

Finding of No Significant Impact

Proposed Pokagon Band of Potawatomi Indians of Michigan Gaming Facility In New Buffalo Township, Berrien County, Michigan

AGENCY: National Indian Gaming Commission

ACTION: Finding of No Significant Impact

SUMMARY:

The Pokagon Band of Potawatomi Indians (Tribe) has submitted a request to the National Indian Gaming Commission (NIGC) for the approval of a management agreement between the Tribe and Great Lakes Gaming of Michigan, LLC to manage a gaming facility on tribal trust land.

The Tribe's 144,000 square-foot Class II and Class III gaming facility will be developed on an approximately 675-acre site located at I-94 exit 1, Michigan Highway 239, and Wilson Road in New Buffalo Township, Berrien County, Michigan.

A draft Environmental Assessment (EA), dated November 2000, was prepared for the fee-to-trust acquisition and approval of a Class II and Class III gaming operation project to meet the requirements of the National Environmental Policy Act of 1969, as amended (NEPA). The Draft EA was published and circulated for public comment for 30 days. A Final EA, dated January 2001, was prepared and made available for public review. The Final EA includes written public comments and responses to those public comments. Where appropriate, the EA was revised in response to the written public comments. The Bureau of Indian Affairs (BIA), the lead agency, made a Finding of No Significant Impact (FONSI) on January 19, 2001 based on the January 2001 Final EA. On January 19, 2001, the BIA made a final agency determination to acquire the 675 acre site into trust for the Tribe. Public notice of this determination was published in the South Bend Tribune and the Herald-Palladium on January 24, 2001.

On February 21, 2001, a group identifying itself as Taxpayers of Michigan Against Casinos (TOMAC) filed suit in the United States District Court for the District of Columbia against the responsible federal officials challenging the FONSI and the decision to take the subject land into trust. In a decision issued on March 29, 2002, the court dismissed all of the plaintiffs' claims with the exception of challenges to the adequacy of the environmental review of the project. On January 21, 2003, the court issued an opinion and order remanding the January 2001 EA to the Bureau of Indian Affairs for further evaluation and elaboration of its reasoning concerning the impacts from secondary growth and development that may occur from the gaming project. TOMAC v. Norton, 240 F. Supp. 2d 45 (D.D.C. 2003).

In response to the January 21, 2003 court order, the BIA prepared a Supplement to the EA dated August 2003 (EA Supplement). The EA Supplement addressed the court's concerns by providing further evaluation of the impacts from the indirect and growth-inducing effects of the gaming project. The EA Supplement identifies a Development Area where the reasonably

foreseeable housing and commercial development from new employment and spending induced by the gaming project is most likely to occur. The EA Supplement then analyzes impacts to natural resources, including those identified in the court's order: public services, endangered wildlife and plant species, wetlands, air quality, groundwater, prime farmland, floodplains, stormwater runoff, noise, traffic, and ecosystems.

Based on the EA and EA Supplement, the BIA issued a Revised Finding of No Significant Impact dated November 20, 2003 (Revised FONSI), and made the EA Supplement and Revised FONSI available for public review. On March 24, 2005, the court ruled that the BIA's EA and EA Supplement fully complied with the requirements of NEPA and issued an order dismissing TOMAC's lawsuit. *TOMAC v. Norton*, 2005 WL 2375171 (slip opin.) (D.D.C., 2005). On appeal, the United States Court of Appeal for the District of Columbia Circuit upheld the dismissal of TOMAC's lawsuit in a decision dated January 6, 2006. *TOMAC v. Norton*, 433 F.3d 852, (D.C. Cir. 2006).

