

**Appendix G**  
**Comment Letters From Planning Groups and Interested Parties**

**Jamul-Dulzura Community Planning Group**  
**PO Box 613**  
**Jamul, CA 91935**

September 10, 2002

Supervisor Dianne Jacob, Second District  
Board of Supervisors  
San Diego County Administration Building  
1600 Pacific Highway, Room 335  
San Diego, CA 92101-2470

**SUBJ: Draft Update on Impacts of Tribal Economic Development Projects in San Diego County dated July 2002; Jamul-Dulzura Community Planning Group (JDCPG) Comments Concerning**

Dear Supervisor Jacob:

After having a subcommittee review the subject report, the Jamul Dulzura Community Planning Group (JDCPG), at our 10 September 2002 meeting, voted **14 FOR, 0 OPPOSED** (name/s) with **1** abstentions (name/s) to submit the following comments on the subject draft tribal nation report as they relate to the Jamul-Dulzura Subregion of the County. Katzor

The subject draft report was prepared by the County's tribal nations to provide the Board of Supervisors with their position on the potential impacts of tribal gaming on San Diego County. However, the draft report has the Seal of the County of San Diego on the cover and presents the illusion that this report was prepared officially by the County of San Diego. This is not the case.

Additionally, in the introduction to the draft document the tribes provided information for the draft document, but they acknowledge that the information provided "...does not imply that the Tribes ... agree with, or verify the accuracy of, the contents of each of the chapters in this document."

The information provided regarding the Jamul Indian Village (JIV) is flawed and includes the following: 1) The JIV is not a recognized reservation; 2) The JIV leadership is in legal dispute; and 3) The Fire District Board continues to request clarification of the project before making a decision on any offer of a new fire station.

Traffic information provided in the report is incomplete and inaccurate. Some examples are: 1) Figures for SR 94 are highly understated and most likely will require significant mitigation such as construction of four lanes from Steel Canyon to the Casino entrance; 2) Traffic flow percentages need to consider planned development such as Otay Ranch; 3) The JIV casino project is now greatly enlarged and daily trips studies are inaccurate; 4) The fair share mitigation for the proposed JIV casino needs to take into account all the roads that will be impacted; and 5) Fair share road maintenance must be considered.

Additional detailed information is provided in the attached Appendix A, the JDCPG letter of 14 March 2001 to the Bureau of Indian Affairs in comment to the Environment Assessment prepared for the 101-Acre Fee-to-Trust and Casino project for the Jamul Indian Village.

We reiterate our strong position in opposition to a casino in Jamul as we consider that multiple, significant, non-mitigable environmental and land-use impacts remain unaddressed. There are locations and/or small sized Indian lands that make no sense for a casino project. The very small size and location of the Jamul Indian Village, not a reservation, is one that makes no sense for a casino project.

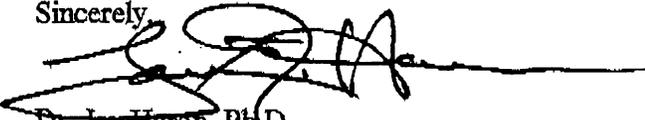
Areas, discussed in detail in the attached Appendix A, that need to be diligently addressed include:

1. Community Character
2. Traffic
3. Emergency Services (Public Safety)
4. Socioeconomic
5. Drainage/Storm Water
6. Dark Skies
7. Biology
8. Air Pollution
9. Archaeology/Cultural Resources
10. Electrical Power
11. Growth Inducement
12. Wastewater Treatment
13. Noise
14. Visual Impacts
15. Water
16. Soils/Geology

While we recognize that the Jamul Indian Village's proposed casino is intended to improve the economic situation of its members, it unnecessarily threatens to degrade significant environmental resources and creates significant non-mitigable impacts to the Jamul-Dulzura Subregion, County of San Diego.

Again, it should be noted that the JDCPG fully supports self-reliance for the small group of Jamul Indians through revenue sharing from the other much larger California gaming tribes as set forth under the Davis compacts.

Sincerely,



Dr. Jay Haron, Ph.D.  
Chairman

cc: Department of Planning and Land Use, County of San Diego

# LAKESIDE COMMUNITY PLANNING GROUP

PO Box 2040 Lakeside, CA 92040

September 22, 2002

TO: Chantal Saipe, Tribal Liason

SUBJECT: "Update on Impacts of Tribal Economic Development Projects in San Diego County"

Dear Ms. Saipe,

The Lakeside Community Planning Group reviewed the document "Update on Impacts of Tribal Economic Development Projects in San Diego County" at our meeting held September 18, 2002.

The Lakeside Community Planning Group submits the following comments to the document:

- 1. Add to 5.7.1 County and tribes need to collaborate to insure adequate water supply for constituents/members and off reservation impacts to residents.**
- 2. Add an impact: Adverse economic impacts to citizens in Old Barona Road area, due to loss of property values and county reassessment due to groundwater impacts.**
- 3. Further address the impacts of acquisition of adjacent lands, adding the lands to the reservation trust, and removing the lands from County jurisdiction and tax base and the potential ultimate land use on the lands.**
- 4. Entirely delete 6.5.3 bullet 3.**
- 5. This report needs to be referred to the Department of Public Works to correct numerous errors regarding roadways.**

The vote to submit these comments was 14-Yes, 0-No, 0-Abstain.

Submitted by,

  
Janis Shackelford, Secretary

**VALLE DE ORO COMMUNITY PLANNING GROUP  
P. O. BOX 3958  
LA MESA, CA 91944-3958**

September 16, 2002

Ms. Chantal Saipe, Tribal Liaison  
County of San Diego  
Chief Administrative Office  
1600 Pacific Highway  
San Diego, CA 92101-2470

SUBJECT: Draft Update on Impacts of Tribal Economic Development Projects  
in San Diego County

Ms. Saipe:

The information presented in the update appeared to be accurate. However, Chapter 4 on Traffic Impacts did not adequately address the Sycuan impacts on Willow Glen Drive and failed to consider the effect of each casino in causing a change in road classification when no such change would be required under the General Plan without the casino impacts. The entire cost of such changes must be born by the casinos including reimbursement for individual property owners who are affected by increased right-of-way exactions. Also diversion of traffic law enforcement and emergency reponse resources (fire and medical) to these casino access roads adversely impacts traffic enforcement and emergency response times in nearby communities.

Chapter 5, Impacts on County Resources, was incomplete on the included areas and didn't touch the social services costs to deal with gambling addiction, and failed to adequately address local and regional impacts to water resources.

Our Planning Group had concerns about this report failing to deal with the identified problems. As an action document, the future considerations/recommendations made are vague and specifics are needed for dealing with the many serious infrastructure and social problems caused by this uncontrolled development.

Sincerely,



Jack L. Phillips  
Chairman, VDOCPG

Distribution: Sup. Dianne S. Jacob  
Ms. Chantal Saipe, Tribal Liaison

12654 Willow Road  
Lakeside, CA 92040  
September 18, 2002

Ms. Chantal Saipe, Tribal Liaison  
County of San Diego  
1600 Pacific Highway, Room 212, MS A-6  
San Diego, CA 92103

Re: Update on Impacts of Tribal Economic Development Projects in San Diego County

Dear Ms. Saipe:

I would like to submit some comments on your recent report titled "Update on Impacts of Tribal Economic Development Projects in San Diego County". My comments relate primarily to how I have been affected by the Indian casino tidal wave. I have arranged my comments to apply to the appropriate heading in your report. I am extremely concerned about traffic noise and traffic safety on Willow Road where I live because of the massive amount of traffic coming from Wildcat Canyon Road. Barona Casino and San Diego County are both contributing to this problem.

**[1 Introduction and Purpose - pg 1]**

The report states "The purpose of this Update Report is to identify the benefits gained as well as the impacts of the development of Tribal projects in the San Diego region."

The statement of purpose and the title of this report include the word "impact", but there is no mention of a very significant problem such as problem or addicted gamblers and their treatment. This would lead one to believe that this document has been politically sanitized. It would also lead to questions about other obvious items have been omitted due to oversight or intentionally.

**[2 Overview - pg 3]**

One statement that stands out is "San Diego County has the largest number of Tribes and Reservations of any County in the nation."

In reviewing the table of contents it seems to be reasonably well organized considering the massive amount of data included. The data from the tribes should prove to be an invaluable resource to many people.

The traffic and road sections seem to have mushroomed. However, with the increase in tribal casino projects that is to be expected. It does seem that many of the new sections contain much duplicated information from previous sections.

With all this diverse information being collected into one place for the first time it is difficult to understand new linguistic terms which was especially true of the acronyms. I made a list of acronyms to aid me in just reading the document and I have included it with my comments in the hopes it may be of use to someone. (Refer to attachment #3.) Some of the expansions of the acronyms were some times difficult or impossible to find. When using acronyms, the first occurrence should include the expansion and thereafter the acronym is used by itself.

However, my main complaints and comments have to do with "Noise" created by the traffic on Willow Road in Lakeside. Some of the noise is Barona related and some is not. the November 2000 report [3.10 Noise], has been removed. Apparently someone made a unilateral decision that noise issues were not relevant anymore. I beg to differ on that point. I have berated the Barona environmental reports in the past, but I must now apologize. At least Barona described the problem, even though they chose not to do any mitigation.

I have added a [5.9 Noise - Proposed] below to add my comments related to noise.

**[3.1 Barona Band of Mission Indians - pg 13]**

Quoting from the report: "Access to the Reservation is via Wildcat Canyon Road, a County-maintained two-lane winding road, which connects the Communities of Lakeside and Ramona."

**[4.1 Update on Traffic Impacts- Introduction and Overview - pg 87]**

Significant sentences from the report are:

"Previous land use and transportation planning for the rural back country did not assume large scale development on the Indian Reservations." and "The county has identified traffic to and from the Tribal projects as one of the major adverse impacts of these projects."

The following table is a quick summary of total estimated road costs from the current and previous report from the county. As an overview note that the combined estimate of state and county costs were approximately ½ Billion dollars back in 2000 and is probably higher now. Also note that Barona's percentage of total county costs were 41% originally and now revised to 39%. Essentially unchanged but a very large part of the county's anticipated road costs. This suggests that Barona (and the county) must be very creative in the Barona solution and should include looking at alternate routes, alternate types of vehicles and mass transit in order to move people not just build roads and put cars on them.

**Summary of Tribal Related Road Costs From Both County Tribal Reports**

2000	County Cost	Tribe's Share	State Cost	Combined
Barona	69,444,000	n/a	13,400,000	82,844,000

All Tribes	167,958,000	n/a	302,100,000	470,058,000
<b>2002</b>	<b>County Cost</b>	<b>Tribe's Share</b>	<b>State Cost</b>	<b>Combined</b>
Barona	55,530,000	8,853,000	n/a	n/a
All Tribes	143,852,000	24,605,000	n/a	n/a

#### [4.4.1 County-Maintained Arterial - pg 92]

This section only contains two road segments related to Barona Casino. Mapleview (SR67 to Lake Jennings) and Wildcat Canyon Road (Barona to Willow Road). The previous reports from Barona Casino and the County have generally placed the following roads in an LOS of E/F in almost all stages of development. These two road segments may have been dropped because of juggling the estimated traffic numbers but no Barona traffic going South on Wildcat Canyon can reach clear sailing on Highway 67 without going over one of these roads.

Missing road segments:

Ashwood Street (Willow Road to Mapleview Street) (1.0 miles)

Willow Road (Wildcat Canyon Road to Highway 67) (0.85 miles)

#### SANDAG Average Daily Traffic Volumes 1996-2000

Road	1996	1997	1998	1999	2000	% change 1999-2000
Wildcat	11.9	10.4	14.4	16.5	16.5	0%
Willow	10.4	10.4	7.9	7.9	7.9	0%
Ashwood	4.6	4.6	4.6	4.6	4.6	0%
Mapleview Maine/Ashwood	18.8	18.8	17.6	17.6	17.6	0%
Mapleview Beyond	13.1	13.1	13.1	13.1	13.1	0%
Moreno	3.5	3.5	3.7	3.7	3.7	0%
SR67	22.6	27.0	29.1	31.7	29.6	-7%

This traffic data above was obtained from SANDAG and is presented here merely to show how wildly inaccurate and inconsistent this data is. It looks like this particular area of the county is not yet on SANDAG's radar screen. Many of the conclusions in the report (and previous reports) are based on this information or other ad hoc data from various consultants. I have not seen any counting strips on the roads near my house in the last

several years. So I think much of the data is suspect, but regardless of that the dollars required for highway improvements to Casino related roads are enormous, and unlikely to be fully funded in the near future.

