

# **SECTION 1.0**

---

---

## ***PURPOSE AND NEED FOR THE PROPOSED ACTION***

# SECTION 1.0

---

## PURPOSE AND NEED FOR THE PROPOSED ACTION

### 1.1 INTRODUCTION

This Environmental Impact Statement (EIS) has been prepared to address the potential environmental effects of a 40-acre fee-to-trust land acquisition in unincorporated Yuba County, California for the Estom Yumeka Maidu Tribe (Enterprise Rancheria or Tribe). 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. The foreseeable consequence of the Proposed Action is the development of a hotel and casino resort and associated support facilities. Additionally, the EIS analyzes five alternatives, including development alternatives and a no action alternative.

The Bureau of Indian Affairs (BIA) is the federal agency that is charged with reviewing and approving Tribal applications to take land into federal trust status pursuant to 25 C.F.R. Part 151. The NIGC is the federal agency that reviews and approves all management contracts between Indian tribes and management companies pursuant to its regulatory authority under the Indian Gaming Regulatory Act (IGRA). For the purpose of this EIS, the BIA serves as the Lead Agency for compliance with the National Environmental Policy Act (NEPA). The NIGC, U.S. Environmental Protection Agency (USEPA), Yuba County, and the Tribe 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 Council on Environmental Quality (CEQ) Regulations for Implementing NEPA (40 C.F.R. Parts 1500-1508); and the BIA's NEPA handbook (59 IAM 3-H). NEPA requires that the BIA review and analyze the environmental consequences associated with the Proposed Actions. This document provides a detailed description of the development alternatives and an analysis of the potential consequences associated with the development of this project. The No Action Alternative is also addressed as required under NEPA. This document includes a discussion of alternatives and mitigation measures.

## 1.2 ALTERNATIVE SITE LOCATIONS

### 1.2.1 YUBA SITE

The Yuba Site is approximately 40 acres (a portion of Assessor's Parcel Number [APN] 014-280-095), located approximately four miles southeast of the Community of Olivehurst, near the intersection of Forty Mile Road and State Route 65, in Yuba County, California (**Figure 1-1**). This site is located within the NE ¼ of Section 22, Township 14N, Range 4E, Mount Diablo Base and Meridian (**Figure 1-2**). The site is located entirely within unincorporated Yuba County. The site is currently undeveloped, and is presently used for hay farming. Surrounding land uses include agriculture, open space, and entertainment. The Sleep Train Amphitheatre is located just over one mile to the south along Forty Mile Road. An aerial photograph of the Yuba Site is shown in **Figure 1-3**.