The NIGC participated as a cooperating agency (40 CFR 1501.6) during the NEPA process and has independently evaluated the environmental issues and taken responsibility for the scope and content of the EA and EA Supplement. The NIGC's proposed federal action is the approval of a management agreement. Approval of this agreement would allow the Tribe to operate Class II and Class III gaming devices, subject to the conditions of a Tribal/State Compact. In concurrence with the BIA's FONSI and Revised FONSI and based on the January 2001 EA and the August 2003 EA Supplement and all information received since that date, the NIGC has determined that approval of the proposed management agreement, a federal action, will have no significant impact on the quality of the human environment. Pursuant to 40 C.F.R. § 1506.3, the NIGC adopts the BIA's EA and EA Supplement. Therefore, in accordance with Section 102(C) of the National Environmental Policy Act of 1969, as amended, an environmental impact statement will not be required.

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 and the EA and EA Supplement, which this agency adopts and on which the FONSI is based, will be available to all interested persons at the following locations:

Pokagon Band of Potawatomi Indians
58620 Sink Road
Dowagiac, Michigan 49047

National Indian Gaming Commission

1441 L. Street NW, Suite 9100
Washington, DC 2005

BACKGROUND:

Gaming is a unique opportunity for the Tribe to develop an economic base. This opportunity is regulated under the terms of the Indian Gaming Regulatory Act (25 USC 2701 et seq.).

DESCRIPTION OF THE PROJECT:

The Tribe's gaming project, the Four Winds Casino & Resort, will result in a 144,000 square foot Class II and Class III facility on a 675-acre site located in the northeastern corner of I-94, Michigan Highway 239, and Wilson Road in New Buffalo Township, Berrien County, Michigan. The development site plan involves approximately 51 acres. The gaming project will include approximately 5,200 parking spaces, 110,000 square feet for a casino, a 200-room hotel, a bingo/special event facility with a seating capacity of 2,500, six restaurants, shopping and gift shops, and support and administrative services.

The gaming project will have a beneficial economic impact for the Tribe. Benefits to the Tribe and its individual members would result from employment opportunities at the gaming facility, and an improved quantity and quality of social services offered by the Tribal government as a result from revenues the tribe earns at the casino.

PUBLIC REVIEW AND COMMENT:

See Section 6 of the EA and the EA Supplement section on Consultation and Coordination for a list of agencies and individuals contacted. Preparation of the EA and EA Supplement included consultation with the BIA, NIGC, U.S. Fish & Wildlife Service, U.S. Army Corps of Engineers, Michigan Department of Environmental Quality, Michigan Department of Transportation, Berrien County, New Buffalo Township, the City of New Buffalo, and many other agencies. The draft EA was published for a 30-day comment period from November 21, 2000 until December 21, 2000. Written comments to the EA are attached to the EA in Appendix U. Consultation occurred with two other Michigan Native American Tribes, neither of which objected and one of whom responded stating that no problems exist in regards to the American Indian Religious Freedom Act.

SUMMARY OF MITIGATION MEASURES:

The NIGC hereby adopts the mitigation measures as described in Chapter 5 of the EA and EA Supplement. The following is a summary of those measures:

LAND RESOURCES

PRIME AND UNIQUE FARMLAND

The impact from the development of land designated as prime farmland is mitigated by state

regulations intended to limit the development of farmland and from land conservation measures available under the Pokagon Fund. See subsection 5.12.2 in the EA Supplement for a detailed explanation regarding the establishment and purpose of the Pokagon Fund. The Farmland and Open Space Preservation Act, Public Act 116, 1974 (PA116), was enacted to slow the conversion of farmland to non-farm uses while at the same time provide property tax relief to farmland owners whose high property taxes on farmland were forcing them to sell land for development. Lands designated as prime farmland can also be enrolled in the PA116 program with the State of Michigan, which provides tax breaks and other benefits to property owners for their property for a 10-year period during which time the property cannot be developed. In addition, the Township can utilize funds from the Pokagon Fund to purchase the development rights of land designated as prime farmland from property owners who are interested. One of the stated purposes for distributions from the Pokagon Fund is for "*land preservation and acquisition*". See Appendix Q to the EA, Local Agreement, Sec. 24(b) (iv). The use of this program by New Buffalo Township and property owners could mitigate the impact of the indirect development on land designated as prime farmland.