As an example of the inconsistency in the data, assume that the 2000 data is the most accurate. Wildcat has 16.5, Willow 7.5 and Ashwood 4.6. Common sense dictates that Ashwood and Willow together must carry more volume than Wildcat Canyon. Not only must they take all of the Wildcat traffic but also take traffic from Willow Road East (a dead end) which has residents, Little League Ball Park and the county road dept. In addition many travelers cross Willow West and Ashwood in order to bypass the traffic at the SR67 @ Maplevue intersection. If they carried 10% more traffic than Wildcat that would be 18.2. More than 50% difference from the data.

**[4.4.2 State Highways - pg 92]**

The line entry below appears to be in error according to my speedometer. It is only 0.75 miles from Willow Road to Maplevue St.

“SR 67 (Willow Road to Maplevue Street) - (1.22 miles)”

**[4.5.1 Barona - Road Capacity Needs For Each Reservation - pg 93]**

The line entry below appears to be in error according to my speedometer. It is only 0.75 miles from Willow Road to Maplevue St.

“SR 67 (Willow Road to Maplevue Street) - (1.22 miles)”

This section is missing the following road segments:

Ashwood Street (Willow Road to Maplevue Street) (1.0 miles)

Willow Road (Wildcat Canyon Road to Highway 67) (0.85 miles)

Refer to 4.4.1 for more details.

**[4.9 Major Arterial/Highway Improvement Process - pg 97]**

“For example, residents along Wildcat Canyon Road have voiced opposition to any project that would widen this road to four lanes.”

Refer to 4.13.2 below.

**[4.10.1.2 Wildcat Canyon Road - Scheduled Capital Improvement Projects - pg 99]**

Wildcat Canyon Road improvement issues need study, which is currently happening according to this current report by an Environmental Impact Report (EIR) report that will take 18 to 24 months to complete. It is hoped that the County will be more forthcoming with information on this issue than it has in the past. Past reluctance to share information on these road projects is apparently because of political pressure.

In 1999, the County Board of Supervisors authorized a study on possible alternate routes to the Barona Casino connecting to SR67. This included proposed routes around San Vicente Reservoir. I was never able to find the results of the study. Perhaps it was never made public.

I would also hope the County would be more open with information than the San Diego County Water Authority (SDCWA) was during the early stages of the Moreno-Lakeside Pipeline project. To my knowledge none of the residents or land owners on Willow Road were even aware of the project until after the pipeline route had been established and most of the plans had been drawn up. Hastily convened meetings merely allowed us to view charts and photos of what was going to happen, with essentially no input. This situation was dereliction of management duties. I also mention this here because they have recently started the construction phase. During the several months that they have Willow Road torn up to lay the pipeline this project will severely affect traffic flows on Wildcat Canyon Road, Willow Road and Ashwood Street.

Refer to 4.13.2 below.

**[4.10.2.3 SR 67 - Scheduled Capital Improvement Projects - pg 100]**

In reviewing the County's web site, one of the pages declares Wildcat Canyon Road to be among the Top 10 Capital Improvements Projects. However, when you check the project status it has a completion date in 1999. It is already 2002! Public information on this project seems to be not very timely.

Refer to 4.13.2 below.

**[4.13.2 Wildcat Canyon Road - Road Review - pg 105]**

The following quote from a recent county response letter gives a concise introduction to Wildcat Canyon Road:

"Wildcat Canyon Road is a winding, primarily two lane road that climbs and descends from the Barona mesa through a scenic, rural area with estate residences and agriculture on large lots scattered among oak trees, boulders and native vegetation. The road passes through three County parks that contribute to the rural atmosphere. ... also passes near the Audubon Societies's Silverwood Sanctuary."

This is a scenic roadway but also it has one of the highest accident rates in San Diego County with approximately 80 accidents per year (one every 4.5 days). That was information from the Highway Patrol in 1999 and it has only gotten worse since. In the spring of 2001, when there were three deaths on Wildcat Canyon Road within three months, it seemed that something should be done pronto. I believe that the County is panning to make safety improvements to Wildcat Canyon Road with funding from the County, Barona and the Bureau of Indian Affairs (BIA). This makes sense because the BIA will not allow the money to be spent for anything except changes to Wildcat Canyon Road. However, I am opposed to the installation of two more lanes to Wildcat Canyon Road until adequate changes have been completed to the roads and intersections that must handle all the extra traffic. This would just make an untenable situation worse on all roads, intersections and residents near the Southern end of Wildcat Canyon Road.

In previous testimony in the Barona Report #2, the Ramona Community Planning Group

has recommended 4 lanes for Wildcat Canyon Road. The Lakeside Community Planning Group recommended 2 lanes as did the Wildcat Canyon Alliance. The two lane road is consistent with the Lakeside Community Plan.

The County's build-out plan for Wildcat Canyon Road is listed below and the only current source of County funds for the project is gas tax funds. Quote from this report: "...Wildcat Canyon Road will need to be widened to four lanes from the Barona Casino south to Willow Road and ...." "The total cost of these improvements is estimated to be \$52.5 million."

The following road segments must be considered when Wildcat Canyon Road is reviewed because they carry the traffic from Wildcat Canyon Road to SR67 (south of Maplevue). Refer to attachment 2 showing how these roads are positioned relative to Wildcat Canyon Road.

Ashwood (Willow to Maplevue)  
Willow Rd. (Wildcat/Ashwood to SR67)  
Lakeside Ave (SR67 to Channel)  
Maplevue (SR67 to Lake Jennings)  
SR67 (Willow Road to Maplevue)  
Lakeside Ave (alignment to Willow)

The following intersections must also be considered:

primarily intersection SR67@Maplevue.  
But also intersections:  
SR67 @ Willow Rd.  
SR67 @ Lakeside Ave  
Ashwood/Wildcat@Willow  
Ashwood@Maplevue.

Barona buses currently ferry passengers from El Cajon to the Barona Casino by way of SR67, Maplevue, Ashwood and on to Wildcat Canyon Road. I am truly thankful to Barona Casino for providing these buses and for having them not travel on Willow Road. Convoys of tour buses used to travel on Willow Road and it was dreadful. Reviews of Wildcat Canyon Road should consider more buses, ride sharing and mass transit.

Any new changes to Wildcat Canyon should include turn outs and rest areas. By the time they reach the bottom of Wildcat Canyon are having problems with cars overheating, brakes overheating, flat tires, out of gas and must stop to assess the problems. All day long people are stopping in front of my house or neighboring houses without any adequate parking area in order to check their cars, argue with each other, talk on their cell phones, dump trash, (cigarette butts and casino advertisements) on the street or sleep off a drunk. Adequate turnouts and rest areas would make life safer for everyone.

In 1999, the County Board of Supervisors authorized a study on possible alternate routes to the Barona Casino connecting to SR67. This included proposed routes around San

Vicente Reservoir. I was never able to find the results of the study. Perhaps it was never made public. But, maybe now is the time to reconsider since Barona now has purchased property between the Casino and the Reservoir and since they are also digging a pipeline to the reservoir in order to get water from the City of San Diego. Access from the SR67 would be to existing Moreno Ave.

Any review of Wildcat Canyon should consider emergency detour routes. Currently when there is a large accident on Wildcat Canyon Road the police immediately block access to Willow Road West of SR67. It is done by blocking the intersections Willow@Wildcat Canyon and Moreno@Willow so that no residents can return to their home for several hours, except by leaving their car and hiking in up to 1 mile. This also affects the residents of Redlander Way, Dollar Way, Fillbrook Drive and Lady Lane as there is no access without hiking. This is another example of how everything that happens on Wildcat Canyon Road has a bad ripple effect on all downstream roads.

### **[5.1 Air Resources - Impacts - pg 115]**

One of the air resource impacts is extra exhaust fumes emitted in the area of Willow Road. These are fumes beyond the normal pollution of the normal flow of traffic. One instance is everyday autos and trucks stop on the edge of the (half on and half off) in front of my house or adjoining houses. They perceive this to be their first chance to stop after the arduous journey down Wildcat Canyon Road. They either check their tires and brakes for damage, look at maps, fight with each other or talk on cell phones. When I find the large diesel truck drivers parked, spewing diesel fumes and talking on the cell phones, I chase them off.

The other air pollutant is dust. Most of Lakeside is dust. It is just sometimes covered by a few trees. Dust is continually kicked up by the large horse population, which is not usually a large problem. However, large volumes of traffic at high speeds tend to keep the dust continuously airborne and on the move. The lemon tree that I have growing closest to the road has a large percentage of the fruit which matures into a very deformed state with weird pointed sections. The person at the nursery said that it was caused by too much dust while the fruit is small and just starting to form.

### **[5.3 Community Character/ Aesthetics - Impacts- pg 118]**

The large Barona billboards near Highway 67 and the town of Lakeside are visual pollution.

There are two sets of directions from San Diego to Barona Casino.

Directions: Take I-8 to 67 north in El Cajon. Proceed through Lakeside, then turn right on Willow Road and left on Wildcat Canyon Road.

Directions: Take I-8 to 67 north in El Cajon. Proceed through Lakeside, then turn right on Mapleview and left on Ashwood Street which becomes Wildcat Canyon Road.

The first set is used by the Barona bus and is the shortest at 1.3 miles. The second is the one plastered on billboards for newcomers, and is the longest at 1.65 miles.

Travel east on I-8 and turn at El Cajon onto State Highway 67 North. After you pass the first couple of Lakeside exits, the pavement begins to narrow from 4 lanes to 2 lanes from Mapleview and beyond. As you pass the Lakeside exit signs for Winter Gardens Boulevard and Mapleview Street you will see two large billboard signs, approximately 40' in height. As you approach Mapleview St. there will be two more similar signs on the left. All four signs are Barona Casino advertising and they all four direct you to **"TURN RIGHT ON WILLOW ROAD"**(See attachment #1). These signs are very offensive.

From the intersection of Highway 67 and Mapleview there are two ways to get to Barona Casino (without going to Ramona first). The shortest path is to turn right at Mapleview, proceed 1/3 mile and turn left onto Ashwood Street which becomes Wildcat Canyon Road as it intersects Willow Road after 1.0 mile. It is then 5 miles to the Barona Casino. The second path is the one indicated in the Barona billboards. These signs are offensive because they are ugly and qualify as visual pollution. I live on Willow Road must listen to this traffic 24 hours per day with no way to protect myself as these signs try to make everyone turn onto Willow Road.

Two years ago nearly every billboard between Lakeside and the ocean had a Casino advertisement. That time has passed and the billboards are not that useful anymore since most people now know how to get to all the Casinos. A much better approach would be to have the County of San Diego erect regulation type signs that provide all the directions to get the gamblers to the Casino without the billboards. This should also save the Tribes a lot of money. It would even be better if the signs had a Lakeside/Western/Tribal motif which would fit with the Lakeside community character. The signs should also describe both directions to Barona, not just **"TURN RIGHT AT WILLOW"**. I am truly thankful to Barona Casino for providing buses to haul people to the Casino and for having them not travel on Willow Road.