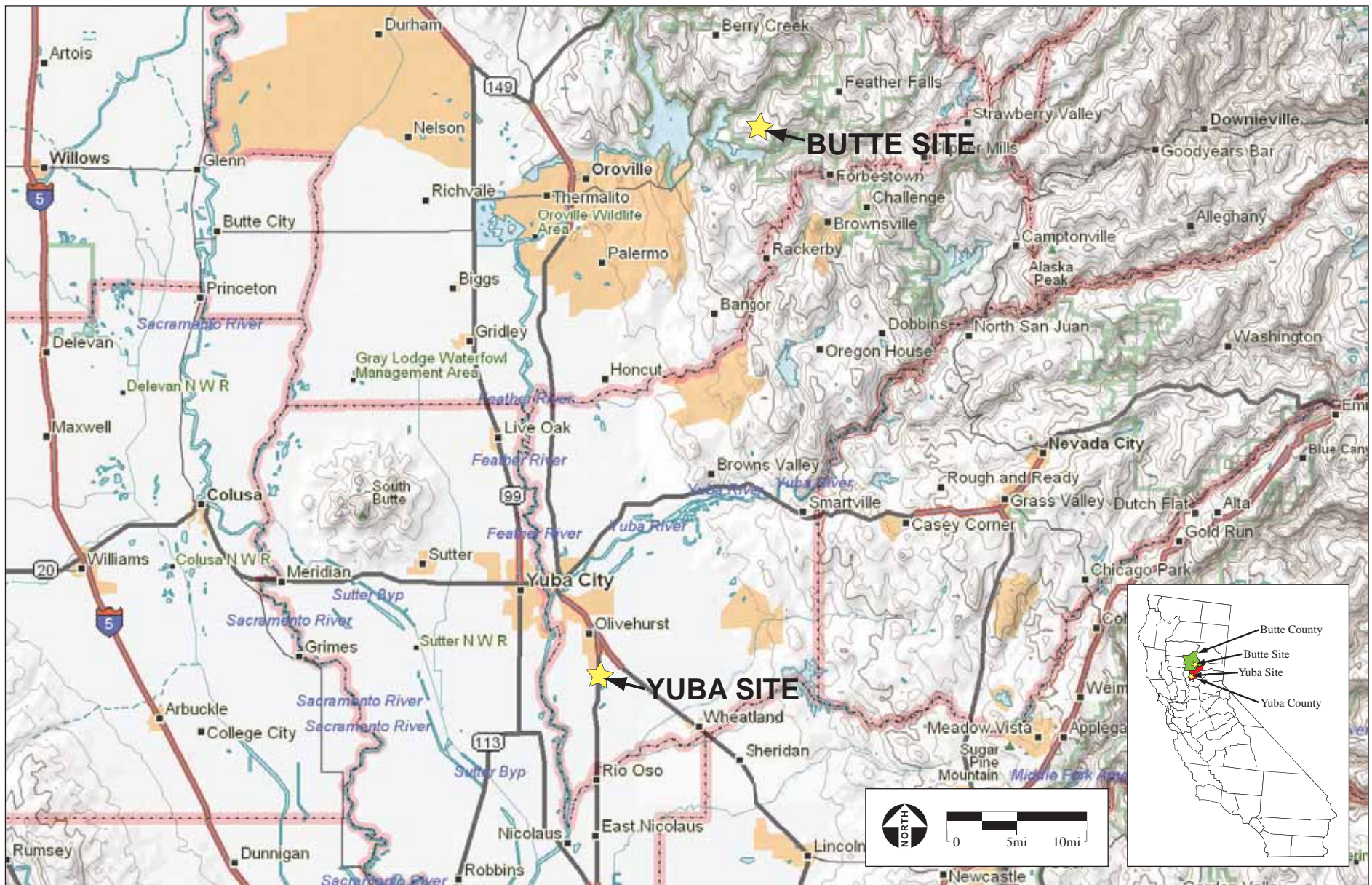
### 1.2.2 BUTTE SITE

The Butte Site is approximately 40 acres and is located approximately 11 miles northeast of the City of Oroville, between the middle and south forks of the Feather River, in unincorporated Butte County, California (**Figures 1-4, 1-5**). This site is currently held in trust for the Enterprise Rancheria. The site is undeveloped, with the exception of several residences located on-site. Rural residential uses make up the majority of surrounding land uses. Access to the Butte Site is gained through Craig Access road, a rugged and steep unpaved road, which begins at Lumpkin road, a paved two-lane road to the south.

