



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 5  
77 WEST JACKSON BOULEVARD  
CHICAGO, IL 60604-3590  
**APR 15 2015**

REPLY TO THE ATTENTION OF:

E-19J

Scott Doig  
Bureau of Indian Affairs – Midwest Regional Office  
5600 West American Boulevard, Suite 500  
Bloomington, Minnesota 55347

**Re: Draft Environmental Impact Statement for a Fee-to-Trust Transfer and Construction of a Tribal Village and Casino for the Pokagon Band of Potawatomi Indians, South Bend, St. Joseph County, Indiana – CEQ No. 20150067**

Dear Mr. Doig:

The U.S. Environmental Protection Agency has reviewed the referenced Draft Environmental Impact Statement (DEIS), which was prepared by QPS Engineering, consultant to the Bureau of Indian Affairs (BIA). Our review is pursuant to our authorities under the National Environmental Policy Act (NEPA), Council on Environmental Quality regulations (40 CFR Parts 1500-1508), and Section 309 of the Clean Air Act.

BIA proposes a transfer of approximately 165.81 acres of fee land to trust status within the municipal city limits of South Bend, Indiana, for creation of a Tribal village, which will include construction of forty-four housing units, a multi-purpose facility, health services, and other Tribal government facilities. The proposed project also includes construction of a Class III gaming facility with a hotel, restaurants, meeting space, and parking. Four alternatives have been proposed:

- Alternative A: South Bend Site Tribal Village and Casino (Preferred Alternative);
- Alternative B: Elkhart Site Tribal Village and Casino;
- Alternative C: South Bend Site Tribal Village with Commercial Development; and
- Alternative D: No Action.

EPA previously commented on this proposed project during project scoping (September 18, 2012), and on a Preliminary Draft Environmental Impact Statement (PDEIS) (August 8, 2013). Thank you for addressing EPA's previous concerns on the project, including installation of stormwater bioretention and clean diesel practices during construction and operation. Though specific details are unknown at this time, BIA has agreed to implement green infrastructure into the project to the maximum extent possible, including use of renewable energy, use of energy-efficient construction materials and appliances, recycling, and reuse of water when possible. As discussed in the DEIS, installing permeable pavement is an option. Installing permeable pavement would be an excellent method to further manage on-site stormwater. If applicable and

appropriate, we urge BIA to consider installing permeable pavement at the 500-space surface parking lot.

Based on information contained in the DEIS, EPA has not identified any inadequacies with the analyses contained in the DEIS, or any potential environmental impacts requiring substantive changes to the proposal. Accordingly, we rate this project as *Lack of Objections (LO)*. A summary of the rating system used in the evaluation of the DEIS is enclosed for your reference.

We look to the Final Environmental Impact Statement (FEIS) and Record of Decision (ROD) to commit to incorporating into project design and construction all mitigation measures mentioned in the EIS. EPA is available to discuss these DEIS comments at your convenience. Please feel free to contact Mike Sedlacek of my staff at 312-886-1765 or at [sedlacek.michael@epa.gov](mailto:sedlacek.michael@epa.gov).

Sincerely,



Kenneth A. Westlake, Chief  
NEPA Implementation Section  
Office of Enforcement and Compliance Assurance

Enclosure: Summary of Rating Definitions and Follow Up Action

## \*SUMMARY OF RATING DEFINITIONS AND FOLLOW UP ACTION\*

### **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 impacts. 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 must 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 potential unsatisfactory impacts are not corrected at the final EIS stage, this proposal will be recommended for referral to the CEQ.

### **Adequacy of the Impact Statement**

#### Category 1-Adequate

The 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 collecting 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 the EPA to fully assess the 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 the Federal Actions Impacting the Environment

