



United States Department of the Interior

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United States Department of the Interior Bureau of Indian Affairs

NOTICE OF FINDING OF NO SIGNIFICANT IMPACT (FONSI) FORT MOJAVE INDIAN TRIBE (FMIT) CASINO PROJECT FORT MOJAVE INDIAN RESERVATION, SAN BERNARDINO COUNTY, CALIFORNIA

SUMMARY:

The FMIT, a federally recognized tribe with Federal trust lands in Arizona, California, and Nevada, has proposed to build and operate a stand alone casino on a portion of a 300-acre project site held in trust for FMIT by the Federal Government. The proposed Federal action is the Department of the Interior (DOI) approval of the project under the Indian Gaming Regulatory Act (IGRA) of 1988, 25 U.S.C. § 2719(b)(1)(A). Agency and public involvement were conducted by the BIA and the FMIT. The FMIT and the City of Needles held a joint council meeting on March 26, 2003 to discuss the FMIT's proposed casino and other topics of mutual interest. The DOI issued the Draft Environmental Assessment (EA) for a 30-day public review period from July 2, 2003 to August 1, 2003. Based on requests, the public review period to submit comments was extended to August 16, 2003. Alternative courses of action and mitigation measures were developed in response to environmental concerns and issues identified during agency scoping and the public review process.

Based on a thorough review and analysis of the Draft EA submitted by the FMIT, entitled "Final Draft Environmental Assessment for Siting, Construction, and Operation of the Fort Mojave Indian Tribe's Gaming Facility," DOI has determined that the proposed Federal action is not a major federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act (NEPA). The Draft EA has therefore been adopted as the Final Environmental Assessment for the DOI's Two Part Determination under § 2719(b)(1)(A). The Two Part Determination requires the Secretary of the Interior to determine both that the gaming establishment would be in the best interest of the Indian tribe and its members and would not be detrimental to the surrounding community.

PURPOSE AND NEED:

The proposed action is needed to support essential government activities of the FMIT and the expansion of such activities. The purpose of the proposed action is to maintain and strengthen the political and economic self-determination of the FMIT, and to use its land

and water resources to generate a dependable source of high revenues for the Tribe. Gaming is a unique opportunity for the FMIT to expand its economic base. This opportunity is afforded the FMIT under IGRA, and was sanctioned by the State of California through a State/FMIT gaming compact approved by the Governor and the Secretary of the Interior on August 8, 2004. The Compact is included as Appendix A to the EA.

DESCRIPTION OF THE PROJECT:

The FMIT casino will be constructed on a 300-acre site located in San Bernardino County, California on Section 9, T9 North, R22 East. The 300-acre site has frontage on Interstate 40 and is located approximately four miles west of the City of Needles, California. The parcel presently is in commercial use and produces revenue from the lease of 13 billboard sites. There is no other commercial development on the site. Rights of way for Interstate 40 and for the Burlington Northern Santa Fe Railroad, and two natural gas pipelines also traverse the site.

A casino with 1,500 gaming machines will be built in two phases. Phase One will be construction and operation of an approximately 125,000-square-foot facility for 750 gaming machines. The facility would be designed to expand in Phase Two to a facility of approximately 175,000 square feet with 1,500 gaming machines. The casino would occupy approximately 34 acres, including the gaming facility, a 3,000 space parking lot, and a 50 space recreational vehicle park. Approximately 41 acres surrounding the casino would be used for storm water retention basins, buffering, an on-site potable water well, a potable water storage tank, a wastewater treatment plant and treated effluent storage in a lined, covered pond. All casino development would be confined to 75 acres, leaving approximately 225 acres of the FMIT's 300-acre parcel undisturbed. A new two-lane paved road would provide access to the casino site. The road would be built on an existing California Department of Transportation (Caltrans) right-of-way which is not located on tribal trust land. It would begin at the intersection of Pashard Street and Columbus Drive in Needles and run parallel to Interstate 40 for four miles to the casino site. The road would require approximately 19.6 acres of surface disturbance.