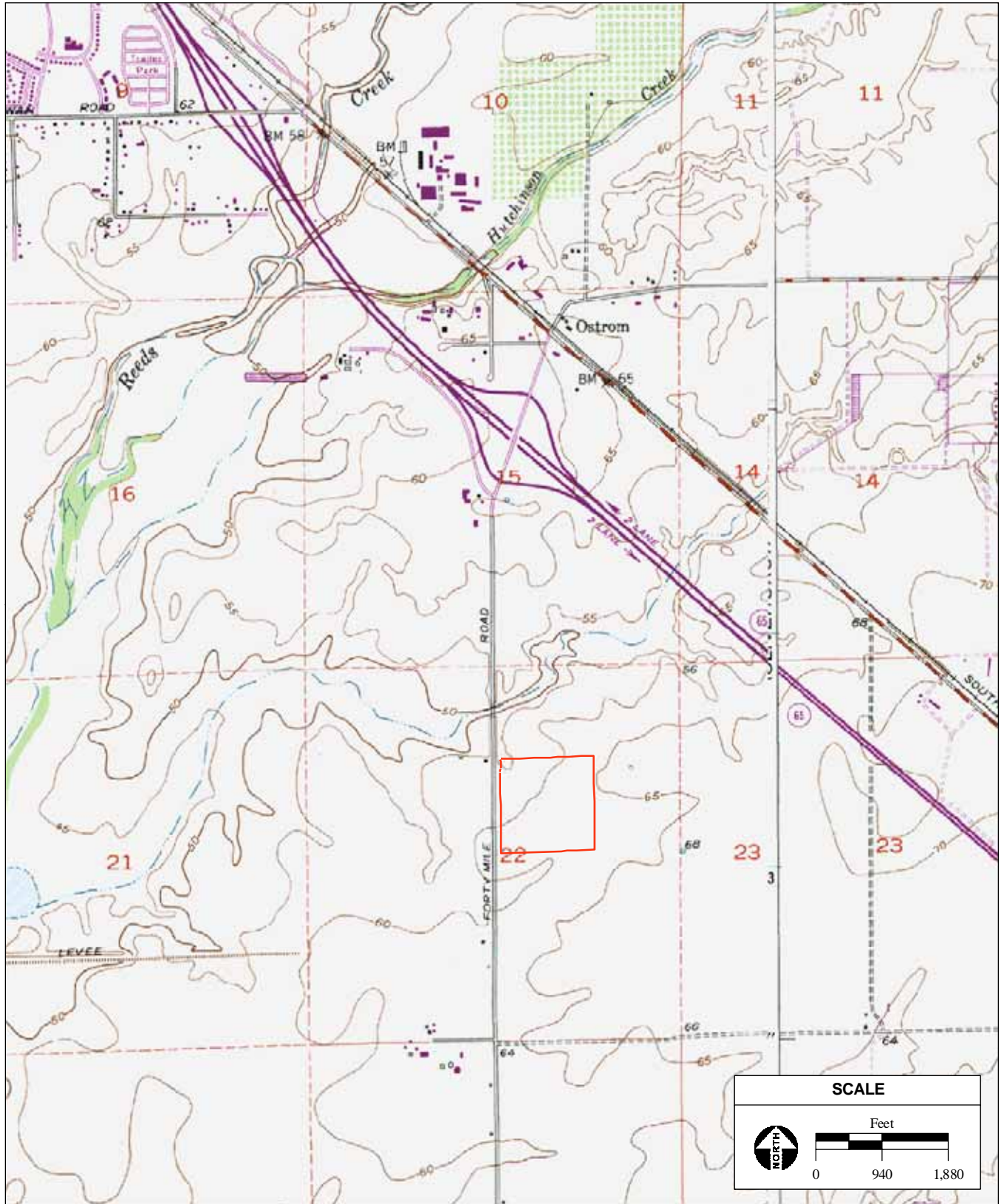
## 1.3 PURPOSE AND NEED FOR THE PROPOSED ACTION

Implementation of the Proposed Action would assist the Tribe in meeting the following objectives:

- Restore trust land to the Tribe in an amount equal to the amount of land previously lost as a result of federal action (see **Section 3.2.6** for a summary of historic land holdings for the Tribe).
- Provide employment opportunities for tribal members and non-tribal community.
- Improve the socioeconomic status of the Tribe by providing a new revenue source that could be utilized to build a strong tribal government, improve existing tribal housing, provide new tribal housing, fund a variety of social, governmental, administrative, educational, health, and welfare services to improve the quality of life of tribal members, and to provide capital for other economic development and investment opportunities.



