

# ***SECTION 1.0***

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***PURPOSE AND NEED***

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## PURPOSE AND NEED

### 1.1 INTRODUCTION

This Environmental Impact Statement (EIS) has been prepared by the Department of the Interior, Bureau of Indian Affairs (BIA) to address the potential environmental effects of a proposed 305-acre fee-to-trust land acquisition in unincorporated Madera County, California for the North Fork Rancheria of Mono Indians (Tribe). The BIA is the federal agency that is charged with reviewing and approving Tribal applications pursuant to 25 CFR Part 151 to take land into federal trust status. The proposed action includes a trust acquisition for gaming purposes and the approval by the National Indian Gaming Commission (NIGC) of a gaming management contract between SC Madera Management LLC and the Tribe. The NIGC is the Federal agency that is charged with regulating gaming on Native American lands as mandated by the Indian Gaming Regulatory Act (IGRA), 25 U.S.C. § 2701 et seq. As part of its regulatory authority under IGRA, the NIGC reviews and approves all management contracts between tribal governments and outside management companies. The foreseeable consequence of these actions will be the development of a hotel and casino complex with associated support facilities on the subject property. The purpose of the proposed action is to help provide for the economic development of the Tribe and other benefits for the Tribe discussed in detail in **Section 1.4** below.

For the purpose of this EIS, the BIA serves as the Lead Agency for compliance with the National Environmental Policy Act (NEPA) (42 U.S.C. § 4321 et seq.), with the Tribe, the NIGC, the California Department of Transportation (Caltrans), the Madera Irrigation District (MID), the U.S. Environmental Protection Agency (USEPA), and the City of Madera serving as Cooperating Agencies. **Appendix A** contains correspondence from the BIA seeking the participation of various federal and non-federal agencies as Cooperating Agencies under NEPA. **Appendix A** also contains correspondence from those agencies agreeing to serve as Cooperating Agencies.

This document has been completed in accordance with the requirements set forth in NEPA (42 U.S.C. 4321 et seq.); the President's Council on Environmental Quality (CEQ) regulations for implementing NEPA (40 C.F.R. Parts 1500-1508); and the BIA NEPA Handbook (59 IAM 3-H). This EIS provides a detailed description of the proposed action and alternatives to the proposed action, including the No Action Alternative. NEPA requires that the BIA review and analyze the potential environmental consequences associated with the proposed action and alternatives. This document also includes a discussion of effect avoidance and mitigation measures.

## 1.2 ALTERNATIVE SITE LOCATIONS

### 1.2.1 MADERA SITE

The Madera site is located in southwest Madera County, just north of the City of Madera and adjacent to State Route 99 (SR-99). The site is bounded on the north by Avenue 18, rural residential land, light industrial land, and vacant land; on the east by Golden State Boulevard and SR-99; on the south by agricultural and residential land; and on the west by Road 23 and agricultural land (**Figure 1-1**). Regional access to the Madera site is via SR-99. Road 23, Avenue 18, and Golden State Boulevard would provide direct access to the Madera site. **Figure 1-2** shows the vicinity of the Madera site. **Figure 1-3** shows an aerial photo of the Madera site. The Madera site currently consists of seven parcels, totaling approximately 305 acres (**Table 1-1**; **Figure 1-4**).

**TABLE 1-1**  
MADERA SITE PARCELS

Number	Assessor's Parcel Number (APN)	Approximate Size (acres)
1	033-030-010-000	36.01
2	033-030-011-000	40.66
3	033-030-012-000	38.26
4	033-030-013-000	42.23
5	033-030-014-000	38.92
6	033-030-015-000	56.44
7	033-030-017-000	52.97
<b>Total</b>		<b>305.49</b>

