

BUREAU OF INDIAN AFFAIRS

FINAL CONFORMITY DETERMINATION for the Cloverdale Rancheria Fee-to-Trust and Resort Casino Project, Sonoma County, California.

AGENCY: Bureau of Indian Affairs, Department of the Interior

ACTION: Notice of Availability of Final Conformity Determination

SUMMARY: This notice advises agencies and the public that the Bureau of Indian Affairs (BIA), in accordance with Section 176 of the Clean Air Act 42 U.S.C. 7506, and the EPA general conformity regulations 40 CFR Part 93, Subpart B, has prepared a Final Conformity Determination (FCD) for the Cloverdale Rancheria of Pomo Indians' (Tribe) proposed 61.83-acre trust acquisition and resort casino project in unincorporated Sonoma County, California. This Proposed Action was previously analyzed in a Draft and Final Environmental Impact Statement prepared pursuant to the National Environmental Policy Act issued August 6, 2010 and April 18, 2014, respectively. The Draft Conformity Determination was made available for public review and comment for a 30-day period beginning February 12, 2015. No comments were received on the Draft Conformity Determination.

FCD PUBLIC AVAILABILITY: The FCD is available online at: <http://www.cloverdalerancheria.com/eis/index.htm>. To obtain a paper or CD copy of the FCD, please contact Chad Broussard, Environmental Protection Specialist, at (916) 978-6165.

SUPPLEMENTARY INFORMATION: Under the Proposed Action, the BIA would accept 61.83 acres into trust for the Tribe. The Tribe proposes to develop a casino with 80,000 square feet of gaming area, 287,000 square-foot hotel with 244 rooms, 48,600 square-foot convention center, 28,100 square-foot entertainment center, and garage and surface parking. The site is located in unincorporated Sonoma County, California within the sphere of influence of the City of Cloverdale. The site is situated immediately east of Highway 101 and borders Asti Road.

The Clean Air Act requires federal agencies to assure that their actions conform to applicable implementation plans for achieving and maintaining the National Ambient Air Quality Standards for criteria air pollutants. Mobile sources associated with the project would generate emissions within the San Francisco Bay Area Air Basin (SFBAAB), which is currently designated as a maintenance area for carbon monoxide (CO) and is within the jurisdiction of the Bay Area Air Quality Management District (BAAQMD). CO emissions associated with the project were determined to exceed de minimis thresholds in the BAAQMD, and as such are analyzed in greater detail in the FCD. Based on the information in the EIS and the FCD, the Proposed Action would conform to the State Implementation Plan (SIP) and SFBAAB CO Maintenance Plan implemented pursuant to the Clean Air Act. As demonstrated in the FCD, modeling of CO shows that the Proposed Action would not cause or contribute to new violations of the standards, or increase the frequency or severity of any existing violations of the standards.

FOR FURTHER INFORMATION CONTACT: Chad Broussard, Environmental Protection Specialist, BIA Pacific Region at (916) 978-6165.

Dated: April 22, 2015

FINAL GENERAL CONFORMITY DETERMINATION  
FOR THE CLOVERDALE RANCHERIA FEE-TO-TRUST AND  
RESORT CASINO PROJECT

Lead Agency:  
Bureau of Indian Affairs

March 2015



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# **CLOVERDALE RANCHERIA FEE-TO-TRUST AND RESORT CASINO PROJECT**

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## **Final General Conformity Determination**

### **1. Introduction**

The Cloverdale Rancheria Band of Pomo Indians (Tribe) has submitted a fee-to-trust application to the Bureau of Indian Affairs (BIA), requesting that the Department of the Interior accept trust title to a 61.83-acre site (project site) in Sonoma County, California, within the sphere of influence of the City of Cloverdale. The project site is situated immediately east of Highway 101 and borders Asti Road. Highway 101 is the main north south artery in the region.

The proposed trust acquisition is the Proposed Action under consideration by BIA. The BIA issued a Draft Environmental Impact Statement (Draft EIS) for the Proposed Action on August 6, 2010 and a Final EIS for the Proposed Action on April 18, 2014. The EIS considered a reasonable range of alternatives and analyzed the potential effects of those alternatives, as well as feasible mitigation measures. Alternative A was named the Preferred Alternative in the Final EIS.