CRITICAL DUNES PROTECTION

The Pokagon Fund and other revenue sharing funds are available for land preservation and acquisition programs, environmental easements, and other measures to protect environmentally sensitive areas, such as critical dune areas.

WATER RESOURCES

WATER SUPPLY

The City of New Buffalo and New Buffalo Township have studied the effects of the project and have planned for the additional growth and demand for municipal water. As mitigation to provide for potential growth impacts in the vicinity of the project site, the Tribe has agreed to pay \$900,000 or 24% of the total cost towards the expansion of the water plant and distribution system in return for 0.375 MGD of capacity or 13% of the total capacity. Additionally, the Tribe has agreed to payments based on minimum usage levels, whether or not the water is used, to guarantee a revenue stream adequate to obtain favorable financing for the plant and distribution system improvements. The balance of the costs to complete the recommended improvements will be financed by revenue bonds, the creation of new assessment districts to serve existing customers, tap fees for new users who connect to an existing system, developers of the anticipated residential and commercial growth, and the local revenue sharing provided by the project.

Further, the water tower to be built by the Tribe for the project and the community will create a new high pressure zone that will not only provide existing homeowners currently on wells with access to municipal water but will improve the level of fire protection in the area because hydrants are currently unavailable due to the limited water service. The Tribe has agreed to dedicate the new infrastructure to the City of New Buffalo and New Buffalo Township after it is constructed. This infrastructure will include approximately 18,000 feet of new water main, a booster pump station and a 500,000-gallon above ground storage tank at a total cost of

\$1,795,000. Additionally, in order to meet the demands of growth the new water main will be constructed to handle a minimum of twice the project capacity and the water tower will handle two-thirds more than the project capacity.

The improvements identified by the City of New Buffalo and New Buffalo Township and provided, in part, by the Tribe will be adequate to provide water to the areas where the residential and commercial growth is anticipated.

WASTEWATER TREATMENT

Under the Sewer Agreement, Appendix T to the EA Supplement, the Tribe has agreed to pay for and install oversized sewer lines to the project site to accommodate the anticipated flows from development that may occur in the surrounding areas. The infrastructure will include approximately 12,000 feet of new sewer main and a new lift station. The Tribe agreed to design and construct the infrastructure extensions and improvements necessary to make up this connection at an expense to the Tribe of \$726,000. No sewer service currently exists in this area of the New Buffalo Township.

The capacity of the sewer system being installed for the project is 0.750 MGD. The project will utilize approximately 0.400 MGD (53% of the total). The estimated flow from the anticipated indirect development is approximately 0.190 MGD (25% of the total). The remaining capacity is approximately 0.160 MGD (21% of the total) will be available for other future development. The sewer is being installed deep enough to allow future developments to connect to it with a minimal number of lift stations. The Tribe has also agreed to pay its pro-rata share of capacity in the new wastewater treatment plant when it is needed. The balance of the costs to complete recommended improvements will be financed by revenue bonds, tap fees for new users who connect to an existing system, developers of the anticipated residential and commercial growth, and the local revenue sharing provided by the Tribe.

SURFACE WATER

Stormwater runoff from construction and development in the Development Area, as defined in subsection 4.24.3 of the EA Supplement, is managed by the City of New Buffalo, New Buffalo Township, and the County Drain Commissioner pursuant to local ordinances, by MDEQ pursuant to the Michigan Natural Resources and Environmental Protection Act (1994, PA 451), and by the EPA pursuant to the Federal Clean Water Act. The City of New Buffalo and the Berrien County Drain Commission are authorized agencies to issue Erosion Control Permits. An Erosion Control Permit and a NPDES General Permit for Storm Water Discharges from the MDEQ will be required for construction activities that are greater than one acre, within 500 feet of a lake or stream or contribute storm water to the waters of the state.