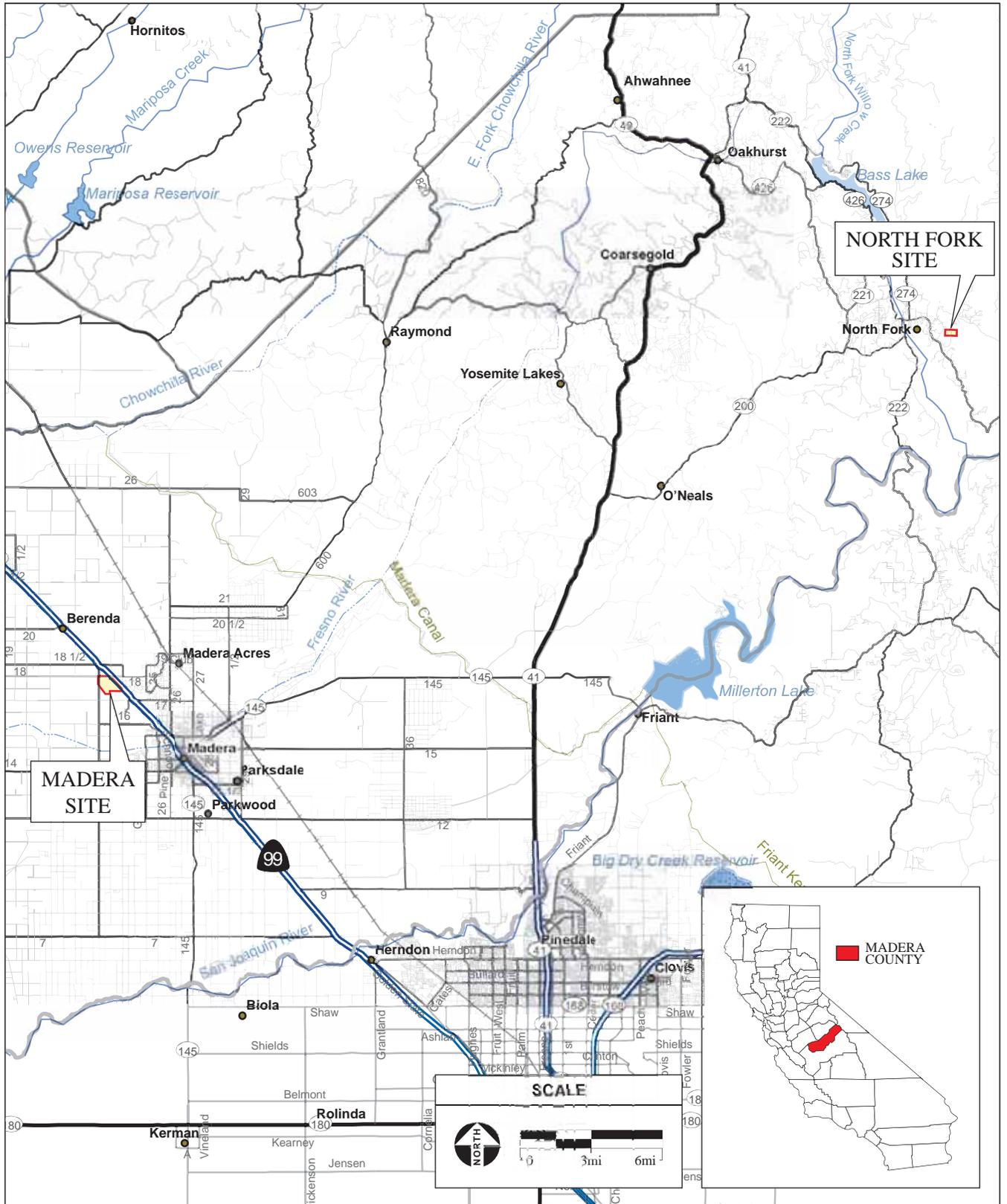
SOURCE: Analytical Environmental Services, 2005.

### 1.2.2 NORTH FORK SITE

The 80-acre North Fork site is located east of the Madera site, approximately three miles east of the community of North Fork, east of Mammoth Pool Road, and 0.5 miles southwest of Hill 3954 (1.5 miles southwest of Cascadel), in portions of sections 17, 20, and 21 in Township 8 South, Range 23 East, Mount Diablo Base Line and Meridian, Madera County, California (see **Figure 1-1**). The North Fork site is situated at an elevation of 2800 to 3400 feet. The North Fork site is currently held in trust by the Federal Government. Thus, the North Fork site is not divided into parcels for local taxation purposes. **Figure 1-5** shows the vicinity of the North Fork site. **Figure 1-6** shows an aerial photo of the North Fork site.

