

## Finding of No Significant Impact

### **Proposed Native Lights Casino Operation, Kay County, Oklahoma**

AGENCY National Indian Gaming Commission

ACTION Finding of No Significant Impact

#### SUMMARY

The Tonkawa Tribe of Oklahoma (Tribe) has submitted an application to the National Indian Gaming Commission (NIGC) for the approval of a management agreement between the Tribe and Gaughan Gaming – Native Lights, LLC (Gaughan Gaming) for the operation of the Native Lights Casino (Casino). The Casino is situated on a 4.82 acre site (Casino Site) located within a 60-acre parcel (Trust Parcel) held in trust by the Federal Government on behalf of the Tribe. The Casino comprises a 22,500-square-foot Class II/III gaming facility and is currently operating under tribal management. The Casino is located adjacent to Highway 77, north of Newkirk, Oklahoma.

In compliance with the requirements of the National Environmental Policy Act of 1969, as amended (NEPA)(42 USC 4321 et seq.), a Draft Environmental Assessment (EA), dated February 2007, was prepared for the approval of a management agreement that proposes to operate the existing Class II/III gaming. The Draft EA was published and circulated for public comment from February 25 through March 26, 2007. A Final EA, dated March 2007, was prepared for the NIGC's decision in connection with the request for approval of a management agreement. No public comments were received.

The NIGC is the federal agency charged with regulating gaming on Indian lands, as mandated by the Indian Gaming Regulatory Act (IGRA) and serves as the lead agency for NEPA compliance for the proposed action. As part of its regulatory authority under IGRA, the NIGC reviews and approves all management agreements between Native American tribes and outside management companies (See 25 USC §2711). The NIGC's decision regarding the Tribe's Management Agreement with Gaughan Gaming is a federal action subject to NEPA. The Final EA and this Finding of No Significant Impact (FONSI) fulfill the requirements of NEPA as set out in the Council on Environmental Quality (CEQ) Regulations for Implementing NEPA (40 CFR Parts 1500-1508) and the NIGC's NEPA procedures.

#### 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

The Final EA and FONSI will be available to the public at the following locations for a period of 30 calendar days:

Newkirk Public Library  
16 North Maple Street

Newkirk, Oklahoma

Newkirk City Hall  
107 West Seventh Street  
Newkirk, Oklahoma

Administrative Office  
Tonkawa Tribe of Indians of Oklahoma  
1 Rush Buffalo Road  
Tonkawa, Oklahoma

National Indian Gaming Commission  
1441 L Street NW, Suite 9100  
Washington, DC 20005

### DESCRIPTION OF THE PROPOSED PROJECT

The existing 22,500-square-foot Class II/III gaming facility is operating on the Casino Site located just north of Newkirk, Oklahoma. The Trust Parcel comprises lands previously used by the Chilocco Indian Agricultural School and is adjacent to Highway 77 in Kay County, Oklahoma. The footprint of the gaming facility, parking lot and infrastructure totals 4.82 acres. The remainder of the Trust Parcel consists of landscaping and open space. The gaming facility includes a casino, food and beverage facilities, and administrative space. The Casino operates 609 Class III slot machines and 4 Class III table games. The food outlet consists of a 1500 square-foot snack bar. On-site parking provides 357 parking spots.

Access to the Casino is directly from Highway 77. The Casino facility uses a local public utility as a potable water source. Wastewater service for the Casino facility is provided by an on-site wastewater treatment plant.

The Casino has and will continue to have a beneficial economic impact for the Tribe. Benefits to the Tribe and its individual members have resulted from employment opportunities at the Casino and an improved quantity and quality of social services made available by the government of the Tribe as a result of the proceeds generated from the Casino operation.

### PUBLIC REVIEW AND COMMENT

Preparation of the EA included consultation with the U. S. Army Corps Of Engineers (USACE); U. S. Fish and Wildlife Service (USFWS); U.S.D.A. Natural Resources Conservation Service (NRCS); and the Oklahoma State Historic Preservation Officer.

Copies of the Draft EA were made available for public review at the Newkirk Public Library, Newkirk City Hall, and the Tonkawa Tribal Office. The public comment period extended from February 25, 2007, until March 26, 2007. No public comments were received.

### SUMMARY OF IMPACTS AND MITIGATION ISSUES

The action to be approved by this FONSI is a change in management of an existing gaming facility from tribal management to management by Gaughan Gaming under the terms of the proposed Tribe/ Gaughan Gaming management agreement. As fully described in the EA, there will be no significant physical environmental impacts as a result of this proposed management change. Mitigation measures proposed are intended to further reduce the impacts.

The NIGC hereby accepts the proposed mitigation measures described in Section 4 of the final EA for areas where impacts occur. The following is summary of these measures:

#### Land Use

A total of 4.82 acres of the Trust Parcel has been converted from open space and agricultural use to commercial development. This represents an insignificant effect on the land use for this area, considering direct, indirect and cumulative impacts.

