

1.0 INTRODUCTION

This joint Environment Assessment and Tribal Environmental Impact Report (EA/TEIR) has been prepared to analyze the potential effects of a proposal by the Pauma Band of Mission Indians (Tribe) to construct and operate a permanent casino and a hotel resort on the Tribe's Reservation in northern San Diego County, California. The Tribe would operate the casino and hotel under a management agreement with Foxwoods Management Pauma, LLC (Foxwoods). The National Indian Gaming Commission (NIGC), as the lead Federal agency, will use this document for its compliance with the National Environmental Policy Act (NEPA) and to determine whether the proposed action would significantly affect the quality of the human environment within the meaning of NEPA. The EA has therefore been prepared in conformance with the specifications of NEPA (40 CFR § 1500-1508) and the NIGC's Draft NEPA Manual. The Tribe will also use the document to fulfill its environmental review requirements pursuant to its Environmental Review Ordinance which implements Section 10.8 of the Compact executed by the State and the Tribe. While the EA/TEIR has been prepared as a joint document to reduce duplication between NEPA and Compact requirements, it should be recognized that the TEIR analyzes potential off-Reservation environmental impacts only, while the EA component analyzes potential environmental impacts both off and on-Reservation. On-Reservation environmental impacts and, where identified herein, appropriate on-Reservation mitigation measures, are thus not part of the TEIR.

1.1 Proposed Action

The proposed federal action consists of the approval of a management agreement by the NIGC, entered into by the Tribe and Foxwoods. The consequence of this action will provide federal approval for third party management of a 69.1-acre permanent casino and hotel resort on Tribal trust land (the "Proposed Project"). The Proposed Project is consistent with the Tribe's business plan to replace the temporary Casino Pauma (existing casino) with a larger permanent casino resort.

In addition, the Tribe will use the TEIR to determine if the Proposed Project will result in off-Reservation effects to the environment. Tribal certification of this document will allow the Tribe to trigger a process for entering an MOU with the County of San Diego to mitigate off-Reservation impacts, which will permit the construction and operation of the Proposed Project pursuant to and required by Section 10.8 of the Compact. Also, the County of San Diego may at its discretion adopt or otherwise use this document for its compliance with the California Environmental Quality Act for approval of Encroachment Permits for road improvements proposed at the SR-76/Pauma Reservation Road intersection and along Pauma Reservation Road at new entrances to the casino and hotel site.

1.2 Purpose and Need

Implementation of the proposed action would be consistent with §2710(b)(2)(B) of the IGRA and, as such, would assist the Tribe and the NIGC in meeting the following objectives:

- Improve the socioeconomic status of the Tribe by providing an augmented revenue source that would be used to: strengthen the Tribal government; fund a variety of social, housing, governmental, administrative, educational, and health and welfare services to improve the quality of life of Tribal members; and provide capital for other revenue generating activities such as economic development and investment opportunities (thereby diversifying and stabilizing the Tribe's activities).
- Provide additional employment opportunities to the Tribal and non-Tribal community.
- Make contributions to charitable organizations and governmental operations including the local school district and other educational institutions.
- Fund local governmental agencies, programs, and services.
- Allow the Tribe to establish economic self-sufficiency.
- Effectuate the authorization embodied in the Indian Gaming Regulatory Act (IGRA) to help tribes develop an economic base.

The Pauma Band of Mission Indians is one of six Federally-recognized Luiseño Bands in southern California. The Tribe has an enrollment of 176 members, and a population of 128 live on the Reservation (State of California Department of Housing and Community Development, 2004). The Pauma and Yuima Reservation was established on August 18, 1892, on the southern slopes of Palomar Mountain and in Pauma Valley. The Reservation consists of four parcels with a total of 5,855 acres.

The 230-acre parcel that contains the existing casino, tribal government offices, housing, and orchards, and which includes the Project Site, is referred to as the Pauma Tract and is located about one-third of a mile on the north side of SR-76. Two Yuima Tracts (12.5 acres each) are located about eight miles east on SR-76 and contain additional residences and undeveloped land. The large "Mission Reserve" Tract, with 5,600 acres, is located high up on Palomar Mountain and has no residents.