## 1.3 SUMMARY OF THE PROPOSED ACTION AND ALTERNATIVES

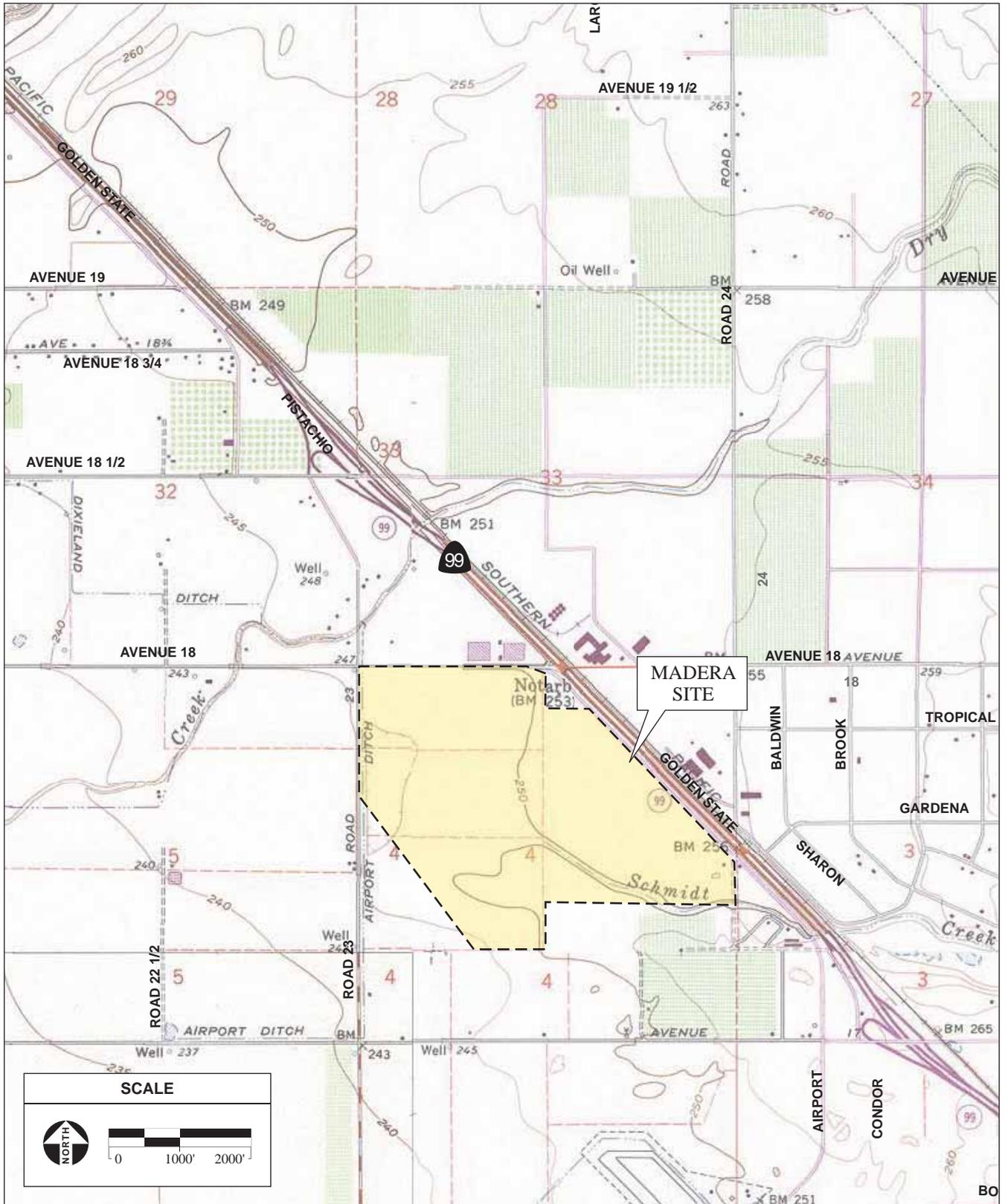
The proposed action analyzed in this EIS is the fee-to-trust acquisition and subsequent approval of a gaming management contract by the NIGC. The foreseeable consequence of this action will



