime light sources on a completely undeveloped hillside. It has caused significant adverse traffic and traffic safety impacts

that will be complicated if the Tribe succeeds in its request to serve alcohol. And it has caused significant adverse geologic, land use, noise, and other environmental impacts, all without any NEPA review.

The instant permit would allow the Tribe to triple its wastewater discharges, and thus triple its development, as outlined above. This expansion would cause significant adverse impacts to a wide variety of resource categories, including but not limited to aesthetics (as Exhibit A makes clear), traffic and circulation, land use compatibility, and many others. It would also cause significant adverse cumulative impacts in a similarly wide range of resource categories. As noted above, the significant cumulative impacts of the Tribe's Rancheria development have never been properly addressed under NEPA.

Preparation of a NEPA document would thus allow resource agencies and the public to comprehensively address the ecological impacts of the Tribe's its major expansion project, and the cumulative ecological impacts of its past, present, and reasonably foreseeable future development.

Preparation of a NEPA document would also expand public involvement and allow resource agencies to address the impacts caused by the Tribe's development, which has already created serious environmental problems both on and off the Rancheria. As noted above, very little public involvement accompanied the Tribe's past development projects, and little is likely to accompany implementation of its major expansion plans. Indeed, if the USEPA issues the proposed permit, the Tribe likely could implement its expansion plans without any further significant environmental or public review. NEPA review is therefore necessary at this stage, to ensure the public an opportunity to review and comment on the environmental impacts of the proposed wastewater discharges and likely expansion of the Tribe's operations.

The remaining criteria similarly support preparation of a NEPA document here. Preparation of an EA or EIA would allow for improved coordination between the agencies with jurisdiction over the resources impacted by the proposed permit, including the Regional Water Quality Control Board, NOAA National Marine Fisheries Service, California Department of Fish and Game, and the County. A NEPA document would also facilitate analysis of environmental justice issues, and the proposed project's likely significant impacts on the public health and the Russian River, groundwater basin, scenic hillside, and other special resources.

The County and Water Agency therefore respectfully request that the USEPA voluntarily prepare a NEPA document before taking further action on the proposed permit.

EXHIBIT A

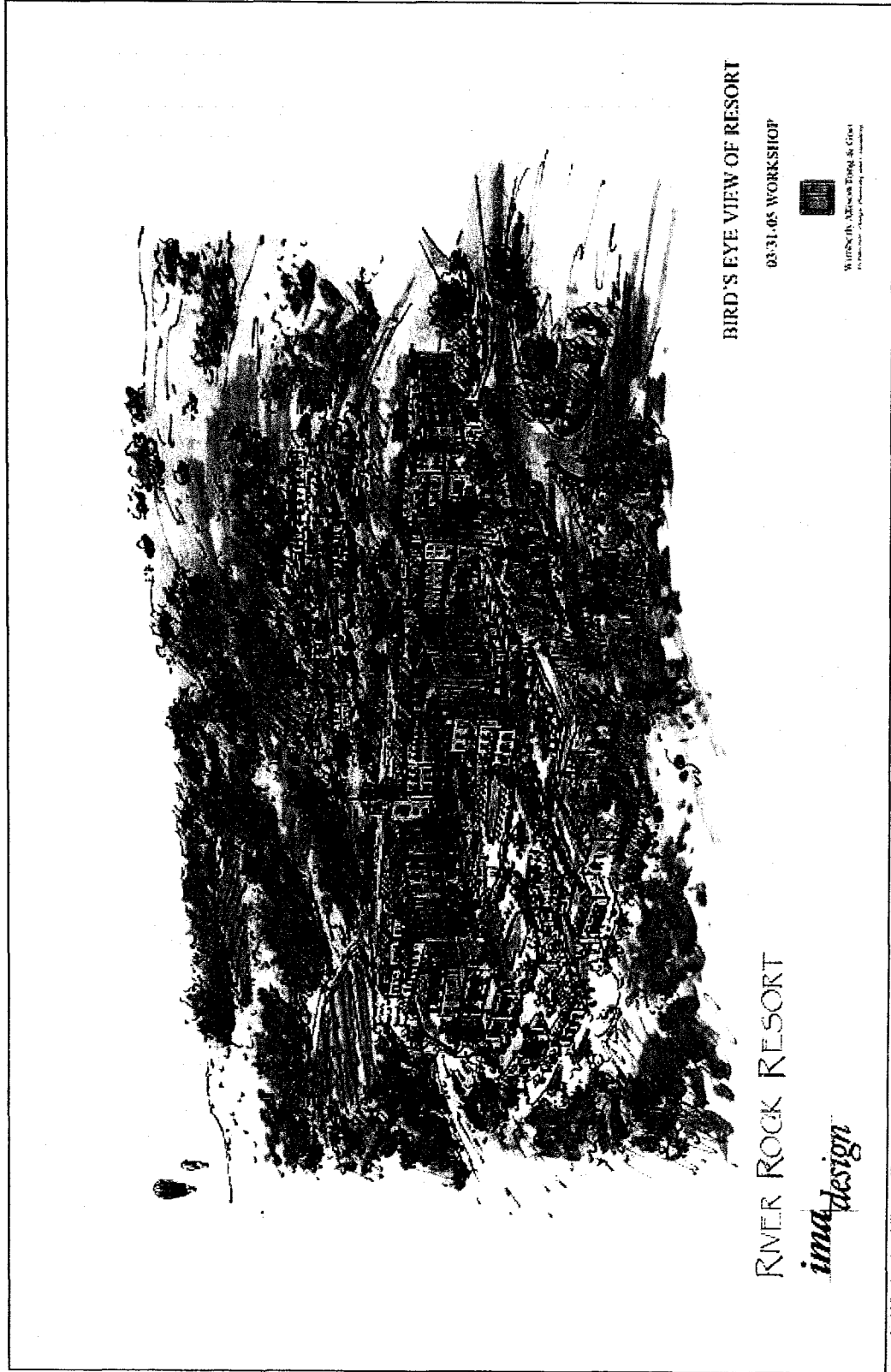
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Article published - Aug 13, 2006