Like all tribes in southern California, the Pauma Band of Mission Indians historically experienced depressed economic conditions. Their development of citrus and avocado orchards since 1985 and the operation of a temporary casino since 2001 have improved the socioeconomic status of the Tribe and its members. However, the economy of the Tribe still lags behind the economic status of the local community in terms of household income and the employment rate. The unemployment rate on the Reservation was 65 percent in 2005 (Bureau of Indian Affairs, 2005), in comparison with 4.2 percent in San Diego County and 4.8 percent in California (California Employment Development Department, 2007).

One of IGRA's primary goals is to help tribes. IGRA states that Congress finds "a principal goal of Federal Indian policy is to promote tribal economic development, tribal self sufficiency, and stronger tribal government" (25 U.S.C. Section 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 government" (25 U.S.C. Section 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. Section 2710(b)(2)(A)) requires that the net gaming revenues be used only for the following purposes:

- 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 provide the Tribe with a long-term, viable, and sustainable revenue base. Class III gaming is potentially very profitable if a successfully designed and operated gaming facility can be developed that generates sufficient profits to pay the substantial costs associated with developing and operating a gaming facility including development, construction, environmental analysis and mitigation, government revenue sharing, and management, operation, and other costs. Revenues from the operation of the Proposed Project 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 the local school district and other 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.

Each of these purposes is consistent with the limited allowable uses for gaming revenue established 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 also have a small “multiplier effect” to help stimulate the local economy.

The Tribal Government's purpose for requesting the approval of the proposed management contract is to team with Foxwoods to develop and manage a permanent casino and hotel resort on the Pauma Reservation. The Pauma Tribal government has elected to partner with Foxwoods as a developer/ manager so that the Tribe may benefit from Foxwoods financial resources, experience with the design, development, and management, and proven record of successful Indian gaming facilities and casino resorts. Management contracts with casino management companies are consistent with IGRA and heavily scrutinized by the NIGC prior to approval. In fact, the NIGC

was established by IGRA and its mission and statutory obligation under IGRA includes the review of management contracts. In particular, the NIGC's primary mission is to regulate gaming activities on Indian lands for the purpose of shielding Indian tribes from organized crime and other corrupting influences; to ensure that Indian tribes are the primary beneficiaries of gaming revenue; and to assure that gaming is conducted fairly and honestly by both operators and players. All of these purposes for regulating gaming are supported by the NIGC's review of management contracts under IGRA.

In addition to required environmental review pursuant to NEPA, IGRA (25 U.S.C. Section 2711(b)) requires that the NIGC approve a management contract only if it is determined that it at least provides for the following:

- Adequate accounting procedures are maintained, and verifiable financial reports are prepared, by or for the tribal governing body on a monthly basis.
- Access to daily operations of the gaming to appropriate tribal officials who shall also have a right to verify the daily gross revenues and income made from any such gaming activity.
- A minimum guaranteed payment to the Indian tribe that has preference over the retirement of development and construction costs.
- An agreed ceiling for the repayment of development and construction costs.
- A contract term not to exceed five years, except that, upon the request of an Indian tribe, the Chairman may authorize a contract term that exceeds five years but does not exceed seven years if the Chairman is satisfied that the capital investment required, and the income projections, for the particular gaming activity require the additional time.
- Grounds and mechanisms for terminating the management contract, but actual contract termination shall not require the approval of the Commission.

In addition to the above management contract requirements, IGRA (25 U.S.C. Section 2711(a)) requires that the NIGC conduct a background investigation "on each person or entity (including individuals comprising such entity) having a direct financial interest in, or management responsibility for, such contract, and, in the case of a corporation, those individuals who serve on the board of directors of such corporation and each of the stockholders who hold (directly or indirectly) 10 percent or more of its issued and outstanding stock," According to IGRA (25 U.S.C. Section 2711(c) and 2711(e)), the NIGC shall not approve a management contract if the management contract provides for an unreasonable fee (generally considered to be greater than 30 percent); the management contractor has, or has attempted to, unduly interfere or influence for its gain or advantage any decision or process of tribal government relating to the gaming activity; the management contractor has deliberately or substantially failed to comply with the terms of the management contract or the tribal gaming ordinance or resolution adopted pursuant to IGRA; a trustee, exercising the skill and diligence that a trustee is commonly held to, would not approve the contract; or the background investigation determines that one of the people or entities noted above:

- Is an elected member of the governing body of the Indian tribe that is the party to the management contract.
- Has been or subsequently is convicted of any felony or gaming offense.
- Has knowingly and willfully provided materially important false statements or information to the NIGC or the Indian tribe, or has refused to respond to questions propounded pursuant to the background investigation requirement of IGRA.
- Has been determined to be a person whose prior activities, criminal record, if any, or reputation, habits, and associations pose a threat to the public interest or to the effective regulation and control of gaming, or create or enhance the dangers of unsuitable, unfair, or illegal practices, methods, and activities in the conduct of gaming or the carrying on of the business and financial arrangements incidental thereto.

The Pauma Tribe's existing casino opened in May 2001 in a temporary large, tent-like Sprung structure and currently operates 1,090 slot machines and 22 table games. Due to its limited size and offerings, the existing facility does not have the ability to compete with the destination resorts in the immediate vicinity (e.g., Pala, Harrah's Rincon, Pechanga) and, as such has not had the ability to prosper and expand. To date, the Tribe has not had sufficient capital to provide for the necessary level of investment to develop a facility commensurate with the size and scope of the other facilities in the immediate area.

The Pauma Tribal members maintain a great desire to improve their quality of life through independent means. The Proposed Project would be highly competitive and would raise the standard of living of the Tribe and provide the means to improve the Reservation's infrastructure. Improvement in the economic and social well-being of community members would result through the creation of additional employment opportunities, vocational training, expanded water and wastewater treatment systems, and the provision of adequate housing and utilities. The proposed economic enterprise would also reduce dependence upon federal assistance, promote the use of community resources in a culturally and environmentally acceptable manner, and contribute to the maintenance and enhancement of the sovereignty of the Tribe as a government entity. There is no other viable economic development option available to the Pauma Tribe that would provide income comparable to that resulting from operation of the Proposed Project.

The Proposed Project would also benefit northern San Diego County. The project would reduce unemployment among non-Indian people in the North County because the number of available gaming facility-related full and part-time jobs, for an estimated 2,200 employees, would exceed the existing Tribal work force of 86 individuals. As with the existing casino, which currently employs approximately 525 individuals, most of the positions at the new facility would be filled by area residents. The facility would also contribute to the local economy through a small "multiplier effect" thereby creating additional jobs and related economic activity.

1.3 Relationship to Statutes, Regulations and Other Plans

The NIGC was formed pursuant to the Indian Gaming Regulatory Act (IGRA) of 1988. Responsibilities of the NIGC include monitoring gaming operations on a continuing basis; approving non-tribal management contracts for gaming operations; conducting background investigations on management company officials and principal investors; approving gaming-related tribal ordinances; assisting with background investigations of tribal employees; auditing gaming operations; and initiating enforcement actions. Foxwoods would manage the Proposed Project under contract to the Pauma Band of Mission Indians. NIGC approval of the contract between these parties is an action that requires environmental review under the National Environmental Policy Act (NEPA; 42 U.S.C. Section 4321 *et seq.*), the CEQ regulations for implementing NEPA (40 C.F.R. Parts 1500-1508), and the NIGC NEPA Manual.

The Tribe has sole land use authority over the Pauma Reservation. However, in conformance with the Compact signed between the Tribe and the Governor of California, the Tribe is committed to working with the County of San Diego to identify and mitigate off-Reservation impacts associated with on-Reservation projects relating to the Proposed Project. Specifically, Section 10.8.1 of the Compact requires that “Before the commencement of the Project as defined in Section 10.8.7 herein, the Tribe shall cause to be prepared a tribal environmental impact report, which is hereinafter referred to as a TEIR, analyzing the potentially significant off-reservation environmental impacts of the Project pursuant to the process set forth in this Section 10.8.”