SOURCE: ESRI Data, 2005; AES, 2006

North Fork Casino EIS / 204502 ■

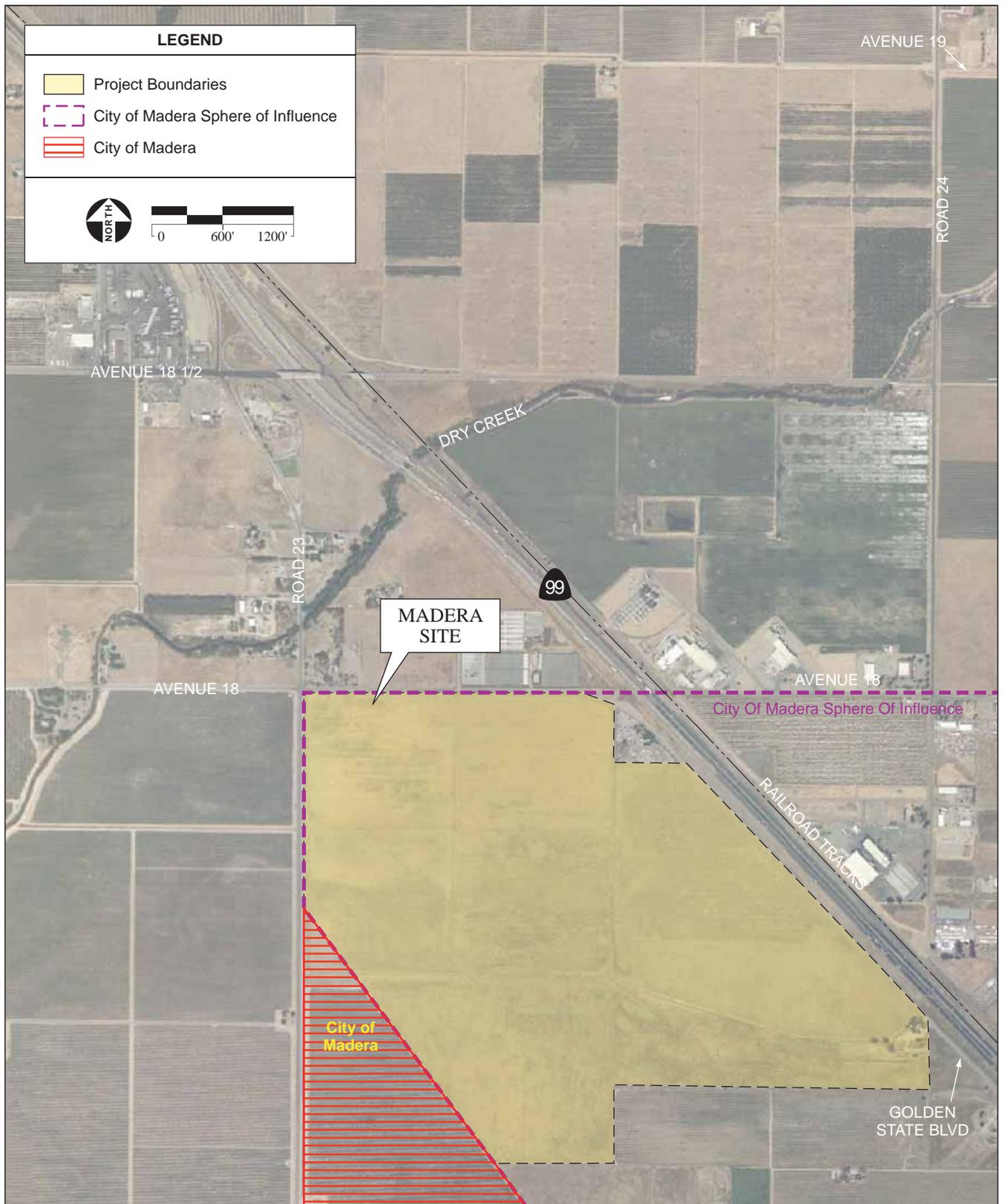
**Figure 1-1**  
Regional Location Map



SOURCE: "Berenda, CA" & "Kismet, CA" USGS 7.5 Minute Topographic Quadrangles, Sections 32 & 33, T10S, R17E and Section 4, T11S, R17E, Mt. Diablo Baseline and Meridian; AES, 2006

North Fork Casino EIS / 204502 ■

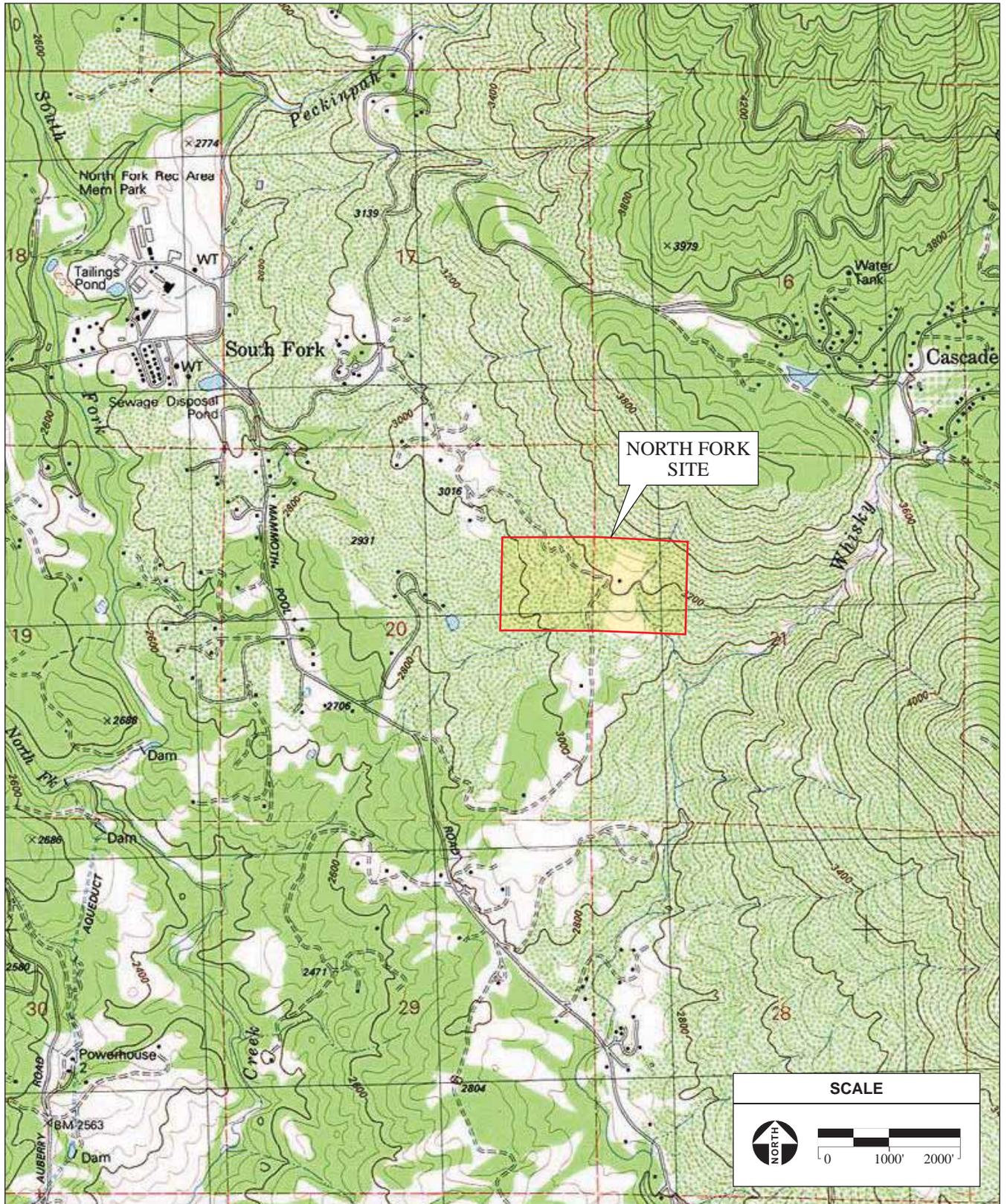
**Figure 1-2**  
Madera Site – Site and Vicinity Map