To further reduce the impacts of the Casino on land use, mitigation includes designating conservation easements within foreseeable expansion areas to maintain remnants of the current land use or designating a maximum expansion area, outside of which further construction will not be permitted.

#### Geology And Soils

There are no significant impacts on geologic resources and no prime or unique farmlands are adversely impacted. Minor soil erosion impacts could have occurred during the construction and operation of the Casino but these were and will continue to be mitigated through the use of standard best management practices.

#### Water Quality And Water Resources

The Casino has no significant impacts on area surface or groundwater resources. Site runoff meets all regulatory requirements.

Casino construction increased the impermeable surface area, changed the volume, rate and quality of storm water discharge from the Casino Site. Additionally, increased vehicle use on the Casino Site can potentially produce increased levels of hydrocarbons in site runoff.

A Storm Water Pollution Prevention Plan has been developed for the Casino Site. This plan includes best management practices for controlling runoff, reducing non-point pollution, and controlling soil erosion and sediment deposition. As a result of implementation of this plan, no significant short or long term water quality impacts have occurred or are expected to occur.

#### Vegetation

Approximately 5 acres of vegetation have been permanently lost in the development of the Casino Site. Due to the rural nature of the Casino Site and lack of impact on significant flora/fauna habitat, the impact is not significant. Vegetation removal has been limited to areas essential to the Casino Site development. To minimize overall vegetation removal impacts, areas which remained in bare soil condition were replanted with appropriate vegetation native to Kay County.

#### Wildlife and Fisheries

Wildlife habitat totaling approximately 5 acres has been permanently lost as a result of the Casino Site development. Additionally, increased site activity has probably impacted wildlife and caused movement from the Casino Site and nearby adjacent areas. Most of the habitat lost was grassland which possibly impacted species such as the meadowlark, the greater prairie chicken and other common small birds and mammals. No threatened or endangered species or their critical habitats are located within Kay County.

To minimize impacts on wildlife and its habitat, best management practices have been used to minimize soil erosion and siltation, and only native vegetative species were used for replanting at the Casino Site.

### Cultural Resources

There are no cultural or historic resources on or near the Casino Site. Further, no unrecorded buried cultural resources had been uncovered during ground disturbing activities. If any cultural resources had been discovered, work would have stopped and the Oklahoma State Historic Preservation Office and the Tribe would have been notified.

### FINDINGS

The NIGC makes the following findings supporting this FONSI:

1. Federal and state agencies and the public were involved in identifying environmental issues related to the current operation of the Casino. The proposed change in management will not have any changed impacts that would affect the results of this consultation. The Final EA contains a list of agencies, tribal governments and individuals that were contacted. No public comments were received.
2. The EA finds that the proposed action will not jeopardize federally listed threatened or endangered species because such species do not occur on the site.
3. The EA finds that the proposed action is in compliance with the National Historic Preservation Act. There are no archeological sites located on or near the Casino site.
4. In regard to traffic impacts, under the current management they are not significant and this condition will continue under the proposed management agreement. The EA also finds that the current operation is in compliance with the Clean Air Act and the National Ambient Air Quality Standards (NAAQS) and this condition will continue under the proposed management agreement. The proposed action is in an area in attainment status for all EPA criteria pollutants.
5. The Casino site is outside the 500-year floodplain and contains no jurisdictional wetlands.
6. The EA analyzes the cumulative impacts for the proposed action and finds that they will not be significant.
7. The EA finds that the proposed action will improve the economic and social conditions of the Tribe by meeting the purpose and need for the action identified in the Final EA. The EA finds that the proposed action is in compliance with Executive Order 12898 (Federal Actions to Address Environmental Justice in Minority Populations and Low Income Populations) because the proposed action will not cause disproportionately high adverse impacts to minority or low-income populations.

The NIGC has independently evaluated and hereby adopts the information and analysis in the EA.

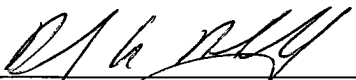
DETERMINATIONS

The March 2007 Final EA provides a sound basis for evaluating the environmental impacts of the Tribe's proposed change in operation of the existing Native Lights Casino from tribal management to management under terms of the proposed Tribe/ Gaughan Gaming Management Agreement.

RECOMMENDATIONS/APPROVALS

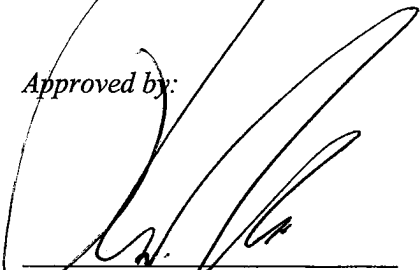
After careful and thorough consideration of the facts contained herein, the undersigned finds that the proposed federal action is consistent with existing national environmental policies and objectives as set forth in Section 101 of the NEPA and other applicable environmental requirements and will not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

  
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Bradley A. Mehaffy  
NIGC NEPA Compliance Officer

4/2/07  
Date

Approved by:

  
\_\_\_\_\_  
Philip N. Hogen  
NIGC Chairman

4/2/07  
Date