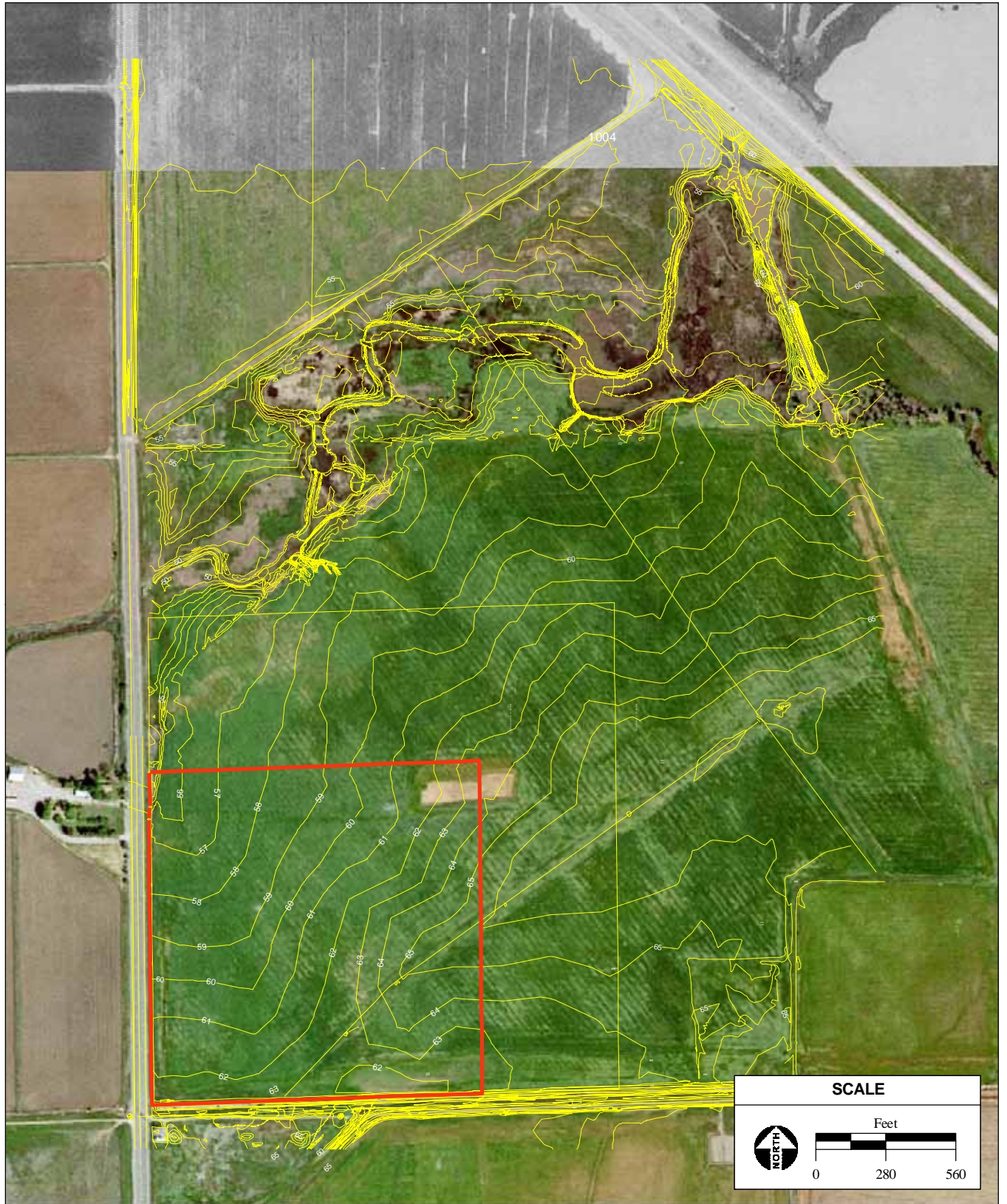
**Figure 1-1**  
Regional Location Map



SOURCE: USGS "Olivehurst, CA" 7.5 Minute Topographic Quadrangles; TS 14N, R4E, Mount Diablo Baseline and Meridian; AES, 2006

