

Finding of No Significant Impact

Proposed Iowa Tribe Casino Project, Lincoln County, Oklahoma

AGENCY National Indian Gaming Commission

ACTION Finding of No Significant Impact

SUMMARY

The Iowa Tribe of Oklahoma has submitted an application to the National Indian Gaming Commission (NIGC) for the approval of a management agreement between affiliate entities of the Iowa Tribe of Oklahoma and Lakes Entertainment (Lakes) for the development, construction, and operation of a casino on allottee/tribal trust land. The proposed gaming facility is to be developed on two parcels constituting approximately 73 acres of tribal trust land, with associated parking and other non-gaming development to take place on approximately 95 acres of land to be held in fee by the Iowa Tribe of Oklahoma. The proposed site is located approximately 5 miles west of Chandler on State Highway 66 (SH66), Lincoln County, Oklahoma.

A Draft Environmental Assessment (EA), dated February 2007, was prepared in compliance with the requirements of the National Environmental Policy Act of 1969, as amended (NEPA) (42 USC 4321 et seq.) for the approval of a management agreement that proposes to develop a gaming operation. The Draft EA was published and circulated for public comment from February 8th through March 9th, 2007. A public meeting was held on February 13th, 2007 (during the public comment period) whereby comments were received and analyzed. A Final EA, dated March 2007, was prepared for the NIGC's decision in connection with the request for approval of a management agreement. The Final EA includes public comments and responses to public comments (Appendix N).

The NIGC is the federal agency charged with regulating gaming on Indian lands, as mandated by the Indian Gaming Regulatory Act (IGRA) and serves as the lead agency for NEPA compliance for the proposed project. As part of its regulatory authority under IGRA, the NIGC reviews and approves all management agreements between Indian tribes and outside management companies. The NIGC's decision regarding the Iowa Tribe of Oklahoma Management Agreement with Lakes is a federal action subject to NEPA. The Final EA and this Finding of No Significant Impact (FONSI) fulfill the requirements of NEPA as set out in the Council on Environmental Quality (CEQ) Regulations for Implementing NEPA (40 CFR Parts 1500-1508) and the NIGC's NEPA procedures.

FOR FURTHER INFORMATION CONTACT

National Indian Gaming Commission
NEPA Compliance Officer
1441 "L" Street NW, Suite 9100
Washington, DC 20005
(202) 632-7003

PUBLIC AVAILABILITY

The Final EA and FONSI will be available to the public at the following locations for a period of 30 calendar days:

Chandler Public Library
1021 Manvel Avenue
Chandler, Oklahoma

National Indian Gaming Commission
1441 "L" Street NW, Suite 9100
Washington, DC 20005

DESCRIPTION OF THE PROPOSED PROJECT

The proposed gaming facility will be developed on an approximately 170-acre site located approximately 5 miles west of Chandler on State Highway 66, Lincoln County, Oklahoma. The footprint of the buildings will total approximately 6 acres. Parking areas and paved surfaces encompass another estimated 20 acres. The remainder of the 170-acre site will consist of landscaping and open space. The proposed project includes the gaming facility, hotel rooms, an administration building, and a special events center. The gaming facility, upon completion of all phases, will have an estimated 2,500 compacted slot machines, 50 table games, a 20-table poker room, 6 restaurants, and a "KidsQuest" child care center and arcade. On-site parking will accommodate approximately 2,500 automobiles and 50 buses/recreational vehicles (RVs).

Access to the project site will be directly from State Highway 66 with three entrance ways entering the southern side of the facility, each exclusively serving the casino facility. Potable water for the facility would be obtained from Lincoln County Rural Water District #3 (RWD #3), which has an 8" underground supply line on the north side of SH 66, with a supply water pressure of 90 – 100 psi. Wastewater service for the proposed casino facility will be provided by the City of Chandler or via construction and operation of an onsite wastewater treatment facility.

The proposed project will have a beneficial economic impact for the Iowa Tribe of Oklahoma. Benefits to the Iowa Tribe and its individual members will result from employment opportunities at the proposed facility and an improved quantity and quality of social services made available by the government of the Iowa Tribe of Oklahoma as a result of the proceeds generated from the proposed project.

