

SECTION 2.0

COMMENT LETTERS

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COMMENT LETTERS

2.1 COMMENTS ON DRAFT EIS

The 14 comment letters received by the Bureau of Indian Affairs (BIA) during the Draft Environmental Impact Statement (EIS) comment period as listed below in **Table 1**. The transcript of the Draft EIS public hearing is provided in this section after the last comment letter. **Section 3.0** contains responses to all substantive comments received during the comment period and specific locations of additional information added to the Final EIS. Individual comments within the comment letters have been bracketed and numbered for cross-referencing with a response. Once an issue has been addressed in a response to a comment, subsequent responses to similar comments reference the initial response.

TABLE 1
INDEX OF COMMENT LETTERS

Response to Comments - Comment Letter No.	NAME	AGENCY/ORGANIZATION
Agency and Government		
A1	Heinz J. Muller, Chief	U.S. Environmental Protection Agency Region 4
A2	Robert F. Bendus, Director	Florida State Historic Preservation Office
A3	Bertha W. Henry, County Administrator	Broward County
A4	Robert W. Runcie, Superintendent of Schools	The School Board of Broward County
A5	Marilyn Gerber, Mayor	City of Coconut Creek
A6	Erdal Donmez, City Manager	City of Coral Springs
A7	Tamara Allen Frost, Planning & Zoning Director	City of Parkland
A8	Armando Ramirez, Tribal and Federal Affairs Liaison	South Florida Water Management District
Individual/Non-Profit/Business		
I1	Martin Goldman	
I2	Karen Stenzel-Nowicki	Resident
I3	David O. Stewart	Ropes & Gray, on behalf of Pompano Park, Inc.
I4	Matthew Schwartz, Executive Director	Broward Group of the Sierra Club, South Florida Audubon Society, South Florida Wildlands Association, Reef Rescue, Sea Turtle Oversight Protection, Inc.
I5	Elbert L. Waters	E.L. Waters & Company, LLC
I6	Thomas A. Hall	Resident

Response to Comments - Comment Letter No.	NAME	AGENCY/ORGANIZATION
Public Hearing		
PH-1	Craig Tepper, Director	Seminole Tribe of Florida, Environmental Resources Management Department
PH-2	Marilyn Gerber, Mayor	City of Coconut Creek
PH-3	James Spinks	City of Parkland
PH-4	Matthew Schwartz, Executive Director	Broward Group of the Sierra Club, South Florida Audubon Society, South Florida Wildlands Association, Reef Rescue, Sea Turtle Oversight Protection, Inc.
PH-5	Larry Lemelbaum	Cocomar Water Control District
PH-6	Martin Stoner, Chief	Broward County Sheriff's Office – Parkland District
PH-7	Gretchen Hirt, Assistant County Administrator	Broward County
PH-8	Trenni Martinez	Seminole Casino Coconut Creek
PH-9	Elbert L. Waters	E.L. Waters & Company, LLC
PH-10	Karen Stenzel-Nowicki	Resident



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 4

ATLANTA FEDERAL CENTER
61 FORSYTH STREET
ATLANTA, GEORGIA 30303-8960

October 15, 2012

Chet McGhee
Regional Environmental Scientist
Bureau of Indian Affairs
U.S. Department of Interior
545 Marriott Drive, Suite 700
Nashville, TN 37214

Re: Seminole Tribe of Florida Free-to-Trust 8-2012

Dear Sir:

The U.S. Environmental Protection Agency (EPA) has reviewed the Seminole Tribe of Florida (STOF), Fee-to-Trust (FOT) Draft Environmental Impact Statement (DEIS) 8-2012, in accordance with our responsibilities under Section 309 of the Clean Air Act and Section 102(2) (C) of the National Environmental Policy Act (NEPA). The purpose of our review is to assess the environmental effects of transferring approximately 45-acres of real property owned by STOF, in the City of Coconut Creek, Florida. The transfer would convey fee ownership to federal trust (Proposed Action) and the subsequent development of a hotel/resort and other ancillary uses by STOF (Proposed Project). The Bureau of Indian Affairs (BIA) has discretionary federal authority when taking land into federal trust pursuant to 25 CFR Part 151. EPA understands that although the property is adjacent to the existing STOF Coconut Creek Casino and would support the casino operations, neither the proposed project nor any of the alternatives considered would expand gaming activities. The BIA serves as the Lead Agency for compliance, with NEPA. Cooperating agencies include STOF, the City of Coconut Creek, and Broward County. The "land into trust" decision constitutes the Proposed Action. The Proposed Project consists of the foreseeable consequences of the federal action, namely the mixed-use development of a hotel/resort complex with entertainment, conference venues, and retail facilities.

The DEIS proposes three (3) alternatives for the Proposed Project. The alternatives are listed as A thru C, with alternative C being the No-build or No-action alternative. There are two (2) proposed sub-alternatives they are titled; A-1 and C-1. Impacts for the two (2) sub-alternatives are approximately the same as Alternatives A & C. Alternative A consist of phased construction of a hotel/resort facility, spa, conference center, a multi-story parking garage, and a retail village on 45-acres of land. Alternative B is labeled as "Reduced Intensity Project" which refers to the over-all size, or height, of the proposed structures. The impact to the land for both alternatives is relatively the same, where Alternative B would impact less acreage than

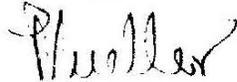
A1-1

alternative A. Alternative B proposes construction on the FOT land and would not require utilities approval from Coconut Creek. Utilities for this alternative would be provided from outside providers. Sub-alternative A-1 impacts are relatively the same as Alternative A with the exception to utilities being performed on-site. Impacts from Sub-alternative C-1 would be the same as Alternative C, the No-build alternative. The alternatives address construction issues such as the location and size of the buildings, as well as, the issue of Coconut Creeks permitting approvals. This project is located on tribal land and environmental permits would therefore be required by federal agencies with the proper permitting authority. Environmental permitting issues would be addressed through the permitting process. EPA recommends that Green-building principals be used in the construction phases of this project. EPA Region 4 Office of Pollution Prevention and Innovation (OPPI) vision is to use innovation to promote and fully integrate the principles of Pollution Prevention and Environmental Stewardship. Please see additional and detailed comments about Green-building design and principals.

