
North Coast Regional Water Quality Control Board

Date: May 16, 2013

NOTICE OF INTENT TO USE AN ENVIRONMENTAL IMPACT STATEMENT PREPARED FOR THE GRATON RANCHERIA CASINO AND HOTEL PROJECT AS THE ENVIRONMENTAL IMPACT REPORT FOR THE ISSUANCE OF A CLEAN WATER ACT SECTION 401 CERTIFICATION FOR THE WILFRED AVENUE IMPROVEMENT PROJECT

On October 1, 2010, the Secretary of the Interior accepted title to approximately 254 acres of land to be held in trust for the Federated Indians of Graton Rancheria ("Tribe"), pursuant to the Graton Rancheria Restoration Act (25 U.S.C. § 1300n-3). Under the Graton Rancheria Restoration Act, this trust land was made part of the Tribe's reservation. Before the land was taken into trust, the National Indian Gaming Commission ("NIGC") prepared and completed an Environmental Impact Statement ("EIS") for the Graton Reservation Casino and Hotel ("Graton Rancheria Casino Project") under the National Environmental Policy Act ("NEPA"). Subsequently, the State of California and the Tribe entered into a Tribal-State Compact, ratified by Government Code section 12012.56, which approved the Graton Rancheria Casino Project.

Pursuant to the Tribal-State Compact, the Tribe was required to negotiate with Sonoma County and the City of Rohnert Park and enter into enforceable written agreements ("intergovernmental agreements") for the timely mitigation of any potentially significant environmental effects. Government Code section 12012.56 exempted certain intergovernmental agreements from environmental review under CEQA. The City of Rohnert Park proceeded to negotiate an intergovernmental agreement with the Tribe that was ultimately adopted by the City as the Joint Exercise of Powers Agreement for the Wilfred Avenue Improvement Project ("Wilfred Project"). The purpose of the Wilfred Project is to mitigate the Graton Rancheria Casino Project's offsite and cumulative traffic impacts in accordance with the EIS. The City of Rohnert Park relied on the statutory exemption contained in Government Code section 12012.56 as the basis for finding that the Wilfred Project was statutorily exempt from CEQA review.

In compliance with CEQA, the North Coast Regional Water Quality Control Board ("North Coast Regional Board") is publishing this notice that it will use the EIS prepared

by the NIGC for the Graton Rancheria Casino Project to support its determination of whether to issue a Clean Water Act section 401 certification for the Wilfred Project.

CEQA REQUIREMENTS

Section 21083.5 of the Public Resources Code (see also CEQA Guidelines section 15221) directs that when an EIS has been prepared for a project pursuant to the requirements of NEPA, all or part of the EIS may be submitted in lieu of all or any part of an environmental impact report ("EIR") required by CEQA if the EIS complies with the requirements of CEQA and the CEQA Guidelines. CEQA Guidelines section 15225 further directs that, where the EIS was circulated for public review as broadly as state and local law may require and notice was given that met the standards in section 15087(a) of the CEQA Guidelines, the lead agency may use the EIS in place of an EIR without recirculating the EIS for public review. Prior to using the EIS in place of an EIR, the lead agency must provide notice that it will use the EIS in place of the EIR and believes that the EIS meets the requirements of CEQA. The North Coast Regional Board finds that the EIS prepared by the NIGC complies with the requirements and provisions of CEQA and the CEQA Guidelines, including a robust alternatives analysis, detailed mitigation measures, greenhouse gas emissions analysis, and assessments of growth inducing and cumulative impacts. Accordingly, the North Coast Regional Board is providing this notice that it intends to use the EIS prepared by the NIGC for its determination of whether to issue a Clean Water Act section 401 certification to the City of Rohnert Park for its Wilfred Project.

The NEPA environmental review process for the Graton Rancheria Casino Project included four public hearings and over 160 days for public comment on the scoping report and Draft EIS ("DEIS"). As with a CEQA document, the EIS prepared for NIGC was circulated to the public for review and comments. The Notice of Intent ("NOI") was published in the Federal Register on February 12, 2004, with a 50-day comment period. The Draft EIS was released through a Notice of Availability ("NOA"), published on March 9, 2007, in the Federal Register and the public comment period was open for a total of 89 days. The NOA was published in the *Marin Independent Journal* and the *Santa Rosa Press Democrat* on six different days over a two-month period. Public hearings were held on April 4, 2007 in Rohnert Park and on April 5, 2007 in Santa Rosa. The DEIS was also made available online beginning February 28, 2007, for public comment. Over 350 comment letters and public hearing comments were received. These were all responded to in the EIS, which was published by the USEPA in the Federal Register on Feb 27, 2009, with an announced 30-day comment period. All new comments received during this period were responded to in the Record of Decision ("ROD") dated October 1, 2010. Notices of the DEIS, EIS, and ROD were sent to the State Clearinghouse (SCH # 2007034002). Consequently, because the North Coast Regional Board has determined that the EIS was circulated as broadly as state law required and notice met the standards of section 15087(a), the North Coast Regional Board will not recirculate the EIS for public review.

PROJECT DESCRIPTION

The Wilfred Project consists of widening Wilfred Avenue between Redwood Drive and Stony Point Expressway and includes permanent impacts to .76 acres of wetlands and the purchase of .8 acres of wetlands creation credits. The City of Rohnert Park must obtain a Clean Water Act section 404 permit from the United States Army Corps of Engineers (“Corps”) prior to construction of the Wilfred Project. Pursuant to section 401 of the Clean Water Act, the Corps must receive authorization from the state where the activity occurs indicating that the Corps’ 404 Permit meets state water quality standards. In issuing a section 401 certificate, the North Coast Regional Board must comply with CEQA.

COPIES OF THE ENVIRONMENTAL IMPACT STATEMENT ARE AVAILABLE FOR REVIEW AT:

1. The North Coast Regional Water Quality Control Board, 5550 Skylane Blvd., Suite A, Santa Rosa, CA 95403-1072 (contact person: Stephen Bargsten, 707-576-2653, Stephen.Bargsten@waterboards.ca.gov)
2. www.gratoneis.com