City of New Buffalo and New Buffalo Township Ordinances require developers to manage the additional storm water generated because of their activities under standards that prohibit the diversion of storm water to adjacent properties and the overburdening of the receiving waterway or storm sewer from runoff. The municipalities, as part of their site plan review, and the Drain Commission, as part of its permit application process, require the submission of soil erosion and

sedimentation control plans to demonstrate how the construction site and final development will prevent and mitigate the effects of soil erosion and sedimentation. The Berrien County Drain Commission and the City of New Buffalo will require the additional storm water runoff to be directed to detention or infiltration basins. The discharge from these basins will then need to be restricted to the rate that existed prior to development to mitigate the impact the increased runoff may cause on receiving waters. The discharge will be to storm sewers, county drains, creeks, rivers or to infiltration basins where no outlet is available. See subsection 3.b of Appendix S to the EA Supplement.

GROUNDWATER

To accommodate anticipated residential and commercial growth, including growth induced by the project, the Tribe has voluntarily agreed to dedicate its water tower to New Buffalo Township, to oversize the water lines coming to the property in excess of the Tribe's requirement, and to make those lines available for future development. The combination of the Berrien County Health Department's ordinance and the low density required by New Buffalo Township mitigates the potential impacts the additional septic systems may have on the groundwater. The additional wells constructed for homes that are not served by municipal water will not significantly affect the quantity of groundwater available because the increased usage of the aquifer will be offset by the abandonment of private wells where municipal water from Lake Michigan is extended to existing development. New Buffalo Township's water study projects conversion of 220 existing residences over the next 10 years. The groundwater used by these customers alone will likely exceed the demand from the project and residential and commercial growth induced by the project.

WETLANDS PROTECTION

Development that affects wetlands is regulated individually or jointly by the Michigan Department of Environmental Quality (MDEQ) under the Michigan Natural Resources Environmental Protection Act (MNREPA) and by the United States Army Corps of Engineers (USACOE) under the Clean Water Act (CWA). Up to 253 acres of wetland are potentially subject to CWA regulation. The MNREPA provides a comprehensive regulatory scheme that protects wetlands by restricting activities that could affect wetlands, as well as floodplains, lakes, streams, shorelands and the Great Lakes. Compensatory mitigation (the creation of new wetland or restoration of lost wetlands in amounts equal to or greater than that lost) is required under MNREPA regulations for any activity that will result in wetland loss greater than 1/3 of an acre. Under the MNREPA and the CWA, compensatory mitigation requirements will serve to limit any loss of wetlands within the Development Area, as defined in subsection 4.24.3 of the EA Supplement. In addition, New Buffalo Township's zoning ordinance provides for the review of site plans to assist in determining, among other things, impacts on significant natural features such as wetlands. Finally, the Pokagon Fund and other revenue sharing funds are available for land preservation and acquisition programs, environmental easements, and other measures to protect environmentally sensitive areas, such as wetlands.

BIOLOGICAL RESOURCES

THREATENED AND ENDANGERED PLANT SPECIES

The Pokagon Fund and other revenue sharing funds are available for land preservation and acquisition programs, environmental easements, and other measures to protect environmentally sensitive areas, such as those including threatened or endangered species or critical habitat.

CULTURAL RESOURCES

HISTORIC PROPERTIES

Historic buildings, structures, objects, sites, districts and archeological sites that are eligible for the National Register of Historic Places are subject to review under Section 106 of the National Historic Preservation Act of 1966 (NHPA), which was established to ensure that impacts on historic properties are considered during federal planning and decision-making. Any project developed in the Development Area, as defined in subsection 4.24.3 of the EA Supplement, that utilizes federal funds or requires a permit from a federal agency will be required to undergo a review of the project's impact on historical sites. If the project has an adverse effect, alternatives must be considered and mitigation of the affects must be explored. Lastly, the Pokagon Fund and other revenue sharing funds are available for land preservation and acquisition programs, environmental easements, and other measures to protect culturally sensitive sites within the Development Area.