A1-1
Cont.

EPA is rating this project as Lack of Objections (LO). Thank you for the opportunity to comment on this project. We appreciate your continued coordination as this project progresses and we look forward to reviewing the Final Environmental Impact Statement (FEIS) for this project. Please contact Larry Long of my staff at (404) 562-9460, if you would like to discuss this project.

Sincerely,



Heinz J. Muller, Chief
NEPA Program Office
Office of Environmental Accountability

Enclosures

CC: Lisa Berrios, EPA Tribal

EPA Review and Comments for
STOF Fee-to Trust DEIS 8-2012

EPA's Maneuver Center of Excellence DEIS comments

Green Building Designs and Principles

Green-building principles include the efficient use of energy, water, and other resources, the reduction of waste, pollution, and environmental degradation during a building's lifecycle by considering building location, design, construction, operation, maintenance, and removal. Moreover green building designs and principles are consistent with Executive Order 13423 goals for federal agencies to improve energy efficiency and reduce green house gas emissions.

Buildings in the United States account for 40-percent of total energy use, 12-percent of the total water consumption, 68-percent of total electrical consumption, 38-percent of total CO₂ emissions, and 60-percent of total non-industrial waste generation. On average, green buildings reportedly reduce energy use by approximately 30-percent, CO₂ emissions by 35-percent, water use by 30 to 50-percent, and results in a waste cost savings of 50 to 90-percent.¹ Additionally, Executive Order 13423 directs agencies to ensure that new building construction and major renovations comply with the *Guiding Principles for Federal Leadership in High Performance and Sustainable Buildings*.

Recycle Building-Demolition Waste

One aspect of green building is the reduction of waste and environmental degradation associated with land filling construction and demolition debris without recycling usable construction and demolition debris, e.g., the use of recycled materials in lieu of raw. Construction and demolition debris includes waste from building and transportation-related construction, renovation, and removal including land-clearing debris.

Use Recycled Building Materials in New Building Construction

The EPA recommends the applicant consider using recycled materials in its proposed construction projects. Recycled materials are energy efficient, e.g., recycled polystyrene and wood block building products have energy efficiency ratings above that of conventional insulation and building materials. Recycled building products save materials from the landfill. Plastics that would otherwise go into a landfill can be recycled and turned into building blocks, reducing the need to harvest lumber from forests. Recycled wood building projects save wood from being wasted and decrease the need to harvest forests. Many recycled wood or polystyrene building materials are more fire resistant than conventionally built houses. Recycled materials include: polystyrene, concrete, and wood cement building forms.

¹ <http://climateintel.com/?s=Greening+of+affordable+housing>

Parking Lots

Green asphalt reflects a process that reclaims or recycles up to 50-percent of the existing asphalt pavement and mixes it with new materials at a lower temperature than previously achievable in the industry. The process results in reduced green-house gas emissions. This asphalt mix is alleged to be equal to or better than the mixes now being used and could save eleven-percent of fuel costs over existing production methods.

Consider Energy-Efficiency

Executive Order 13423 directs agencies to improve energy efficiency and reduce greenhouse gas emissions (GHG) through reduction of energy intensity. Energy efficiency also includes reducing heat flow in and out of buildings, using windows to maximize solar lighting and reducing the need for electrical lighting, using self-dimming lights and energy-efficient light bulbs when natural lighting is unavailable, incorporating a heat-reflecting roof (or green roof) and windows, and using other energy efficient products and practices, e.g., the ENERGY STAR program.² The EIS is silent on the incorporation of these types of energy.

Water Stewardship

Water management and drought mitigation plans should take known natural variability in the climate system.

According to the Climatologist, drought has occurred, will occur, and no evidence of future change is expected. What has changed and is expected to continue to grow is the state's population. Additionally, Executive Order 13423 directs agencies to reduce water consumption intensity through life-cycle cost-effective measures and requires acquisition of goods and services to use sustainable environmental practices, including water-efficient products. Consequently, the proposed action may represent an opportunity to initiate installation of a drought-tolerant or water conservation infrastructure, e.g., collecting rain water, minimizing landscapes requiring watering, and minimizing storm-water runoff associated damage from parking lots and other impervious surfaces.

EPA encourages all federal agencies to include *WaterSense*³ products and services in their implementation strategies.⁴ EPA launched the *WaterSense* program in 2007 to promote water-efficiency and protect the future of the nation's water supply. For example, *WaterSense* is helping consumers identify high performance, water-efficient toilets that can reduce water. Toilets account for nearly 30 percent of residential indoor water consumption and are a major source of wasted water due to leaks and/or design inefficiency.

² ENERGY STAR is a joint program of the U.S. Environmental Protection Agency and the U.S. Department of Energy, see: http://www.energystar.gov/index.cfm?c=about.ab_index

³ <http://www.epa.gov/watersense/>

⁴ National Water Program Strategy: Response to Climate Change, Office of Water, U.S. EPA, September 2008, see: <http://www.epa.gov/water/climatechange/index.html>

The *WaterSense* program sets specifications for the labeling of products that are at least 20% more efficient than the current standards while performing as well or better than their less-efficient counterparts. Once a manufacturer's product is certified to meet *WaterSense* specifications by an independent third party, they can use the label on their product. All water savings realized through the use of *WaterSense* labeled products and services have a corresponding reduction in energy consumption, associated greenhouse gas emissions and energy and water costs.

Reduce landscapes requiring watering

EPA recommends limiting the amount of new landscaping requiring watering. EPA also encourages the use of water that is not treated to drinking water quality standards. Using treated potable water for any landscape irrigation may not be the best approach in light of water efficiencies and drought conditions. By using other water sources, e.g., grey water⁵ and storm water, the demand for treated water could be decreased. Any decrease in treated water used could realize a decrease in the associated energy used as less water is required to be pumped and treated. The corresponding decrease in energy needs may also facilitate reduced GHG emissions associated with the proposed action in addition to reduced energy and water costs, particularly during those economic cycles when these supplies are expensive and limited.

