

SECTION 1.0

INTRODUCTION

The National Indian Gaming Commission (NIGC), in cooperation with the Bureau of Indian Affairs (BIA) and Sonoma County intends to prepare an Environmental Impact Statement (EIS) for the approval of a gaming management contract and subsequent development of a casino and hotel with other ancillary uses on approximately 363 acres of land in Sonoma County, California. 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) is the basic national charter for protection of the environment. 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 the NEPA procedures, is provided for at various steps in the development of an EIS. The first opportunity for the public involvement is the EIS scoping process.

1.1 EIS SCOPING PROCESS

The “scope” of an EIS means 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 provide input that will help determine the scope of the EIS.

The first formal step in the preparation of an EIS is publication of a Notice of Intent (NOI) to prepare an EIS. The NIGC published the NOI for this proposed action in the *Federal Register* on February 12, 2004 (**Appendix A**). The NOI described the proposed action and the reasons why an EIS will be prepared. A public notice announcing the proposed action and the scoping meeting was also published in the Santa Rosa Press Democrat on February 17, 2004 (**Appendix B**). The range of issues to be addressed in the EIS will be expanded based on comments received during the scoping process. A list of comment letters received is included in **Appendix C**. Comment letters received during the scoping process are included in **Appendix D**. A transcript of the public scoping meeting can be found in **Appendix E**. Notes from the March 11, 2004 scoping meeting with local jurisdictions appear in **Appendix F**.

1.2 COOPERATING AGENCIES

The lead agency, National Indian Gaming Commission (NIGC), 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. The NIGC will meet with the cooperating agencies periodically and keep them informed of the status of the NEPA process. 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 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.” Cooperating agencies also must make available staff support and funding to assist the lead agency on the statement.

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.” If an agency makes such a request, it is opting out of the action – not just the cooperating agency status – and may not participate subsequently at the commenting stage.

The NIGC has formally requested Cooperating Agency participation from the U.S. Environmental Protection Agency, Bureau of Indian Affairs, California Department of Transportation, Fish & Wildlife Service, Department of Fish & Game and the Army Corps of Engineers. The County of Sonoma submitted a formal request to the NIGC to be designated as a cooperating agency for this project. To date, the Bureau of Indian Affairs, Sonoma County, and Army Corps of Engineers are participating as Cooperating Agencies.