River Rock expansion a step closer Casino seeks approval to discharge more wastewater



BIRD'S EYE VIEW OF RESORT

03.31.05 WORKSHOP

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By Clark Mason THE PRESS DEMOCRAT

The Indian tribe that operates River Rock casino is seeking federal approval to expand its wastewater treatment system, a first step for building its long-planned destination hotel and resort.

The Dry Creek Rancheria Band of Pomo Indians submitted plans to nearly triple the amount of wastewater processed at its casino site in Alexander Valley, indicating it intends to go ahead with a major expansion.

But the timing remains a mystery. Casino and tribal officials declined last week to say when a hotel-resort might be built, or to discuss any expansion plans. They also downplayed drawings by an architectural and design company working with the tribe that show a multistory luxury hotel, swimming pools and a permanent casino replacing the current tentlike structure.

"The tribe has always planned to convert the facility to something more," tribal spokesman David Hyams said. "They have always considered this facility interim and always wanted to do more on the rancheria. They said that at the time they opened."

"The hotel is still in a conceptual stage. Nothing's in concrete. There is no project per se," said casino manager Norm Runyan.

But the wastewater expansion

plans have alarmed Sonoma County officials and Alexander Valley residents who have fought the casino since it opened in the picturesque vine-growing region in 2002. Rep. Mike Thompson, D-St. Helena, met this week with officials from the Environmental Protection Agency to discuss concerns raised by Alexander Valley residents about the impact of the

wastewater on streams, vineyards and wells. The tribe wants to discharge the effluent into an unnamed creek that flows into the Russian River, as well as another channel where it would evaporate or soak into the ground. The EPA has a hearing scheduled for Sept. 7 - tentatively in Healdsburg - at which the public can comment on the tribe's application. But the agency has already announced its intent to issue the permit, subject to close monitoring of the wastewater quality.

Thompson was not available for comment. "It's one more impact coming in our direction," said Candy Cadd, whose property is next to River Rock and contains a small stream into which the tribe would discharge highly treated wastewater.

She said the permit sought by the tribe means "they are preparing for a project, either as soon as they get their permit, or sometime in the near future." The tribe has been criticized for lack of candor dating back to statements in May 2002 that the initial grading on the rancheria was for homes, roads, water and sewage treatment systems, not a casino.

County officials said they also have had trouble getting information about the Dry Creek Rancheria's latest plans, and how they tie into the wastewater discharge permit application. "We have concerns about the growth implications for the casino and what the tribe's expansion plans are," said Deputy County Counsel Bruce Goldstein. He said that under the tribe's state gaming compact, it is supposed to consult with the county on any expansion plans, but has not done so.

Casino manager Runyan said the plans are "just conceptual." He said that any formal expansion plans will be subject to an environmental review separate from the wastewater permit. Some conceptual drawings of the hotel-resort were done by Wimberly, Allison, Tong & Goo, a leading architectural and design firm that has done work around the world on a number of luxury hotels and casinos. Some of the firm's clients include the Venetian Resort and Caesars Palace in Las Vegas.

But tribal spokesman Hyams downplayed the drawings, saying they were among a number of designs and ideas floated over the past several years for River Rock. Runyan said the delay in getting a liquor license for the casino has also injected uncertainty into the timing of an expansion.

"We're still waiting for a liquor license. It's hard to make any plans. It's a big issue for us," he said.

Both the county and casino opponents have challenged the issuance of a liquor license, saying it would lead to disaster on the narrow roads to and from the casino. County officials claim it would also increase evacuation problems in the event of a fire at the casino.

Currently, the casino averages about 2,000 patrons a day, according to Runyon, who said that increases by about 30 percent on weekends. According to the tribe's application, its wastewater treatment plant generated a flow of 40,000 gallons per day in 2005.

The wastewater is spray-irrigated on-site, or recycled through toilet flushing.

But the tribe said it anticipates an average flow of 112,000 gallons per day, almost three times the amount it now produces. It said that could spike as high as 141,000 gallons a day on weekends.

The tribe's inability to get rid of all the extra wastewater triggered the application to the EPA, which is required to issue a permit for any stream and river discharges. The wastewater would be released primarily in winter, in a similar fashion to how cities in Sonoma County discharge directly or indirectly into the Russian River.

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