Storm-Water Management

The SOTF could also consider designing pervious parking lots and unpaved roads and tank trails to allow storm-water infiltration into the ground without runoff into the neighboring surface-water bodies. One option would be the strategic use of rain gardens, planted depressions designed to absorb rainwater runoff from impervious urban areas like roofs, driveways, walkways, and compacted lawn areas.

A rain garden facilitates storm water soaking into the ground instead of flowing into storm drains and surface waters and minimizes erosion, water pollution, flooding, and diminished groundwater. Rain gardens can cut down on the amount of pollution reaching creeks and streams by up to 30 percent. Rain gardens could be strategically situated to minimize surface runoff associated with all of the proposed construction projects.

EPA recommends SOTF consider developing an infrastructure that will facilitate the appropriate use of storm-water runoff for landscaping irrigation, which could contribute toward meeting landscape-irrigation needs and ground-water recharge and thereby serving to cleanse the storm water prior to recharging both ground and surface water bodies.

⁵ EPA has prepared *Guidelines for Water Reuse* that examines opportunities for substituting reclaimed (or grey) water where potable water quality is not required. These guidelines are available in PDF format at two locations: <http://www.epa.gov/ord/NRMRL/pubs/625r04108/625r04108.pdf> and <http://www.epa.gov/region09/water/recycling/index.html>

EPA Information Sources

EPA has links on its web pages to a multitude of information resources for technical assistance to sustainability efforts. These include:

The EPA Region 4 Office of Pollution Prevention and Innovation (OPPI) vision is to use innovation to promote and fully integrate the principles of Pollution Prevention and Environmental Stewardship into Region 4's actions, policies and employee ethic. <http://www.epa.gov/Region4/p2/> The Region 4 P2 contact is Pam Swingle, who can be reached at either 404-462-8482 or swingle.pam@epa.gov.

Sustainability means "meeting the needs of the present without compromising the ability of future generations to meet their own needs." This site provides information on scores of EPA programs supporting sustainability that focus on the *Built Environment*; *Water, Ecosystems and Agriculture*; *Energy*; and *Materials & Toxics*. <http://www.epa.gov/Sustainability/index.htm>

EPA's *Climate Change* Site offers comprehensive information on the issue of climate change in a way that is accessible and meaningful to all parts of society – communities, individuals, business, states and localities, and governments. <http://www.epa.gov/climatechange/>

Environmentally Preferable Purchasing Program: Paving the Road to Success, EPA742-R-97-007 (November 1997), can be found at www.epa.gov/epp/pubs/case/eppdod1.pdf

EPA's *Recycle - Construction & Demolition Materials* web site - EPA has compiled an extensive list of success stories, documents, factsheets, case studies, and international resources related to construction and demolition materials management. http://www.epa.gov/epawaste/conserva/rrr/imr/cdm/pub_nav.htm



FLORIDA DEPARTMENT OF STATE

RICK SCOTT
Governor

KEN DETZNER
Secretary of State

Mr. Franklin Keel
Eastern Regional Director
Bureau of Indian Affairs
545 Marriott Drive, Suite 700
Nashville, TN 37214

October 10, 2012

Re: DHR Project File Number: 2012-4467
DEIS Comments, Seminole Tribe of Florida Fee-to-Trust Project
Draft Environmental Impact Statement for the Proposed Seminole Tribe of Florida Fee-to-Trust, City of Coconut Creek, Broward County, Florida

Dear Mr. Keel:

Our office reviewed the referenced project for possible impact to historic properties listed, or eligible for listing, in the National Register of Historic Places, or otherwise of historical, architectural or archaeological value. The review was conducted in accordance with Section 106 of the National Historic Preservation Act of 1966, as amended and 36 CFR Part 800: Protection of Historic Properties.

We have reviewed the Draft Environmental Impact Statement, and we concur that Alternative A will have no adverse effect on cultural resources. We also concur with the mitigation measures as outlined in section 5.2.5 of the above referenced document, and emphasize that any new construction or excavation on off-site lands will require review by this office. We look forward to further consultation as individual projects arise.

For any questions concerning our comments, please contact Deena Woodward, Historic Sites Specialist at 850.245.6333, or by electronic mail at deena.woodward@dos.myflorida.com. We appreciate your continued interest in protecting Florida's historic properties.

Sincerely,

for 
Robert F. Bendus, Director
Division of Historical Resources
and State Historic Preservation Officer

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REGIONAL DIRECTOR
11A-800

A2-1

DIVISION OF HISTORICAL RESOURCES

R. A. Gray Building • 500 South Bronough Street • Tallahassee, Florida 32399-0250

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BERTHA W. HENRY, County Administrator
115 S. Andrews Avenue, Room 409 • Fort Lauderdale, Florida 33301 • 954-357-7362 • FAX 954-357-7360

October 11, 2012

Mr. Franklin Keel
Eastern Regional Director
Bureau of Indian Affairs
545 Marriott Drive, Suite 700
Nashville, TN 37214

Dear Mr. Keel:

Subject: "DEIS Comments, Seminole Tribe of Florida Fee-to-Trust Project"

Please accept this transmittal as Broward County's (County) comments and response to the Draft Environmental Impact Statement (DEIS) for the Seminole Tribe of Florida (STOF) Fee-to-Trust Project. As evidenced by our comments, the County has worked diligently to ensure that the full impacts of placing the subject lands in trust are identified and analyzed accurately through the Environmental Impact Statement process.

The County continues to oppose the Seminole Tribe's application to have the lands placed in trust, until such time as we are assured that the impacts, particularly those involving lost revenues and the cost of increased County services expected to arise from the proposed development on these lands, are alleviated in an equitable manner. However, we were pleased that the DEIS contained statements indicating that "the STOF have expressed a willingness to discuss compensation to Broward County" to offset certain project-related costs if and when the 45 ± acres of property are brought into federal trust, as proposed. To this end, Broward County has begun consultations with STOF representatives regarding these matters, and looks forward to arriving at an agreement with the STOF on these issues. Any such agreement with the STOF will need to be referenced and included in the appropriate alternatives analyzed in the National Environmental Policy Act process.