ALTERNATIVES CONSIDERED:

The project as described in the EA is the preferred alternative. The EA considered various project type alternatives, other site alternatives, access alternatives, and various project size alternatives, but most were eliminated from detailed analysis. A reduced development alternative (Alternative One) was considered in the EA. Alternative One would begin with 375 gaming machines and expand in Phase Two to 750 gaming machines. The facility would be approximately 125,000 square feet. A 1500 space parking lot and a 50 space RV park would also be built. A new access road on Caltrans right of way would provide access to the site. The No Action Alternative was also considered.

Given the similarity of environmental impacts of the preferred and reduced development alternatives, the preferred alternative was selected because it best met the FMIT's need to maintain and strengthen its political and economic self-determination, and to use its land and water resources to generate a dependable source of high revenue to support essential government purposes. FMIT has ongoing and growing demands for revenues to support and expand social services, health care, education, and cultural programs for its members. FMIT also needs additional revenues to invest as it implements its policy of economic diversification for long term financial growth and stability, while maintaining the viability of its existing economic activities. The preferred alternative also best met the need to generate a steady and high source of revenue taking advantage of the unique opportunities provided to the FMIT by the IGRA.

ENVIRONMENTAL IMPACTS:

The EA documents the planning process and describes the comprehensive analysis of the impacts of the project, not only on the proposed project site and access route, but also on the surrounding community. No significant unmitigated environmental impacts from implementation of the preferred alternative are indicated by the EA. A summary of effects to the components of the human environment can be found in Table ES-2, Summary Comparison of Alternatives, in the EA.

Potentially significant impacts were identified for three of the components of the human environment analyzed in the EA. These three components are threatened and endangered species, public health and safety, and traffic and transportation. With mitigation, as discussed under the Mitigation heading below, potentially significant impacts to threatened and endangered species, public health and safety, and traffic and transportation will be reduced to less than significant.

For all other resources, no significant impacts were identified by the EA. No significant impacts will occur to land resources, soils or mineral resources. No significant impacts will occur to water resources, including water supply and water quality or to floodplains, which were evaluated in accordance with Executive Order 11988. There are no wetlands on the site or access route which would be affected. No significant impacts to air quality were identified. No significant effects were identified for resource use patterns, visual resources, or noise.

Land use and adopted land use plans and policies would not be significantly affected. Community infrastructure would not be significantly affected. No significant impacts to energy supply and infrastructure, wastewater treatment facilities, or solid waste disposal facilities were identified. Social services would not be significantly affected. Indeed, there is excess school capacity in the City of Needles. Funds would also be deposited with the state Department of Alcohol and Drug Abuse to support problem gambling treatment.

No significant effects from growth inducement were identified. Cumulative adverse effects related to the preferred alternative were minor for all resources except traffic and

transportation. Traffic and transportation impacts of potential off-Reservation development in the City of Needles, if all projects were pursued, would likely be significant even in the absence of the proposed gaming facility. The incremental addition of the FMIT's proposed gaming facility and associated access road would not measurably elevate the level of adverse cumulative effects caused by potential development within the City of Needles. Nevertheless, the FMIT has committed to mitigation measures, as described under the Mitigation heading below, to reduce impacts associated with the proposed gaming facility to traffic and transportation below the level of significance. If other off-Reservation development projects are eventually pursued in the City of Needles by other entities, additional mitigation associated with those activities will be implemented by those entities. The EA identified significant beneficial economic impact to both the FMIT and the surrounding community, and to the state of California. Federal actions that have significant economic or social effects without significant impacts to the natural or physical environment do not require the preparation of an EIS (*see* 40 CFR § 1508.14).

Compliance with Executive Order 12898, Environmental Justice, and Secretarial Order 3175, Departmental responsibilities for Indian Trust resources, were identified and addressed.