The Preferred Alternative also includes federal review of a development and management contract by the National Indian Gaming Commission and development of a destination resort casino on the site. The casino-resort complex would include a casino with 80,000 square feet of gaming area, 287,000 square-foot hotel with 244 rooms, 48,600 square-foot convention center, and 28,100 square-foot entertainment center. Approximately 3,400 parking spaces would be provided by car garage parking (3,300 spaces) and surface parking (100 spaces).

The Proposed Action is located in the Northern Sonoma County Air Pollution Control District (NSCAPCD). As a result of the Proposed Action, operations from the Preferred Alternative would generate criteria pollutant emissions in that district and also in two others, the Mendocino County Air Quality Management District (MCAQMD) and the Bay Area Air Quality Management District (BAAQMD). Of the alternatives considered by BIA to fulfill the purpose and need of the Proposed Action, the Preferred Alternative would add the most criteria pollutant emissions within the BAAQMD and is used for the purposes of this conformity analysis.

### **2. General Conformity Regulatory Background**

The U.S. Environmental Protection Agency (EPA) promulgated the General Conformity Rule on November 30, 1993 in Volume 58 of the Federal Register (58 FR 63214) to implement the conformity provision of Title I, Section 176(c)(1) of the Clean Air Act (CAA). EPA issues a final

revised General Conformity Rule on April 5, 2010. Section 176(c)(1) requires that the federal government not engage in, support, or provide financial assistance for licensing, permitting, or approving any activity not conforming to an approved CAA implementation plan. The approved implementation plan could be a federal, state, or tribal Implementation Plan (i.e., FIP, SIP, or TIP). The General Conformity Rule is codified in Title 40 of the Code of Federal Regulations (CFR) Part 51, Subpart W and Part 93, Subpart B, “Determining Conformity of General Federal Actions to State or Federal Implementation Plans.”

## 2.1 General Conformity Requirements

Areas of the country that do not meet the National Ambient Air Quality Standards (NAAQS) for any pollutant are designated by the EPA as “nonattainment areas.” Areas that were once designated nonattainment, but are now achieving the NAAQS are termed “maintenance areas.” Areas which have air pollution levels below the NAAQS are termed “attainment areas.” In nonattainment areas, states must develop plans to reduce emissions and bring the area back into attainment of the NAAQS. The General Conformity Rule ensures that the actions taken by federal agencies in nonattainment and maintenance areas do not interfere with a state’s plans to meet national standards for air quality. The General Conformity Rule plays an important role in helping states improve air quality in those areas that do not meet the NAAQS. Under the General Conformity Rule, federal agencies with actions in a nonattainment or maintenance area must ensure that federal actions conform to the air quality plans established in the applicable SIP. The purpose of the General Conformity Rule is to:

- Ensure that federal activities do not cause or contribute to a new violation of the NAAQS;
- Ensure that actions do not cause additional or worsen existing violations of or contribute to new violations of the NAAQS; and
- Ensure that attainment of the NAAQSs is not delayed.

Implementation of the existing General Conformity Regulations falls into three phases: applicability analysis, conformity determination, and review process. Only actions which cause emissions in designated nonattainment and maintenance areas are subject to the regulations. In addition, the regulations recognize that the vast majority of federal actions do not result in a significant increase in emissions and, therefore, include a number of exemptions, the most predominantly implemented of which is the de minimis emission levels based on the type and severity of the nonattainment problem. If the action will cause emissions above the de minimis levels in any nonattainment or maintenance area and the action is not otherwise exempt, “presumed to conform,” or included in the existing emissions budget of the SIP, the agency must conduct a conformity determination before it takes the action.