**Figure 1-3**  
Madera Site – Aerial Site Map



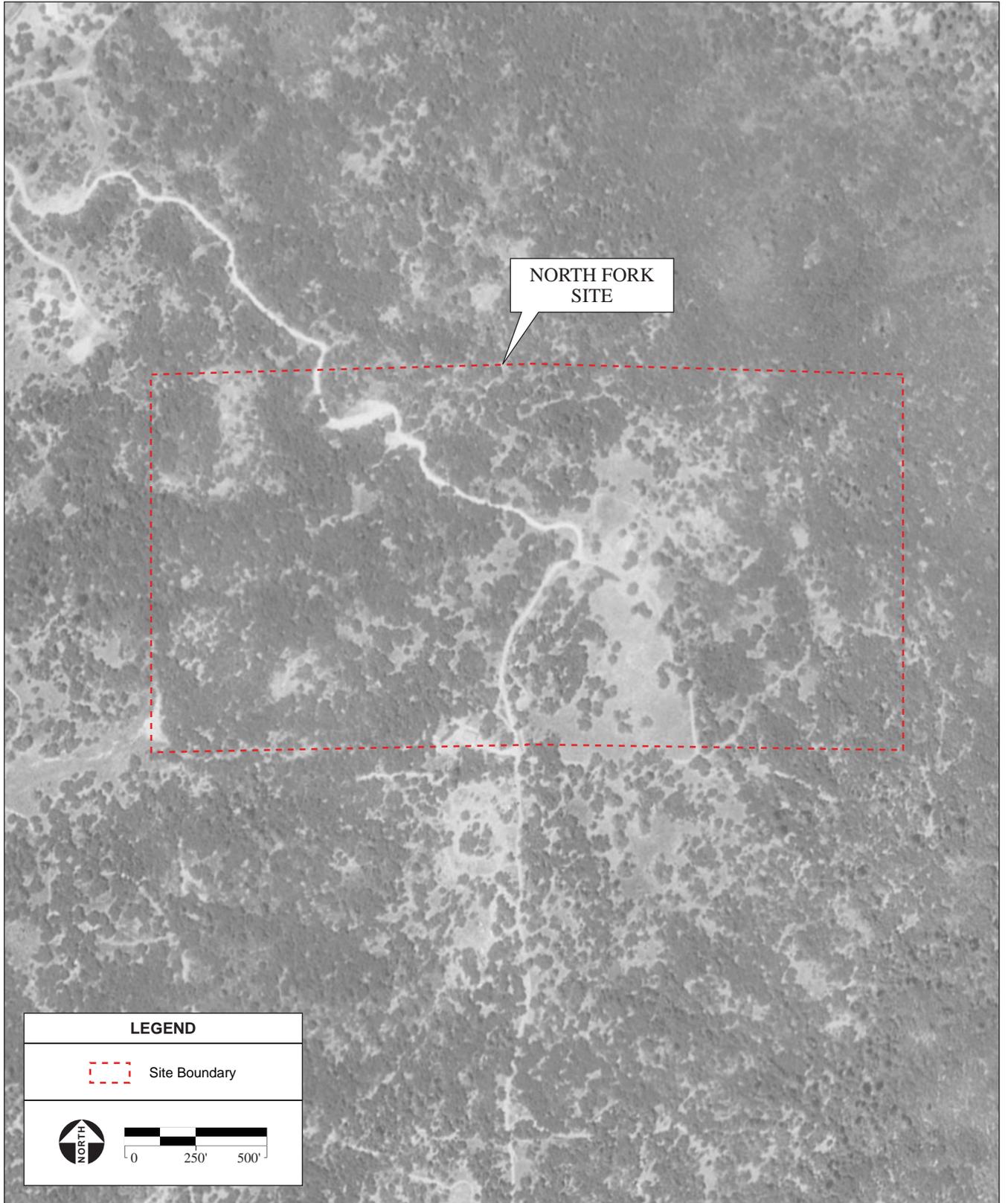
**Figure 1-4**  
Madera Site – Parcel Map



