



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION IX
75 Hawthorne Street
San Francisco, CA 94105

September 13, 2011

Amy Dutschke
Regional Director
Pacific Regional Office
Bureau of Indian Affairs
2800 Cottage Way
Sacramento, CA 95825

Subject: Los Coyotes Band of Cahuilla and Cupeño Indians and the Big Lagoon Rancheria Fee-to-Trust Transfer and Casino-Hotel Project, Draft Environmental Impact Statement, San Bernardino County, California, (CEQ # 20110201).

Dear Ms. Dutschke:

The U.S. Environmental Protection Agency (EPA) has reviewed the Draft Environmental Impact Statement (DEIS) for the Los Coyotes Band of Cahuilla and Cupeño Indians and the Big Lagoon Rancheria Fee-to-Trust Transfer and Casino-Hotel Project (Project). Our review and comments are pursuant to the National Environmental Policy Act, Council on Environmental Quality regulations (40 CFR Parts 1500-1508), and our NEPA review authority under Section 309 of the Clean Air Act.

The proposed alternative (Alternative B, Barstow Reduced Casino Hotel Complex) would place three assessor's parcels in the City of Barstow (City) totaling approximately 23.1 acres into federal trust status on behalf of the Tribe. Based on our review, we have rated the proposed project as Lack of Objections (LO) (see enclosed "Summary of Rating Definitions").

The DEIS describes a variety of BMPs that would retain pre-project site hydrology for up to the 100-year rainfall event. EPA acknowledges and commends the project proponent for design plans to incorporate stormwater best management practices so as to avoid impacts to receiving waters. As proposed, the BMPs include parking filter strips and end basins, landscaping areas, oil /water separators, and detention basins to capture and treat runoff from buildings and parking areas. In addition to avoiding impacts to nearby Lenwood Creek, a tributary to the Mojave River, various infiltration facilities would be incorporated to capture building and parking lot runoff and preserve pre-project hydrology. We recommend that the Final EIS and Record of Decision include commitments to implement these BMPs.

We appreciate that BIA and the Tribe have minimized impacts to the 10.5 acres of Mojave River 100-year flood plain that lie in the southwest portion of the Barstow site. To minimize 100-year floodplain impacts, no structures other than parking and stormwater infiltration facilities would be constructed in the floodplain portion of the project site.

We also appreciate the inclusion of various mitigation measures to mitigate air impacts. EPA encourages BIA and the Tribe to consider additional sustainable or "green" buildings environment-friendly features. Green building features provide health and safety benefits that enhance occupant comfort, attract and retain staff, improve worker productivity, and develop community goodwill. These features would likely also result in cost savings over the long-term. For example the parking lot offers an opportunity to generate clean, renewable energy through installation of photovoltaic solar panels on carport structures. Photovoltaic carports provide highly desirable shade for parked cars and offer the opportunity for public education, energy efficiency, and better air quality. For other green building ideas and resources, please visit Region 9's websites at: EPA R9 Green Building:
<http://www.epa.gov/region9/greenbuilding/index.html>

Another way to develop green features is to design and construct the facilities for Leadership in Energy and Environmental Design (LEED) certification by the U.S. Green Building Council. LEED emphasizes state of the art strategies for sustainable site development, water savings, energy efficiency, materials selection, and indoor air quality. More information about the LEED green building rating system is available at <http://www.usgbc.org>.

In the event the proposed hotel and casino would allow indoor smoking, there could be some limitations to LEED certification. To address this, smoking sections could be provided separately which would allow the rest of the facilities to pursue LEED certification. Be aware that surveys completed by J.D. Power and Associates show that a large majority of customers prefer a smoke-free environment and environment-friendly facilities. The 2007 J.D. Powers and Associates North America Hotel Guest Satisfaction Survey showed that the majority of hotel guests want a non-smoking environment in all common areas of a hotel, not just in the guest rooms¹. The 2009 survey reported that awareness of "green" programs has a strong impact on overall hotel guest satisfaction. On average, satisfaction is more than 160 points higher among guests who report being aware of their hotel's green programs, compared with guests who are unaware of them².

If LEED certification will not be pursued, various green features can still be incorporated into project planning. A GreenSpec Directory is available that provides environmentally preferable building products and guideline specifications. See <http://www.buildinggreen.com/menus>. Listings include suggestions and sample language to incorporate into your project specifications.

Children may be present in the hotel, and could, if smoking is permitted, be exposed to nicotine, cigarette butts and other smoking related contaminants. Environmental contaminants such as second and third hand smoke³ can affect children quite differently than adults, both because children may be more highly exposed to contaminants and because they may be more vulnerable to the toxic effects of contaminants. Children generally eat more food, drink more water, and breathe more air relative to their size than adults do, and, consequently, may be exposed to relatively higher amounts of contaminants. Children's normal activities, such as putting their hands in their mouths or playing on the ground, can result in exposures to contaminants that adults do not face. Lastly, environmental contaminants may affect children disproportionately because their immune defenses are not fully developed and their growing organs are more easily harmed. If the project has the potential to cause exposure of children to contaminants, the FEIS should analyze and mitigate any potential impacts to children. For more information, visit: <http://www.epa.gov/compliance/resources/policies/nepa/children-health-risks-pg.pdf>.