A3-1

With respect to the contents of the DEIS, we acknowledge that many of the comments provided in our February 17, 2012 transmittal regarding the "Preliminary" DEIS were addressed to our satisfaction. Some input, however, was not addressed, remains valid, and has been carried forward/restated in this correspondence. Additional comments are provided based upon County staff review of the current version of the DEIS issued August 31, 2012.

A3-2

The County has concerns regarding anticipated and documented environmental issues, as described in Attachment 1. Similar to the County's evaluation of the Preliminary DEIS, our current comments have been organized to cover the following: 1) suggested additions, deletions, corrections, clarifications, as

A3-3

well as evaluative comments regarding the specific conclusions presented in the document and how clearly/well they have been substantiated; and 2) analysis materials addressing financial impacts either not discussed adequately or not presented effectively in the DEIS. Grouped according to these categories, with recognition of some possible overlap, the comments are provided as two individual attachments. Summaries of the contents and some of the key concepts provided in each of the attachments follow.

A3-3
Cont.

Attachment 1

The comment materials in Attachment 1 were by members of the Broward County Staff Review Team. The specific additions, deletions, corrections, and clarifications to the DEIS, as suggested by the Review Team, are generally self-explanatory; such should be incorporated into the Final EIS or the County should be notified that the suggested changes will not be made.

Attachment 1 also contains specific comments regarding DEIS conclusions to which the Review Team takes exception. Included here are such things as potential deleterious environmental impacts, the generation of low-income jobs, the availability of affordable housing, especially affordable rental housing, and the relationship of foreclosures and low interest rates to the provision of affordable housing. Another issue of particular concern to the County is the treatment of tax revenues relative to the Alternatives being considered. Most of the tax revenue amounts are included in Alternative C (no Fee-to-Trust action), which suggests that Broward County will receive these taxes and thus the development will have a beneficial impact in this regard. In reality, the tax revenue amounts should also be included in Alternative A as a *loss in tax revenue* once the land goes from Fee-to-Trust status and is improved. Review Team comments should be addressed in the Final EIS in accordance with the information provided in Attachment 1.

A3-4

Attachment 2

Attachment 2 addresses what the County believes are the significant financial impacts of the Fee-to-Trust Project that are not addressed adequately or not presented suitably in the DEIS. These impacts are outlined in the most recent "updated" Financial Impact Memorandum prepared by Broward County's Office of Management and Budget, which is provided here and dated October 5, 2012.

Our expressed concerns about the effects of the Fee-to-Trust Project can be explained by the following statements about the key anticipated fiscal impacts of the proposed STOF development on Broward County. Additional, and more detailed information regarding the overall financial impact of the project (to include impacts to other taxing jurisdictions within the County, as well as other identified costs and revenue losses), can be found in Attachment 2.

A3-5

- Broward County is a regional provider for many tax supported services including, but not limited to: regional public safety, emergency management, medical examiner, direct and indirect social services, transit, and tourism development. Regional public safety functions including specialized law enforcement and fire rescue services are provided by the Broward Sheriff's Office, but funded with Broward County's tax dollars; primarily consisting of property taxes, sales taxes, and tourist development taxes. Due to the location and nature of the STOF proposed development, the area

will undoubtedly receive direct, as well as intangible, benefits from regional services even though the development will not generate County tax revenues, once it is placed in trust. Additionally, externalities created by the development will inevitably increase the demand – and cost – of certain regional services.

A3-5
 Cont.

- The financial impact on some County services, based on the proposed development plan can be quantified. For example, Broward County provides regional fixed route transit service on major roadways and subsidizes community bus shuttles provided by cities to transport riders from neighborhoods and other destinations that are located off major roadways. It is anticipated that the STOF development will result in increased transit demand attributable to employees and customers of the expanded complex. However, several of the other County service provision costs for the STOF proposed development are difficult to calculate (e.g. detention, behavioral health treatment and other supportive services, accessible housing demand, etc.). The loss in tax revenue due to the Fee-to-Trust action can be used to provide a sound/reasonable financial impact benchmark, because this amount partially offsets costs for existing and future services.
- Based on July 1, 2012 information from the Broward County Property Appraiser's Office, the total taxable value of the seven properties proposed for inclusion into the trust is \$24,175,850 – net of the value of the new parking garage – and would have resulted in a \$134,248 loss in property tax revenue to the County in fiscal year 2013. However, the financial impact of the STOF development must include the future loss of County tax revenue after the property is improved. If the construction of the hotel and entertainment complex costs \$350 million, the County would lose an additional \$1,943,550 in property tax revenue, as well as \$3,204,994 in other tax revenue in fiscal year 2013. The estimated annual loss of tax revenue to Broward County is substantial (\$5.3 million in FY13), recurring, and fluctuates based on several variables (e.g. property value, sales and room revenue, tax rates). Moreover, for the new development on the land already in trust, the FY13 tax revenue loss to the County totals \$2,344,430. A summary of the estimated loss in County tax revenue in fiscal year 2013 can be found in the Table shown below.

A3-6

COUNTY REVENUE LOSS (Based on FY13 estimates)

Type of Tax	Land in Trust	Fee-to-Trust Proposal	Both Developments
Broward County Property Tax	884,217	2,077,798	2,962,015
Cocomar Water Control District Property Tax*	23,025	54,106	77,131
Half Cent Sales Tax	-	276,513	276,513
Tourist Development Tax	1,437,188	2,874,375	4,311,563
TOTAL RECURRING REVENUE LOSS	\$2,344,430	\$5,282,792	\$7,627,222

A3-7

* The Cocomar Water Control District is a special taxing district of the County Commission

It should be noted that compensation, in addition to the recurring revenue loss identified in the table, may be needed to offset costs of direct services related to the development of the land placed into trust. For

Letter to Franklin Keel, Eastern Regional Director, Bureau of Indian Affairs
RE: "DEIS Comments, Seminole Tribe of Florida Fee-to-Trust Project"
October 11, 2012
Page 4 of 4

example, any rerouting of buses to provide direct service to the interior of the development would increase the County's operating and capital costs, described in Attachment 2.