PUBLIC REVIEW AND COMMENT

See Appendix B (Solicitation Letters and Agency Responses) of the Final EA/FONSI for a list of agencies contacted. Preparation of the EA included consultation with the Oklahoma Turnpike Authority, Federal Aviation Administration (FAA), National Park Service (NPS), United States Army Corps of Engineers (ACOE), Department of the Interior (DOI), United States Fish and Wildlife Service (USFWS), Oklahoma Water Resources Board (OWRB), Lincoln County Floodplain Administrator, Bureau of Land Management (BLM), Federal Highway Administration (FHWA), Oklahoma Archeological Survey (OAS), Oklahoma Conservation Commission, City of Chandler, Oklahoma Historical Society (OHS), Oklahoma Department of Wildlife Conservation (ODWC), and the City of Wellston.

Copies of the Draft EA were made available for public review at the Chandler Public Library. The public comment period extended from February 8 – March 9, 2007. A public workshop was held on February 13, 2007, from 6:00 p.m. to 8:00 p.m, in the City Hall Council Chamber Room, 414 Manvel Avenue, Chandler, Oklahoma. Oral comments submitted at the public meeting and written comments submitted during the public comment period are included in the Final EA (see Appendix N of the Final EA). Responses to comments are also listed in Appendix N of the Final EA.

SUMMARY OF IMPACTS AND MITIGATION ISSUES

The NIGC hereby accepts the proposed mitigation measures described in Section 6 of the Final EA for areas where impacts occur. The following is a summary of those measures.

SOILS

Construction activities that expose soils shall incorporate best management practices (BMPs) to prevent erosion and the loss of soils.

WATER RESOURCES

Water Availability

The facility will obtain water from Lincoln County RWD #3 (see "Will Serve" letter in Appendix C of the Final EA).

Storm Water

The construction contractor will develop and implement a Storm Water Pollution Prevention Program (SWPPP) as required to be in compliance with the National Pollutant Discharge Elimination System (NPDES) general permit for storm water discharge. This permit also requires the submittal of a Notice of Intent (NOI) to the U.S. Environmental Protection Agency prior to the beginning construction. Both the Iowa Tribe of Oklahoma and the construction contractor will submit their NOI to the U.S. Environmental Protection Agency Region 6 at least 7 days prior to beginning construction. Water quality control measures identified in the SWPPP shall include, but are not limited to the following:

- Existing vegetation shall be retained where reasonably possible. To the extent feasible, grading activities shall be limited to the immediate area required for construction.
- Temporary erosion control measures (such as silt fences, staked straw bales, and temporary revegetation) shall be employed for disturbed areas.
- A spill prevention plan shall be developed which will identify proper storage, collection, and disposal measures for potential pollutants (such as fuel storage tanks) used onsite.

Floodplains

The Tribal Environmental Coordinator and/or Construction Project Manager will coordinate with the Lincoln County Floodplain Administrator to ensure that any construction within the floodplain will comply with the applicable National Flood Insurance Program regulations to avoid negative impacts to adjacent properties. Based on the above, there will be no environmental consequences to the floodplain areas on the site.

Section 404 Permit

Section 404 of the Clean Water Act (CWA) of 1972 regulates the discharge of dredged or fill material into waters of the United States. As indicated in ACOE correspondence dated February 27, 2006, any construction which requires placement of dredged or fill material into jurisdictional wetlands/waterways requires Section 404 permitting to ensure there are no unmitigated significant impacts to wetland resources.

Representatives of the Tribe have met with the Tulsa, OK district ACOE to present site development plans and discuss any requirements for the project. Based on the previous delineation, which was accepted by the ACOE, the project will only result in temporary impact to the jurisdictional waterways and, consequently, not require any mitigation measures. Therefore, based on the criteria stated in Section 4.3.4 and 5.3.4 of the Final EA, the ACOE has required only a Nationwide 14 Permit (NWP 14 – Linear Transportation Discharge) for the proposed project. No mitigation measures are necessary. The NWP 14 permit has been issued by the ACOE and the cover letter for it is included in the documentation in Appendix E of the Final EA.