Enterprise Rancheria Casino EIS / 202527 ■

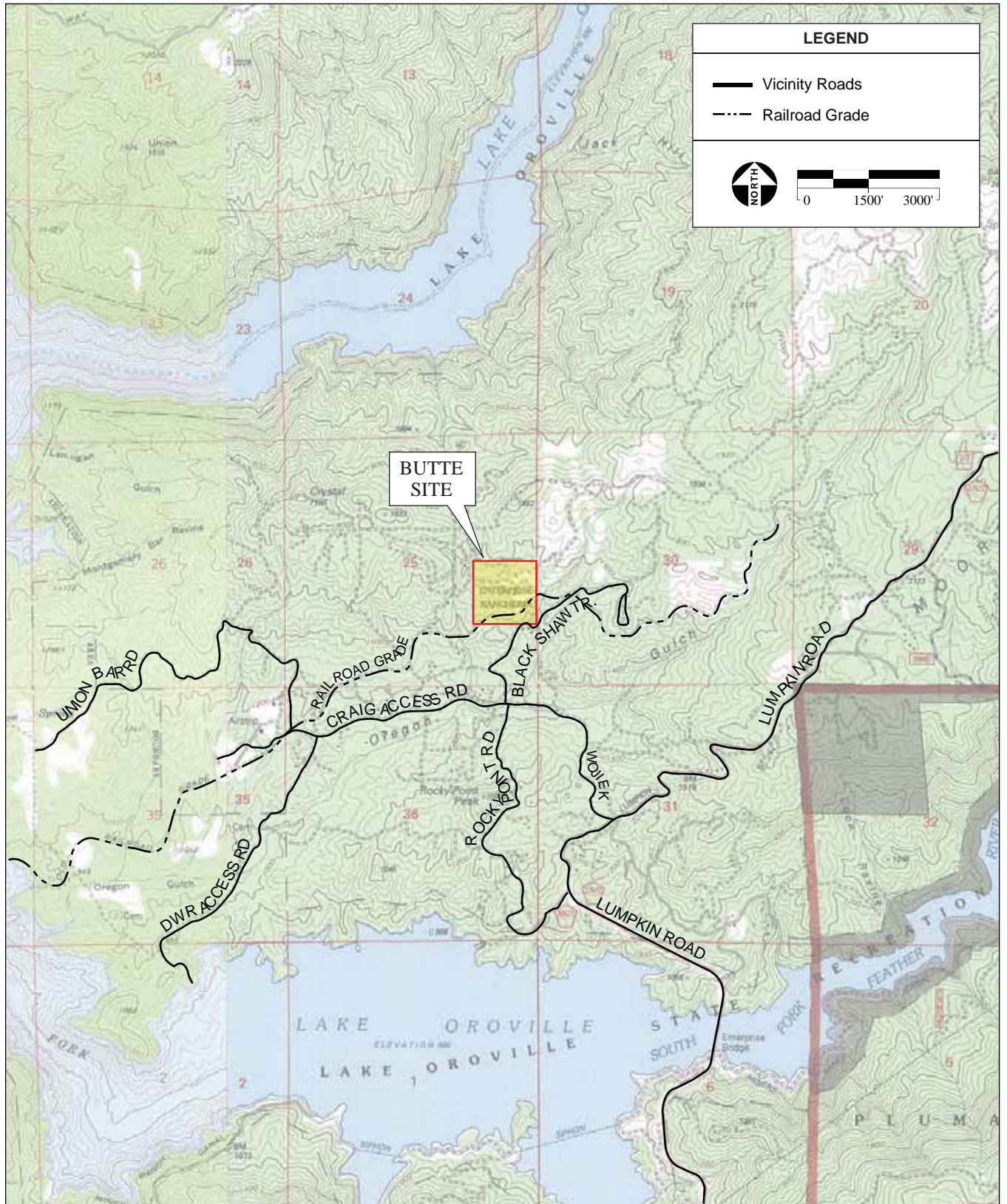
**Figure 1-2**  
Yuba Site – Topographic Site and Vicinity Map