A3-7
Cont.

In closing, we reiterate Broward County's position concerning placement of the subject lands in trust: Beyond the loss of annual ad valorem tax and other revenues now and in the future, based on the value of "improved" land, there are regulatory, service provision, and area-wide, current and future economic development impacts of both the Seminole Tribe properties in Coconut Creek. The County incorporates, by reference, all previously submitted comments to, and responses from, the BIA and the Analytical Environmental Services (AES) consultant report. The impacts identified and quantified in the submitted comments should be incorporated into the Final EIS.

A3-8

Thank you for the opportunity to provide input regarding the DEIS. If you have any questions about our comments, please contact Rosemarie Fallon at rfallon@broward.org or (954) 357-4904 or Cathy Randazzo at crandazzo@broward.org or (954) 357-6674.

Sincerely,



Bertha W. Henry
County Administrator

Attachments (2)

cc: Broward County Board of County Commissioners
Chester McGhee, Eastern Regional Office, Bureau of Indian Affairs
John Meerscheidt, Senior Project Manager, Analytical Environmental Services
Pam Madison, Deputy County Administrator, Broward County
Gretchen Hirt, Assistant to the County Administrator, Broward County
Noel Pfeffer, Deputy County Attorney, Broward County
Cynthia S. Chambers, Director, Broward Environmental Protection & Growth Management Dept.
Edward G. Labrador, Director, Office of Intergovernmental Affairs and Professional Standards
Marci Gelman, Assistant Director, Broward Office of Management and Budget
Cathy Randazzo, Assistant Director, Broward Planning & Environmental Regulation Div.
Rosemarie Fallon, Planning Section Manager, Broward Planning & Environmental Regulation Div.

ATTACHMENT 1

**REVIEW OF DRAFT ENVIRONMENTAL IMPACT STATEMENT
SEMINOLE TRIBE OF FLORIDA FEE-TO-TRUST PROJECT**

**COMMENTS FROM BROWARD COUNTY REGARDING
SUGGESTIONS FOR ADDITIONS, DELETIONS, CORRECTIONS, CLARIFICATIONS ETC.,
AND REGARDING EVALUATION OF DEIS CONCLUSIONS**



REVIEW COMMENTS FROM BROWARD COUNTY

DRAFT ENVIRONMENTAL IMPACT STATEMENT (DEIS) ISSUED AUGUST 31, 2012
SEMINOLE TRIBE OF FLORIDA FEE-TO-TRUST PROJECT

Comments Related to Surface Water

The below listed comments provide recommended changes to the DEIS.

Section 4.3, PAGE 4.3-3

The current Master Drainage Permit for the project site is in compliance with all minimum standards for the Cocomar Basin. ~~Once a physical connection is made to the Northwestern Cocomar Basin, the temporary connection to the Southwestern Cocomar Basin is likely to be removed and all subsequent discharge from the project site redirected into the Northwest Cocomar Basin. Alternatively, the~~ connection to the Southwestern Cocomar Basin may will be maintained and/or redesigned to provide greater flexibility and capacity for the stormwater control system.

Section 5.2.2, PAGE 5-4

J. ~~STOF will work with CWCD to determine if an interconnection between the northwest drainage sub-basin and the C-14 drainage sub-basin is warranted. An interconnection between the northwest drainage sub basin and the C-14 drainage sub basin will provide additional flood protection management flexibility and will be pursued.~~

Appendix B, Stormwater Drainage Report

PAGE 9, Section 3. Off-Site Discharge, line 3 change C-12 basin to C-14 basin,

Also, replace the last paragraph...

~~The connection to the SW Basin has always been considered a temporary condition. This connection provides an interim means for discharge until a permanent connection to the NW Basin becomes available. Once connected to the NW Cocomar Basin, the connection to the SW basin would be eliminated. By connecting to the NW Basin, the PARCEL no longer requires a separate control structure. Control for the PARCEL would be provided by the downstream control for the entire NW Basin. Figure 4 is an example of a possible future connection to the NW Basin.~~

with

The connection to the SW Basin has always been considered a temporary condition. This connection provides an interim means for discharge until a permanent connection to the NW Basin becomes

A3-9

available. Control for the PARCEL would be provided by the downstream control for the entire NW Basin. Figure 4 is an example of a possible future connection to the NW Basin. Once the physical connection is made to the Northwestern Cocomar Basin, the temporary connection to the Southwestern basin shall be redesigned and maintained so as to provide greater flexibility and capacity for the stormwater control system.

A3-9
Cont.

Comments Related to Solid Waste Service

The below listed comments provide recommended changes/clarifying additions to the DEIS.

Section 3.10.1, PAGE 3.10-2

SOLID WASTE SERVICE

The City of Coconut Creek Department of Public Works prepares and updates the local solid waste management plan for the City. In 1986 Broward County and a majority of the cities within the County (including the City) entered into an Interlocal Agreement that created the Broward Solid Waste Disposal District (Disposal District). The Interlocal Agreement is in effect until July 2, 2013. The Disposal District is responsible for disposal of all solid waste delivered by haulers from the participating cities and the unincorporated areas of the County. ~~The~~ Solid Waste and Recycling Services is the County agency responsible for administering service contracts in the Disposal District.

The State of Florida Solid Waste Management Facilities guidelines contain siting criteria, design and performance standards, and closure and post-closure maintenance requirements for landfill facilities in the state. The information can be found in Florida Administrative Code Chapters 62-701.

A3-10

Local Solid Waste Collection

All Service Refuse currently provides solid waste collection to the project site and the adjacent Coconut Creek Casino per the MSPA, and the City through a franchise agreement with the City.

Under a service agreement between Broward County and Wheelabrator on behalf of the Disposal District municipalities, including the City of Coconut Creek, all municipal solid waste is delivered to one of the two Wheelabrator waste-to-energy (resource recovery) facilities. These facilities are capable of handling a combined total of approximately 1.6 million tons of waste a year, which is equivalent to 2,250 tons at each facility per day. The Disposal District solid waste supply currently uses approximately 66 percent of the available capacity (Broward County, 2011b).