Groundwater

The facility will obtain water from Lincoln County RWD #3; therefore, the facility will not have any effects on groundwater supply in the area. In addition, because of the depth to groundwater and site geology, neither the construction nor operation of the proposed facility will have any adverse effects on the groundwater quality in the area.

BIOLOGICAL RESOURCES

Based on investigation and consultation with USFWS, no habitat suitable for the federally listed endangered, threatened, or candidate species of Lincoln County is present at the Project Site. Furthermore, no adverse affects to the federally listed endangered, threatened, or candidate species of Lincoln County are expected during construction of the facility. A copy of the investigation findings is included in Appendix F of the Final EA.

WASTE MANAGEMENT

All construction waste generated during construction of the facility and solid waste generated during operation of the facility will be properly disposed in an approved landfill. No other mitigation is required.

HAZARDOUS MATERIALS

An existing pipeline, which dissects the proposed facility, will be relocated by the owner/operator, with the existing pipeline removed, pigged and plugged, or a combination of the two options pending ODOT, OCC, FERC and Tribal approval. Any contamination discovered during removal activities will result in appropriate removal or remediation.

Dump areas, as identified in the Phase I Environmental Site Assessment (ESA) prepared by The Benham Companies, dated September 2005 (Appendix M), will be properly removed and disposed of during construction. No hazardous materials or petroleum products are anticipated. However, if petroleum products or hazardous substances are identified during the removal process, additional investigation will be conducted to determine the extent of any contamination and the U.S. EPA will be contacted to determine the appropriate response.

CULTURAL RESOURCES

No archaeological sites were identified on the property. No structures on the National Register of Historic Places (NRHP) or eligible for the NRHP are located on the property. One cultural resource, referenced as a possible small family cemetery, is located within the project area.

As demonstrated by the project footprint map in Appendix H of the Final EA, the proposed Project design would avoid the referenced cemetery by incorporating a 10 foot buffer zone. However, should

construction activities expose buried archaeological materials such as chipped stone tools, pottery, bone, historic crockery, glass, metal items or building materials, construction activities will cease and the OAS, the Tribe, NIGC, and BIA will be contacted immediately for consultation purposes.

TRAFFIC

Based upon traffic volume projections and operational analysis of the proposed facility traffic, several roadway improvements are being undertaken. (Appendix J contains the details of each roadway improvement).

These improvements are warranted for Phase I development, and no separate improvements would be required for the combined Phases I and II. Although no improvements are required to the I-44 ramps, the facility is working in cooperation with the Oklahoma Transportation Authority to assist with and expedite the improvement of the westbound on-ramp to Oklahoma City, which currently passes through a McDonald's parking lot. Potential abatement measures may include the construction of barriers, planting of vegetation, or management of traffic via modified speed limits or traffic control devices, as determined to be feasible and reasonable.

AIR QUALITY

The proposed project is located in an area that is in attainment for all federal and state air quality standards. To reduce the impacts of fugitive dust on nearby residents during construction activities, the construction contractor will: (1) provide frequent watering of the construction site, (2) cover haul trucks, (3) limit truck speeds on unpaved surfaces, and (4) confine clearing, grading, and leveling to those areas where such disturbance is necessary for the Proposed Action.

As indicated in Section 3.4 of the Final EA, the facility's operations will be exempt from Oklahoma and Federal air permitting. The facility will not engage in any open burning, will operate any gas-burning equipment so as to not increase opacity above 20%, and will not engage in activities which would produce fugitive dust.

NOISE

A noise analysis was completed that complies with the Oklahoma Department of Transportation's Policy Directive Highway Noise Abatement and Federal Highway Administration Regulation 23 CFR 772. A copy of the complete noise analysis is included as Appendix K of the Final EA. The purpose of the noise analysis was to determine the noise impacts from the increased traffic levels associated with the proposed facility. Noise impacts were determined by modeling future noise levels associated with the project's future traffic volumes, and comparing these levels with the existing noise levels and the noise abatement criteria established in 23 CFR 772.