SOURCE: "Cascadel, CA" USGS 7.5 Minute Topographic Quadrangle, Sections 20 & 21, T8S, R23E Mt. Diablo Baseline and Meridian; AES, 2006

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**Figure 1-5**  
North Fork Site – Site and Vicinity Map



be the development of one of the four development alternatives analyzed in this EIS. The alternatives addressed in this study, including the No-Action Alternative, are listed below and further described in the following section.

1. Alternative A – Proposed Project;
2. Alternative B – Reduced Intensity;
3. Alternative C – Non-Gaming Use;
4. Alternative D – North Fork Location; and
5. Alternative E – No-Action.

Alternative A consists of the development of a casino and hotel resort on the eastern side of the Madera site adjacent to SR-99. The casino and hotel resort would include a main gaming hall, food and beverage services, retail space, banquet/meeting space, and administrative space. Food and beverage facilities are planned, including a buffet, three restaurants, a food court and several bars/lounges. The resort would also include a multi-story hotel with 200 rooms, a pool area, and spa. Ancillary support facilities would include a central plant (utilities/operations control and storage building) and potentially a wastewater treatment plant. Approximately 4,500 parking spaces would be provided for the casino and hotel resort. The remainder of the Madera site would remain undeveloped and would be used for passive recreation, pastureland, biological habitat, and/or recycled water spray fields.

Alternative B constitutes the development of a smaller-scale “reduced intensity” casino resort in the same general area as Alternative A, but with a smaller footprint, less total square footage, and no hotel. The components of the casino complex proposed for Alternative B would be similar to those proposed for Alternative A, but smaller and without a hotel. Alternative C is a non-gaming alternative, proposed as a mixed-use retail development (with no hotel). This development would include several large retail outlet stores and small storefronts, including food and beverage establishments. Alternative D consists of a reduced intensity casino at the North Fork site in Madera County near North Fork, California, approximately 30 miles south of Yosemite National Park and 40 miles northeast of Fresno, California. Alternative E is the No Action Alternative, which would involve no new construction. The Madera site and North Fork site s would remain vacant, undeveloped agricultural land, with no fee-to-trust acquisition or subsequent management contract.

## **1.4 PURPOSE AND NEED**

Implementation of the proposed action would assist the Tribe in meeting the following objectives:

- Improve the socioeconomic status of the Tribe by providing an augmented revenue source that could be used to strengthen the Tribal Government, fund a variety of social,

housing, governmental, administrative, educational, health and welfare services to improve the quality of life of Tribal members, and provide capital for other economic development and investment opportunities.

- Provide employment opportunities to the Tribal community.
- Make donations to charitable organizations and governmental operations, including local educational institutions.
- Fund local governmental agencies, programs, and services.
- Allow the Tribe to establish economic self-sufficiency.

A lack of economic development opportunities exists for the Tribe primarily due to a lack of funds for project development and operation. The Tribe has no sustained revenue stream that could be used to fund programs and provide assistance to Tribal members. Among the Tribe's membership there is a high unemployment rate, a high poverty rate, and a high reliance upon the Federal and State governments for social services.

Providing a solid economic base for tribes represents one of the primary purposes behind IGRA. IGRA states that Congress finds "a principal goal of Federal Indian policy is to promote tribal economic development, tribal self sufficiency, and strong tribal government..." 25 U.S.C. § 2701. IGRA also states that one of the purposes of the act is "to provide a statutory basis for the operation of gaming by Indian tribes as a means of promoting tribal economic development, self-sufficiency, and strong tribal governments..." 25 U.S.C. § 2702.

To ensure that revenues raised from gaming are used to "promote tribal economic development, tribal self sufficiency, and strong tribal government," IGRA (25 U.S.C. § 2710(b)(2)(A)) limits the use of net gaming revenues to the following:

- Funding tribal government operations or programs.
- Providing for the general welfare of the Indian tribe and its members.
- Promoting tribal economic development.
- Making donations to charitable organizations.
- Funding operations of local government agencies.