### **[5.7 Hydrology, Water Quality and Quantity - pg 121]**

The original Barona environmental report was produced back when the golf course was being constructed. It declared there was plenty of water for existing Barona projects and it would have no off-reservation effects. Shortly after the golf course started pumping water to irrigate the plants many of Barona's neighbors on Old Barona Road had their wells run dry. Barona has denied any connection to pumping water for the golf course. However, Barona has started running out of water for their Casino facilities and is trying to buy more water from the City of San Diego from San Vicente Reservoir. So the original

environmental reports were apparently way off base. In anticipation of the water from San Vicente, Barona started construction of the pipeline to get the water and performed trespass on the County of San Diego property so the Barona water problem is going from bad to worse. Barona should come clean and share it's water pumping and well data with the County this issue can be sorted out. In the mean time the neighbors with dry wells must buy water by the truckload and have it hauled up the hill.

### **[5.8 Public Safety - Impacts - pg 122]**

I have no way of finding out how many accidents occur on Willow Road, but the road always looks like an accident waiting to happen. People traveling to the Barona Casino enter Willow Road after traveling many miles on Highway 8 and Highway 67 under freeway rules. Willow Road has a restricted speed limit (45 Radar Enforced), two lanes and no passing anywhere. It also has six categories of travelers that are not allowed on the freeways as follows:

- 1 farm tractors
- 2 pedestrians
- 3 bicycle riders
- 4 horse riders
- 5 unlicenced go carts
- 6 unlicenced motorcycles

There are no stop lights, stop signs or cross walks the entire length of the road segment from Hwy67 to Wildcat Canyon Road. There are also no designated areas for these extra travelers. There are no designated bike paths, trails, etc. The farm tractors and bicycles travel on the edges of the pavement. The unlicenced vehicles travel anywhere in any direction. The pedestrians and horse riders travel off the pavement but also in no particular direction. The pedestrians include many people from the nursing home who many time walk to the Circle K Store on Hwy 67. (Also known as the last place to get gas before entering Indian territories.) There are also 5 roads that intersect this segment of Willow Road and approximately 25 driveways with vehicles entering the roadway all day long. Those 5 roads are: Moreno Ave., Red lander Way, Dollar Way, Millbrook Drive and Lady Lane. And if it rains one lane will be blocked with water because there is no drainage and the road is level. After you add in the heavy trucks, tour buses, taxis, concrete trucks etc. you have a very messy mix. There also is no weight limit on this road segment so anything goes. I saw a D10 CAT on a lowboy traveling the road a month ago and a week later a group of ten horses (with riders) crossing the road en mass. Remember there are no cross walks or horse walks. Although Ashwood Street received a horse walk last week with large signal lights 500 feet on each side of the walk.

And the Barona travelers, fresh from the freeway, continue to try to pass anyone that is going less than 60MPH and they will attempt it on either side and sometimes with embellishments by the horn. This creates incredible noise and danger. In many cases the cars are passing within a few feet of pedestrians or horse riders, and going up to 60MPH.

It is hard for me to understand how the County can sanction this activity. I grew up in rural Oregon with many horses and there are always horses in the pack that will get spooked at an unexpected noise or object and backup into the road into incoming traffic. I have seen it happen a couple of times on Willow but luckily no disasters yet.

In 1998 I worked with the San Diego County Traffic Advisory Committee to get the speed limit on this road segment RADAR ENFORCED. However, I don't think it has made much difference in the amount of speeding which occurs all day long. (Also, the sign is currently in a vandalized state.) I talked to a Sheriff officer and he said the Sheriff Dept. does not issue speeding tickets on this road, that is the job of the Highway Patrol. I seldom see police officers on this road unless they have their siren on and are traveling to accidents on Wildcat Canyon along with the Paramedics. The speeding keeps the noise level high and the safety low.

I finally realized after talking to many county employees over the last several years that the county's primary concern is for the safety of the normal highway motorist and not the pedestrians, bike riders or horse riders. This road segment needs serious attention in sign age and designated pathways from the County before there are any serious accidents and before Wildcat Canyon is improved to dump additional traffic here.

An example of how the transition from Highway speeds to reduced speed can be seen as you enter Sacramento on I-5 from the South. There are two large yellow signs that read **"Entering Urban Area, Slow Speed Ahead."** The equivalent sign for the transition from Hwy67 to Willow Road might read **"Entering Rural County Road, Slow Speed Ahead, Watch for Horses, Pedestrians, Bicycles and Farm Tractors."**

#### **[5.9 Noise - Proposed - pg n/a]**

Note: This section does not exist in the report, but is placed here to add my comments. The original report dated November 2000 included a paragraph **[3.10 Noise]** under potential impacts.

As an introduction to my remarks I include below four significant statements from the November 2000 San Diego County report related to noise.

(1) "Based on previous review of Environmental Assessments for Indian gaming facilities, traffic causes the predominant off-site potential noise impact from these projects"

(2) "...staff has pointed out in the **previous four reviews** that a comprehensive noise study is required to assess the potential impacts on the basis of the Community Noise Equivalent Level (KNAWEL).

(3) "The use of KNAWEL or even D.L. (Day-Night Level) provides a more realistic measure of adverse noise impacts to Noise Sensitive Areas (NSA), like off-reservation residences, because it includes a 24-hour assessment of traffic volume, speed, mix, and propagation conditions. The percentage of nighttime traffic activity associated with proposed gaming facilities has been described in the Environmental assessments to exceed the County average by a range of 10 to 22 percent. This result will boost the KNAWEL to a higher degree than a typical noise distribution seen in County studies."

(4) "Without the KNAWEL data described in the previous section, staff is currently unable to assess noise impacts independently or to substantiate the recommendations or claims of any of the assessments that have been reviewed by the County to date."

The report then goes on to cite seven road segments that have possible noise impacts from the Barona Gaming Facility. The four which are South of the casino are listed below:

- (1) Ashwood Street (5,200),
- (2) Mapleview Street (4,500),
- (3) Wildcat Canyon Road (7,100),
- (4) Willow Road (11,200) and
- (5) SR67 (11,000).

The problem is also identified in the Barona Environmental Report of March 2000.

"The principal source of noise in the Off-Reservation area affected by the casino expansion is traffic on the roadways."

"The off-reservation sensitive noise receptors that would be affected by the casino expansion are residences adjacent to the roadways used by casino traffic. Most of these homes are located on Wildcat Canyon Road between Willow Road and the Reservation (milepost 5) and on Willow Road. The homes on Willow Road are 50 to 75 feet from the road."

I live on Willow Road (between Highway 67 and Wildcat Canyon Road). My house and several others are closer to 40 feet from the road and greatly affected by the road noise. Not all of the traffic is from the Barona Casino but I would guess that 90% of the traffic during the hours of 10PM and 2AM are going to or from the casino. Unlike many roads Willow is busy 24 hours per day (just like Wildcat Canyon Rd. and Ashwood St.) since the casino runs around the clock. This is the noise that keeps me awake at night. It is incredibly bad on Friday, Saturday and Tuesday nights. Large diesel rigs and high powered stereos (as well as the Marine helicopters) are not only noisy they generate a vibration that can be felt as the noise vibrates the house. I have spent nearly \$2000 so far in attempting to block the noise from my house, including double pane windows on the road side. Yet even with ear plugs in and a noise machine running I can still hear the nighttime road noise.

Another possibility is erecting concrete block walls such as one of my neighbors has done. It provided some relief for him but now is considering special noise reduction windows. The problem I had was that when I went to the zoning department to find out what was required for a block wall they said it had to be 60' from the center of the street before you could even make it 6 feet high. The problem is that puts it right on top of my house so I would get no light from that side of the house. The house has a noise problem because it was too close to the street to begin with. So if I spend \$20-30,000 for a block wall that shuts out all light from one side it may reduce the sound. However, if the county ups the speed limit or doubles the traffic they nullify my noise fix. We need help from the County and Barona in correcting this noise problem. I am tired of hearing the same answer from county employees. No one could predict the explosion of Tribal Casinos and were sorry

it affected you but we cant' control anything the Tribes do. If its not Barona's problem then it is the county's problem and we need help! Perhaps we could have rerouting of some traffic during sleeping hours or during the many shift changes at the casino.

I have talked to Caftans road engineers in Sacramento and they said that the volume of road noise is generated by (1) speed, (2) type of pavement, (3) type of traffic and (4) general volume of the traffic. Many people tend to speed at night with no one watching and the faster they go the loader the noise. Many people travel at 60MPH (in this 45MPH zone) and at that speed the noise is about double what it would be at 30MPH. A large sized SUN can easily generate 90dBA of noise as I measure it at the edge of my property while large diesel rigs can hit 100dBA.

The Caftans engineers have indicated that 75% of the noise is typically tire noise from the friction against the pavement. They recommended that the County consider using "rubberized asphalt" for surfacing the next time the road is due for resurfacing. The San Diego County Water Authority (SDCWA) is gearing up for construction of the Moreno-Lakeside Pipeline Project which will take 24 months to complete. During this construction they will rip up about 80% of this road segment connecting Highway 67 to Wildcat Canyon and lay down a five foot in diameter water pipeline. This should destroy the road surface sufficiently that it will need to be resurfaced. That will be an ideal time for the county of San Diego to try testing "rubberized asphalt" for noise reduction.

The following quotes are from the County response to the Supplement to the Barona Environmental report #2. Again, they emphasize the inadequacy of the Barona report relative its noise conclusions.

"Staff has noted that the noise analysis refers to existing hourly levels at 50 feet from the intersection of Wildcat Canyon Road and Muth Valley Road as 69 decibels (dBA) with disclaimers about aircraft noise. However, these peak hour noise estimates may not accurately reflect impacts for gaming facilities that operate on a 24-hour basis. Community Noise Element or NEL is a weighted average of hourly noise levels used to determine potential noise impacts on a 24-hour basis. This average (KNAWEL) penalizes those activities that cause disturbances in the middle of the night when background levels are low."

"Surveys of local activity at one gaming facility documented a nighttime component that accounts for 23 percent of all project-related traffic."

Policy 4b of the Noise Element of the General Plan specifies, "Whenever it appears that new development will result in any (existing or future) noise sensitive areas being subjected to noise levels of KNAWEL equal to 60 decibels or greater, an acoustic study should be required". The Noise Element defines "noise sensitive areas" as "the building site of any residence, hospital, school, library, or similar facility where quiet is an important attribute of the environment."

The County again points to the need for a noise study as it has in previous documents in the following quote:

"A noise study is needed to substantiate the claim that no off-Reservation noise mitigation measures are needed for this proposed project. A noise study would provide the justification for supporting this conclusion."

Barona has argued that no mitigation is required for noise since the increase in noise would be only 2dBA, using their noise records.

They also argued that “**most persons do not perceive noise level changes less than 3dBA.**” That may be true, but it is a very fallacious argument for this situation. The background noise level on Willow Road is about 40 dBA at night. When a group of cars come down Willow at midnight hitting 60 MPH and creating 80 dBA of noise as they pass my house they have just increased the noise level by a factor of 16! It is suddenly 16 times as loud as it was a minute earlier. And if they have a super stereo it is even worse. Believe me, it is very perceptible in the Barona/Willow case. It is most offensive during the 10PM to 2AM time period. It also occurs during rush hour and during shift changes.

So even if the average increase is less than 3dBA the current overall and specific incidents are way beyond any normal limits, at least at night.

Instead of spending more “gas money” on making Wildcat Canyon larger some of it should be spent on a study that puts hard numbers on the current problems before increasing the problem. San Diego County has 18,000 employees and the Casino makes a million dollars per month. So why can't a solution be found?

#### **[6.1.1 Tribal, State and Regional Benefits from Gaming - pg 125]**

The last paragraph uses the acronym RAT three times and expands it with “Revenue Allocation Plan”. Is this an error?

#### **[6.2.4 Future Considerations - Fiscal Impacts of Tribal Economic Enterprises - pg 129]**

Every few years I am invited to participate in jury duty. This year the case I was assigned to was from a casino in San Diego county. This consumed a weeks worth of time and cost from the county (courtrooms, judge and two defense attorneys), state (prosecuting attorney), employers and employees who were not reimbursed.) This should be added to the list of impacts, just for the record. These are costs to the state, county, employers and employees which if dealing with a normal business the costs would have been covered by taxes being paid such as property taxes and state and federal income taxes which are not usually paid by the tribal casinos because of their sovereign status.

