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April 30, 2007

Mr. Brad Mehaffy, NEPA Compliance Officer
National Indian Gaming commission
1441 L Street NW, Suite 9100
Washington, DC 20005

RE: COMMENTS ON THE FEDERATED INDIANS OF GRATON RANCHERIA CASINO AND HOTEL PROJECT DEIS

Dear Mr. Mehaffy;

We have reviewed the Draft Environmental Impact Statement (“DEIS”) with considerable dismay. Despite having provided your office with voluminous documentation that records in detail Sonoma County’s serious water crisis, the DEIS appears to have off-handedly ignored the clear implications of these data. Worse, the DEIS disingenuously relies on a Water Supply Assessment (“WSA”) produced by the City of Rohnert Park that has been ruled legally invalid by a trial court.

A legally invalid document becomes a cornerstone

The WSA is a deeply flawed study notable only in that it is the only study of the hydrologic conditions in the Santa Rosa Plain Groundwater Basin since 1982 to find sufficient supplies of water. The WSA contradicts findings by the California Department of Water Resources (DWR, 1982) that groundwater pumping exceeded recharge in the Santa Rosa Plain based on data from 1960-1975. The WSA denies adverse effects caused by a massive and growing groundwater cone of depression in the 1980’s that extended well beyond Rohnert Park City Limits as mapped by the California Department of Resources (DWR, 1987). The WSA refutes the City’s own detailed and localized groundwater modeling study (City of Rohnert Park, 2000) indicating that the City’s pumping exceeded recharge by a factor 2.5 to 1 between 1984 and 1999. Unlike these previous groundwater modeling studies, the WSA contains no quantitative numerical modeling analysis calibrated to groundwater water level data. A recent groundwater study by

Todd Engineers (2004) performed on the same watershed as analyzed by the WSA concluded that the groundwater pumping in the vicinity of Rohnert Park has reversed groundwater flow direction historically to the north toward Laguna de Santa Rosa and captured groundwater flows historically to the south in the Petaluma Valley Basin. The WSA conveniently coined its own definition of “overdraft” to avoid the true definition which has been defined by the State of California as: “overdraft is characterized by groundwater levels that decline over a period of years and do not fully recover, even during wet years”. The WSA manufactured “potential” recharge areas outside the subbasin and largely east of the Rodgers Creek Fault Zone. The WSA completely ignored previous studies indicating that the WSA’s newly found recharge areas are situated over basement rocks known to be of poor transmissivity. The WSA presented absolutely no groundwater level data or other substantial evidence how groundwater could actually be transmitted through basement rocks and across the Rodgers Creek Fault Zone finally subbasin. The WSA relied completely on subjectivity and deception to avoid the truth: the Santa Rosa Groundwater Subbasin is historically overdrafted. Numerous scientifically sound studies have shown this groundwater basin to be overdrafted, damaged, depleted or otherwise suffering from a demonstrable imbalance resulting from more water being extracted than recharges. The DEIS minimizes these damages and implies that the casino project could be built in the proposed area and that the additional damage caused by it would be acceptable. This conclusion is fatuous and highly provocative especially when based on an invalid study.

A serious breach of professional ethics or utter incompetence

The decision to rely on a legally invalid study is either evidence of professional incompetence on the part of the consultants who produced this document or it is proof of willful distortion of scientific fact to make the DEIS fit the whims of the applicant. Either way the DEIS is wholly inadequate and the authors should be considered suspect of professional malfeasance.

With these suspicions in mind, we have registered official complaints with the California State Board of Geologists and Geophysicists decrying this utterly inappropriate behavior. We have asked the State of California Department of Consumer Affairs, California Board of Geologists and Geophysicists to investigate and review the licenses of the following individuals:

Principal in charge:	David Zweig
Project Manager:	Chad Broussard
Technical Staff:	Tim Armstrong
	Gary S. Arnold
	Pete Connelly
	Doug Edwards

Susan Engelke
Dana Hirschberg
Lisa Worall

Your office, as the guiding agency in this matter, should similarly withdraw support for this firm, Analytical Environmental Service, and ban the above-named individuals from any and all future employment with the federal government. Anything less would be a tacit condoning of professional wrongdoing dangerously approaching collusion.