The Proposed Project is proposed for construction and operation on Tribal trust land on the Pauma Reservation. The only applicable land use regulations on the Reservation are those of the Tribe. For any off-Reservation road improvement associated with the Proposed Project, encroachment permits would be required from Caltrans and the County of San Diego for construction activities within their right-of-ways. Prior to issuing the encroachment permits, these agencies must comply with environmental requirements under the California Environmental Quality Act (CEQA). The casino and hotel site is located on Federal trust land, and no County or State land use regulations or permit requirements would be applicable to the Proposed Project’s development.

1.4 General Setting

The Pauma and Yuima Reservation is located on the southern slopes of Palomar Mountain and in Pauma Valley on the north side of SR-76 in northern San Diego County, California (Figure 1). The Reservation consists of four parcels with a total of 5,855 acres, although the 5,600-acre Mission Reserve parcel is situated high up on the mountain and is currently not developed. The inhabited portion of the Reservation is situated on a gentle slope along Pauma Reservation Road, with the Proposed Project Site located about one-third of a mile on the north side of SR-76, where the temporary casino is located. The Proposed Project Site is located in unsectioned lands within Township 10 South and Range 1 West of the San Bernardino Baseline Meridian.

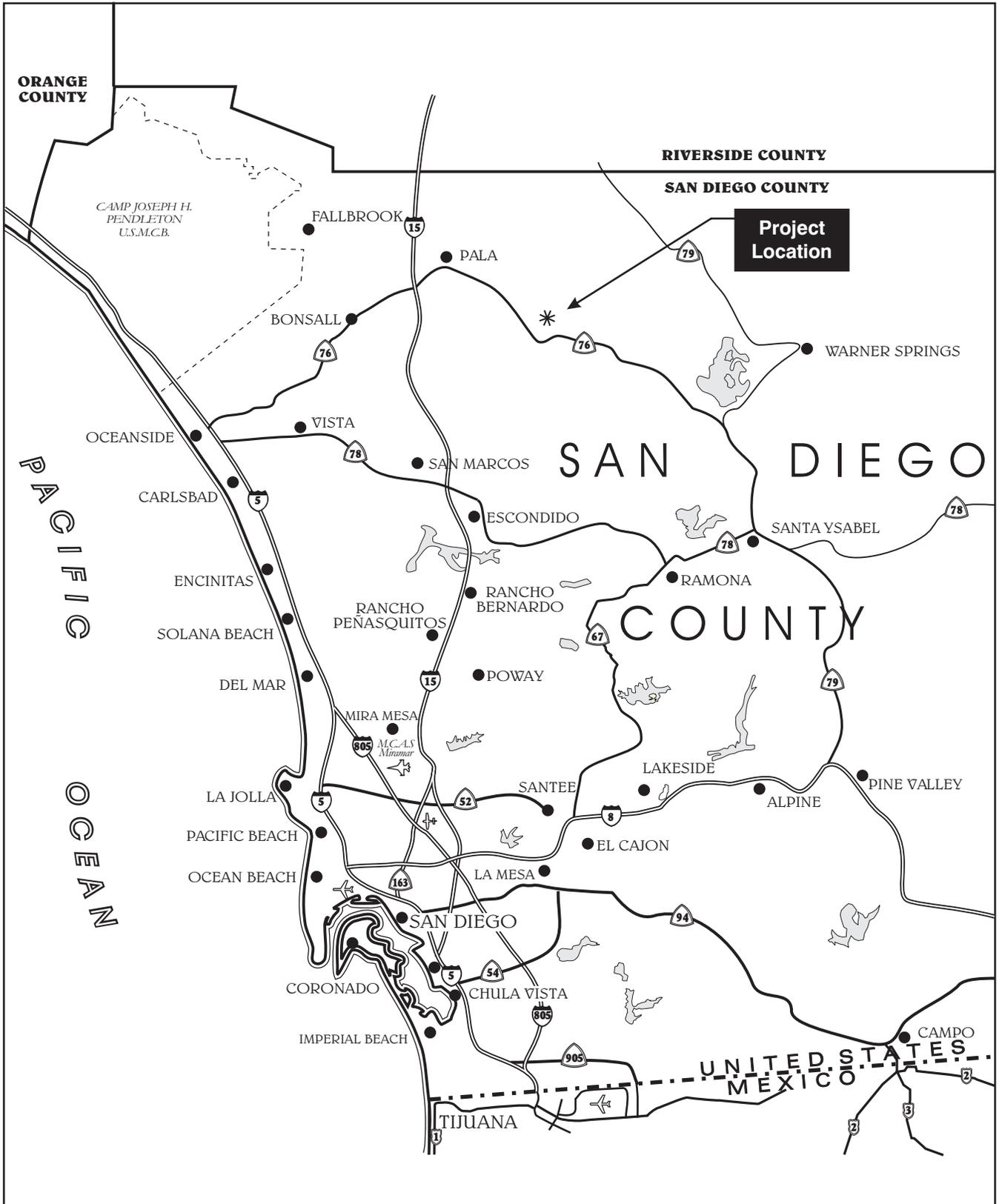


Figure 1
Regional Location Map



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ENVIRONMENTAL SERVICES