When the applicability analysis shows that the action must undergo a conformity determination, federal agencies must first show that the action will meet all SIP control requirements such as reasonably available control measures, and the emissions from the action will not cause a new violation of the standard, or interfere with the timely attainment of the standard, the maintenance of the standard, or the area's ability to achieve an interim emission reduction milestone. Federal

agencies then must demonstrate conformity by meeting one or more of the methods specified in the regulation for determining conformity:

1. Demonstrating that the total direct and indirect emissions are specifically identified and accounted for in the applicable SIP,
2. Obtaining a written statement from the state, tribe or local agency responsible for the SIP documenting that the total direct and indirect emissions from the action along with all other emissions in the area will not exceed the SIP emission budget,
3. Obtaining a written commitment from the state or tribe to revise the SIP to include the emissions from the action,
4. Obtaining a statement from the metropolitan planning organization (MPO) for the area documenting that any on-road motor vehicle emissions are included in the current regional emission analysis for the area's transportation plan or transportation improvement program,
5. Fully offsetting the total direct and indirect emissions by reducing emissions of the same pollutant or precursor in the same nonattainment or maintenance area, or
6. Conducting air quality modeling that demonstrates that the emissions will not cause or contribute to new violations of the standards, or increase the frequency or severity of any existing violations of the standards.

As public bodies, federal agencies must make their conformity determinations through a public process. The General Conformity Regulations require federal agencies to provide notice of the draft determination to the applicable EPA Regional Office, the state and local air quality agencies, the local MPO and, where applicable, the Federal Land Manager. In addition, the regulations require federal agencies to provide at least a 30-day comment period on the draft determination and make the final determination public. The Draft Conformity Determination was submitted to EPA, CARB, BAAQMD and other applicable agencies for 30-day comment period beginning on February 12, 2015. A Notice of Availability of the Draft Conformity Determination was also published in the newspaper of general circulation in the area of affect, the Press Democrat, at the beginning of the comment period (Appendix B). No comments were received during the 30-day comment period for the Draft Conformity Determination.

## 2.2 General Conformity Applicability

Mobile sources associated with the Preferred Alternative (e.g., patron or employee vehicles) would generate criteria pollutant emissions in areas under the jurisdiction of the NSCAPCD, the MCAQMD, and the BAAQMD. Pollutant emissions generated in the NSCAPCD and the MCAQMD would not require review under the federal General Conformity Rule because both districts are designated attainment or unclassified for all federal criteria pollutants. However, the BAAQMD jurisdiction is within the San Francisco Bay Area Air Basin (SFBAAB), which is currently designated nonattainment for the federal ozone and PM<sub>2.5</sub> standards, as well as a Maintenance Area for Carbon Monoxide (CO). The CAA requires a nonattainment area to develop a SIP. SIPs are comprehensive plans that describe how an area will attain NAAQS. The 1990 amendments to the federal CAA set deadlines for attainment based on the severity of an area's air pollution problem.



For the Proposed Action, on-road vehicle trips within the BAAQMD jurisdiction would be subject to the following federal General Conformity Rule de minimis thresholds:

- 50 tons per year VOC or ROG
- 100 tons per year NOx
- 100 tons per year CO
- 100 tons per year PM2.5
- 100 tons per year PM10

As detailed in the EIS for the Preferred Alternative, associated emissions of ROG, NOx, PM10, and PM2.5 within the BAAQMD jurisdiction would be below the respective General Conformity Rule de minimis thresholds. However, CO was determined to exceed the 100 ton per year de minimis threshold in the BAAQMD jurisdiction, and as such, is analyzed in greater detail below.

### 3. Assessment of Conformity Emissions

When the EPA upgraded the SFBAAB CO status from moderate non-attainment to maintenance, a revision to the SIP was needed. In 2004, the California Air Resources Board (CARB) submitted to the EPA a revision to the SIP, and included a Maintenance Plan, in the *Revision to the California State Implementation Plan for Carbon Monoxide, Updated Maintenance Plan for Ten Federal Planning Areas*.<sup>1</sup> The Maintenance Plan outlines how the SFBAAB will continue to comply with the NAAQS. CO emission sources resulting from the Proposed Action in the BAAQMD jurisdiction would include the following:

- **Operational Sources.** These include emissions from on-road vehicles, such as patrons, employees, and buses.

As described in Section 2.1 above, conformity can be shown by conducting air quality modeling that demonstrates that the emissions will not cause or contribute to new violations of the standards, or increase the frequency or severity of any existing violations of the standards. Air modeling analysis was performed for the EIS and incorporated into this general conformity determination. The results of this analysis are summarized below with model outputs included in Appendix A.

