

SECTION 1.0

Introduction

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The Bureau of Indian Affairs (BIA) initiated the Environmental Impact Statement (EIS) process for a proposed casino-resort mixed-use development and corresponding master plan for a 145-acre parcel of land held in trust for the Spokane Tribe of Indians (Tribe) adjacent to the City of Airway Heights (CAWH), in Spokane County, Washington (project site). The Proposed Action consists of the following components: 1) issuance of a two-part determination by the Secretary of the Interior under Section 20 of the Indian Gaming Regulatory Act (IGRA) that gaming on the project site would be in the best interest of the Tribe and not detrimental to the surrounding community (25 USC § 2719 (b)(1)(A)); 2) approval of gaming management contract by the National Indian Gaming Commission (NIGC); and 3) development of the project site with a variety of uses including, but not limited to, a casino-hotel resort, retail uses, offices, commercial facilities, recreational uses, cultural and entertainment facilities, and ancillary infrastructure. This scoping report describes the EIS scoping process, identifies the cooperating agencies, explains the purpose and need for the proposed action, describes the proposed project and alternatives, and summarizes the issues identified during the scoping process.

The National Environmental Policy Act (NEPA) provides a national policy to integrate environmental considerations into the planning process and decisions of federal agencies. NEPA provides an interdisciplinary framework to ensure that federal agency decision-makers consider environmental factors. The key procedure required by NEPA is the preparation of an EIS for any major federal action that may significantly affect the quality of the environment. Public involvement, which is an important aspect of NEPA procedures, is provided for at various steps in the development of an EIS. The first opportunity for public involvement is the EIS scoping process.

1.1 SCOPING PROCESS

The “scope” of an EIS is the range of environmental issues to be addressed, the types of project effects to be considered and the range of project alternatives to be analyzed. The EIS scoping process is designed to provide an opportunity for the public and other federal and state agencies to help determine the scope of the EIS and alternatives.

The first formal step in the preparation of an EIS is publication of a Notice of Intent (NOI) to prepare an EIS. The BIA published the NOI for this proposed action in the *Federal Register* on August 27, 2009 (**Appendix A**). The NOI described the proposed action and its purpose and need, and announced the initiation of the formal scoping process and public scoping meeting held on September 16, 2009, and 45-day public scoping comment period that concluded on October 31, 2009. Newspaper notices announcing the proposed action and the scoping meeting were also published in both *Spokesman Review* and *Cheney Free Press* (**Appendix B**). Direct mailings were sent to interested parties, including 23 public agencies and over 500 residents/homeowners. A list of commenters is included as **Appendix C**, all comments

received during the scoping process are included as **Appendix D**, and a transcript of the public scoping meeting is provided as **Appendix E**.

1.2 COOPERATING AGENCIES

Under NEPA, the BIA is the lead agency for the evaluation of the Proposed Action consistent with the Council on Environmental Quality (CEQ) regulations (40 CFR 1500-1508). The BIA may request that another agency having jurisdiction by law or having special expertise with respect to anticipated environmental issues be a “cooperating agency.” Cooperating agencies participate in the scoping process and, on the lead agency’s request, may develop information to be included in the EIS. A cooperating agency normally must use its own funds in undertaking its responsibilities under NEPA. However, CEQ NEPA regulations require that, to the extent possible, a lead agency fund “those major activities or analyses it requests from cooperating agencies” (40 C.F.R. § 1501.6).

Cooperating Agency is defined in The Bureau of National Affairs, Inc. publication *The Environmental Impact Statement Process* (Number 27-2nd) as follows:

The concept of the “cooperating agency” was an innovation of the Council on Environmental Quality (CEQ) NEPA regulations. In the past, agencies other than the lead agency were unlikely to participate in the preparation of the environmental impact statement, but subsequently would comment, often unfavorably, on it. The cooperating agency concept is designed to persuade other agencies to assist the lead agency in its preparation of the environmental impact statement, and to ensure a draft statement that reflects the expertise of more varied agencies.

The NEPA regulations define a cooperating agency as “any Federal agency other than a lead agency which has jurisdiction by law or special expertise with respect to any environmental impact involved in a proposal” that requires an environmental impact statement. (40 C.F.R. § 1508.5) “Jurisdiction by law” refers to “agency authority to approve, veto, or finance all or part of a proposal.” “Special expertise” means statutory responsibility, agency mission, or related program expertise. A similarly qualified state or local agency or an affected Indian tribe may become a cooperating agency.