The proposed action would allow the Tribe to take advantage of the financial opportunities provided by Congress through IGRA, providing the Tribe with a long-term, viable, and sustainable revenue base. Revenues from the operation of the casino and hotel would be used for at least the following purposes:

- Funding governmental programs and services, including housing, educational, environmental, health, and safety programs and services.

- Hiring additional staff, upgrading equipment and facilities, and generally improving governmental operations.
- Decreasing the Tribe's and Tribal members' dependence on Federal and State grants and assistance programs.
- Making donations to charitable organizations and governmental operations, including local educational institutions.
- Funding local governmental agencies, programs, and services.
- Providing capital for other economic development and investment opportunities, allowing the Tribe to diversify its holdings over time, so that it is no longer dependent upon the Federal or State government or even upon gaming to survive and prosper.

Each of these purposes is consistent with the limited allowable uses for gaming revenues, as required by IGRA. The hotel, casino, and related facilities would also provide employment opportunities for Tribal members as well as local non-Tribal residents. Operation of the hotel, casino, and related facilities would require the purchase of goods and services, increasing opportunities for local businesses and stimulating the local economy.

The Tribal Government's purpose for requesting the approval of the proposed management contract is to team with SC Madera Management LLC to develop and manage a casino and hotel resort. The Tribal government needs a developer/manager because the Tribe alone cannot secure the necessary financing to develop this project and lacks the necessary expertise to manage a casino and hotel resort.

## **1.5 OVERVIEW OF THE ENVIRONMENTAL REVIEW PROCESS**

NEPA generally requires that an EIS be prepared for major Federal actions that may significantly affect the quality of the human environment (42 U.S.C. § 4332). This document has been completed in accordance with the requirements set forth in NEPA (42 U.S.C. § 4321 et seq.); the Council on Environmental Quality (CEQ) Regulations for Implementing NEPA (40 C.F.R. Parts 1500-1508); and the BIA NEPA Handbook (59 IAM 3-H).

This EIS has been prepared to analyze and document the environmental consequences associated with the approval of the fee-to-trust acquisition and resulting development of a casino and hotel resort. Additionally, the EIS analyzes a reasonable range of alternatives including four development alternatives and a no action alternative.

The first formal step in the preparation of an EIS is publication of a Notice of Intent (NOI) to prepare an EIS. The purpose of a NOI is to inform the public that the lead agency intends to prepare and consider an EIS for a proposed action. The NOI also includes a description of the proposed action and possible alternatives, a description of the proposed scoping process including

whether, when, and where any scoping meeting will be held, and the name and address of the lead agency contact for the public (40 C.F.R. § 1508.22).

The CEQ regulations for implementing NEPA require a process, referred to as “scoping” for determining the range of issues to be addressed during the environmental review of a proposed action (40 C.F.R. § 1501.7). The scoping process entails a determination of issues by soliciting comments from agencies, organizations and individuals.

The BIA published the NOI for this proposed action in the *Federal Register* on October 27, 2004 with the public scoping comment period beginning on October 27, 2004 and ending on November 26, 2004 (**Appendix B**). The NOI was published in the Madera Tribune on November 12, 2004.

The October 27, 2004 NOI served to announce the public scoping meeting, which was held by the BIA on November 15, 2004 at Hatfield Hall, Madera District Fairgrounds, Madera, California. The scoping meeting was conducted by the following representatives of the BIA: Patrick O’Mallan, Environmental Protection Specialist, and John Rydzik, Chief of the Division of Environmental, Cultural, Resource Management and Safety for the Pacific Region. The scoping meeting provided a forum for the public to personally address the members of the BIA regarding the scope of the EIS.

In response to a request, the BIA extended the public scoping comment period to December 15, 2004. Notices extending the comment period were published in the Madera Tribune and Fresno Bee on November 29, 2004 and December 7, 2004. The Madera Tribune notice incorrectly listed the extended comment deadline as December 10, 2004. Thus, a correction was published in the Madera Tribune on December 3, 2004.

The BIA then published a Notice of Correction (NOC) in the *Federal Register* on April 6, 2005. The NOC amended the October 2004 NOI to include a description of possible project alternatives and also to further extend the scoping comment period to May 6, 2005. The BIA published the NOC in the Madera Tribune on April 8, 2005 and in the Fresno Bee on April 9, 2005 (**Appendix B**). In July 2005, the BIA published a Scoping Report which summarized the comments received during the scoping period and outlined the expected scope of the EIS (AES, 2005). To the extent required by NEPA, this EIS has incorporated the issues and concerns summarized within the Scoping Report.

