

Finding of No Significant Impact and Notice

Proposed Pawnee Nation Travel Plaza Expansion, Pawnee County, Oklahoma

AGENCY: National Indian Gaming Commission

ACTION: Finding of No Significant Impact

SUMMARY:

The Pawnee Nation of Oklahoma (the Pawnee Nation) has submitted a request to the National Indian Gaming Commission (NIGC) for the approval of a management agreement between the Pawnee Nation and Lakes Pawnee Management, LLC (LPM), for the development, construction, and operation of a casino at the existing Travel Plaza.

The Pawnee Nation proposes to expand its existing Travel Plaza, which is a truck stop/gas station/convenience store at the northwest corner of State Highway (SH)-18 and Cimarron Turnpike (US-412) in Pawnee County, Oklahoma. The proposed expansion includes the addition of gaming to the Travel Plaza, the expansion of the vehicle and truck parking, and the installation of new truck cab utility hookups and amenities.

A Final Environmental Assessment (EA), dated December 2005, was prepared for the NIGC's decision regarding the approval of a management agreement to meet the requirements of the National Environmental Policy Act of 1969, as amended (NEPA) (42 USC 4321 et seq.). The Final EA was published and circulated for public comment for 30 days. No public comments were received during the public workshop or during the rest of the comment period. The Final EA was revised to include this information.

The NIGC is the federal agency charged with regulating gaming on Native American lands, as mandated by the Indian Gaming Regulatory Act (IGRA). As part of its regulatory authority under IGRA, the NIGC reviews and approves all management agreements between Native American tribes and outside development/management companies. If the NIGC decides to approve the Pawnee Nation's Management Agreement with LPM under IGRA, such a decision would be a federal action subject to NEPA. Based on the size and scope of the proposed project, 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 Regulations for Implementing NEPA (40 CFR Parts 1500-1508) and the NIGC's NEPA Procedures. The NIGC is the lead agency for NEPA compliance.

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:

This FONSI, the Final EA, and additional information on which the FONSI is based will be available to the public at the following locations for a period of 30 days:

Pawnee Public Library
658 Illinois St.
Pawnee, OK 74085

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

BACKGROUND:

Gaming is a unique opportunity for the Pawnee Nation to further develop its economic base. This opportunity is afforded the Tribe under the IGRA (25 USC 2701 et seq.).

DESCRIPTION OF THE PROPOSED PROJECT:

The existing Travel Plaza consists of a 3,950-square-foot convenience store, including a Subway restaurant and fuel islands with related infrastructure. Two concrete access roadways connect the parking lot to SH-18. These roadways are approximately 32 feet wide with curbs and gutters. The parking lot is concrete with surface drainage and a small amount of underground storm sewer drainage. The 4.9-acre lot (including buildings) provides parking for approximately 27 trucks and 78 automobiles. There are both gasoline and diesel dispensing facilities. Fuel is stored in underground storage tanks. There is a retaining wall in the northern portion of the site.

The proposed expansion of the Travel Plaza will be built in two phases, both of which will likely occur within the period of the management contract and are evaluated in the EA. Phase 1 will include the addition of a casino space dedicated to gaming that will include 150 gaming machines and four table games. A casual grill with a seating capacity of 70 will also be added. The expansion will increase parking by approximately 53 automobile spaces, bringing the total to 131 automobile spaces. The size of the building will be increased to 14,825 square feet. Total area of pavement will be increased from 4.9 acres to 6.4 acres. New curbs will be added in some locations, and the transformer will be relocated. Access roads will remain the same. Visitation will increase to an estimated 400 people a day. The existing septic tank system will be replaced with an approximately 4.8-acre lagoon system located in the vegetated area west of the parking lot. The lagoon will be built with a fabric liner to prevent seepage.