#### **Appendix C, page 23**

The line entry below appears to be in error according to my speedometer. It is only 0.75 miles from Willow Road to Mapleview St.

“SR 67 (Willow Road to Mapleview Street) - (1.22 miles)”

## **My Summary**

There are Tribal Casino winners and losers as listed below.

**Casino Winners: politicians, tribes and charities.**

**Casino losers: compulsive gamblers, casino neighbors and county taxpayers.**

As a Casino loser (without getting to play) I think that some governmental oversight is in order in the area of off-reservation impacts which are not being mitigated. The federal and state governments have granted these monopolies to the "Sovereign Tribal Nations" and only they can correct the problems. The County is still not able to cope.

Most of the data including ADT, LOS data, dBA, etc appear to be mostly ad hoc numbers created by differing methods for collection and leading to widely differing conclusions. The general methodology for calculating each Tribes portion looks like a reasonable approach. However, more accurate and more controlled data should be collected.

Wildcat Canyon Road improvement issues need study, which is currently happening, according to this report, by way of an EIR report. Any study on Wildcat Canyon Road should include Willow Road, Ashwood St. , Mapleview , SR67, Lakeside Avenue and all related intersections. All components are closely coupled to Wildcat Canyon Road. Also, more attention should be directed to moving people using mass transit, not more roads and more cars.

Noise issues were covered in all 3 Barona reports and the first County report. However the noise issue was dropped (for unknown reasons) in the current report, even though all the county comments on noise suggest further study is needed. Staff recommendations have been ignored by County management. Not only is noise going to be a future issue, it is a serious problem right now.

San Diego County has the largest number of Tribes of any county in the United States as well as the most Tribal Casinos, with more on the way. Barona Casino will require the most amount of County money for road construction of any Casino in San Diego County. The noise generated from Barona Casino traffic keeps me awake at night. I guess I should feel fortunate to be at the absolute forefront of the Tribal Gaming revolution!

Sincerely,

A handwritten signature in black ink that reads "Ronald N. Webb". The signature is written in a cursive, flowing style.

Ronald N. Webb

**attachments:**

**1 Barona Casino Billboards**

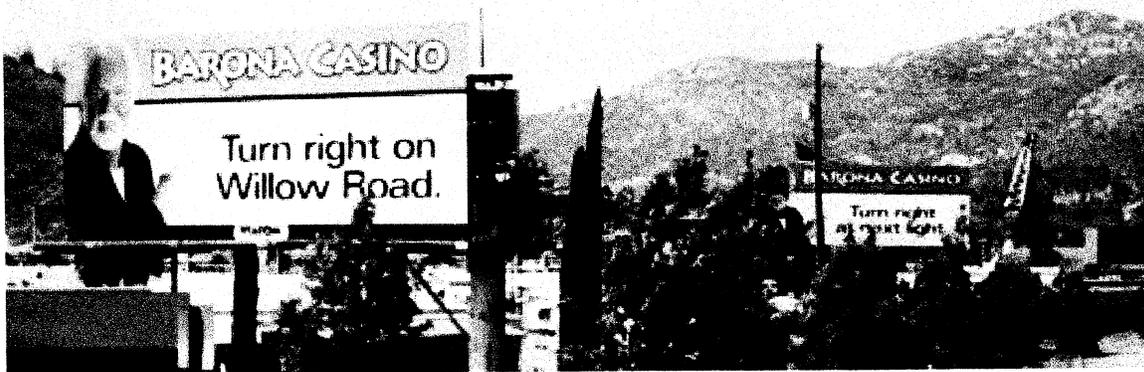
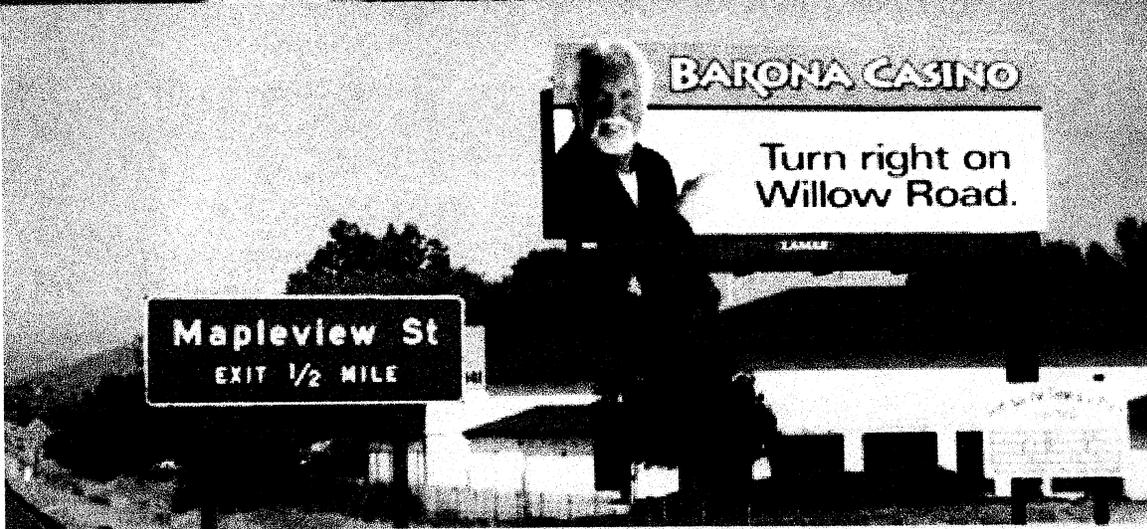
**2 Map - Barona Casino Traffic Circle**

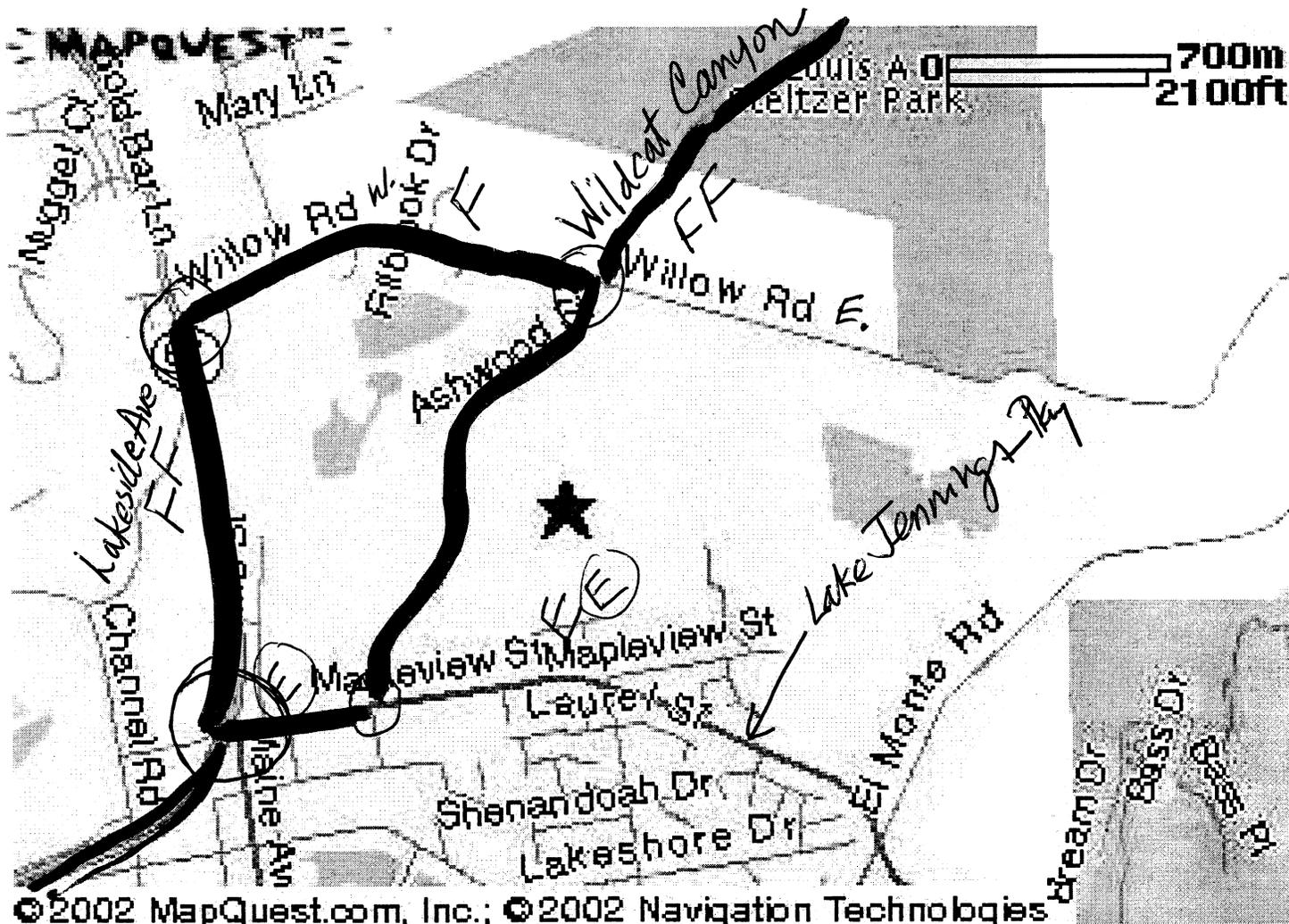
**3 Acronym List**

**4 Policy 4b of the San Diego County Noise Ordinance**

# Attachment 1 - Barona Casino Billboards

baronasigns (531x646x16M jpeg)





Attachment 2 - Map - Barona Casino Traffic Circle

### Attachment 3 - Acronym List

ACR	Assembly Concurrent Resolution
ADT	Average Daily Trips
APCD	Air Pollution Control District
APN	Assessor's Parcel Number
ASTREA	Aerial Support to Regional Enforcement Agencies (Sheriff Division)
BAR	Branch of Acknowledgement And Research
BIA	Bureau of Indian Affairs
BLM	Bureau of Land Management
BOA	Bank of America
BOE	Board Of Equalization
CAO	Chief Administrative Office[r]
CE	Circulation Element
CEPA	Campo Environmental Protection Agency
CEQA	California Environmental Quality Act (of 1970)
CFR	Code of Federal Regulations
CNEL	Community Noise Equivalent Level
CNG	Compressed Natural gas
ConVis	Convention and Visitors Bureau
CTC	California Transportation Commission
DOI	Department Of Interior
EIR	Environmental Impact Report
EIS	Environmental Impact Statement
EPA	Environmental Protection Agency
ESA	--unknown--
FONSI	Finding Of No Significant Impact
FTT	Fee-To-Trust
GED	General Equivalency Diploma
GIS	Geographic Information System
GP 2020	General Plan [Year] 2020
HCM	Highway Capacity Manual
HR	--unknown--
HUD	Housing and Urban Development

ICDBG	Indian Community Development Block Grants
IGRA	Indian Gaming Regulatory Act (of 1988)
IIP	Interregional Improvement Plan
IRA	Indian Reorganization Act (of 1934)
ITE	Institute of Traffic Engineers
K-12	Kindergarten through 12 <sup>th</sup> Grade
LKAR	Lakes Kean Argovitz Resorts
LOS	Level Of Service
LPEPA	La Posta Environmental Protection Agency
LUEG	Land Use and Environment Group
MAAC	--unknown--
MHI	Muht-Hei, Inc.
MSCP	Multiple Species Conservation Program
NEPA	National Environment Protection Act
NIGA	National Indian Gaming Association
NIGC	National Indian Gaming Commission
NPDES	National Pollutant Discharge Elimination System
PL	Public Law
RAQS	
RAS	Regional Arterial System
RAT	Revenue Allocation Plan
RFPD	Rural Fire Protection District
RTA	Reservation Transportation Authority
RTP	Regional Transportation Plan
RWQCB	Regional Water Quality Control Board?
SANDAG	San Diego Association of Governments
SB	Senate Bill
SCTCA	Southern California Tribal Chairmen's Association
SIHC	Southern Indian Health Counsel
SIP	
SLRIWA	San Luis Rey Indian Water Authority
SR	State Route
STIP	State Transportation Improvement Plan

TANF	Temporary Assistance for Needy Families
TERO	Tribal Employment Right Ordinance
USC	United States Code
VIP	Very Important Person
WASC	Western Association of State Colleges
WPO	Watershed Protection Ordinance

## **Attachment 4 - Policy 4b of the San Diego County Noise Ordinance**

### **Appendix B**

#### **Pertinent Sections of the San Diego County Noise Ordinance and The Noise Element of the San Diego County General Plan**

##### **County Noise Ordinance**

##### **SECTION 36.410. CONSTRUCTION EQUIPMENT.**

Except for emergency work, it shall be unlawful for any person, including the County of San Diego, to operate construction equipment at any construction site, except as outlined in subsections (a) and (b) below:

(a) It shall be unlawful for any person, including the County of San Diego, to operate construction equipment at any construction site on Sundays, and days appointed by the President, Governor, or the Board of Supervisors for a public fast, Thanksgiving, or holiday. Notwithstanding the above, a person may operate powered construction equipment on the above specified days between the hours of 10 a.m. and 5 p.m. in compliance with the requirements of subdivision (b) of this Section at his residence or for the purpose of constructing a residence for himself, provided such operation of construction equipment is not carried on for profit or livelihood. In addition, it shall be unlawful for any person to operate construction equipment at any construction site on Monday through Saturdays except between the hours of 7 a.m. and 7 p.m.

b) No such equipment, or combination of equipment regardless of age or date of acquisition, shall be operated so as to cause noise at a level in excess of seventy-five (75) decibels for more than 8 hours during any twenty-four (24) period when measured at or within the property lines of any property which is developed and used either in part or in whole for residential purposes.