FINDINGS

The NIGC adopts the BIA's EA and EA Supplement and makes the following findings, which support this FONSI:

1. Agency and public involvement was conducted and environmental issues were identified related to the contemplated fee-to-trust acquisition and approval of the management agreement. See EA section 6.2 Consultation, and EA Supplement section Consultation and Coordination, for a list of agencies and individuals contacted. Copies of documents and comment letters from agencies and individuals that identified issues are attached to the EA in Appendices D, E, F, I, J, L, P, Q, and V, and are attached to the EA Supplement in Appendices A, B, E, L, N, P, Q, and Z. A 30-day public comment period ended on December 22, 2000. Written comments received during that period and responses to them are included in Appendix U of the EA. Where appropriate, the EA was modified in response to these comments. Consultation occurred with two tribal governments and correspondence regarding the American Indian Religious Freedom Act is contained in Appendix F of the EA.
2. Alternative courses of action and mitigation measures were developed in response to environmental concerns and issues related to the Preferred Alternative. The EA and EA Supplement disclose the environmental consequences of the Preferred Alternative: and the "No Action" alternative. See EA Chapter 2 for a discussion of the alternatives, and EA Chapter 4 and EA Supplement sections 4.24 and 4.25 for a discussion of the environmental consequences of the alternatives.

3. Enforceable protective measures have been established and will be implemented by the Tribe to sufficiently reduce impacts to a minimum. See EA Chapter 5, Mitigation Measures, and EA Supplement Chapter 5, Mitigation Measures.

4. Pursuant to recommendations provided by the U.S. Fish and Wildlife Service in their January 11, 2001, letter to the Bureau of Indian Affairs, development of the gaming project, will leave as many potential roost trees as possible to minimize impacts 10 potential Indiana bat habitat. Thus, the gaming project will not jeopardize threatened and endangered species. See EA section 4.8 Threatened and Endangered Species and Appendix D.

Indirect Effects

The gaming project will have no indirect significant impacts on federal threatened or endangered wildlife or plant species because these species are not believed to be present in the Development Area 85 verified in a letter from the USFWS dated March 31, 2003. See also EA Supplement section 4.24.17.3, Threatened and Endangered Animal Species, EA Supplement section 4.24.18.2, Threatened and Endangered Plant Species, and Appendix Z to the EA Supplement. The Michigan Department of Natural Resources has stated that most of the land in the Development Area would be available for future development with no or little impact to state-listed threatened and endangered species. See Appendix Y, page 4, to the EA Supplement.

5. The undertaking is in compliance with Section 106 because it does not have the potential to affect historic properties (36 C.F.R. § 800.3(a)(1)). In a consultation letter dated July 14, 2000, the State Historic Preservation Officer (SHPO) stated that no sites eligible for inclusion on the National Register of Historic Places are affected. The Nottawaseppi Huron Band of Potawatomi and Pokagon Band of Potawatomi have indicated in letters dated October 20, 2000, and October 18, 2000, that the gaming project would not impact traditional religious freedom. Nevertheless, should undiscovered archeological remains be encountered during construction of the project, work will stop in the area of discovery and the stipulations of 36 C.F.R. §§ 800.13(b), (c) and (d) will be followed. See EA section 4.11 Cultural Resources, correspondence from the Michigan SHPO in Appendix P, and letters from two tribal governments in Appendix F.

Indirect Effects

The gaming project will have no indirect significant impacts on cultural resources because no protected or significant cultural resources are known or believed to be located within the Development Area. The EA Supplement also finds that no historic properties, including those eligible for inclusion on the National Register of Historic Properties are likely to be indirectly affected by the gaming project. See EA Supplement section 4.24.19, Cultural Resources.