Solid waste collected in the City is transferred to the North Broward County Resource Recovery facility, located at 2600 NW 48th Street, in the City of Pompano Beach. Ultimate disposal of remaining ash would occur at the Central Disposal Sanitary Landfill, which has receives an average permitted capacity of 10,000 tons daily (Broward County, 2011b). The landfill accepts all non-hazardous wastes, including construction and demolition materials.

Section 4.10.1 PAGE 4.10-3

SOLID WASTE SERVICE

Construction

Construction of Alternative A would result in a temporary increase in solid waste generation. Potential solid waste streams from construction would include paper, wood, glass, aluminum, and plastics from packing materials; waste lumber; insulation; empty non-hazardous chemical containers; concrete; metal, including steel from welding/cutting operations; and electrical wiring.

Construction waste that cannot be recycled would be collected by All Service Refuse, or a similar company, and disposed of at the ~~North Resource Recovery Plant~~Central Disposal Sanitary Landfill, which accepts construction and demolition materials. Construction solid waste impacts would be temporary and not significant given that the landfill has an adequate capacity to accommodate the amount of waste generated by the construction of Alternative A. Mitigation measures are presented in **Section 5.2.8** to further reduce the amount of construction and demolition materials disposed of at the landfill and ensure impacts remain less-than-significant.

Operation

STOF would continue contractual agreements with All Service Refuse, or a similar company, for solid waste collection service. Based on the generation rates of similar facilities it is estimated that Alternative A would generate approximately 8 tons of solid waste per day (**Table 4.10-2**). All waste would be brought to North Resource Recovery Plant for sorting and recycling. Non-recoverable waste would be incinerated and sent to the Central Landfill for disposal. The landfill currently landfills approximately ~~28,000~~1,500,000 tons per year (Broward County, 2012), and has an anticipated remaining life of 14 years based on the remaining airspace.

A3-10
Cont.

Section 4.10.1 PAGE 4.10-4

Waste generated under Alternative A would be handled appropriately through disposal at the facility described above. Landscaping and maintenance staff would pick up any trash that is left on the property. Decorative receptacles for trash and recycling would be placed strategically throughout the property to discourage littering. A compactor would be used to reduce the volume of trash prior to transportation off site. The solid waste from Alternative A would represent approximately 2,921.9 tons per year or 0.2 percent of the Central Landfill's annual average disposal amount. Alternative A would not result in a significant amount of solid waste being transported to the landfill. Mitigation measures are presented in **Section 5.2.8** to further reduce the amount of solid waste disposed of at the landfill and ensure impacts remain less-than-significant.

Sub-Alternative A-1

Construction

The construction of Sub-Alternative A-1 would result in a temporary increase in solid waste generation similar in composition and volume to that described under Alternative A. Waste that cannot be recycled would be ultimately disposed of at the Central Landfill, which accepts construction and demolition

materials. This impact would be temporary and not significant given that the landfill has an adequate capacity to accommodate the amount of construction waste generated by the construction of Sub-Alternative A-1. Mitigation measures are presented in **Section 5.2.8** to further reduce the amount of construction and demolition materials disposed of at the landfill and ensure impacts remain less-than-significant.

Operation

STOF would continue its contractual agreement with All Service Refuse, or a similar company, for solid waste collection service. As the proposed facilities under Alternative A and Sub-Alternative A-1 are similar in size and use, it is estimated that Sub-Alternative A-1 would generate the same amount of solid waste as Alternative A, or 8 tons per day (**Table 4.10-2**). Therefore, similar to Alternative A, Sub-Alternative A-1 would not result in a significant amount of solid waste being transported to the landfill. Methods of trash reduction are similar to those described under Alternative A. Mitigation measures to further reduce impacts from solid waste generation and ensure they remain less-than-significant are described in **Section 5.2.8**.

A3-10
Cont.

GENERAL COMMENT

In addition to the identified landfill capacity numbers presented in the DEIS, the analysis needs to indicate that Waste Management Inc. of Florida, the owner of the Monarch Hill Landfill (fka Central Disposal Landfill), has been contacted to confirm that the Monarch Hill Landfill will be able to handle the waste created from development of the STOF properties. Please include the name of the contact, position, contact number, and date of contact.

Comments Pertaining to Data Presentations

The below listed comments provide recommended changes to the DEIS.

Section 3.7.2, PAGE 3.7-2

Regarding Table 3.7-2 and the corresponding commentary under "Population Trends," the 2000 numbers in this table are NOT the official numbers from the 2000 Decennial Census. The official numbers from the 2000 Decennial Census SF1 data are as follows:

- State of Florida = 15,982,378
- Broward County = 1,623,018
- Coconut Creek = 43,566

A3-11

Also, a source should be provided for the 2005 data in Table 3.7-2.

Regarding Table 3.7-3 and the corresponding commentary under "Housing" – the 2000 numbers seem to match the official 2000 Decennial Census numbers, except for the Coconut Creek estimate which should be 22,144. Further, the source(s) for the 2005 and 2009 numbers is/are unclear, except for the 2009 Coconut Creek number.

Also, 2010 numbers should be used for Table 3.7-3 instead of the 2009 numbers.

Section 3.7.2, PAGE 3.7-4

Under "Income," the median household income of Broward County, \$51,694, is actually from the 2006-2010 American Community Survey, 5-year estimates, and should be shown as such.

A3-11
Cont.

Comments Pertaining to Transportation/Circulation

The below listed comments address information, stated in several areas of the DEIS, that is considered to be incorrect or misleading.

