



CITY COUNCIL AGENDA ITEM NO. 7.1

02/08/2024

SUBJECT: Miwok Band of Indians Casino

DEPARTMENT: City Manager's Office

STAFF: Margaret S. Roberts, City Manager

TITLE

RECEIVE INFORMATION REGARDING IS/MND FOR FUTURE MIWOK BAND OF INDIANS CASINO PROJECT AND TAKE PUBLIC COMMENT AND DIRECTION TO STAFF

BACKGROUND

An EIS was prepared pursuant to NEPA and a record of decision (ROI) was issued by the Bureau of Indian Affairs (BIA) in May 2012. The U.S. DOI acquired the project site into federal trust status in March 2020. (See IS/MND, p. 1.)

The Tribe entered into a Tribal State Compact (Compact) with the State of California in August 2020. Pursuant to the Compact, the Tribe should have adopted a Tribal Environmental Protection Ordinance (TEPO) that incorporates the relevant policies and purposes of NEPA and CEQA. (Compact, Section 11.2). Instead of CEQA, the Tribal State Compact applies.

If the Tribe determines that a project may cause a significant effect on the off-reservation environment, the Tribe shall prepare an Initial Study. If based upon the Initial Study, the Tribe determines that it is appropriate to do so, it may prepare a Negative Declaration or Mitigated Negative Declaration (MND) for a project. (Compact, Section 11.5). That is what happened here and as a result, the IS/MND was prepared. (See IS/MND, p. 1.)

Mitigation measures to reduce off-reservation impacts to less than significant levels are allegedly listed in Section 3.0 of the IS/MND. Section 1.2 of the IS/MND states that the Tribe may enter into an intergovernmental agreement with the County and/or City of Plymouth to address any significant off-reservation impacts. Or, that the Tribe will enter into an enforceable binding letter agreement with the State of California under which the Tribe shall agree to perform the required mitigation pursuant to Section 11.5(c) of the Compact. We are still carefully reviewing and



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reading the Compact to confirm whether Section 1.2 of the IS/MND is in fact consistent with the terms of the Compact.

Summary of the process under the Compact:

- The Tribe shall give notice by mail of its adoption of a MND to a number of parties, including the County and City in which the project is located. (Compact, Section 11.5(d).)
- After receiving notice, the City has 30 days to request a meet and confer with the Tribe re the MND. (Compact, Section 11.5(e).)
- If City objects to adoption of MND after the meet and confer, the City shall inform the State in writing of its objections within 10 days after the meet and confer. (Compact, Section 11.5(e).)
- Thereafter, the State will decide if it objects to the MND and follow up with the Tribe. (Compact, Section 11.5(f).)

At this point, staff is looking for direction on whether Council would like to further review, with assistance from environmental consultants and legal, in order to provide recommendations for a potential meet and confer with the Tribe pursuant to the Compact deadlines. In addition, staff would like to receive comments, questions, and concerns from the public. All of this information will be assimilated for further Council review and direction at the February 22nd meeting.

DATE OF NOTICE

The IS/MND was sent certified mail to the City on February 1st. The City has 30 days to request a meet and confer with the Tribe. And then 10 days after that, if applicable, the City must inform the State of its objections to the IS/MND.

RECOMMENDATION

Take public comment, receive information from staff, and provide direction to staff.

ATTACHMENT(S)

1. IS/MND