DEIS digital distribution intentionally disabled

Many important features of the digitized version of the DEIS distributed on disk in PDF format were intentionally disabled making the document unnecessarily opaque. In Document Properties, we read:

1. Content Copying: Not Allowed
2. Content Copying for Accessibility: Not Allowed
3. Page Extraction: Not Allowed
4. Commenting: Not Allowed

Also not allowed are global searches due to the intentional dismemberment of individual chapters (and even smaller divisions) into separate, discreet files. Several files are actually made up of a single page. This disunion of the digital DEIS document automatically prevents comprehensive search functions and forces the public to perform the same search on approximately 264 separate files, rather than perform one search on one file, as is the custom in the digital world. This intentional maiming removes from the public the preeminent ability, if not the chief advantage, of digital media. This intentional dismemberment of a single document into hundreds of separate documents has undercut the promised transparency of the DEIS. This peculiar impairment hampers the public's ability to rapidly absorb the information it contains and puts the public at unfair advantage.

It appears that the author, Dana Hirschberg, has intentionally subverted the ease of access customarily associated with digital media and has created instead an obstacle to transparency. Had the public been granted substantially more time to review the DEIS, as was requested and not the one month granted, perhaps some of these impedimenta might have been mitigated by the extra time it takes to perform the extra work. This is a very uncooperative way to conduct business and does not reciprocate the openness expressed by the public.

Water supply will not increase

The DEIS and numerous individuals associated with this project have alluded to the possibility of obtaining increased water supplies from the Sonoma County Water Agency (“SCWA”), the City of Rohnert Park or by increased groundwater extraction. Such hopes are pure fantasy.

Water is a finite resource, yet our demands on this fixed resource have been rising for decades. The problem is that we cannot make water. Water is an element. And demand on this fixed element has reached crisis proportions.

It is important to bear in mind that if this project had never been proposed at all, Sonoma County will not have sufficient supplies of water for existing stakeholders. This profound shortfall was evident as far back as August 11, 2003 when, in a letter to contractors, Mr. Randy Poole the General Manager and Chief Engineer of SCWA, flat out stated that SCWA will not have enough water to supply existing customers. More perceptive observers recognized an emergency even earlier than that date because the so-called “emergency” wells operated by SCWA in the Laguna de Santa Rosa began running full bore for more than five years. Indeed, the Agency has changed the name from “emergency” wells to “production” wells. These three wells now account for fully 9% of SCWA’s total output.

Since that August 11, 2003 letter, matters have worsened. In fact, it is safe to say that there is no place in the entire county that would be worse to place this casino/hotel project than on the outskirts of Rohnert Park. Once, the area under Rohnert Park was the most water-rich area in Sonoma County, but not today. Today the Santa Rosa Plain Groundwater Basin suffers demonstrable groundwater overdraft conditions.

A legally unstable climate

The damaged water supply has already sparked numerous water-related lawsuits in the Santa Rosa Plain Groundwater Basin. One particularly dangerous problem with this proposed casino is the federal water right that it would enjoy. Knowingly permitting a federal water right to be established on an overdrafted groundwater basin is reckless and irresponsible. Proceeding with this project in this specific overdrafted groundwater basin automatically creates an unstable legal climate that would encumber the tribe in costly

lawsuits and strip all other stakeholders of their water rights. Permitting this casino to build in this location is a virtual death sentence to years of efforts by the Sonoma County Grand Jury, the O.W.L. Foundation, the Sonoma County Water Agency and Supervisor Valerie Brown to implement voluntary groundwater management plans for all of Sonoma County's groundwater basins. If a federal water right, a so-called "super right", is allowed to implant itself in this damaged basin, it will be the natural instinct of the federal water right holder to protect its right through adjudication, thereby undermining alternate, voluntary plans under AB 3030.

California has only 22 adjudicated groundwater basins, but more than 167 AB 3030-style groundwater management plans. The tribe could not possibly have chosen a more dangerous location to consider building a casino than within the overdrafted Santa Rosa Plain Groundwater Basin.

However, both the tribe and the agencies of the federal government assisting it do not seem to be aware of this. We may clearly place the blame for this breath-taking oversight on AES. Both the tribe and your office have been grossly underserved by incompetent consultants who have downplayed the prognosis of locating within this overdrafted groundwater basin. The tribe and your office would be better served by examining the detailed scientific studies that the O.W.L. Foundation has already supplied previously whereby you may come to realize the majority opinion regarding this massively overdrafted region.

References previously submitted to your office:

City of Rohnert Park, 2000, Revised Draft Environmental Impact Report.

DWR, 1982, Evaluation of Groundwater Resources Sonoma County Volume 2: Santa Rosa Plain, Bulletin 118-4.

DWR, 1987, Santa Rosa Plain groundwater model, unnumbered report, 318p.

Todd Engineers, 2004, Canon Manor West Subdivision Draft Environmental Impact Report, Volume II

Again, thank you for your time and the opportunity to comment on this project.

A handwritten signature in black ink, appearing to read 'H.R. Downs', with a long horizontal line extending to the left and a large, stylized flourish on the right.

H.R. Downs
President