In the event that lower noise limit standards are established for construction equipment pursuant to State or Federal law, said lower limits shall be used as a basis for revising and amending the noise level limits specified in subsection (b) above.

##### **County Noise Element**

Policy 4b of the Noise Element of the General Plan specifies that "Whenever it appears that new development will result in any (existing or future) noise sensitive area being subjected to noise levels of CNEL equal to 60 decibels or greater, an acoustical study should be required". The Noise Element defines "noise sensitive area" as "the building site of any residence, hospital, school, library, or similar facility where quiet is an important attribute of the environment."

According to the Noise Element of the General Plan, if the acoustical study shows that noise level at any noise sensitive area will exceed CNEL equal to 60 decibels, the development should not be approved unless the following findings are made:

- A. Modifications to the development have been made or will be made which reduce the exterior noise level below CNEL equal to 60 decibels; or
- B. If with current noise abatement technology it is infeasible to reduce exterior CNEL to 60 decibels, then modifications to the development have been or will be made which reduce interior noise below CNEL equal to 45 decibels. Particular attention shall be given to noise sensitive interior spaces such as bedrooms. And,
- C. If finding "B" above is made, a further finding is made that there are specifically identified overriding social or economic considerations which warrant approval of the development without modifications as described in "A" above.

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September 26, 2002

Ms. Chantal Saipe  
Tribal Liaison  
Chief Administrative Office  
County of San Diego  
1600 Pacific Highway Room 209  
San Diego, CA 92101  
fax 619-557-4060

Re: Draft Update on Impacts of Tribal Economic Development Projects in San Diego County

Dear Ms. Saipe:

Our office represents the Jamul Indian Village and the majority of the properly enrolled surviving members of the original 23 individuals who adopted the Jamul Village constitution in 1981. Our clients have asked us to respond to the above referenced "Draft Update," and correct a number of inaccuracies that appear to have been provided by a self-interested gaming faction at the Village.

Presently the village is under siege by out of state gambling interests that seek to exploit Jamul's federal recognition as a "reorganized" tribe under the Indian Reorganization Act of 1934. These outside interests and the gaming faction seek their own personal profit at the expense of the majority of legitimate members of this village, who do not want to be displaced by a gambling casino.

It must be remembered that the gaming faction has a decidedly biased interest in attempting to create the appearance that a "reservation" somehow materialized, even though they cannot cite to a single reference to the creation of such a "reservation" in the official publication of the Federal Register. Class III gaming is "lawful" on an Indian "reservation." It is not lawful on land held in trust for individual Indians, which was acquired, as in Jamul, before the "tribe" was created. 25 U.S.C. 2703 and 2710. See, discussion below.

It appears that these interests have supplied the County with false information, which appears in the following paragraphs of the "Draft Update":

**Paras.**

**2.2, 3.6**           **There is no "Jamul Indian Village Reservation."**

**3.6.2**           **No "Indian Reservation status" was ever "attained" for the Village.**

In addition to these specific paragraphs, the "count" of 18 reservations in San Diego County needs to be corrected throughout the "Draft Update," not just in the sections concerning Jamul, since the Jamul Indian Village does not have a "reservation." The reference to "reservation" must also be deleted on all of the appended maps to the "Draft Update." See, for e.g. Appendices A, and D-1.

From our clients' perspective, the most glaring error in the "Draft Update" is the reference to the property in Jamul, as a "reservation." The federal government has never created a "reservation" in Jamul, before, or after, the Indian governmental entity known as the "Jamul Indian Village" was first created under the Indian Reorganization Act in 1981. There is simply no Indian reservation in Jamul, California, and there is no Indian reservation known as the Jamul Indian Village.

As the federal government has admitted in litigation with our clients, Congress did not recognize any Indian tribe in Jamul, until 1981, when the governmental entity known as the Jamul Indian Village, was first recognized by Congress as a half-blood community of Indians, under the Indian Reorganization Act of 1934. This entity, known as the Jamul Indian Village, is, and was upon creation in 1981, a landless entity.

There is no record of any treaty, act of Congress, or executive order, creating a reservation for the Jamul Indian Village.

A more complete history of the creation of the governmental entity known as the Jamul Indian Village, and the failure of the federal government to create an Indian reservation in Jamul, are catalogued by the Bureau of Indian Affairs, Carol Bacon, Director of the Office of Tribal Services, on July 1, 1993:

The Commissioner [of Indian Affairs] found [on November 7, 1975] that while those individuals at Jamul of one-half degree or more Indian blood do not now constitute a federally recognized entity and do not possess a land base, they are entitled to services provided by the Bureau to individual Indians pursuant to Section 19 of the IRA [25 U.S.C. 479]. The Commissioner further held that should these Jamul half-bloods secure, in trust status, the tract of land on which they reside they would be eligible to organize as a community of adult Indians of one-half degree or more Indian blood under Section 16 of the IRA...

The Jamul Indians lived on one acre of private land and on land deeded to the Diocese of San Diego as an Indian cemetery. On June 28, 1979, the United States acquired from Bertha A. and Maria A. Daley a portion of the land known as "Rancho Jamul" which it took "in trust for such Jamul Indians of one-half degree or more Indian blood as the Secretary of the Interior may designate."...The United States accepted these conveyances of land in accordance with the authority contained in Sections 5 and 19 of the Indian Reorganization Act of 1934 [25 U.S.C. 465, and 479 respectively]...

The Constitution of the Jamul Indian Village was approved by the Deputy Assistant Secretary-Indian Affairs on July 7, 1981. In approving the IRA Constitution, the Village was authorized to exercise those self-governing powers that have been delegated by Congress or that the Secretary permits it to exercise. A number of "tribes" have been created, from communities of adult Indians, or expressly authorized by Congress under provisions of the IRA and other Federal statutes. For example, some IRA entities availed themselves of the opportunity to adopt an IRA constitution and are considered to be IRA "tribes." However, they are composed of remnants of tribes who were gathered onto trust land. Those persons had no historical existence as self-governing units. They now possess only those powers set forth in their IRA constitution. They are not an inherent sovereign. Rather, that entity is a created tribe exercising delegated powers of self-government. Such is the case with Jamul Indian Village.

The U.S. Department of Commerce' Federal and State Indian Reservations and Indian Trust Areas (U.S. Govt. Printing Office, Stock Number 0311-00076), does not list any reservation for the Jamul Indian Village.

"An Indian reservation is a part of the public domain set apart by proper authority for the use and occupation of a tribe or tribes of Indians. It may be set apart by an act of Congress, by treaty, or by executive order; I do not think an Indian reservation can be established by custom or prescription. The fact that a particular tribe or band of Indians have for a long time occupied a particular tract of country does not constitute such tract an Indian reservation." Matter of Forty-Three Cases Cognac Brandy (C.C.) 14 F. 539; cited by 31 Corpus Juris 499 (emphasis added); Sioux Tribe v. U.S. 94 Ct. Cl. 150, 170, aff'd 316 U.S. 317; Donahue v. Butz (N.D. Cal. 1973) 363 F.Supp. 1316, 1321.

This definition is also reflected in the BIA's response to "Frequently Asked Questions," at its website, in which the Government states in response to the question, "What is a reservation?": "An Indian reservation is land a Tribe reserved for itself when it relinquished its other land areas to the U.S. through treaties. More recently, Congressional acts, Executive Orders and administrative acts have created reservations." [www.doi.gov/bia/aitoday/q\\_and\\_a.html](http://www.doi.gov/bia/aitoday/q_and_a.html)

(5/18/2000). A “reservation” is simply not created by a group of individual Indians residing together at one location.

In Peters v. Pauma School Dist. (1928) 91 Cal.App. 792, Justice Wood applied this long held definition, finding that the federal government’s acceptance of a grant deed in trust for the benefit of certain Indians residing on the property did not constitute the creation of an Indian reservation. Therein the court stated: “Applying the facts as found by the trial court to the foregoing definitions, it is apparent that elements are lacking which are necessary to constitute the land on which plaintiff is residing an Indian reservation.” Id., at 794.

In Peters, the predecessor to the Fourth District Court of Appeal, had the occasion to determine whether Wesley Peters was “entitled to be admitted to the duly established school of the Pauma School District,” or whether he was a resident of an Indian “reservation,” and therefore not entitled to attend the public school. Much like the history of the half-blood Jamul Indians, “the findings show only that certain Indians are living on land which, under the terms of the Mexican grant, was set apart to them for planting ground; that in 1889 the [U.S.] government received title to the land from one Mora and holds that title for the use and benefit of the Indians who are now occupying it in the same manner as other citizens.” Id., at 795.

The Peters court specifically found that “title to this land was then quitclaimed to the United States government, for the use and benefit of said Mission Indians,” and that such a grant of the property did not constitute the creation of an Indian “reservation.” Similarly, here the Daley’s grant deed in 1978 “to the United States of America in trust for such Jamul Indians of one-half degree or more Indian blood as the Secretary of the Interior may designate,” did not create a “reservation.” Just as in Peters, there was no recognized tribe or tribes of Indians then residing on the property, and “the United States Government has never made treaties of any kind with these Indians, and that said Indians live in the manner of other American citizens in the vicinity.” Id., at 793.

More recently, the Tenth Circuit held that the purchase of the Shriner’s Auditorium, next door to the Wyandotte’s Huron Cemetery in downtown Kansas City, and “taking it into trust on behalf of the Wyandottes,” did not create a “reservation,” as defined by the Indian Gaming Regulatory Act. Sac and Fox Nation of Mo. v. Norton (10<sup>th</sup> Cir. 2001)240 F.3d 1250, 1257 and 1267; cert. denied, (January 7, 2002) 122 S. Ct. 807. Therein, the Tenth Circuit held that “IGRA specifically distinguishes between the “reservation” of an Indian tribe and lands held in trust for the tribe by the federal government. e.g., 25 U.S.C. 2719(a)(1)-(2), (b)(1)(B). ... Applying what we believe to be the proper definition of the term “reservation” for purposes of IGRA to the facts of this case, it is apparent that the Huron Cemetery does not fall within that definition.” Id., at 1267.