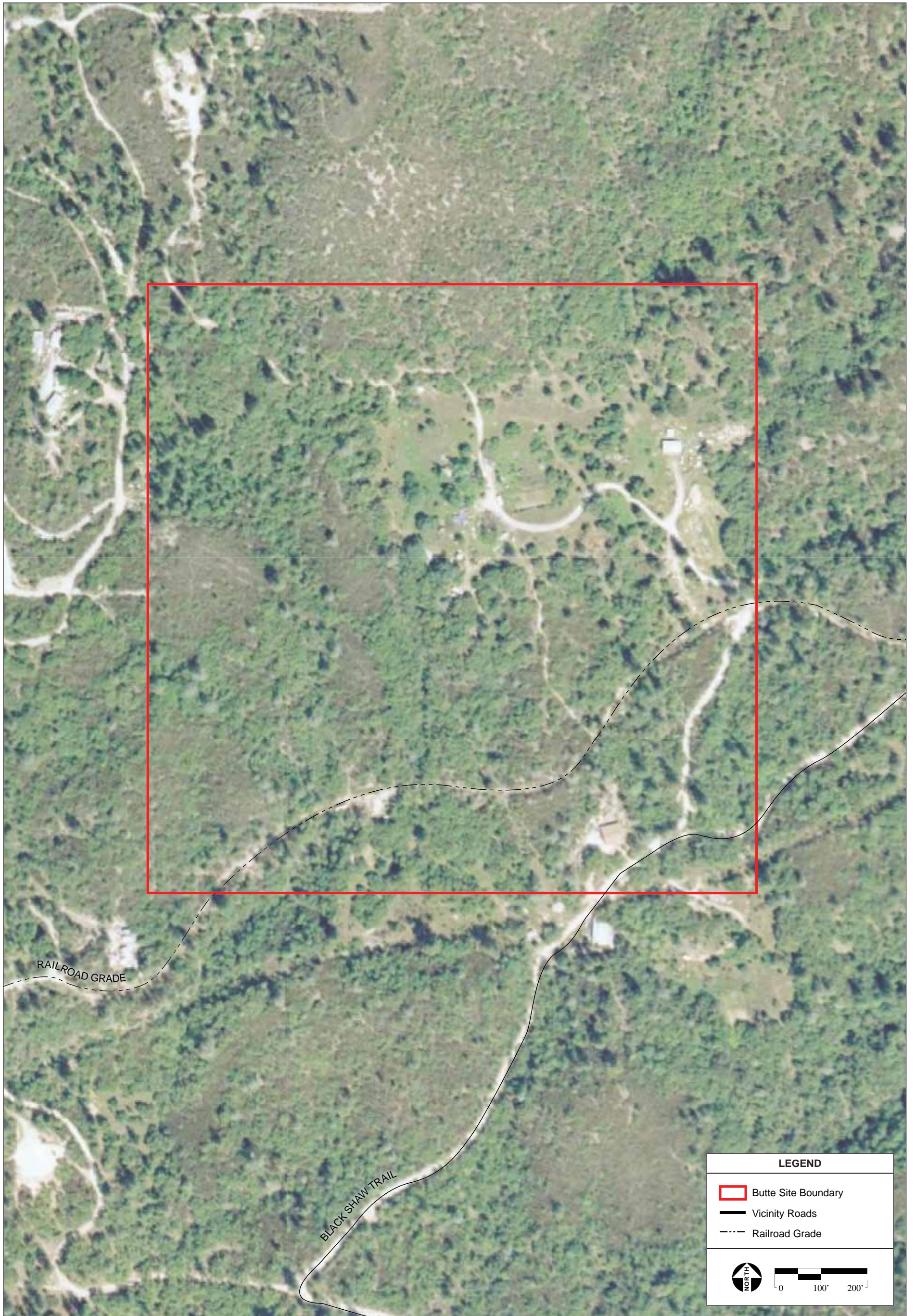
SOURCE: Aerial Photograph, Globe Explorer, 4/1/2004; AES, 2007