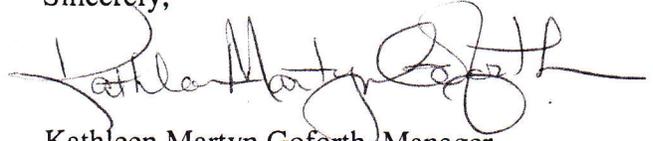
¹ See <http://www.jdpower.com/travel/articles/2007-North-America-Hotel-Guest-Satisfaction>.

² See: <http://www.jdpower.com/travel/articles/2009-North-America-Hotel-Guest-Satisfaction-Study>.

³ <http://www.universityofcalifornia.edu/news/article/24112>.

We appreciate the opportunity to review this DEIS and are available to discuss our comments. When the FEIS is released for public review, please send one hard copy and two CDs to the address above (mail code: CED-2). If you have any questions, please contact me at (415) 972-3521, or contact James Munson, the lead reviewer for this project. James can be reached at (415) 972-3800 or munson.james@epa.gov.

Sincerely,

A handwritten signature in black ink, appearing to read "Kathleen Martyn Goforth". The signature is fluid and cursive, with a large initial "K" and a long horizontal stroke at the end.

Kathleen Martyn Goforth, Manager
Environmental Review Office

Enclosures: Summary of EPA Rating Definitions

SUMMARY OF EPA RATING DEFINITIONS*

This rating system was developed as a means to summarize the U.S. Environmental Protection Agency's (EPA) level of concern with a proposed action. The ratings are a combination of alphabetical categories for evaluation of the environmental impacts of the proposal and numerical categories for evaluation of the adequacy of the Environmental Impact Statement (EIS).

ENVIRONMENTAL IMPACT OF THE ACTION

“LO” (Lack of Objections)

The EPA review has not identified any potential environmental impacts requiring substantive changes to the proposal. The review may have disclosed opportunities for application of mitigation measures that could be accomplished with no more than minor changes to the proposal.

“EC” (Environmental Concerns)

The EPA review has identified environmental impacts that should be avoided in order to fully protect the environment. Corrective measures may require changes to the preferred alternative or application of mitigation measures that can reduce the environmental impact. EPA would like to work with the lead agency to reduce these impacts.

“EO” (Environmental Objections)

The EPA review has identified significant environmental impacts that should be avoided in order to provide adequate protection for the environment. Corrective measures may require substantial changes to the preferred alternative or consideration of some other project alternative (including the no action alternative or a new alternative). EPA intends to work with the lead agency to reduce these impacts.

“EU” (Environmentally Unsatisfactory)

The EPA review has identified adverse environmental impacts that are of sufficient magnitude that they are unsatisfactory from the standpoint of public health or welfare or environmental quality. EPA intends to work with the lead agency to reduce these impacts. If the potentially unsatisfactory impacts are not corrected at the final EIS stage, this proposal will be recommended for referral to the Council on Environmental Quality (CEQ).

ADEQUACY OF THE IMPACT STATEMENT

Category “1” (Adequate)

EPA believes the draft EIS adequately sets forth the environmental impact(s) of the preferred alternative and those of the alternatives reasonably available to the project or action. No further analysis or data collection is necessary, but the reviewer may suggest the addition of clarifying language or information.

Category “2” (Insufficient Information)

The draft EIS does not contain sufficient information for EPA to fully assess environmental impacts that should be avoided in order to fully protect the environment, or the EPA reviewer has identified new reasonably available alternatives that are within the spectrum of alternatives analyzed in the draft EIS, which could reduce the environmental impacts of the action. The identified additional information, data, analyses, or discussion should be included in the final EIS.

Category “3” (Inadequate)

EPA does not believe that the draft EIS adequately assesses potentially significant environmental impacts of the action, or the EPA reviewer has identified new, reasonably available alternatives that are outside of the spectrum of alternatives analyzed in the draft EIS, which should be analyzed in order to reduce the potentially significant environmental impacts. EPA believes that the identified additional information, data, analyses, or discussions are of such a magnitude that they should have full public review at a draft stage. EPA does not believe that the draft EIS is adequate for the purposes of the NEPA and/or Section 309 review, and thus should be formally revised and made available for public comment in a supplemental or revised draft EIS. On the basis of the potential significant impacts involved, this proposal could be a candidate for referral to the CEQ.

*From EPA Manual 1640, Policy and Procedures for the Review of Federal Actions Impacting the Environment.