

Congress of the United States

Washington, DC 20515

May 7, 2008

The Honorable Carl J. Artman
Assistant Secretary, Indian Affairs
U.S. Department of the Interior
1849 C Street, N.W.
Washington DC 20240

Dear Assistant Secretary Artman:

We are writing in response to strong, ongoing local concerns that have been raised regarding the sufficiency of the Bureau of Indian Affairs' (BIA) NEPA documentation of the proposed Cortina Integrated Waste Management Project (Cortina Project).

As you know, the Cortina Project contemplates the siting of a large municipal waste landfill in the western foothills of Colusa County, California, at the headwaters of an important tributary to the Sacramento River. Drainage from this area flows into the Colusa Drain and local groundwater aquifers and is a critical part of the county's agricultural, residential, and environmental water supply. Local officials and community residents have expressed deep concern over the potential impacts the landfill could have on local surface and groundwater quality. A significant point of contention continues to be that the Cortina Project has proceeded, and may eventually materialize, without adequate environmental review.

It is our understanding that the Environmental Impact Statement (EIS) prepared by BIA in 2000 analyzed the project at a very early stage in its development, when specific project details were unknown and therefore not ripe for agency or public review. A formal protest was filed by Colusa County challenging the Cortina Project and specifically, the adequacy of the EIS. In response to the County's objections, the Interior Board of Indian Appeals (IBIA) pointed to the BIA's use of a "tiered" NEPA process, whereby a more detailed environmental analysis, as well as a consideration of mitigation measures, would be conducted at a later date in additional NEPA documentation as more specific project details became known. The IBIA stated, "asserted inadequacies in the environmental analysis...would be addressed as the project progressed, *including in one or more additional NEPA documents.*" (Emphasis added). Further, the IBIA suggested that "mitigation is specifically mentioned in the CEQ NEPA regulations as an issue to be discussed in a subsequent NEPA analysis under the tiering approach. The Board finds that BIA's discussion of mitigation is not inadequate because it anticipates further analysis when the mitigation issue is ripe for decision."

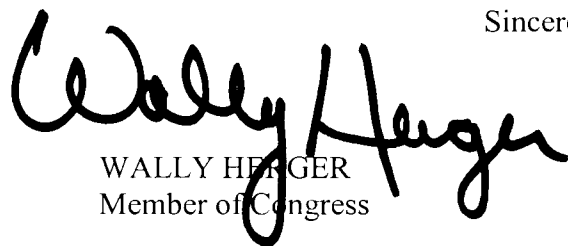
We remain supportive of responsible tribal economic development projects. But due to the considerable local concern that the Cortina Project has generated, as well as the IBIA decision which referenced a tiered NEPA process, we believe it necessary to inquire as to the status of any planned additional NEPA documentation. It is our understanding that the project is

moving forward on a number of fronts, including a request to the U.S. Environmental Protection Agency to waive federal landfill requirements and a request to Colusa County to begin condemnation proceedings to facilitate the construction of an access road; yet it is not apparent that the BIA has begun preparation of the next NEPA document in this "tiered" process. Considering the very serious questions that have been raised about this project by local stakeholders, we believe that now is the appropriate time for additional NEPA analysis to begin. Further, we would appreciate your response to the following questions:

- 1.) When does BIA expect to issue a Tier II NEPA document?
- 2.) Will the Tier II NEPA document be an Environmental Assessment, a new EIS, or a supplement to the Tier I EIS?
- 3.) Will the public have the opportunity to review and comment on the NEPA document?
- 4.) Will the NEPA review analyze potential environmental impacts beyond the project's physical footprint, such as increased vehicle traffic on a new access road?
- 5.) Will the project be able to begin accepting and processing waste before the environmental review is complete? If so, at what point and under what circumstances?

We thank you for your attention to this issue and look forward to your response.

Sincerely,


WALLY HERGER
Member of Congress


MIKE THOMPSON
Member of Congress

CC: Wayne Nastri
Region 9 Administrator
U.S. Environmental Protection Agency