

**FINDING OF NO SIGNIFICANT IMPACT
FOR THE KIOWA INDIAN TRIBE OF OKLAHOMA
FEE-TO-TRUST PROJECT**

In 2018, the Kiowa Indian Tribe of Oklahoma (Tribe) submitted an application to the Bureau of Indian Affairs (BIA) to transfer into trust approximately 11.33 acres of land in the City of Hobart, Kiowa County, Oklahoma, (Site) for gaming and other purposes. The Tribe proposes to construct a 17,000-square foot gaming facility with a restaurant and office space (Proposed Project).

The BIA prepared an environmental assessment (EA) pursuant to the National Environmental Policy Act (NEPA), 42 U.S.C § 4321 *et seq.* The EA evaluated the transfer of the Site into trust and the subsequent development of the Site by the Tribe. The BIA made the EA available for public comment from August 28, 2019, through September 27, 2019. The BIA published notices of availability of the EA in the *Anadarko Daily News*, *Kiowa News*, and *The Carnegie Harold*. The Tribe also provided notices of availability on its Facebook page and at *kiowahobart.wordpress.com*. The EA is available at the same web address. The BIA received one comment on the EA. The Hobart Economic Development Authority, the agency that holds fee title to the Site, stated that it has no environmental concerns and that it supports the Proposed Project.

Based on the findings in the EA, I determine that transferring the Site into trust and the subsequent development of the Proposed Project by the Tribe will have no significant impact on the quality of the human environment. In accordance with Section 102(2)(c) of NEPA, an environmental impact statement is not required.

Purpose and Need for Action

The federal Proposed Action is the transfer of the Site into trust pursuant to the Secretary's authority under the Indian Reorganization Act, 25 U.S.C. § 5108. The purpose of the Proposed Action is to facilitate tribal self-sufficiency, self-determination, and economic development. This purpose satisfies the Department's land acquisition policy articulated in the Department's trust land regulations at 25 C.F.R. Part 151, and is the principle goal of the Indian Gaming Regulatory Act articulated in 25 U.S.C. § 2701. The need for the Department to act on the Tribe's application is established by the Department's regulations at 25 C.F.R. §§ 151.10(h) and 151.12.

Alternatives

The EA analyzed two alternatives:

Alternative A, Proposed Casino

Under Alternative A, the United States will transfer the approximately 11.33-acre Site into trust for the benefit of the Tribe. The Tribe proposes to construct an approximately 17,000-sf gaming facility with approximately 297 gaming machines, a restaurant, office space, back of house

operations, and a 310-space parking lot to accommodate patrons and employees. Alternative A will directly employ 156 people.

Alternative B, No Action Alternative

Under Alternative B, the United States would not transfer the Site into trust and the Hobart Economic Development Authority would retain title to the Site.

Selection of Preferred Alternative

We have determined that the Department will implement Alternative A as the Preferred Alternative. This decision is based on the environmental analysis in the EA, a consideration of economic and technical factors, and the purpose and need for transferring the Site into trust. Of the alternatives evaluated in the EA, Alternative A will best meet the purpose and need for action because it best promotes the long-term economic development, self-sufficiency, self-determination, and self-governance of the Tribe.

Findings

The EA evaluated potential impacts to land resources; water resources; air quality; biological resources; cultural resources; socioeconomic conditions; transportation networks; land use; public services and utilities; visual resources; noise; hazardous materials; and cumulative and indirect impacts. The EA identified the Best Management Practices (BMPs) in Section 2.1.4 that are incorporated into the project design to eliminate or substantially reduce environmental consequences to less-than-significant levels.

Land Resources (EA § 4.1) – Alternative A will not result in adverse impacts to land resources. No adverse effects to topography will occur. Landscaping for drainage enhancements will be built to use existing topography. No adverse impacts to geology and soils will occur. Implementation of BMPs will reduce land resources impacts. A Storm Water Pollution Prevention Plan (SWPPP) will be prepared and implemented, and permit requirements will reduce any potential adverse impacts. Impacts to land resources will be less than significant.

Water Resources (EA § 4.2) – Alternative A will not result in adverse impacts to water resources. During construction, implementation of BMPs and the SWPPP will minimize potential adverse effects. During operation, stormwater runoff will leave the Site as sheet flow; therefore, no point-source discharge to waters of the U.S. will occur. The Site is not within a 100 or 500-year floodplain and is not located within a Federal Emergency Management Agency flood zone. Impervious surface area will equal approximately four acres of the several thousand surrounding acres; therefore, impacts to groundwater recharge and groundwater quality are likely not measurable. Implementation of BMPs will reduce water resource impacts. The City of Hobart will provide water service to the Site. All wastewater generated from Alternative A will be treated by the City of Hobart wastewater treatment plant, which is adequately sized to meet the increased demand. Impacts to water resources will be less than significant.

Air Quality and Climate (EA § 4.3) – Alternative A will not result in adverse impacts to air quality. Short-term impacts to air quality will occur during construction, but the implementation of standard BMPs will reduce emissions to a less-than-significant level. During operation, emissions will be below permitting thresholds and are considered insignificant. Oklahoma is designated as “attainment status” for air quality and meets the pollutant standards set by the U.S. Environmental Protection Agency. Impacts during operation will fall below air quality threshold levels and will not contribute to a change in the designation status. Implementation of mitigation measures identified in Section 5.3 will ensure impacts to air quality and climate will be less than significant.