Sac and Fox Nation specifically found that the federal government's holding land in trust for specifically identified Indians does not constitute the creation of an Indian "reservation." Id., at 1257 and 1267. This holding is also mirrored in the BIA's website, wherein the BIA states categorically: "Approximately 56.2 million acres of land are held in trust by the United States for various Indian Tribes and individuals. Much of this is reservation land; however, not all reservation land is trust land. On behalf of the United States, the Secretary of the Interior serves as trustee for such lands with many routine trustee responsibilities delegated to BIA officials." [www.doi.gov/bia/aitoday/q\\_and\\_a.html](http://www.doi.gov/bia/aitoday/q_and_a.html) (5/18/2000). Supp. NOL Ex. G.

Wisconsin v. Stockbridge-Munsee Community (E.D. Wisc. 1999) 67 F.Supp. 2d 990, also finds that the Government's taking land into trust does not create an Indian "reservation." There, the tribe's purchase and conveyance of the Pine Hills Golf and Supper Club to the U.S. in trust for the benefit of the tribe, pursuant to the Indian Reorganization Act of 1934, 25 U.S.C. 465, did not create a "reservation." Nor did such conveyance constitute the required "proclamation" of a "reservation," nor "the add[ition of] such lands to [an] existing reservation," under 25 U.S.C. 467. Id., at 1003-4, and 1019.

Kansas v. U.S. (DOI, BIA, NIGC) (10<sup>th</sup> Cir. 2001) 249 F.3d 1213, similarly held that a leasehold interest in 35 acres of non-reservation land in Kansas, located 180 miles from the tribe's reservation in Oklahoma, did not constitute part of the tribe's "reservation." Nor did it constitute "Indian lands," within the meaning of the Indian Gaming Regulatory Act, "IGRA," 25 U.S.C. 2703(4), even though the tribe had adopted "the twenty-plus non-Indian owners of the tract," who "in turn leased the tract to the tribe and consented to the tribe's exercise of jurisdiction over the tract." Therein the Court found: "Congress abrogated the Tribe's jurisdiction over the tract long ago, and has done nothing since to change the status of the tract. An Indian tribe's jurisdiction derives from the will of Congress, not from the consent of fee owners pursuant to a lease under which the lessee acts." Id., at 1230-31.

In Jamul, the federal government admits that Parcel 597-080-01 was taken "in trust" by the United States "for such Jamul Indians of one-half degree or more Indian blood as the Secretary of the Interior may designate," pursuant to 25 U.S.C. 465. There is no mention in the grant deed of the creation of any "reservation," since there was no existing "tribe" recognized to be residing on this parcel at the time the grant deed was accepted in 1978. Congress simply did not grant recognition of the Jamul Indian Village, as a landless governmental entity until 3 years later on July 7, 1981.

Moreover, Congress did not subsequently create any "reservation" for the governmental entity known as the Jamul Indian Village. Since the individuals were already provided a place to live by the designated allotment created by the government's acceptance of the land into trust on behalf of those "Jamul Indians of one-half degree or more Indian blood," that were then residing on the property, there was no need to create a "reservation." Nor did the federal government ever

record a grant deed of Parcel 597-080-01 to the Jamul Indian Village. Despite the gaming faction' attempt to create a false appearance of a "reservation" at the Jamul Indian Village, the federal government has conceded that it accepted Parcel 597-080-01 in trust for the individual Indians, then residing on the property under the express provisions of the Indian Reorganization Act of 1934, 25 U.S.C. 465.

### **3.6 The "tribe" does not "exercise sovereign authority" over Parcel 597-080-01**

Title to Parcel 597-080-01 is held by the United States in trust for such individual "Jamul Indians of one-half degree or more Indian blood," identified in the grant deed from the Daleys recorded December 27, 1978.

#### **3.6.1 The Jamul Indian Village was not "recognized," until it was "created."**

The Village constitution was adopted on May 9, 1981. Until the Village was "created" by the adoption of that constitution, no "tribe" was "recognized" to exist in Jamul.

#### **3.6.2 The Jamul Indian Village does not "sit" on six acres of land.**

Contrary to the mis-information disseminated by the public relations concerns for the gambling interests, deeds on file with the County Recorder's office show that the Village "sits" on 1.37 acres of land granted to the United States July 27, 1982, by the Catholic Diocese, subject to easements for (1) utility service lines and (2) ingress and egress over the existing well-traveled road, to be used for the purpose of an approach to the Indian graveyard, title to which remains in the name of the Catholic Diocese. Nearly all of the 1.37 acres of Village land consists of the road from Highway 94 to the cemetery.

Contrary to the gaming faction' assertions, Parcel 597-080-01, the 4.66 acres deeded by the Daley family to the United States on December 27, 1978, was allotted to the individuals then residing on the property, pursuant to the General Allotment Act of 1887, 25 U.S.C. 345-348, and the Indian Reorganization Act of 1934, 25 U.S.C. 465. Parcel 597-080-01 has never been deeded to the Jamul Indian Village, and title remains in the name of the United States for the express individual beneficiaries listed in the deed. In response to our clients' FOIA request, the BIA has confirmed that "there is no record of the 1978 trust parcel [from the Daleys] being known as the Jamul Village."

### **3.6.2.1 Fee to Trust Application**

Lest the "Draft Update" become a one-sided sales brochure for the gaming faction and gambling interests, the County should publish the fact that the County has formally opposed this application. The County should also publish the fact that on July 17, 2001, Governor Davis opposed the 101 acre Fee to Trust Application, and his written opposition should be reported verbatim. Therein, Governor Davis notes that his opposition is echoed by California State Senator David G. Kelley, United States Representative Duncan Hunter, the County of San Diego, District 2 Supervisor Diane Jacob, the Jamul/Dulzura Planning Group, the Endangered Habitats League, the Bank Country Coalition, and the hundreds of letters from affected adjacent residents.

At a bare minimum, the County "Update" should report the following comments made by the Office of the Governor to the BIA:

[A] fair balancing of State and Tribal interests in this instance requires that the Bureau deny the Tribe's application at this time." "Our review...leads to the inescapable conclusion that the Tribe's proposal is inconsistent with MSCP restrictions on development and presents a serious threat to the viability of a significant portion of the State's recently acquired ecological preserve.

Our opposition...is based on the size and extent of the operation envisioned by the Tribe and its adverse impacts to significant State resources.

Where, as here, there are significant potentially unmitigable adverse impacts on sensitive State resources from a casino project, that project should not be allowed to proceed until it can be conclusively demonstrated through enforceable mitigation measures that those impacts have been eliminated. In this case, no such showing has been made. As a result, because the purpose of this trust acquisition is to facilitate a casino project which has not provided sufficient assurance that is potential for environmental harm has been eliminated, it should be rejected. The Bureau's own rules, likewise, compel rejection of this application.

In this case, the Tribe's proposed use represents a paradigm for the kind of land use conflicts which the Bureau should not permit to occur as a result of a fee to trust proposal.

### **3.6.3 The “population” of the Jamul Indian Village is 12 enrolled members.**

Based upon the sworn declarations of a majority of the surviving and enrolled members of the Village filed in the U.S. District Court for the So. Dist. Cal., there are only 12 remaining enrolled members of the Village, and only 9 remaining members of the original 23 entitled to vote to create the Village in May of 1981. Five enrolled members have passed away in the last six years.

There is no evidence that 86 individuals “reside” at the Village. Physically there are less than a dozen buildings used as “residences” at the Village, and we are informed that there is not an average of 7 “residents” per building. There is no evidence those who are unemployed are not unemployed by choice, or that those in the “work force” allegedly “below the poverty level,” did not choose to work for less, or could not obtain compensation above the poverty level.

### **3.6.4 The BIA does not recognize the gaming faction as the Tribal Government**

Contrary to the gaming faction’ false hyperbole, the BIA does not recognize Kenneth A. Meza, Carlene Chamberlain, Bill Mesa, Adolph Thing or Erica Pinto, as members of the Village government. In fact, the ranking members of the BIA in Washington, D.C., have refused to “recognize” any “elections” at the Village as being valid since 1992, and the validity of that election remains in question pending further ruling by the IBIA. In fact, the local offices of the BIA have been overruled by BIA Chief Administrative Law Judge Kathryn Lynn of the Interior Board of Indian Appeals in Washington, D.C. As we have previously reported to the County, on April 22, 1998 Chief Judge Lynn found that:

[I]t is possible that the only members of the Village at this time are those [now 9] of the original 23 members who are still living and who have not relinquished their membership in the Village...

A determination of who is a tribal member must, however, precede any determination of who is a tribal leader. Without knowing who is a tribal member, neither the Village nor the Department is in a position to know whether a tribal election was conducted in accordance with the constitution; i.e., whether only tribal members voted in that election (Art. V, sec. 3) and whether only tribal members were elected to office (Art. V, sec. 4).

The materials before the Board show that persons who were not among the original 23 members have participated in the Village’s government, perhaps from the time the Village was first recognized...

In regard to the leadership issue presented in this appeal...the Board concludes that, in the absence of proof that only tribal members voted and/or were elected to office in any of the three elections at issue in this appeal, Departmental recognition of the results of **any** of the elections would violate the Village's constitution...

The Board is aware that this decision will continue the Village's leadership controversy. In effect, the decision reinstates the officers elected in the **1992** tribal election, which is the last election that is not before the Board in this appeal. The Board notes, however, that Appellants dispute BIA's statement that the 1992 election was uncontested, and that the 1992 election may suffer from the same problems as to the 1994 recall election and 1995 tribal elections. 32 IBIA 166-68.

Judge Lynn also directed that until the remand action is final, the local offices of the BIA must refrain from doing business with non-members who are improperly claiming to have become elected leaders of the tribe, and must meet with those who had been "elected" in 1992, including our clients. However, despite the IBIA's direction to the BIA Sacramento Area Director (now Regional Director), the Director failed to "assist the Village's actual members in addressing their membership and leadership problems in light of this decision," and specifically refused to meet with our clients.

In addition, the gaming faction has attempted to stuff the ballot box with votes of approximately 50 non-members who would not qualify as members of the tribe, since they do not have one-half degree or more Jamul Indian blood. Judge Lynn has already determined that there is an "absence of proof that only tribal members voted and/or were elected to office" in any of these non-member gaming faction's elections, and that "Departmental recognition of the results of **any** of the elections would violate the Village's constitution," not to mention the Indian Reorganization Act of 1934.

The Tribal Government Services Office of the BIA in Washington, D.C., has also determined that the Village constitution cannot be amended to allow anyone with less than one-half degree Jamul Indian blood to vote in village elections, or the Village would risk loss of federal recognition as a reorganized tribe under the Indian Reorganization Act ("I.R.A.") of 1934.

Our clients, on the other hand, who are the majority of the properly enrolled survivors of the original 23 to adopt the village constitution, have, in fact, already submitted "proof that only tribal members voted and/or were elected to office" in the 1995, 1997, 1999 and 2001 elections held by that majority. The legitimate majority of the then surviving and properly enrolled 23 original members of the village, elected Walter Rosales Chairman of the Village, and have filed declarations with the federal court attesting to that election.

Both former Commissioner of Indian Affairs, William Hallett, and Washington Tribal Services officer, Carol Bacon, have told the local BIA offices and the gaming faction, that the Indian Reorganization Act does not permit anyone with less than one-half degree Jamul Indian blood to be admitted into the tribe, without loss of federal recognition under the I.R.A. On July 1, 1993, Carol Bacon wrote to the Chairman of the Village:

You will recall that prior to 1980, the Jamul Indian Village was not a federally recognized tribal entity. During the 1970's representatives of the village explored with the Bureau of Indian Affairs (Bureau) means whereby it could obtain Federal recognition and were variously advised the only avenues open to them were to seek a legislative solution, go through the Federal acknowledgment process, or the more limiting action of recognition by the Secretary as a half-blood organization. It was pointed out that acknowledgment of existence as an Indian tribe and of existence as a half-blood community are two different things. In order for the Secretary to acknowledge the Jamul community as a tribe under 25 CFR Part 83, previously 25 CFR 54, it would have to submit a detailed petition and undergo a lengthy process of consideration. Several years would have been required to complete this. If the community was not determined to exist as a tribe after this consideration, it would still have the option to organize as a half-blood community under the IRA. Representatives of the Village opted to seek recognition as a half-blood Indian community even though they were aware of the limitations that result from organizing as a half-blood Indian community.