6. Impacts to public health and safety are mitigated through implementation of safety measures described in section 4.19 Health and Safety. The Traffic Impact Analysis (Appendix H) finds that specific improvements will be required to maintain level of service. The Tribe has agreed in the Local Agreement (Appendix S) to fund the cost of the recommended road improvements. The City of New Buffalo indicates that it has adequate capacity to provide law

enforcement, fire protection, and water supply service for phase one development and that the water plant will need to be expanded for phase two of the gaming project. New Buffalo Township finds that it has adequate wastewater service for the gaming project. The Tribe has agreed in the Local Agreement (Appendix S) to provide funding to address compulsive gambling.

Indirect Effects

The gaming project will have no indirect significant impacts on public health and safety. Indirect impacts to public health and safety are mitigated through implementation of safety measures described in EA section 4.19 Health and Safety, and EA Supplement sections 4.24.9 Sewer System, 4.24.10 Solid Waste, 4.24.13 Groundwater, and 4.24.20 Air.

Indirect traffic impacts will be mitigated to sufficiently reduce impacts to a minimum. The EA Supplement section 4.24.6 Transportation/Traffic, and Appendix H, find that the indirect impacts to the transportation system would not be significant because the affected road segments are capable of accommodating traffic increases related to the gaming project and its induced growth. Thus, no mitigation would be required to maintain acceptable levels of service for indirect development. The EA Supplement section 4.24.21 Noise, finds that increased noise levels that result from induced residential and commercial growth and the accompanying traffic increases will not be significant because noise levels will only rise slightly.

The EA Supplement section 4.24.7 Public Safety, finds that indirect development would not have significant impacts to public safety services because residential and commercial growth induced by the gaming project will occur over a period of years and represents only a small fraction of the total demand on public safety services. Appendix M of the EA Supplement contains the Tribe's agreement with the Berrien County Sheriff to help maintain law enforcement at levels acceptable to the county. See also EA Supplement Appendices B and N.

The EA Supplement sections 4.24.8 Water Supply, and 4.24.9 Sewer System, find that the increased water and wastewater demands caused by indirect development would be significant because the current system lacks sufficient capacity. However, the Tribe has committed to fund the cost of water supply and wastewater expansions, thus sufficiently reducing impacts to a minimum.

The EA Supplement section 4.24.12 Storm Water, finds that the additional storm water runoff from indirect development would not significantly impact water quality or quantity in receiving waters because federal, state and local agencies prohibit the overburdening of the runoff systems and require that runoff be directed to detention basins where discharge flows are maintained at the rate that existed prior to development.

7. In compliance with E.O. 11988, the gaming project will not directly impact floodplains or wetlands. See EA section 4.3 Floodplains. In compliance with E.O. 11990, the gaming project will minimize direct impacts to nearby wetlands. See EA section 4.4 Wetlands. The gaming project will not directly impact prime farmlands. See EA sections 4.17 Land Use, 4.4 Wetlands, and 4.3 Floodplains.

Indirect Effects

The EA Supplement section 4.24.14 Floodplains, finds that indirect development will not significantly impact floodplains in the Development Area because state law regulates and requires mitigation for new development within floodplain areas. The EA Supplement section 4.24.15 Wetlands, and Appendix Y, find that indirect development will not significantly impact wetlands because there are strict regulatory controls and substantial financial disincentives to development affecting wetlands. The EA Supplement section 4.24.11 Prime and Unique Farmland, finds that indirect development would not significantly impact prime and unique farmland because the total amount of acreage designated as farmland is limited in both the Development Area and the county as a whole.

The EA Supplement section 4.24.16 Critical Dunes and Coastal Zone Management Act, finds that indirect development would not significantly impact critical dunes subject to the Coastal Zone Management Act (CZMA) because only a very small portion of the Development Area is within the coastal zone subject to the CZMA, and because regulatory requirements make development difficult. The EA Supplement section 4.24.22 Ecosystems, finds that the indirect development would not significantly impact ecologically important ecosystems within the Development Area because there are sufficient non-sensitive areas that are more suitable for development and are not subject to strict regulatory controls.