Biological Resources (EA § 4.4) – Alternative A will not result in adverse impacts to biological resources. The Site is disturbed from past agricultural activities. There are no federally listed plants within the Site. Five federally listed animal species may occur within the Site; however, there is no suitable habitat for four of the species. There may be suitable foraging habitat for the endangered Whooping Crane within the Site. There are approximately 600,000 acres available as foraging habitat in Kiowa County for the Whooping Crane; therefore, the loss of approximately four acres is not significant. During construction, federally protected migratory birds may be potentially disturbed; however, implementation of mitigation measures identified in Section 5.4 will ensure impacts will be less than significant. There are no wetlands or waters of the U.S. within the Site. With compliance with applicable permits and the implementation of mitigation measures, impacts to biological resources will be less than significant.

Cultural Resources (EA § 4.5; Appendix E) – Alternative A will not result in adverse impacts to cultural resources. There are no known historic properties, archeological sites, or cultural materials within the Site’s area of potential effect. The BIA completed consultation pursuant to Section 106 of the National Historic Preservation Act with the Oklahoma State Historic Preservation Office. The consultation resulted in a finding that no historic properties will be adversely affected. Scoping letters were sent to the Oklahoma Archaeological Survey - University of Oklahoma, Oklahoma Natural Heritage Inventory, Oklahoma Historical Society, Kiowa Tribe of Oklahoma, Comanche Nation, and Apache Tribe of Oklahoma. They identified no concerns. Inadvertent discovery may occur during construction, but with implementation of BMPs, impacts to cultural resources will be less than significant.

Socioeconomic Conditions (EA § 4.6; Appendix F) – Alternative A will not result in adverse impacts on socioeconomic conditions. The Proposed Project is expected to create 156 new direct employment opportunities to be filled from the local labor market. This increase in employment is a beneficial impact. Alternative A will benefit the Tribe by providing funding for its governmental programs. Impacts on socioeconomic conditions will be less than significant.

Transportation Networks (EA § 4.7; Appendix G) – Alternative A will not result in adverse impacts to transportation networks. A 2018 traffic impact study analyzed trip generation, trip distribution, intersection capacity, and safety. The study concluded no traffic control or roadway improvements are necessary. Impacts to transportation networks will be less than significant.

Land Use (EA § 4.8; Appendix H) – Alternative A will not result in adverse impacts on land use. The City zoned the Site as general agriculture, but upon the approval of the Tribe’s application, it

will be zoned as general commercial. Soils within the Site are considered prime farmland. Under the Farmland Protection Policy Act, prime and unique farmlands must be assigned a conversion impact score. A score of less than 160 does not require further evaluation or protection. The conversion impact score for the Site is 157.5. Impacts on land use will be less than significant.

Public Services and Utilities (EA § 4.9) – Alternative A will not result in adverse impacts to public services or utilities. The City will provide fire, police, and emergency health services to the Proposed Project. The Tribe will enter into an intergovernmental agreement with local government agencies to provide these services. The Tribe will supplement the local government support with its own personnel. The City will provide water and wastewater services to the Site and has adequate capacity for the Proposed Project. The Public Service Company of Oklahoma will provide electrical services for which the Tribe will pay its fair share of upgrades necessary to extend service to the Site. Oklahoma Natural Gas will provide natural gas and has capacity to serve the Proposed Project. Implementation of BMPs will reduce utilities impacts. Impacts to public services and utilities will be less than significant.

Visual Resources (EA § 4.10) – Alternative A will not result in adverse impacts to visual resources. The Site is surrounded by roadways, a maintenance yard, and agricultural land. There are no outstanding visual resources associated with the Site. Implementation of BMPs will reduce lighting impacts. Impacts to visual resources will be less than significant.

Noise (EA § 4.11) – Alternative A will not result in adverse impacts from noise. Noise from construction activities will be temporary. Implementation of BMPs will reduce the level of impacts to the surrounding area. Operation will slightly increase existing noise levels; however, the increase is marginal and will be below the Federal Noise Abatement Criteria threshold. Impacts from noise will be less than significant.

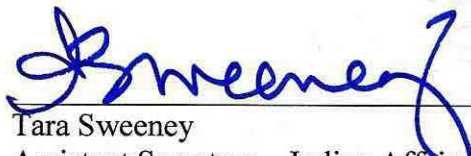
Hazardous Materials (EA § 4.12; Appendix J) – Alternative A will not result in adverse impacts from hazardous materials. In October 2018, Kent & Associates conducted a Phase I Environmental Site Assessment (ESA), in compliance with ASTM Standard E 1527-13. The ESA found no current Recognized Environmental Conditions (RECs), Historic RECs, Controlled RECs, or Vapor Encroachment Conditions. The ESA recommended that a groundwater investigation be conducted if groundwater will be used as a potable water supply, and that the thin layer of asphalt and road base material that is still present on a vacant roadway be sampled and tested for hazardous materials prior to removal to a solid waste facility. Implementation of BMPs during construction will reduce impacts to public health and safety. Impacts from hazardous materials will be less than significant.

Cumulative and Indirect Impacts (EA § 4.13) – Alternative A will not result in cumulative or indirect adverse impacts to land resources; water resources; air quality; biological resources; cultural resources; socioeconomic conditions; transportation/circulation; land use; public services and utilities; visual resources; noise; or hazardous materials. Alternate A will have a positive

indirect effect on the local economy. The development of Alternative A will result in less-than-significant cumulative and indirect impacts to the resources identified above.

Determination

Based on the findings in the EA, I determine that transferring approximately 11.33 acres of land in the City of Hobart, Kiowa County, Oklahoma, into trust and the subsequent development of the Proposed Project by the Tribe will have no significant impact on the quality of the human environment. In accordance with Section 102(2)(c) of NEPA, an environmental impact statement is not required. This fulfills the requirements of NEPA as set out in the Council on Environmental Quality Regulations for Implementing NEPA, 40 C.F.R. §§ 1500-1508, and the BIA NEPA Guidebook (59 IAM 3-H, August 2012).


Tara Sweeney
Assistant Secretary – Indian Affairs

DEC 16 2020
Date