### 4. CO General Conformity Determination

In California, the CALINE4 (CL4) dispersion model is accepted by EPA for CO emissions modeling. The CL4 model was used to quantify CO concentrations from on-road vehicles associated with operations associated with the Proposed Action at sensitive receptors. Specifically, a segment of US 101 between Asti Road and the Junction of Route 128 East was used as it would be most affected by traffic associated with the Proposed Action, and therefore it was assumed that if CO concentrations at these areas would not exceed the NAAQS, the

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<sup>1</sup> California Air Resources Board, 2004. *Revision to the California State Implementation Plan for Carbon Monoxide, Updated Maintenance Plan for Ten Federal Planning Areas*. Adopted July 22, 2004.

Proposed Action’s contribution to impacts at other segments would also not exceed the NAAQS. As shown in Table 1, the analysis demonstrated that the Preferred Alternative would result in an insubstantial increase in CO concentrations and that no violations of the NAAQS for CO would occur at the receptor locations near the roadway segments modeled.

**TABLE 1  
ESTIMATED CARBON MONOXIDE CONCENTRATIONS**

Receptor Location <sup>b</sup>	Averaging Time (hours)	Concentrations (ppm) <sup>a</sup>				
		NAAQS	Future No Action	Preferred Alternative	Incremental Increase of Preferred Alternative Versus Future No Action	Cause or Contribute to Violations? (Yes or No)
US 101	1	35	1.9	2.0	0.1	No
	8	9	1.3	1.4	0.1	No

a. Concentrations relate to receptor locations at approximately 200 feet from the middle of the roadway. The CO analysis focuses on the weekday evening (p.m.) peak-hour because the Preferred Alternative’s effects on traffic congestion and related CO concentrations are greater during that period than the a.m. peak-hour or off-peak periods. The 1-hour CO estimates shown above include background year concentrations of 1.7 ppm. The 8-hour average was estimated using the 1-hour average multiplied by a persistence factor of 0.7.

b. Since these receptors are located along the most affected roadway by Proposed Action-related traffic, other receptors affected by Proposed Action-related traffic would experience lower incremental CO concentrations.

The Proposed Action would not cause or contribute to violations of the NAAQS as discussed above; therefore the Proposed Action conforms to the Maintenance Plan and SIP and is consistent with conformity determination criteria.

## 5. Conclusion

Based on the information and analysis presented above, approval of the Proposed Action would conform to the SIP and CO Maintenance Plan for the SFBAAB implemented pursuant to the CAA. Modeling of CO shows that the Proposed Action would not cause or contribute to new violations of the standards, or increase the frequency or severity of any existing violations of the standards. 40 CFR 93.158(a)(4)(i) and (b).

The Draft Conformity Determination was submitted to EPA, CARB, BAAQMD and other applicable agencies per 40 CFR 93.155 (a). No comments were received during the 30-day comment period for the Draft Conformity Determination. This document represents the BIA’s Final Conformity Determination per 40 CFR 93.150 (b).



## **APPENDIX A**

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### Air Quality Supporting Documentation



CALINE4: CALIFORNIA LINE SOURCE DISPERSION MODEL  
 JUNE 1989 VERSION  
 PAGE 1

JOB: Cloverdale Northern Sonoma County  
 RUN: Hour 1 (WORST CASE ANGLE)  
 POLLUTANT: Carbon Monoxide

I. SITE VARIABLES

U= 1.0 M/S      Z0= 100. CM      ALT= 0. (M)  
 BRG= WORST CASE      VD= .0 CM/S  
 CLAS= 4 (D)      VS= .0 CM/S  
 MIXH= 1000. M      AMB= 1.7 PPM  
 SIGTH= 30. DEGREES      TEMP= 28.0 DEGREE (C)

II. LINK VARIABLES

LINK	* LINK COORDINATES (M) *	EF	H	W
DESCRIPTION	* X1 Y1 X2 Y2 * TYPE	VPH (G/MI)	(M)	(M)
A. Link A	* 1500 1200 1500 0 * AG	1800	6.6	.0 22.2