The Draft EIS was distributed to federal, tribal, state, and local agencies and other interested parties for a 45-day review and comment period. The CEQ Regulations (40 C.F.R. §1506.10(c)) require that agencies provide at least 45 days for comments on a Draft EIS, subject to the provisions of 40. C.F.R § 1506.10(d). The review and comment period began on February 15,

2008 after the Notice of Filing with the USEPA in the *Federal Register*. The Notice of Availability (NOA) published by the BIA on February 15, 2008, provided the time and location of the public hearing on March 12, 2008 to present the proposed project with alternatives to the public, and accept comments. Public notice was also published in *The Fresno Bee* and the *Madera Tribune* on February 15, 2008 (**Appendix B**).

The BIA received a total of 331 comment letters and public hearing statements. **Appendix Y** of the Final EIS includes a list of all comment letters received and statements made at the public hearing. 40 C.F.R. § 1503.4 requires that, “ All substantive comments, or summaries thereof where the response has been exceptionally voluminous, should be attached to the final statement whether or not the comment is thought to merit individual discussion from the agency in the text of the statement.” Therefore, all substantive comments or representations thereof, where identical comments have been submitted by multiple parties, have been included in the Final EIS (**Appendix Y**).

Responses have been provided for each substantive comment submitted during the public comment period of the Draft EIS. These responses are provided within the Response to Comments document included within **Appendix Y** and are reflected in appropriate modifications made throughout the text of the Final EIS where necessary and appropriate. Comments received during the scoping period and/or in response to review of the preliminary document have already been considered and addressed through modifications reflected in the Draft EIS released in February 2008.

The BIA will publish this Final EIS and will file it with the USEPA. The USEPA will then publish a NOA for the Final EIS in the *Federal Register* marking the beginning of the 30-day review period that the BIA, upon conclusion of which, may decide on the Proposed Action.

At the time the BIA makes its decision, they will prepare a concise public Record of Decision (ROD), which states: what the decision is, identifies all the alternatives considered in reaching the decision, and discusses preferences among alternatives based on relevant factors including economic and technical considerations and the BIA’s statutory mission (40 C.F.R § 1505.2). The ROD also identifies and discusses all factors that were considered in making the decision and discusses whether all practicable mitigation measures have been adopted to minimize environmental effects. If all practicable measures are not adopted, the BIA must state why such measures were not adopted. The CEQ requires that, “Mitigation and other conditions established in the environmental impact statement or during its review and committed as part of the decision shall be implemented by the lead agency or other appropriate consenting agency” (40 C.F.R. § 1505.3). Specific details of adopted mitigation measures shall be included as appropriate conditions in the ROD by the lead agency.

## 1.6 REGULATORY REQUIREMENTS, PERMITS, AND APPROVALS

It is anticipated that implementation of the Proposed Action would require Tribal, Federal, and State permits and approvals. **Table 1-2** identifies each responsible agency and the potential permit or approval expected to be required.

**TABLE 1-2**  
POTENTIAL PERMITS AND APPROVALS REQUIRED

Agency	Permit or Approval	Alternative	Applicant
North Fork Rancheria of Mono Indians	Compliance with Tribal/State Compact	A, B, D	N/A
National Indian Gaming Commission (NIGC)	Approval of Tribal gaming ordinances	A, B, D	North Fork Rancheria of Mono Indians
National Indian Gaming Commission (NIGC)	Approval of management contract	A, B, D	North Fork Rancheria of Mono Indians
National Indian Gaming Commission (NIGC)	Indian lands determination	A, B	North Fork Rancheria of Mono Indians
Secretary of the Interior	Fee-to-trust transfer	A, B, C	North Fork Rancheria of Mono Indians
Secretary of the Interior	Fee-to-trust transfer or lease agreement	D	North Fork Rancheria of Mono Indians
U.S. Environmental Protection Agency (USEPA)	Issuance of National Pollutant Discharge Elimination System (NPDES) General Permit for stormwater discharges from construction activities as required by the Clean Water Act	A, B, C, D	North Fork Rancheria of Mono Indians
U.S. Environmental Protection Agency (USEPA)	Issuance of NPDES Permit for wastewater discharges	A, B, C, D	North Fork Rancheria of Mono Indians
U.S. Environmental Protection Agency (USEPA)	Water quality certification (or waiver) as required by the Clean Water Act	A, B, C, D	North Fork Rancheria of Mono Indians
U.S. Army Corps of Engineers (USACE)	Approval of permit(s) for the filling of jurisdictional wetlands/waters as required by the Clean Water Act	A, B, C, D	North Fork Rancheria of Mono Indians
U.S. Fish and Wildlife Service (USFWS)	Section 7 Consultation under the Federal Endangered Species Act if endangered species may be affected	A, B, C, D	Bureau of Indian Affairs (BIA)
California State Historic Preservation Office (SHPO)	Consultation under Section 106 of the National Historic Preservation Act (NHPA)	A, B, C, D	Bureau of Indian Affairs (BIA)

SOURCE: Analytical Environmental Services, 2008.