8. The cumulative effects of the gaming project combined with past and reasonably foreseeable future actions are not significant. These cumulative effects on the quality of the human environment are evaluated in EA Chapter 4 Environmental Consequences using a resource-by-resource presentation and summarized in the EA in section 4.22 Cumulative Impacts.

Indirect Effects

The cumulative effects of the indirect impacts from the gaming project are not significant when their collective impacts over time are considered. In addition, no past, present or reasonably foreseeable future actions are known or anticipated which might produce a significant cumulative impact when considered with the added incremental impact of the gaming project. See: EA Supplement section 4.25 Cumulative Impacts.

9. The gaming project is in compliance with the Clean Air Act 42 U.S.C. 7401-7671q. Effective June 15, 2004, Berrien County, where the gaming project will be located, was designated a marginal non-attainment area for ozone, one six of USEPA's six priority pollutants) (69 Fed.Reg. 23969). However, Section 996 of the Energy Policy Act of 2005 (42 USCA § 16360) established a two-year moratorium on any "requirement[s] or sanction[s] under the Clean Air Act (42 U.S.C. 7401 *et. seq.*) that might otherwise apply" in southwestern Michigan in order to provide the Environmental Protection Agency, the State of Michigan, and local officials an opportunity to conduct a demonstration project addressing the effect of transported ozone in projected non-attainment areas, such as Berrien County. Consequently, a general conformity determination is not required at the present time. . .

Indirect Effects

The EA Supplement section 4.24.20 Air Quality, finds that pollutant sources from induced residential and commercial growth would not produce quantities that would exceed federal standards, and would thus not be significant.

10. The gaming project would improve the economic and social conditions of the Pokagon Band of Potawatomi and some non-tribal residents and businesses in the project vicinity. The gaming project may have non-significant socioeconomic impacts on residents and businesses of the New Buffalo area due to cumulative development, changed character of the area, and competition for employees. See EA section 4.12, Socioeconomics.

Indirect Effects

The EA Supplement sections 4.24.2 - 4.24.5 find that indirect development, including housing and commercial growth that may be induced by the gaming project, would not have significant impacts on the socio-economic resources of the Development Area. Induced housing growth would not have a significant impact because only one-third of available housing acreage would be required, and new housing development would only grow an average 3.6% over a five-year period with a peak of 7% in year four. Induced commercial growth would not have a significant impact because future demand will be met primarily by existing businesses, and only limited new commercial development will be required. The commercially zoned corridor of the Development Area will have sufficient water and sewer services from project-related infrastructure improvements.

The NIGC has independently evaluated the information and analysis in the BIA's EA and EA Supplement, in the preparation of which it was a cooperating agency, and ensured its continuing validity.

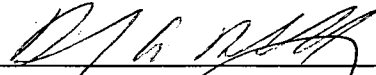
DETERMINATION:

The January 2001 EA and the August 2003 EA Supplement, upon which the BIA based its decision to issue a FONSI and Revised FONSI, provide a sound basis for evaluating the environmental impact of the Tribe's operation of a gaming facility on the Tribe's gaming site in New Buffalo Township, Michigan, which the BIA took into trust for the Tribe on January 27, 2006. The NIGC adopts the Final EA and EA Supplement as its own, and based on those documents, approves the management agreement.

RECOMMENDATIONS/APPROVALS:

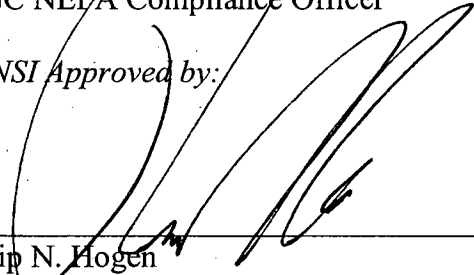
After careful and thorough consideration of the facts contained herein, the undersigned finds that the proposed Federal action is consistent with existing national environmental policies and objectives as set forth in Section 101 of the NEPA and other applicable environmental requirements and will not 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

3/20/06
Date

FONSI Approved by:


Philip N. Hogen
NIGC Chairman

3/31/06
Date