III. RECEPTOR LOCATIONS AND MODEL RESULTS (WORST CASE WIND ANGLE)

* RECEPTOR	* X	* Y	* Z	* (DEG)	* CONC (PPM)
1. Recpt 1	* 1560	* 600	* 1.8	* 207.	* 1.9

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II. LINK VARIABLES

LINK	* LINK COORDINATES (M) *	EF	H	W
DESCRIPTION	* X1 Y1 X2 Y2 * TYPE	VPH (G/MI)	(M)	(M)
A. Link A	* 1500 1200 1500 0 * AG	1970	6.6	.0 22.2

III. RECEPTOR LOCATIONS AND MODEL RESULTS (WORST CASE WIND ANGLE)

* RECEPTOR	* X	* Y	* Z	* (DEG)	* (PPM)
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II. LINK VARIABLES

LINK	* LINK COORDINATES (M) *	EF	H	W
DESCRIPTION	* X1 Y1 X2 Y2 * TYPE	VPH (G/MI)	(M)	(M)
A. Link A	* 1500 1200 1500 0 * AG	2788	6.6	.0 22.2

III. RECEPTOR LOCATIONS AND MODEL RESULTS (WORST CASE WIND ANGLE)

* RECEPTOR	* X	* Y	* Z	* (DEG)	* CONC (PPM)
1. Recpt 1	* 1560	* 600	* 1.8	* 225.	* 2.0



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 MIXH= 1000. M      AMB= 1.7 PPM  
 SIGTH= 30. DEGREES      TEMP= 28.0 DEGREE (C)

II. LINK VARIABLES

LINK	* LINK COORDINATES (M) *	EF	H	W
DESCRIPTION	* X1 Y1 X2 Y2 * TYPE	VPH (G/MI)	(M)	(M)
A. Link A	* 1500 1200 1500 0 * AG	2588	6.6	.0 22.2

III. RECEPTOR LOCATIONS AND MODEL RESULTS (WORST CASE WIND ANGLE)

* RECEPTOR	* X	* Y	* Z	* (DEG)	* CONC (PPM)
1. Recpt 1	* 1560	* 600	* 1.8	* 225.	* 2.0

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II. LINK VARIABLES

LINK	* LINK COORDINATES (M) *	EF	H	W
DESCRIPTION	* X1 Y1 X2 Y2 * TYPE	VPH (G/MI)	(M)	(M)
A. Link A	* 1500 1200 1500 0 * AG	2554	6.6	.0 22.2

III. RECEPTOR LOCATIONS AND MODEL RESULTS (WORST CASE WIND ANGLE)

* RECEPTOR	* X	* Y	* Z	* (DEG)	* CONC (PPM)
1. Recpt 1	* 1560	* 600	* 1.8	* 224.	* 1.9

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 SIGTH= 30. DEGREES      TEMP= 28.0 DEGREE (C)

II. LINK VARIABLES

LINK	* LINK COORDINATES (M) *	EF	H	W
DESCRIPTION	* X1 Y1 X2 Y2 * TYPE	VPH (G/MI)	(M)	(M)
A. Link A	* 1500 1200 1500 0 * AG	2468	6.6	.0 22.2

III. RECEPTOR LOCATIONS AND MODEL RESULTS (WORST CASE WIND ANGLE)

* RECEPTOR	* X	* Y	* Z	* (DEG)	* (PPM)
1. Recpt 1	* 1560	* 600	* 1.8	* 222.	* 1.9

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II. LINK VARIABLES

LINK	* LINK COORDINATES (M) *	EF	H	W
DESCRIPTION	* X1 Y1 X2 Y2 * TYPE	VPH (G/MI)	(M)	(M)
A. Link A	* 1500 1200 1500 0 * AG	2272	6.6	.0 22.2

III. RECEPTOR LOCATIONS AND MODEL RESULTS (WORST CASE WIND ANGLE)

* RECEPTOR	* X	* Y	* Z	* (DEG)	* CONC (PPM)
1. Recpt 1	* 1560	* 600	* 1.8	* 221.	* 1.9



## **APPENDIX B**

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### Notice of Availability of Draft Conformity Determination



PROOF OF PUBLICATION

(2015.5 C.C.P.)