Section 3.8.3

PAGE 3.8-6

- There is a reference in Section 3.8.3 Transit Services that mentions the *project site* is "currently served" by three (3) Broward County Transit (BCT) routes. This is not correct. If the project site is being defined as its geographic boundaries, this statement is true. However, if we are looking at this in terms of true impacts and transit usage, this is not the best approach. We have four (4) fixed routes that provide service within a mile of the project site, i.e. project vicinity, but there is currently no fixed route service directly to the project site. There is one (1) Community Bus route that provides direct service to the project site and one (1) Community Bus route that provides service within a mile of the project site. The project site is bordered by Wiles Road, Sample Road, Lyons Road and State Road 7/US 441. If the centerpiece of this project will be the proposed casino, it would neither be feasible nor desirable to pick-up or drop-off passengers on Wiles Road, Sample Road, Lyons Road, or State Road 7/US 441 with the expectation that they would walk to the interior of the project site to access the casino. There were discussions several years ago related to a conceptual "Super Stop" that would be located within the interior of the Main Street Coconut Creek DRI. It was realized and agreed at that time that the type of development planned there would be attractive to our current ridership base in addition to attracting new riders. The issue at that time was the additional operating dollars it would require to re-route four (4) fixed routes and one (1) Community Bus to the interior of the development.

- The "local transit station" referenced is the closest transit station to the project site, but is not conducive to current patrons or workers and would not be attractive to potential patrons or workers at the casino because of its location west of State Road 7/US 441. Future plans in our Transit Development Plan (TDP) do call for a stop or transit station at the north east corner of State Road 7/US 441 and Sample Road that would provide direct access to the project site.

A3-12

PAGE 3.8-7

- In Section 3.8.3 Transit Services, the last sentence of the second paragraph should read: "The current levels of ridership on these transit **systems routes** are provided in the TPS (**Appendix E**)."

Section 4.8.2

PAGE 4.8-9

- The Section on Transit references a two percent (2%) share of PM trips (59 transit trips). The focus of this methodology appears to be based on potential patrons of the casino and not the "ancillary facilities", i.e. office space, retail businesses etc. that would be necessary to support a development of this size. As indicated in our initial comments, studies and analyses have overwhelmingly shown that our base ridership is a captured market. The service-type jobs, i.e. lower wage shift-based, that would be necessary to support a development of this size would appeal to our base ridership.
- Any increase in vehicular traffic can have a negative effect on BCT service. Maintaining schedule adherence, i.e. reliability is an expectation of our riders as studies and analyses have shown that the majority of our riders use BCT service for work trips. Schedule adherence can also increase our operational costs with un-scheduled over-time. LOS are addressed in the document but the thinking that the planned roadway improvements will mitigate any/all LOS issues may be short-sighted based on the rationale. Based on the methodology identified, if the existing LOS is E or F, and the roadway improvements improve the LOS to D or E, then the issue has been mitigated. Increased vehicular traffic not only increase travel times for autos but buses as well. Increased service, i.e. operating costs, in the form of adjusted headways/frequencies not only provides more service, but is oftentimes needed to maintain service reliability.
- There is a reference to the project site currently being served by "seven local buses." This is incorrect as there are only two (2) buses that provide direct service to the project site. This is misleading as these buses are 25 passenger Community Bus vehicles that operate from 7am to 6pm. Any serious projection or analysis of ridership or service adequacy can't be based on this number or these types of vehicles based on the inherent service characteristics of the Community Bus service. BCT's most heavily used route traverses all three (3) counties via State Road 7/US 441 and carries over 4 million riders annually. The statement that this is a "less than significant impact" is a cause of concern.

Sections 3 and 4

- It appears that the terms "project site" and "project vicinity" are used to downplay potential impacts on transit. For example, the reference that "...the project vicinity is serviced by four (4) BCT fixed routes and 2 Community Bus routes..." and "...seven (7)

A3-12
Cont.

BCT buses provide direct service to the project site...” may appear that there is enough service coverage based on their projection of 59 PM peak trips. As mentioned above, our current service structure does not provide attract transit options for those wishing to work or patronize the casino.

- Section 3 begins with a reference to BCT’s service as it relates to project site where Section 4 begins with a reference to project vicinity. Based on the way our current service is structured, this is, again, misleading as they are essentially one in the same.
- Land Use Planning is discussed in both sections related to Transit and Transit Services. Both sections however indicate that once the land is taken by the federal government, any discussion of land use and land use planning policies become subject to STOF. BCT would request that STOF work closely with us as this development is built-out to insure that the transit services currently available and planned would be conducive to access to and from the development for those wishing to patronize and work within the development. There is a reference that the build-out environment for the Seminole Hollywood Hard Rock Casino and Seminole Coconut Creek Casino were used to determine baselines for some projections related to the proposed development. Based on our current service and service proximity to both casinos, this may be evidence of missed opportunities to increase transit usage by providing more direct access.

A3-12
Cont.

GENERAL COMMENT RELATED TO ENTIRE DEIS

It is recommended that all proposed transportation improvements be coordinated with the PD&E study (SR 7, Sample Road to Palm Beach County line) being conducted by the Florida Department of Transportation (FDOT) District 4 Office.

A3-13

Comments Related to Crime/Law Enforcement

The below listed comments address informational shortcomings in the DEIS.

GENERAL COMMENT

- Many of the data provided in the original transmittal from the Broward Sheriff’s Office are not documented in the report. These include data on the financial impact of each regional service, the bookings by Seminole Police Department in Broward County Jail and the cost per jail inmate.

A3-14

PAGE 3.10-4

- Section 3.0 Affected Environment, Section 3.10.1 under the Law Enforcement heading - Page 3.10-4 uses “law enforcement personnel” in discussing staffing levels in Joseph V. Conte Facility and Paul Rein Detention Facility. “Law enforcement personnel” should be changed to detention deputies.

A3-15

PAGE 4.15-14

- Section 4.15.2, under the Crime heading, suggests that there will be an expansion of law enforcement services with increased tax revenues required to accommodate growth without resulting in significant adverse effects associated with crime. This statement does not take into consideration the services that may be provided by the County and the projected costs and benefits as a result of this planned growth.

A3-15
Cont.

PAGE 4.7-8

- The DEIS noted that "STOF have expressed willingness to discuss compensation to Broward County for project-related costs to the County courts and judicial system." (p.4.7-8). These costs should include the impact on public safety regionalized services of the proposed development and detention of inmates.

Comments Pertaining to Fiscal/Revenue Impacts to Broward County

The below listed comments provide recommended changes/clarifications to the DEIS. The comments also provide alternative conclusions.