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The project area is shown on the Boucher Hill USGS 7.5' Quadrangle (Figure 2). Pauma Valley is not an undisturbed area of rare scenic value, but is rural with mostly scattered single family residences and largely agricultural. The valley is heavily characterized by citrus and avocado orchards both on and off the Reservation. Property adjacent to the Reservation boundaries is unincorporated and within the jurisdiction of the County of San Diego, although the SR-76 right-of-way is under the jurisdiction of Caltrans. In addition to the Tribe's existing casino, two nearby casino/resorts, Harrah's Rincon and Pala, are of comparable size and scope to the Proposed Project and include large hotel towers, and like the Proposed Project, are owned and operated by related Luiseño Tribes in the area to raise governmental revenue pursuant to the goals of the IGRA enumerated in Section 1.2.

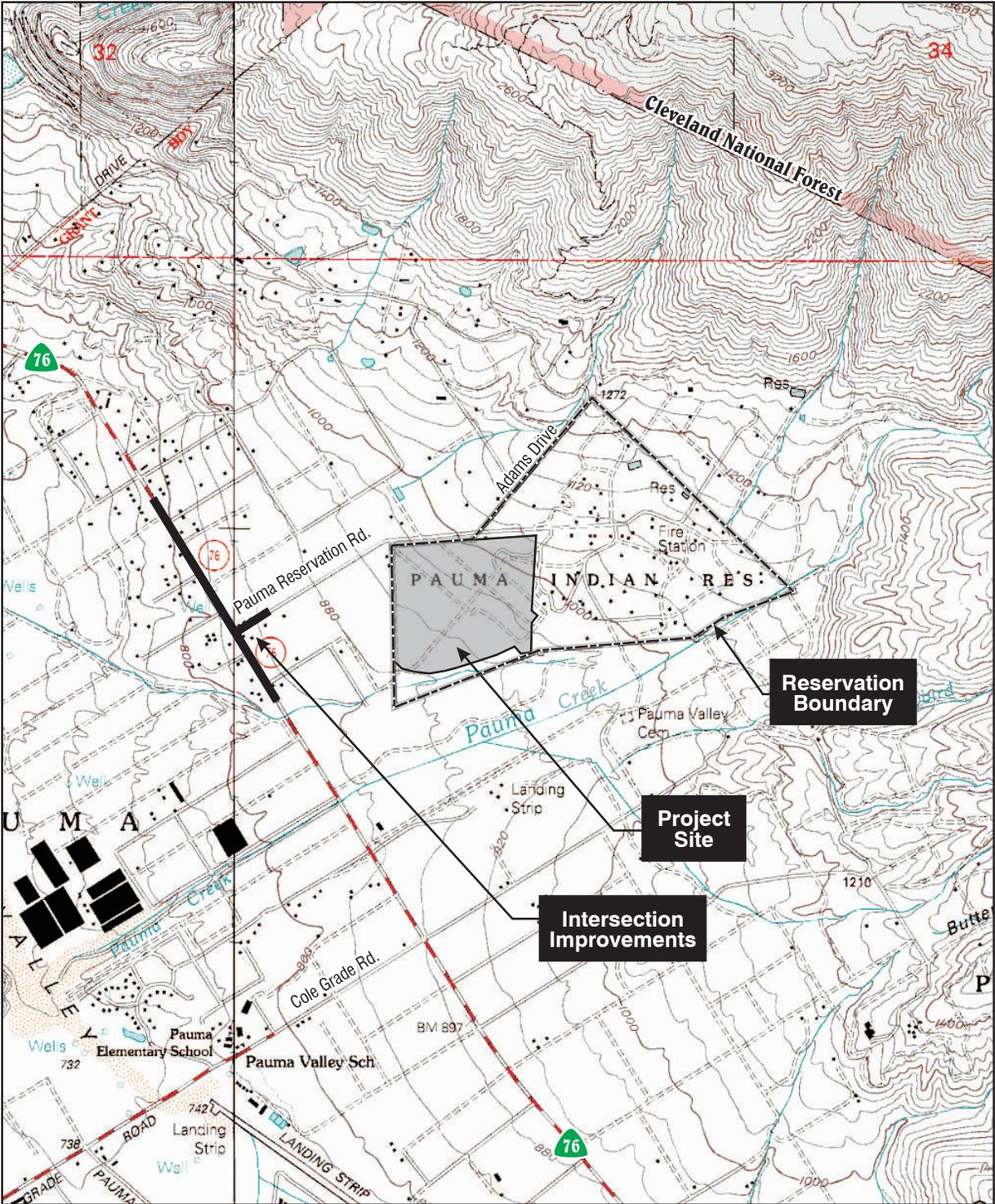
The Project Site is situated on a broad alluvial fan developed below the southern slopes of the Agua Tibia Mountain Range, within the Peninsular Ranges Geomorphic Province. In the nearby vicinity several other alluvial fans similarly slope from the steep mountainous terrain in the northeast towards the San Luis Rey River to the southwest. The Project Site is located within a southwesterly draining intermontane valley underlain by alluvium and fanglomerate. Pauma Creek, an intermittent stream, is located on the southeast side of the Reservation. Its stream bed flows from the crest of Palomar Mountain approximately six miles northeast of the site to the San Luis Rey River a little over a mile southwest of the site. The elevation of the Project Site ranges from approximately 1,040 feet above mean sea level (MSL) at the northeast corner of the site to approximately 860 feet above MSL at the southwest corner. The intersection of SR-76 and Pauma Reservation Road is at an elevation of approximately 830 feet above MSL.