Enterprise Rancheria Casino EIS / 202527 ■

**Figure 1-3**  
Yuba Site - Aerial Photograph



**Figure 1-4**  
Butte Site – Topographic Site and Vicinity Map





- Allow Tribal members to become economically self-sufficient, thereby eventually removing Tribal members from public-assistance programs.
- Fund local governmental agencies, programs, and services.
- Make donations to charitable organizations and governmental operations.
- Effectuate the Congressional purposes set out in the Indian Gaming Regulatory Act (IGRA).

Among the Tribe's general membership of 792 individuals, there is presently a high reliance upon the federal and state governments for social services. The Tribe has no sustained revenue stream that could be used to fund programs and provide assistance to Tribal members. A lack of economic development opportunities exist for the Tribe primarily due to a lack of an economically viable land base and funds for project development and operation.

The land is currently owned in fee-title by Yuba County Entertainment, LLC (YCE). Title to the Yuba Site will be transferred to the United States in trust for the benefit of the Tribe after the Secretary has determined to take the Yuba Site into trust for gaming purposes pursuant to the Tribe's development and management agreement with YCE. By taking the Yuba Site into federal trust for gaming purposes, the Tribal Government would be allowed to conduct Class III gaming under IGRA and exercise tribal sovereign powers over Indian lands. The acquisition of the site into federal trust status would greatly enhance the Tribe's economic development potential, which is the paramount objective of the Tribe. Developing gaming operations and other supporting recreation/tourist facilities on the proposed site would provide the Tribe with a long-term, viable, and sustainable revenue base and additionally produce major economic benefits to the surrounding community.

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.

Class III gaming would provide the Tribe with a long-term, viable, and sustainable revenue base. Revenues from the operation of the hotel and casino 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.
- 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 development and management agreement is to team with the casino management company, YCE, to develop and manage a hotel and casino 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 design, develop, build or manage such a resort.

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

NEPA requires that an EIS be prepared for major federal actions with the potential to significantly affecting the quality of the human environment. This document has been completed in accordance with the requirements set out in NEPA (42 U.S.C. 4321 *et seq.*); the CEQ

Regulations for Implementing NEPA (40 C.F.R. §§ 1500-1508); and the BIA's NEPA handbook (59 IAM 3-H).

The BIA prepared an Environmental Assessment (EA) that analyzed the potential environmental effects of the Proposed Action. The EA was made available for public comments in July 2004. Upon consideration of the public and agency comments received during the 30-day public comment period, the BIA, in consultation with the Enterprise Rancheria, decided to prepare an EIS to further analyze the environmental effects which may result from the Proposed Action.

This EIS has been prepared to analyze and document the environmental consequences associated with the approval of the proposed fee-to-trust transfer, approval of the management contract, 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 BIA published a Notice of Intent (NOI) in the *Federal Register* on May 20, 2005 (**Appendix A**), describing the Proposed Action, and announcing the BIA's intent to prepare an EIS for the Proposed Action. A scoping meeting was held in Marysville, CA on June 9, 2005 and a scoping report was issued in November, 2005 (BIA, 2005).

During the NOI comment (scoping) period ending June 20, 2005, the BIA identified Estom Yumeka Maidu Tribe as a Cooperating Agency. The Draft EIS has been 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 March 21, 2008 after the Notice of Filing with the USEPA in the *Federal Register*. The Notice of Availability (NOA) published by the BIA on March 21, 2008, provided the time and location of the public hearing on April 9, 2008 to present the Proposed Project with alternatives to the public, and accept comments. The public comment period was also published in *The Sacramento Bee*, *Chico-Enterprise Record*, *Oroville-Mercury Register*, and the *Appeal-Democrat* on the following dates: March 22 and 23, 2008 (**Appendix A**).