The Commissioner [of Indian Affairs] noted in his letter that membership in the community was limited to individuals possessing one-half degree or more California Indian blood...

It has been the longstanding policy of the Bureau to require that organizational documents adopted by half-blood communities contain a membership requirement of one-half degree Indian blood or more. Consistent with the intent of Section 19 of the IRA, the Department of the Interior has over the more than 50 years since the passage of the IRA interpreted Section 19 to mean that those who seek recognition as a half-blood Indian community and subsequently organize under the IRA are forever restricted in their membership. In other words, once a half-blood Indian community, always a half-blood community. Therefore, the Village's proposal to lower the blood quantum from one-half degree California Indian blood to one-quarter or more degree is contrary to applicable Federal law and if adopted we would disapprove the constitution or any amendment that contained such language or intent. Any departure from the limitations imposed by Section 19 of the IRA could jeopardize the Village's continued right to Federal recognition and the rights of its members to Federal benefits and services. Further, since the United

States acquired the Village's land in trust for Jamul Indians of 1/2 or more Indian blood, any action by the Secretary to approve membership of less than 1/2 degree Indian blood could be viewed as breach of trust owed to those of 1/2 degree or more and thus a violation of applicable Federal law.

It is a basic requirement of the I.R.A. that only half-blood adult Indians are permitted to re-organize thereunder. Title 25 U.S.C. 476 of the I.R.A., as currently amended, provides: "Any Indian tribe shall have the right to organize for its common welfare, and may adopt an appropriate constitution and bylaws." "The term "Indian" as used in sections...476... and 479 of this title shall include... all other persons of one-half or more Indian blood." 25 U.S.C. 479. However, the gaming faction has totally ignored this half-blood requirement, and does not even attempt to explain how any degree of blood dilution can comply with Congress' very specific half-blood requirement.

Hence, it is inaccurate to describe the "population" and "tribal government" as published in the "Draft Update." As Justice Alvin Rubin of the 5<sup>th</sup> Circuit stated: "error is not to be perpetuated simply because it has been once made, and wisdom is not to be rejected merely because it comes late." 694 F.2d 378, 391.

### **3.6.6.1 Gambling**

The purported Compact with the Jamul Indian Village has yet to be authorized by the enrolled members of the General Council; nor has it been executed by a member of the tribal government "recognized" by the ranking leadership of the BIA. Moreover, as BIA Chief Judge Lynn has also determined: "once an appeal has been filed with [the IBIA, as here] the BIA loses jurisdiction over the matter except to participate in the appeal." Here, our clients have been on continuous appeal before the IBIA since 1994. Hence, the BIA did not have the requisite "jurisdiction" over Jamul, and could not lawfully approve the Compact with Governor Davis in 2000.

Even more importantly, the gaming faction has failed to comply with both the Indian Gaming Regulatory Act, 25 U.S.C. 2701 et seq., and the Compact. Not only is Class III gaming unlawful on Parcel 597-080-01, as noted above, but the Village has failed to adopt a Class III gaming ordinance, as required by 25 U.S.C. 2710(d)(1)(A)(i), and the National Indian Gaming Commission ("NIGC") has not approved a Class III gaming ordinance for the Village, as further required by 25 U.S.C. 2710(d)(1)(A)(iii). In addition, Lakes Kean Argovitz Resorts-California, LLC, ("Lakes KAR"), has been unlawfully seeking undue influence over the tribal electorate while a Class III gaming ordinance has been under consideration. 25 U.S.C. 2710-11. The California Tribal-State Compact prohibits contributions of more than \$25,000 per year, by a "gaming resource supplier" and/or "financing source," like Lakes-KAR, prior to licensure. Yet, Lakes-KAR admits that it has been contributing \$40,000 per month to the gaming faction in Jamul,

without a license. Therefore, based upon the standards set forth in IGRA, 25 U.S.C. 2710-11, the NIGC cannot approve the "management agreement" proposed by Lakes-KAR.

As noted above, title to Parcel 597-080-01 is held by the United States, not the Jamul Indian Village, or any "Band" of Indians. Moreover, the title to the land is held in trust for individual Indians, and not any tribe. There has been no change to the original deeds recorded between the Daleys and the United States.

### **3.6.7 Other revenues**

The gaming faction fails to acknowledge that the Jamul Indian Village is entitled to its share of revenue from the lawfully gaming tribes in California, pursuant to the Compact and state law. Currently, that is projected to be in excess of \$1.1 million per year, and since the California gaming tribes are seeking to increase the number of licensed gaming machines, the available revenue for sharing with non-gaming tribes is projected to increase substantially.

#### **3.6.7.2 Infrastructure**

The Notice of Application to take 101 acres into trust, filed with the BIA by the gaming faction and gambling interests, calls for the "razing" of our clients' homes on their allotments in parcel 597-080-01, and their "displacement" from their allotment in parcel 597-080-01, so that the gaming faction can build a casino on the site of their homes. Contrary to the public relations spin by the gaming faction, there are insufficient proposed "housing units" to re-locate our clients on the proposed trust acquisition. Governor Davis opposes the taking of the 101 acres into trust, among other reasons because "it was not anticipated that the entire existing village would be demolished and replaced with a casino and support facilities."

### **3.6.8 Economic Impacts**

There is no evidence that "gaming will eliminate unemployment among Tribal Members." There is no evidence that "Tribal Members" cannot be employed now. Hence, merely providing another employment opportunity will not cause unemployment to be eliminated. Those who do not want to work, generally don't; and probably won't when given the alternative to collect gambling revenue without working.

There is no conclusive evidence that a casino will "generate" any net positive economic impact. In fact, there is substantial evidence that casinos do not "generate" economic impact, they merely redistribute economic impacts, generally in a manner detrimental to the communities in which they exist. Recipients of the ill gotten gains of gaming remain chained to a greed driven, predatory vice, scientifically designed to squeeze the last available dollar from every player, which merely re-distributes income from those ill-prepared to resist the temptations of un-earned gaming

windfalls, so that the gaming factions and gambling companies may profit from what is skimmed from those who can least afford to gamble with their livelihood. So concludes the National Gambling Impact Study Commission, in its 1999 report to the President and Congress, which also finds there are more than 15 million problem gamblers, 13% of the total; half the profits are raked in from the top 5% of heavy players, who are disproportionately those who can least afford the habit, and are the least educated about their problem.

### **3.6.9 Community Relations**

The gaming faction has failed to provide the “community” with any proposed plans, with sufficient detail, as would be required of any similar project in San Diego County. Instead, the gaming faction has hired public relations firms, which have provided a deluge of non-specific propaganda, in a failing attempt to overcome the overwhelming community opposition to a casino in Jamul.

No offer to the Rural Fire Protection District has been “rejected.” In May of 2001, the FRPD postponed further consideration of the gaming faction’s various and sundry proposals until the faction could establish, among other critical criteria: that they were “recognized” to be “authorized” to contract on behalf of the Village, by the ranking leadership within the BIA; that a Class III gaming ordinance had been lawfully adopted by the tribal electorate, and approved by the NIGC; and that gaming was not illegal on the land upon which a casino was proposed under the terms of IGRA.

### **3.6.10 Challenges**

This section does not meet the criteria described by the “Draft Update” as its “purpose,” “to provide the Board of Supervisors and the Community with...an update on the impacts of Tribal projects, events, negotiations, and actions taken by the Tribes and the County since November 1, 2000,” and therefore should be omitted. It is inappropriate for the County of San Diego to be endorsing another propaganda piece for the gaming factions and gambling interests by including this information in the County’s “Draft Update.”

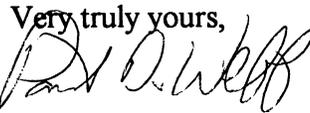
From our clients’ perspective, the most significant “issue and challenge” facing the Village, is the unlawful attempt by the gaming faction to takeover the tribe, and raze the homes of those that do not want a casino built where their homes now stand.

On behalf of our clients, we sincerely encourage the County to delete the inaccurate and false information concerning the Jamul Indian Village described herein, and to make the necessary corrections to the “Update on Impacts of Tribal Economic Development Projects in San Diego County,” before it is either endorsed or further published by the County.

Ms. Chantal Saipe  
September 26, 2002  
Page 14

Should you, or the County Staff, have any questions concerning the foregoing, please do not hesitate to contact our office.

We thank you on behalf of our clients, in anticipation of your willingness to make the necessary corrections to the County "Update."

Very truly yours,  
  
Patrick D. Webb  
Of  
**WEBB & CAREY**

cc: Walter Rosales, Chairperson Jamul Indian Village  
Diane Jacob, Supervisor District 2

Colleen M. Rimlinger  
P.O. Box 1894  
Alpine, CA 91901

September 27, 2002

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In reply to: "Draft Update on Impacts of Tribal Economic Development Projects in San Diego County"

Tribal Liason  
1600 Pacific Highway, Room 212  
San Diego, CA 92101

Dear Tribal Liason:

I am writing this letter to comment on the "Draft Update on Impacts of Tribal Economic Development Projects In San Diego County" document which is currently on the County Website for public review. Specifically, I wish to address Chapter 3.4 of this document entitled, "Cuyapaipe Band of Mission Indians/ Ewiiapaayp Band of Kumeyaay Indians". In this chapter, the Ewiiapaayp Band of Indians describe their plans to construct a 10 acres casino on the sight currently occupied by the Southern Indian Health Council at 4054-4058 Willows Road, otherwise known as the "Little Cuyapaipe Reservation". I currently own a single family home at 1355 Sunny Acres Avenue, about a ¼ mile from the proposed casino sight. There are about 40 single family homes in the vicinity of this area. I have serious concerns about a casino being built so close to our homes. I believe it is imperative that the following effects be studied before the commencement of any construction:

1. Traffic Impact: The traffic on Willows Road is already at an extremely high level because of the customers traveling to the Viejas Casino. The traffic is present all hours of the day and night, seven day a week. Quite a few of the neighborhood animals have already been killed by passing cars, including our own cat and our neighbor's dog. I would like to understand how the proposed casino will effect the volume of traffic in our neighborhood.
2. Environmental Impact: The homes in our neighborhood are not provided with public water, we all receive water from wells on our properties. We all share the same water table, along with Viejas Casino. How will the construction of another casino within ¼ of a mile from my well effect my water supply? The levels are already seriously low because of the drought we are currently experiencing.
3. Public Safety Impact: Our house has been broken into three times in the past three years. Stereo receivers, jewelry, leather jackets, golf clubs, silver, etc. have been stolen from our home, presumably by people going to or coming from the casino. How will another casino so close to our home effect our personal safety? Will there be increased burglaries and car thefts? Will there be an increase in the number of intoxicated drivers in our neighborhood? The effect of this casino on public safety needs to be addressed.
4. Real Estate Values: How will the construction of a casino within ¼ of a mile from my house effect its resale value. San Diego is currently experiencing an all time high in the growth of property values. Our property's value has also matched this growth. Will the construction of this casino devalue our home value? Who will purchase a house with a direct view of a casino?

I hope that these questions can be answered satisfactorily to the residents of this area before the Leaning Rock Casino is built.

Sincerely,



Colleen M. Rimlinger



www.MildaTown.com

## Milda Town at Pala Creek & The New Milda Town on The Hill

www.MildaTown.com

TOM EDGEMON  
PRINCIPAL - IN - CHARGE

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September 15, 2002

### COUNTY OF SAN DIEGO

Ms. Chantal Saipe, Tribal Liaison  
MS A-6  
1600 Pacific Highway, Room 212  
San Diego, California 92101

[619] 685.2542

chantal.saipe@sdcounty.ca.gov

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### COMMENTS SUBMITTAL

### UPDATE ON IMPACTS OF TRIBAL ECONOMIC DEVELOPMENT PROJECTS IN SAN DIEGO COUNTY

ISSUE JULY 2002

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Dear Ms. Saipe,

Thank you for the opportunity to submit comments relating to the recent release of the "*Update on Impacts of Tribal Economic Development,,,*" [Update - Issue July 2002].