The Reservation generally experiences warm, dry summers and cool winters, with a mean annual temperature of approximately 65 degrees. Average annual rainfall is approximately 14 inches. Pacific storms, which occur generally from November through March, provide most precipitation. Annual relative humidity for the San Diego region ranges from approximately 62 to 77 percent. Generally the lowest humidity (56 to 60 percent) occurs midday during the winter months. Mean wind speeds range from 5.6 and 6.0 miles per hour in December and January to 7.5 to 7.9 miles per hour during the months of March through July. The prevailing wind direction is from the west and southwest, except during Santa Ana conditions when generally warm, dry winds flow from the east.

The undisturbed portions of the upper Pauma Valley area generally lie within the chaparral belt of the mountain area, although the vegetation on the few undisturbed portions of the valley floor is distinctly coastal sage scrub. Riparian plant communities exist along the San Luis Rey River and its tributaries.

The Proposed Project Site is located on approximately 69.1 acres in the southwest portion of the Reservation. An area of approximately 19.8 acres of this site is developed with the existing casino building, two storage buildings, a training facilities building, an asphalt paved parking area and access road from Pauma Reservation Road, and the existing wastewater treatment facility (Figure 3). The remainder of the proposed site contains orange groves and a disturbed area near the western Reservation boundary that formerly contained orange trees. In addition to the 69.1-acre casino and hotel Project Site, improvements would be made to the SR-76/Pauma

Reservation Road intersection, a new water reservoir would be constructed next to two existing reservoirs, and the existing wastewater treatment plant would be expanded.



SOURCE: USGS 7.5' Quad Maps - Portions of Pala, Pechanga, Vail Lake and Boucher Hill

Figure 2
Project Location Map



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Figure 3
Existing Casino and Associated Facilities



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