No 15 dBA Leq increases in traffic noise levels were predicted for the study area. Two (2) residences were predicted to experience a future traffic noise impact, as indicated in Figure 5 of the Final EA. The residence near the northwest corner of the proposed facility site and the immediately surrounding property is being purchased by the Tribe, and the resident would relocate in another area away from the proposed facility. Thus, the only residence which may experience a future traffic noise impact (approximately 66dB) is the residence just south of SH 66 and southwest of the proposed facility. However, this residence is apparently vacant and does not appear to be habitable.

Construction Noise

To reduce the effect of construction noise, the construction contractor shall be required to limit construction activities that require the use of heavy equipment to the hours of 7:00 a.m. to 7:00 p.m., Monday through Friday, and 9:00 a.m. to 5:00 p.m., on Saturdays and Sundays. The construction contractor shall also be required to muffle and shield intakes and exhaust on construction equipment per the manufacturer's specifications and shroud and shield impact tools.

Operation Noise

To reduce the effect of project operations on existing residences, the Iowa Tribe shall limit truck loading/unloading activities to the hours of 7:00 a.m. to 7:00 p.m., Monday through Friday, and 9:00 a.m. to 5:00 p.m. on Saturdays and Sundays. The casino building shall also be insulated with standard sound muffling materials to reduce offsite noise emanating from the casino.

SOCIOECONOMIC CONDITIONS

Construction and operation of the facility will benefit the socioeconomics of the Tribe and the surrounding communities. It is estimated that the construction phase will create 500 to 700 jobs, and construction and equipment will cost an estimated \$90 million. Facility operations will require from 1,000 to 1,200 payroll positions and generate an anticipated annual payroll of \$42.5 million. Additionally, operation of the facility will require the purchase of goods and services, which is estimated to total \$27.7 million annually. These purchases are anticipated to create new sales for businesses in the community, which would also cause a beneficial ripple effect on the local economy. The increase in taxes and revenue would stimulate the local economy.

No adverse environmental impacts are anticipated from the facility on the population of the community, regardless of race, ethnicity or income. In fact, the facility is expected to especially benefit low income, unemployed and under-employed individuals of all ethnic backgrounds, especially American Indians, and particularly Iowa Tribal members. Many of the jobs that would be created at the facility would be suitable for unskilled individuals unable to currently enter the labor market. Training programs would be made available to all employees regardless of ethnic background. As indicated previously, a significant number of construction-related jobs and training opportunities would be made available to local residents and tribal members.

UTILITIES

Adequate water, waste water, solid waste service, and utilities are available to service the facility with no cumulative impacts to neighboring areas. The law enforcement and fire protection agreements discussed below will ensure that the facility can be serviced with no reduction of service to other dependent entities.

POLICE, FIRE, AND EMERGENCY SERVICES

Police

Primary law enforcement services will be provided by the Iowa Tribe of Oklahoma Public Safety Department. A cross-deputization agreement with the Lincoln County Sheriff's Department will ensure that additional law enforcement services from Lincoln County will be made available as necessary. A copy of the cross-deputization agreement is included in Appendix C of the Final EA. Therefore, the facility will have sufficient law enforcement.

Fire Protection

Primary fire protection services will be provided by the Iowa Tribe of Oklahoma Public Safety Department. An on-site office will be maintained and staffed with fire-fighting personnel. Additionally, the Tribe has a Mutual Aid agreement (See Appendix C) with the City of Chandler to provide additional fire-fighting services as necessary.

Emergency Services

Primary EMS will be provided by the City of Chandler EMS Department. A "will serve" letter committing this mutual aid is included in Appendix C of the Final EA. Therefore, the facility will have sufficient EMS service.

FINDINGS

The NIGC makes the following findings which support this FONSI:

1. Federal and state agencies and the public were involved in identifying environmental issues related to the Proposed Action. The Final EA contains a list of agencies, tribal governments and individuals that were contacted (see Final EA Appendix B, "Solicitation Letters and Agency Responses"). The Final EA also contains responses to specific comments and describes revisions to the Draft EA in response to comments (see Final EA Appendix N).
2. Alternative courses of action were developed in response to environmental concerns and issues related to the proposed action (see Final EA Section 2.0, "Proposed Action and Alternatives"). The EA discloses the environmental consequences of the proposed action and the no-action alternative (see Final EA Section 4.0, "Environmental Consequences"). The EA assesses compliance of the alternatives with applicable environmental mandates, and includes information that supports a finding of no significant impact.
3. The EA describes mitigation measures that will be implemented to protect the human environment (see Section 6.0, "Mitigation Measures"). The measures are summarized above. The EA describes permitting processes and other enforceable mechanisms that are in place to ensure that the Iowa Tribe completes mitigation measures to protect key resources.
4. The EA finds that the proposed action will not jeopardize federally listed threatened or endangered species because such species do not occur on the proposed site (see Final EA Section 4.5).
5. The EA finds that the proposed action is in compliance with the National Historic Preservation Act. The Oklahoma State Historic Preservation Officer (SHPO) issued a determination of "no historic properties affected" for the proposed project. One identified cultural resource site (family gravesite) was identified within the general project area, but this archaeological site is located outside the footprint of construction for the proposed project (see Final EA Section 4.6, "Cultural Resources"). If undiscovered cultural resources are encountered during project ground-disturbing activities, work shall be halted in the area of the discovery and the artifact(s) shall be professionally evaluated.

6. The EA finds that the impacts on public health and safety will not be significant. In regard to traffic impacts, the EA finds based upon traffic volume projections and operational analysis of the proposed facility traffic, several roadway improvements are being undertaken (Appendix J contains the details of each roadway improvement)(see Final EA Section 4.9, "Traffic"). The EA also finds that the proposed action is in compliance with the Clean Air Act and the National Ambient Air Quality Standards (NAAQS)(see Final EA Section 3.4, "Air Quality"). The proposed action will be in an area in attainment status for all EPA criteria pollutants. The EA also describes mitigation of water quality impacts enforceable through EPA and ACOE permitting processes.
7. The EA finds that the proposed project will not require the use groundwater, so no impact to groundwater supply is expected (see Final EA Section 4.3, "Water Resources"). The project site is within the 100-year floodplain (see Final EA Section 4.3.2, "Floodplains"); however, the project will result in no net fill within the floodplain as indicated by Figure 4 of the Final EA. Therefore, no loss of floodplain capacity is expected in the area of the project and no environmental consequence is anticipated with regard to floodplain.
8. The EA analyzes the cumulative impacts for the proposed action and finds that they will not be significant (see Final EA Section 5.0, "Cumulative Effects").
9. The EA finds that the proposed action will improve the economic and social conditions of the Iowa Tribe of Oklahoma by meeting the purpose and need for the action identified in Final EA Section 1.3. The EA also finds that the proposed action will benefit the local economy by creating jobs and increasing local spending. The EA finds that the proposed action is in compliance with Executive Order 12898 (Federal Actions to Address Environmental Justice in Minority Populations and Low Income Populations) because the proposed action will not cause disproportionately high adverse impacts to minority or low-income populations (see Final EA 4.8).

The NIGC has independently evaluated the information and analysis in the EA.

DETERMINATIONS

The March 2007 Final EA provides a sound basis for evaluating the environmental impacts of the Iowa Tribe of Oklahoma's development, construction, and operation of a gaming facility on the proposed site.

RECOMMENDATIONS/APPROVALS

After careful and thorough consideration of the facts contained herein, the undersigned finds that the proposed federal action is consistent with existing national environmental policies and objectives as set forth in Section 101 of the NEPA and other applicable environmental requirements and will not significantly affect the quality of the human environment or otherwise include any condition requiring consultation pursuant to Section 102(2)(c) of NEPA.

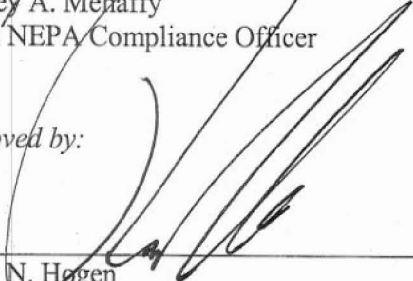
Environmental Assessment and FONSI reviewed and recommended by:



Bradley A. Mehaffy
NIGC NEPA Compliance Officer

9/11/07
Date

Approved by:



Philip N. Hogen
NIGC Chairman

9/12/07
Date