Under Phase 2, 150 more gaming machines will be added, for a total of 300, and six table games will be added, for a total of ten. The casual grill will be expanded to seat

approximately 120. The size of the building will be increased to 19,624 square feet. A new sidewalk on the east side of the facility will be added. Also under Phase 2, truck hookups will be constructed to provide air conditioning/heating, electrical, computer, and television service to the truck cabs. Using these hookups, the trucks will not have to remain idling, reducing fuel consumption and diesel emissions. The design of the truck hookup services will require the existing truck parking spaces to be realigned and new spaces added for a new total of approximately 50 truck spaces. An additional 176 vehicle parking spaces will be constructed, for a total of 307 automobiles, which is an increase in parking of 229 automobile spaces over the current capacity.

The total footprint of infrastructure on the site will total approximately 12.7 acres, which is 7.8 acres more than existing conditions. The remainder of the 15.98-acre site will consist of landscaping and open space.

The proposed project will have a beneficial economic impact for the Pawnee Nation. Benefits to the Nation and its individual members will result from employment opportunities at the proposed facility and an improved quantity and quality of social services offered by the government of the Pawnee Nation.

PUBLIC REVIEW AND COMMENT

See EA Section 5 Consultation and Coordination for a list of agencies and individuals contacted. Preparation of the EA included consultation with the U. S. Army Corps Of Engineers (USACE); U.S. Bureau of Indian Affairs (US BIA); U. S. Environmental Protection Agency (EPA); U. S. Fish and Wildlife Service (USFWS); Oklahoma Archaeological Survey (OAS); Oklahoma Department of Environmental Quality (ODEQ); Oklahoma Department of Transportation (ODOT); Oklahoma Department of Wildlife Conservation (ODWC); Oklahoma Indian Affairs Commission; Oklahoma State Historic Preservation Officer (SHPO); Pawnee County Board of Commissioners; and the Mayor, Pawnee City, Oklahoma.

The Final EA was published on December 12, 2005. Copies were sent to those individuals and groups that had indicated during scoping that they wanted to receive a copy of the EA. The public comment period ended on January 12, 2006. No comments were received during this period.

SUMMARY OF MITIGATION ISSUES

The NIGC hereby adopts the mitigation measures described in Section 4 of the Final EA. The following is a summary of those measures.

GEOLOGY AND SOILS

All facilities will be designed according to standards of the Unified Building Code and will comply with local building codes. The wastewater lagoon will be designed and constructed with a geotextile liner in accordance with state requirements.

WATER QUALITY AND WATER RESOURCES

During construction, best management practices (BMPs) will be implemented to minimize the potential for soil erosion in areas subject to soil-disturbing activities. Construction will occur on more than one acre of land, which will trigger the requirement to prepare a construction stormwater pollution prevention plan, which will address control of stormwater discharge. The prevention plan also will identify best management practices to reduce any nonpoint source impacts on surface water quality, including prevention and control of chemical spills, minimizing contact of disturbed soil by stormwater runoff, and proper storage and handling of potential pollutants.

The lagoons will be constructed with a synthetic liner capable of preventing seepage into groundwater. The Pawnee Nation commits to compliance with all applicable laws, regulations, guidance, and BMPs administered or delegated by EPA, ODEQ, and any other regulatory agency with jurisdiction over the lagoon design, construction, and operation. Storm water drainage adequate to handle the increased runoff will be constructed.

VEGETATION

Removal of existing vegetation will be limited to areas necessary for construction, and soils will be replanted as quickly as possible. Any areas where vegetation was removed outside of landscaped areas adjacent to the parking lot will be replanted with vegetation native to Pawnee County.

WILDLIFE AND FISHERIES

Occupied bird nests will not be destroyed to avoid a violation of the Migratory Bird Treaty Act. This will be accomplished either by conducting grading and tree removal outside of the breeding season, which is generally early spring through mid-summer or by a biologist checking the construction footprint for active nests immediately prior to construction.