MITIGATION:

All mitigation measures described in the Final EA-Section 5.0 Mitigation Measures, will be implemented to reduce potentially significant impacts of the project to a level of less than significant, and are conditions of approval of this project. Some additional mitigation measures are defined as part of the project design although the level of potential adverse effect was not significant. These mitigation measures appear in the body of the text under topic areas, but do not appear separately under required mitigation measures. The DOI's signing of this FONSI makes construction and operation of the gaming facility contingent upon implementation of these mitigation measures. Required mitigation measures, defined in Section 5.0 of the EA, address four areas:

Threatened and Endangered Species

Mitigation measures to reduce potentially significant effects to the federally-listed threatened desert tortoise are required. Mitigation measures are prescribed in the United States Fish and Wildlife Service Biological Opinion dated June 16, 2004. Prescribed mitigation includes tortoise-proof fencing, designation of a Field Contract representative responsible for overseeing mitigation compliance, and removal of all trash or food items which could attract scavenging ravens. Required mitigation measures can be found in Section 5.1 of the EA.

Cultural Resources

The EA did not identify any significant impacts to cultural or historic resources. Should any unrecorded cultural resources be encountered during ground disturbing activities, work will stop in the area of discovery and stipulations of 36 C.F.R. § 800.11 will be followed. The

Bureau of Indian Affairs (BIA) Western Regional Archaeologist and FMIT Chairperson shall be contacted immediately. See Chapters 4 and 5 of the Final EA concerning Section 106 consultation documentation for compliance with the National Historic Preservation Act. The FMIT will voluntarily install informational displays about historic Route 66. Mitigation measures related to cultural resources are discussed in Section 5.2 of the EA.

Public Health and Safety

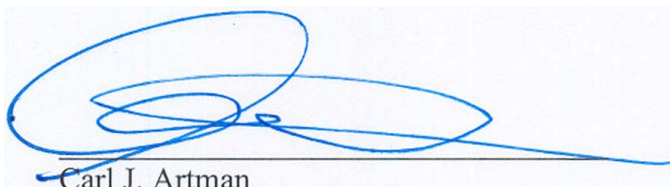
Mitigation measures to reduce potential significant impacts to public health and safety will be implemented through execution of contracts between the FMIT and the County of San Bernardino and the City of Needles. These contracts will require the FMIT to pay a fair share cost of additional service capabilities by law enforcement and fire protection departments. Information regarding mitigation of public health and safety impacts can be found in Section 5.3 of the EA.

Traffic and Transportation

Mitigation measures to reduce potential significant impacts to traffic and transportation facilities have been recommended. Affected roadways and intersections are under the jurisdiction of San Bernardino County or Caltrans, and certain elements of the proposed project, including mitigation measures, must be approved by those agencies. Recommended mitigation measures have been submitted to these agencies for review and approval. Implementation of recommended traffic mitigation measures, including striping, turning lanes, and intersection signalization, will reduce impacts attributable to casino traffic to less than significant. A pro rata share of cumulative impacts to traffic and transportation systems attributable to both casino development and to other development in Needles has been calculated. A fair share contribution by the FMIT will be negotiated with San Bernardino County, the City of Needles, and Caltrans, and executed by contracts. Traffic and transportation mitigation measures are discussed in Section 5.4 of the EA.

FINDING OF NO SIGNIFICANT IMPACT

Based on the above findings, I have determined that implementation of the agency proposed action—approval of the Two Part Determination and environmental mitigation measures as specified in the Final EA for the FMIT-proposed Class III Gaming Facility and related infrastructure development on 75 acres of a 300-acre off-reservation tribal trust land parcel in California, and of access development on 19.6 acres of Caltrans right-of-way—**will not have a significant impact on the quality of the human environment.**



Carl J. Artman
Assistant Secretary – Indian Affairs
U.S. Department of the Interior

Date **JAN 04 2008**