I have enjoyed my investment in time throughly studying the "Update", and I was surprised to learn of the 30,000 Kumeyaay in the region "living in harmony with the Earth", to the 1700's.

I also appreciate the presentation of the "benefits" Indian Gaming is contributes to San Diego County;

- Employment Opportunity, both tribal and non-tribal and the estimated generation of 12,000 jobs.
- Economic Opportunity, both tribal and non-tribal and the expansion of commerce.
- Socio-Economic Benefits, including improvements in health care delivery, enhanced educational opportunities, heritage preservation, community activism, and the creation of recreational and entertainment facilities.
- The generation of the financial capacity required to sponsor the preservation of open spaces and "the natural rural surroundings".
- and
- The positive aspects of "tourism generation".

During the past three years I have been participating as the “Lead Principal” within a planning and design collaborative, envisioning, pre-engineering, and site-designing an “*Active Senior’s Oriented Recreational Parklands Community*”, also identified as a “*Park within a Park*”, as a mixed-used, tourism-oriented development to be sited upon 212 of the 336 acres of Alfred Rimsa fee patent realty at Pala-Temecula Road between the Pala and the Pechanga Indian Nations.

I have given this project special attention as I would like to create this community as “special and unique”.

I am hopeful my “comments” to follow may be contributory, as in my “project research” I have studied at length Casino Niagara [Ontario], and to a lesser extent Casino Rama, located well north of Toronto [ONT].

I have followed with much interest Proposition 1A as it was being “birthed”, ultimately to its voter approval.

I also desire to advance my opinion of the “*North County-Five Casino Corridor*”.

The County of San Diego “Update,,,” details findings relating to the four predominant San Diego North County sited gaming and entertainment centers being developed at Pala, Pauma, Rincon and San Pasqual, however I also expect the Pechanga Entertainment Center to generate impacts to the community by its proximity to the northerly boundary of San Diego County.

The operating title of the unique parklands community I desire to create is;

### **Milda Town at Pala Creek & The New Milda Town on The Hill**

**Milda Town at Pala Creek & The New Milda Town on The Hill** is not being envisioned and designed to focus solely on the demographic support of Indian Gaming, however the considerable attraction to the “North County-Five Casino Corridor” will contribute significantly to the commercial opportunities of **Milda Town at Pala Creek**.

More specific information may be visited at [www.MildaTown.com](http://www.MildaTown.com) however in brevity **Milda Town at Pala Creek & The New Milda Town on The Hill** is envisioned to include [approximate as pre-engineering continues] ;

- a 12,840 Sq. Ft. Victorian Manse affectionately named **The Tourmaline Queen**, to serve as the “central theme icon”, meeting place, dining and entertainment facility, “*wedding chapel*”, and the “visual statement” viewed from Pala-Temecula Road.
- a Motorcoach Resort titled **The Motorcoach Resort at The New Milda Town on The Hill**.
- a Primitive Campground to be named **Grubstake Pete’s Mining Camp**.
- a Recreational Vehicle Park and Campland Resort, featuring an ADA-Compliant Playground.
- a Trails System, Parklands-Overview, and Picnic Retreat Vignettes, and the possible trails-interconnection with the Mt. Olympus Regional Preserve.
- Three Enclave Communities of Resort/Recreational Homes Designed for the Retiring Baby Boomers [*yes, it has happened quickly*], Empty-Nesters, and Others desiring a reasonably priced living environment within a parklands setting.
- Up to 147 Acres Dedicated to Permanent Open Space upon the Overview of Pala Creek.

### **The Five Casino Corridor :**

The “Update,,,” addresses the impact of the four significant North San Diego County Indian Gaming Tribes [Pala, Pauma, Rincon and San Pasqual], however I believe Pechanga should also be considered contributory to the impacts at North San Diego County.

The Pechanga Entertainment Center, and the possible addition of the Pechanga-Southwest Museum proposed upon The Boseker Great Oak Ranch, is located immediately north of the San Diego/Riverside County line, and as the Tribes are marketing their “entertainment centers” to the greater Southern California Metroplex, it would seem reasonable that “area visitors” would consider all five gaming facilities as “one destination”.

Considering tourism and gaming “guests and visitors” originating in the Los Angeles, Orange, Riverside, and San Bernardino Counties , a reasonable expectation may be the circulation and visitor routing as Pechanga-Pala-Pauma-Rincon and ultimately San Pasqual-Valley View.

As these “entertainment centers” mature with “more than gaming amenities” such as concerts and stage shows, dining, golf, resort lodging and retail commerce, such has been developed at Sycuan, opportunity exists for other providers [Tribal neighbors] in tourism support, such as adjoining area lodging, recreational resorts with trails and day visit camplands, RV Resorts, “developed and primitive campgrounds”, resort - style recreational housing, and other companion tourism commerce.

### **Benefits of Tourism Generation :**

I am confident **Milda Town at Pala Creek & The New Milda Town on The Hill** will be a beneficiary of the tourism generated by the immediate area “Five Casino Corridor”, **as the Tribal Leaders have identified more than four million [4,000,000] gaming guest/visitor candidates within a two [2] hour drive.**

With significant hotels completed at Pechanga and Rincon, and now Pala’s new hotel well underway, golf courses will be the next “amenity” to be provided at these entertainment centers.

In my study of the Tribes’ planning goals it appears that they are creating an entertainment and recreational venue more complete that just “gaming”.

With the expected growth and continuing success of these “entertainment centers”, and the addition of other resort amenities such as celebrated at Sycuan, and the area wide inducement to others to develop “tourism oriented facilities”, it may be expected to additionally enjoy ;

- Jobs and Business Creation
- Socio-Economic Benefits, such as the Delivery of Health Care and Education
- Tourism Revenue Generation [Tax Income]
- and
- The Generation of The Economic Resources to Support Open Space and Habitation Preservation Programs.

It is envisioned **Milda Town at Pala Creek & The New Milda Town on The Hill** would also generate these “benefits to the community” as a good business citizen.

## A STUDY OF CASINO NIAGARA :

Casino Niagara [[www.discoverniagara.com](http://www.discoverniagara.com)]

I have invested several years in study preparing for recreational-oriented developments such as **Milda Town at Pala Creek**, and during the summer of 2000 during a contract assignment at Toronto, Ontario I was able to interview at length more than thirty “long-term resident-families” of the Ontario, Canada region.

Additionally, I have friends in Carlsbad having been born and raised in Niagara [ONT], with their families still generational residents of Niagara County, and collectively I have learned much of the area history, and gained an understanding of the “growth-prosperity-decline-and resurgence” of the greater Niagara community, and now including economic opportunity at Buffalo, New York.

Following World War II, Niagara Falls [both U.S. and Ontario] become internationally recognized as a “honeymoon” destination of prominence. “Honeymoon Suite” hotels and motels “bloomed”, and the economic community benefitted by the international tourism.

Over time the inventory of hotels, motels, restaurants and other commercial recreational and entertainment venues become somewhat-worn, and a general economic stagnation occurred, negatively affecting the surrounding communities.

With the introduction of Casino Niagara in the mid-1990's as a gaming and entertainment “icon”, an area “revitalization” has been experienced, including new, expanded and upgraded resort destination facilities, new and restored dining establishments, retail centers development, upscale housing, and the lengthy listing of economic benefits generated by job creation, capital investment, commercial and entertainment opportunities.

In the very recent past, the Seneca Indian Nation in concert with the political leadership of “Up-State” New York have “joined forces” and are now putting into place similar gaming and entertainment centers at the “Core Fifty Acres of Downtown Niagara Falls USA”.

The Office of Governor George E. Pataki is actively promoting the “socio-economic benefits” envisioned by this development to not only Niagara County, but also benefitting the regional area of Buffalo and greater “Up-State” New York.

Initially, it is expected that more than a billion dollars will be invested by the Seneca Indian Nation in the opportunities presented at Niagara County, New York, and subsequently much economic expansion is expected to be generated by the enhanced tourism.

I expect **Milda Town at Pala Creek & The New Milda Town on The Hill** , and many other “collateral commercial enterprises” to benefit similarly with the continuing community opportunities presented by the Tribal enterprises of North San Diego County [as well as the Pechanga Entertainment Center & Resort in Riverside County].

## **A STUDY OF CASINO NIAGARA, continued :**

### **A Brief Sunday Morning Site Visit :**

On a gorgeous, “post card category” Sunday morning in mid-June 2000, I invested some time in “Gaming Study Reconnaissance”. The day was clear-sky dramatic, and it seemed to me that visitors to “The Falls” represented all nationalities.

As I “toured” the four-floors of gaming areas within Casino Niagara, and although I didn’t invest any money in “the gaming opportunity” [I don’t do very well at “gaming”], I greatly enjoyed “watching” the large assembly of “seniors-like guests” occupying approximately 80% of the slot machines within “the smoking approved sections”, and approximately 50% occupancy within the “no-smoking” casino area.

This “occupancy” was being accomplished at ten o’clock in the morning, on a gorgeous, clear-sky Sunday in mid-June, at Niagara Falls, Ontario.

### **Recent Economic News of Casino Niagra**

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Public Domain

- Since opening in 1996, more than 39 million people have passed through the doors of Casino Niagara™
- Casino Niagara™ remains the number one commercial tourist attraction in Canada.
- Statistic Canada reports the Niagara region now enjoys the lowest unemployment rate since 1991.
- Casino Niagara™ generates \$ 1.3 billion in activity in the Province of Ontario.

## **A STUDY OF CASINO RAMA :**

Casino Rama [[www.casinorama.com](http://www.casinorama.com)]

I also was impressed by Casino Rama and the interest and “excitement” expressed by my interviewees of Toronto.

Casino Rama is a Chippewa of Mnjika Indian Nations’ facility located in the ‘hinterlands’ north of “Cottage Country”, and well north of Toronto, Canada. Although removed from the metroplex of Toronto by a two or more hour drive [and a particularly challenging drive during Canadian winters].

Casino Rama was opened in 1996, and during my area visit of July 2000 construction was well underway with their major expansion to become a “regional tourism attraction”.

During July of 2001 Casino Rama’s \$ 265 million [CAN] resort hotel and entertainment center opened officially, and area wide success has been realized, all located more than two hours north of Toronto.

## Recent Economic News of Casino Rama

Public Domain

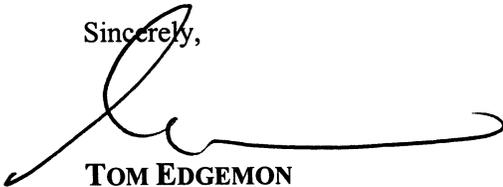
- Orillia, Ontario area tourism has expanded by \$ 84 million dollars [CAN] a year, supported by an average 12,000 visitors a day [annualize].
- The Orillia Hotel Association reports occupancy increases of more than 50%.
- The job creation opportunity within the Orillia area has grown by 38%.
- Area wide construction in the Orillia area is up more than 21%.
- Casino Rama as a “community partner” supports the Orillia Community Wellness Program, drawing upon the heritage of the “First Indian Nations’ Medicine Wheel”, benefitting more than 150 community groups, including support of women’s shelters, sponsorship of Aboriginal Music Awards and Grants and Awards for Aboriginal studies.

**In summary, I believe as has been illustrated at Casino Niagara™ and Casino Rama, the North San Diego County community will see similar socio-economic benefits, particularly as we expand our “community view” to include the tourism “visitor-guests” originating within a two hour drive.**

Envisioned as a “*Park within a Park*”, I expect **Milda Town at Pala Creek & The New Milda Town on The Hill**, and other “collateral commercial enterprises” to benefit similarly by the continuing community opportunities presented by the Tribal enterprises of North San Diego County [as well as the Pechanga Entertainment Center & Resort of Southern Riverside County].

Thank you for the opportunity to submit my comments and opinions.

Sincerely,



**TOM EDGEMON**  
CARLSBAD, CALIFORNIA



[www.MildaTown.com](http://www.MildaTown.com)