The BIA received a total of 94 comment letters and public hearing statements. **Appendix T** 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 T**).

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 T** 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 March 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.

## **1.5 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 be the development of one of the three casino development alternatives analyzed in this EIS. A non-gaming alternative and a no action alternative have been included for evaluation in this EIS as part of a reasonable range of alternatives required by NEPA. 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 – Butte County Location; and
5. Alternative E – No Action.

Alternative A consists of the development of a casino and hotel resort on the Yuba Site. The casino and hotel resort would include a casino floor, food and beverage areas, meeting space, and administrative space. Planned food and beverage facilities include a buffet, a restaurant, and a bar. The resort would also include an eight-story hotel with 170 rooms, a pool area, an exercise room, and an arcade. Ancillary support facilities would include a central plant (utilities/operations control), a shipping/receiving area, and a stormwater detention basin. Water would be supplied by on-site well(s). Wastewater treatment would occur at a nearby treatment facility, expanded to accommodate the development proposed by Alternative A. Approximately 2,750 parking spaces would be provided for the casino and hotel resort, with approximately 600 of those spaces within a multi-level parking structure. The site plan has been amended to avoid encroachment into sensitive biological habitat, as recommended by the U.S. Fish & Wildlife Service.

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 proposed hotel. The components of the casino complex proposed for Alternative B would be similar to those proposed for Alternative A, but smaller (and excluding a hotel).

Alternative C is a non-gaming alternative, proposed as a water park and hotel development. This development would include a water park, two 18-hole miniature golf courses, a restaurant, an arcade, office space, a 10-stall batting cage, a go-cart racetrack, and a seven-story, 150-room hotel. The footprint of Alternative C’s developed area would be similar to Alternative A. Alternative C would also include a stormwater detention basin, sized similarly to the basin proposed for Alternative A. Water and wastewater plans would also be similar to Alternative A.

Alternative D consists of a reduced intensity casino without a hotel at the Butte Site. The gaming facility would include a casino floor, a coffee shop, a service bar, and office space. Water would be supplied by on-site well(s). An on-site wastewater treatment plant would treat wastewater. Approximately 200 parking spaces would be provided for the casino. The site plan has been amended to avoid encroachment into known sensitive cultural areas.

Alternative E is the no action alternative. Under the no action alternative the BIA would not take the Yuba Site into trust and the NIGC would not approve a management contract. The Butte Site would remain in trust. No new development would occur on either the Yuba Site or the Butte

Site under the no action alternative. Existing agricultural (Yuba Site) and rural residential/open space (Butte Site) uses would continue into the foreseeable future.

## 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 1-1** identifies each responsible agency and the permit or approval expected to be required.

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

Agency	Permit or Approval	Alternative	Applicant
Estom Yumeka Maidu Tribe	Compliance with Tribal/State Compact	A, B, D	N/A
NIGC	Approval of Tribal gaming ordinances	A, B, D	Estom Yumeka Maidu Tribe
NIGC	Approval of management contract	A, B, D	Estom Yumeka Maidu Tribe
NIGC	Indian lands determination	A, B	Estom Yumeka Maidu Tribe
Secretary of the Interior	Fee-to-trust transfer	A, B, C	Estom Yumeka Maidu Tribe
USEPA	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	Estom Yumeka Maidu Tribe
Regional Board	Issuance of Waste Discharge Requirements	A, B, C	Estom Yumeka Maidu Tribe
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	D	Estom Yumeka Maidu Tribe
U.S. Fish and Wildlife Service (USFWS)	Section 7 Consultation under the Federal Endangered Species Act	A, B, C, D	BIA
California State Historic Preservation Office (SHPO)	Consultation under Section 106 of the National Historic Preservation Act (NHPA)	A, B, C, D	BIA
Yuba County	Encroachment Permit and other approvals for proposed access improvements.	A, B, C	Estom Yumeka Maidu Tribe

SOURCE: Analytical Environmental Services, 2006.