STATE OF CALIFORNIA

County of Sonoma

I am a citizen of the United States and a resident of the county aforesaid: I am over the age of eighteen years, and not a party to or interested in the above entitled matter. I am the principal clerk of the printer of The Press Democrat, a newspaper of general circulation, printed and published DAILY IN THE City of Santa Rosa, County of Sonoma; and which newspaper has been adjudged a newspaper of general circulation by the Superior Court of the County of Sonoma, State of California, under the date of November 29, 1951, Case number 34831, that the notice, of which the annexed is a printed copy (set in type not smaller than nonpareil), has been published in each regular and entire issue of said newspaper and not in any supplement thereof on the following dates to wit:

The Press Democrat - Legal Notices  
2/12 1x - 02/12/2015

I certify (or declare) under penalty of perjury, under the laws of the State of California, that the foregoing is true and correct.

Dated at Santa Rosa, California, on

02/12/2015



SIGNATURE

This space for County Clerk's Filing Stamp

Proof of Publication of

**BUREAU OF INDIAN AFFAIRS**

**DRAFT CONFORMITY DETERMINATION for the Cloverdale Rancheria Fee-to-Trust and Resort Casino Project, Sonoma County, California.**

**AGENCY:** Bureau of Indian Affairs, Department of the Interior

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**SUMMARY:** This notice advises agencies and the public that the Bureau of Indian Affairs (BIA), in accordance with Section 176 of the Clean Air Act 42 U.S.C. 7506, and the EPA general conformity regulations 40 CFR Part 93, Subpart B, has prepared a Draft Conformity Determination (DCD) for the Cloverdale Rancheria of Pomo Indians' (Tribe) proposed 61.83-acre trust acquisition and resort casino project in unincorporated Sonoma County, California. This Proposed Action was previously analyzed in a Draft and Final Environmental Impact Statement prepared pursuant to the National Environmental Policy Act issued August 6, 2010 and April 18, 2014, respectively.

**DATES:** The DCD is available for public review and comment for a 30-day period beginning February 12, 2015. All comments on the DCD should be post-marked by March 16, 2015. A Final Conformity Determination on the Proposed Action will be issued no sooner than 30 days after the release of the DCD.

**ADDRESSES:** Mail or hand carry written comments to Chad Broussard, Environmental Protection Specialist, Bureau of Indian Affairs, Pacific Region, 2800 Cottage Way, Sacramento, California 95825. See SUPPLEMENTARY INFORMATION for directions on submitting comments and public availability of the DCD.

**FOR FURTHER INFORMATION CONTACT:** Chad Broussard, (916) 978-6165.

**SUPPLEMENTARY INFORMATION:** Under the Proposed Action, the BIA would accept 61.83 acres into trust for the Tribe. The Tribe proposes to develop a casino with 80,000 square feet of gaming area, 287,000 square-foot hotel with 244 rooms, 48,600 square-foot convention center, and 28,100 square-foot entertainment center. Approximately 3,400 parking spaces would be provided by car garage parking (3,300 spaces) and surface parking (100 spaces). The site is located in unincorporated Sonoma County, California within the sphere of influence of the City of Cloverdale. The site is situated immediately east of Highway 101 and borders Asti Road.

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**DIRECTIONS FOR SUBMITTING COMMENTS:** Please include your name, return address and the caption, "Draft Conformity Determination Comments, Cloverdale Rancheria Fee-to-Trust and Casino Resort Project," on the first page of your written comments. Before including your address, phone number, e-mail address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

**DCD PUBLIC AVAILABILITY:** The DCD is available online at: <http://www.cloverdalerancheria.com/eis/Index.htm>. To obtain a copy of the DCD, please provide your name and address in writing or by voicemail to Chad Broussard, Environmental Protection Specialist, at the address listed in the ADDRESSES section of this notice, or at the telephone number listed in the FOR FURTHER INFORMATION CONTACT section of this notice.

Dated: February 12, 2015

2695812 - Pub. Feb. 12, 2015

11.