An agency that has “jurisdiction by law” shall be a cooperating agency upon the lead agency’s request. Any other federal agency with “special expertise” relating to pertinent environmental issues may be a cooperating agency at the lead agency’s request. An agency may also request that the lead agency designate it as a cooperating agency.”

The lead agency must request the participation of each cooperating agency at the earliest possible time. Further, it must use the cooperating agencies’ environmental analyses and proposals “to the maximum extent possible consistent with its responsibility as lead agency.”

Each cooperating agency is similarly required to participate in the process at the earliest possible time and to “assume on request of the lead agency, responsibility for developing information and preparing environmental analyses including portions of the environmental impact statement concerning which the cooperating agency has special expertise.”

Because they are apt to be cooperating agencies in a large number of cases, agencies such as the Environmental Protection Agency, the National Oceanic and Atmospheric Administration, and the Fish and Wildlife Service have claimed that the cooperating agency function would impinge upon their other program commitments. Therefore, the regulations permit a potential cooperating agency to inform the lead agency and CEQ that “other program commitments preclude any involvement or the degree of involvement requested in the action that is the subject of the environmental impact statement.”

The BIA has formally requested the Tribe, United States Environmental Protection Agency (USEPA), the CAWH, Fairchild Air Force Base (Fairchild AFB), the National Indian Gaming Commission (NIGC), Washington State Department of Transportation (WSDOT), the Federal Aviation Administration (FAA), and Spokane County to act as Cooperating agencies. As of the date of this scoping report, the Tribe, WSDOT, NIGC, CAWH, and FAA have accepted Cooperating Agency status for the EIS (**Appendix F**).

1.3 PUBLIC INVOLVEMENT

A variety of public involvement opportunities were provided during scoping. These included the public comment period, scoping meeting, and project website. Comments were submitted through the project website, the court reporter/stenographer at the public hearing, and via mail.

1.3.1 PUBLIC NOTICE

Notices of public scoping activities for the EIS were provided through the publication of the NOI to prepare the EIS within the federal register¹ (**Appendix A**), local newspaper notices in the Spokesman Review and Cheney Free Press (**Appendix B**), signs posted at the project site, the project website, direct mail to stakeholder agencies within a 25-mile radius of the project site and to residents/homeowners within 400-feet of the project site, and a project information packet that was made available for viewing at the Spokane Tribal office. Scoping meeting notices were sent to over 500 residents/homeowners and 23 public agencies.

1.3.2 PROJECT WEBSITE

A project website, www.westplainseis.com, was launched on August 25, 2009. The website provides information on the Proposed Action, EIS process, and comment opportunities. It also provides

¹ The NOI was initially published on August 19, 2009 in the *Federal Register*. The original notice contained incorrect dates; therefore, the NOI was re-published in the Federal Register on August 27, 2009 with corrected dates. Both the original and corrected publications are provided within **Appendix A**.

documents developed to date, such as the NOI and description of proposed project alternatives. Additional documents will be added to the website as they are developed. This Scoping Report will be posted on the website when issued by the BIA.

The website provides a description of the scoping process and comment opportunities, and also included a Comment Form to facilitate commenting. The website recorded approximately 722 visits by 432 unique visitors during the scoping phase. Approximately 48 percent of scoping comments, received during the scoping comment period, were submitted via the website (**Appendix D**).

1.3.3 PUBLIC MEETING

A public scoping meeting was conducted on September 16, 2009 to provide project information and to solicit public input on the EIS scope and alternatives. The meeting was intended to obtain input early in the NEPA process on issues and potential impacts to be assessed in the EIS, the purpose and need for the project, and alternatives to consider or eliminate from detailed analysis. The public scoping meeting was conducted in the format of an open house. Stations were set up that contained display boards with information related to the EIS process, the proposed action, and alternatives. Consultants and BIA staff were available to answer questions and explain environmental issues related to the proposed action. A court reporter/stenographer was available at the public scoping meeting so that participants could provide individual, oral comments, which were recorded verbatim (**Appendix E**). Comment forms were available for attendees to provide input during the scoping meeting or to take home and mail later. Approximately 93 people attended the meeting.

1.3.4 MAIL

Through the public scoping notices, the public was invited to submit comments via mail during the 30-day public review period, which concluded on October 31, 2009. A total of twenty one letters were submitted via mail (**Appendix D**).