CULTURAL RESOURCES

Prior to construction, workers will be briefed on the importance of immediately reporting findings of any archaeological materials to a designated individual with the authority to suspend construction activities. Should evidence of archaeological resources be found during ground disturbance, construction staff will immediately notify the Pawnee Nation Tribal Historical Preservation Officer, the Oklahoma SHPO, and the NIGC. Excavation or other activities that could damage such resources in the vicinity of the find will be suspended. A qualified archaeologist will assess the potential significance of the discovery and will recommend measures to minimize potential effects on the resources. If human remains are encountered, the Pawnee County Coroner will be notified. If the human remains are determined to be Native American in origin, the coroner will notify the Pawnee Nation Tribal Historical Preservation Officer within 24 hours of the determination.

HAZARDOUS AND TOXIC MATERIALS AND WASTE

If any currently unknown hazardous sites were found during implementation of the proposed project, all activities in the vicinity of the site will be halted and all applicable tribal, federal, and state agencies will be contacted. Cleanup of any found sites will be coordinated with all applicable tribal, federal, and state agencies.

FINDINGS

The NIGC makes the following findings which support this FONSI.

1. Federal and state agencies 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 Section 5, "Consultation and Coordination," and Appendices A, B, and C.
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, "Alternatives." The EA discloses the environmental consequences of the proposed action and the no-action alternative. See Final EA Section 4, "Environmental Consequences." The EA assess 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, particularly public safety and water quality. The measures are summarized above. Also see the discussion of mitigation measures for each resource area in Section 4 of the Final EA, "Environmental Consequences." The EA describes permitting processes and other enforceable mechanisms that are in place to ensure that the Pawnee Nation completes mitigation measures to protect key resources. See Final EA Sections 1, 2, and 4.
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 4.10. The U.S. Fish and Wildlife Service concurs with this finding. See Final EA Appendix A. The proposed action will not result in the conversion of any Prime Farmland.
5. The EA finds that the proposed action is in compliance with the National Historic Preservation Act, and that no properties eligible for listing on the National Register of Historic Places will be adversely affected under the proposed action. See Final EA Section 4.11, "Cultural Resources." Should undiscovered cultural resources be 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. The EA describes that the traffic impacts will be within the design capacity of the roads and intersection. See Final EA Section 4.16, "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 4.15, "Air Quality." The proposed action will be in area in attainment status for all EPA criteria pollutants. The EA also describes mitigation of water quality impacts enforceable through EPA permitting processes.

7. The EA finds that there will be no impacts to floodplains (see Final EA Section 4.7, "Water Quality and Water Resources"). Discharge will be to an on-site sewage lagoon. See Final EA Section 4.7.

8. The EA analyzes the cumulative impacts for the proposed action and finds that they will not be significant. See Final EA Section 4.

9. The EA finds that the proposed action will improve the economic and social conditions of the Pawnee Nation by meeting the purpose and need for the action identified in Final EA Section 1.3. See Final EA Section 4.18. 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 4.19.

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

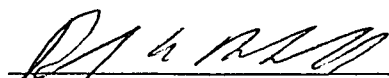
DETERMINATIONS

The January 2006 Final EA provides a sound basis for evaluating the environmental impacts of the Pawnee Nation's operation of a gaming facility on the proposed site.

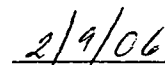
RECOMMENDATIONS/APPROVALS

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:

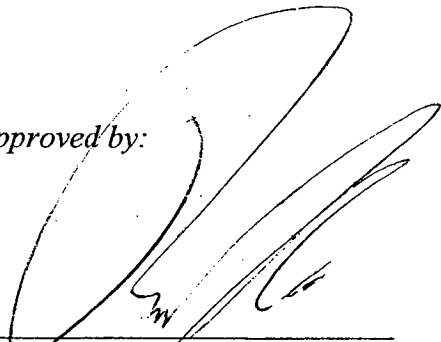


Bradley A. Mehaffy
NIGC NEPA Compliance Officer



Date

Approved by:



Name Philip W. Hogen
NIGC Chairman

2/9/06

Date