PAGE 3.7-4

While the DEIS document includes a list of regional services that are funded through property taxes, it utilizes tax information from 2011 but should use information from 2012 which is now available.

A3-16

PAGES 4.7-2 and 4.7-3

The DEIS document refers to the tax revenue loss as the "loss from Broward County's property tax rolls", which is an inaccurate depiction. The loss from the property tax rolls is equal to the taxable value of the properties.

A3-17

PAGE 4.7-13

The DEIS includes projections for future tax revenue, specifically property, sales, and TDT taxes. However, this information is found in Alternative C (land not brought into trust) and is not included in Alternative A (land brought into trust). **Thus, it does not appear that this amount is not seen as a tax revenue loss if the development was brought into trust, otherwise, it would have been included in Alternative A as an impact of the development. The County takes exception to the following DEIS statement.**

A3-18

The anticipated increase in tax revenues from indirect activities as described under Alternative A as well as the increase in property tax revenues, would be a beneficial impact. No mitigation is required.

Appendix I PAGES 3, 4

The DEIS document includes information regarding the property tax revenue loss, but the information found in TABLES C AND D and the related commentary is inaccurate. It is believed that the DEIS treated the different taxing jurisdictions as one agency, which is not the case. The nearly \$3 billion in property taxes collected by Broward County is for all taxing districts and not for the County's regional services. However, the DEIS document does recognize that the tax revenue loss should be based on the future value after the land and development are in trust.

A3-19

GENERAL COMMENT REGARDING SECTIONS 3.8, 4.8 AND APPENDIX E

The DEIS document and Transportation Planning Study (Appendix E) infer that no additional transit costs are needed to cover projected ridership after the development is built. The County takes exception to this.

A3-20

GENERAL COMMENTS ON FISCAL/REVENUE IMPACTS PRESENTED IN THE DEIS

Although the DEIS does incorporate many of the Broward County Office of Management (OMB) prior suggestions into the DEIS document (includes list of regional services, updated tax revenue amounts; sales and TDT taxes, and estimated taxes on the improved land once the development is complete), the DEIS conclusions are troublesome.

First, the DEIS document includes a list of regional services that would serve the development, but the document fails to recognize how the County will incur additional costs for providing these regional services to the site. Additionally, most of the tax revenue amounts are included in Alternative C (no fee-to-trust action), which suggests that Broward County will *receive* these taxes and thus the development will have a beneficial impact with this regard. In reality, the tax revenue amounts should also be included in Alternative A as a *loss in tax revenue* once the land goes from fee to trust status and is improved. Lastly, the DEIS document does not recognize the need for additional transit routes or increased headways to serve the development.

A3-21

Even though the conclusions presented in the DEIS are not what the OMB had hoped for, the DEIS document does state that the STOF is willing to negotiate with Broward County for payment for services, specifically judicial and public safety services.

Comments Related to Affordable Housing

The below listed comments call for improved assessments and modified conclusions to be presented in the DEIS.

GENERAL COMMENTS

There should be "adequate" assessments of the following: the number of low-income jobs that would be generated by the STOF development; the availability of affordable rental housing in the area; and any mitigation regarding employee housing. It is recommended that the DEIS be more responsive to these issues. The foreclosure situation, low interest rates, etc. do NOT provide affordable housing for

A3-22

those with incomes below 100% AMI. Also, the use of a “median hourly wage for all occupations in Broward County” to identify low-income jobs as those with wages below 80 percent of the area median income (page 4.7-10) is unusual and questionable.

A3-22
Cont.

Comments Pertaining to Environmental Permitting/Licensing and Approvals:

The below listed comments address the need for clarifications/added information in the DEIS.

The DEIS addresses most of the prior County comments regarding environmental issues, permitting/licensing and approvals. However, some concerns remain. Specifically, the recommendation that the project developers obtain permits/licenses through the Broward County Pollution Prevention, Remediation and Air Quality Division (PPRAQD) even if they are not required remains a strong recommendation.

A3-23

PAGE 4.3-7

Referring to the section on Wastewater (beginning on the previous page), the DEIS indicates that STOF would obtain all necessary USEPA permits and approvals to ensure that no significant impacts related to wastewater would occur. The reader is referred to Section 5.2.2 Wastewater Mitigation Measure B requiring qualifications of WWTP operators. However, Broward County’s prior comments were not addressing concerns about impacts to wastewater, but concerns about the potential danger of having chlorine gas near a hotel and casino. The County’s earlier comments relative to the chlorine disinfection of wastewater asked for identification of the type of chlorine to be used (i.e. liquid? gas?) and if it will need a Hazardous Materials license. Indications are that the type of chlorine has not been determined at present; therefore, our expressed concerns have yet to be alleviated.

A3-24

Further, more specific comments previously provided by the County on these matters had addressed the following:

Alternatives A-1, B, and sub Alternative C-1 require the STOF to construct a wastewater treatment plant and a water treatment plant. Insufficient information is provided to determine how these services will be provided by STOF. For example, the DEIS says that chlorine will be used to provide disinfection of wastewater. Chlorine comes in many forms (gaseous, liquid) and concentrations. Some wastewater treatment plants utilize a concentrated form of gaseous chlorine which is a SARA Title III chemical with extremely hazardous properties considered an imminent danger to life if released. The STOF has no demonstrated experience with SARA Title III chemicals and is not required to comply with these regulations. It may not be in the best interest of the public to have a hotel and casino in close proximity to chlorine.

A3-25

Without a specific response to these items, PPRAQD still maintains their original recommendation.

ATTACHMENT 2

**REVIEW OF DRAFT ENVIRONMENTAL IMPACT STATEMENT
SEMINOLE TRIBE OF FLORIDA FEE-TO-TRUST PROJECT**

**COMMENTS FROM BROWARD COUNTY REGARDING
FINANCIAL IMPACTS NOT ADEQUATELY ADDRESSED IN THE DEIS**



OFFICE OF MANAGEMENT AND BUDGET

115 S. Andrews Avenue, Room 404 • Fort Lauderdale, Florida 33301 • 954-357-6345 • FAX 954-357-6364

October 5, 2012

TO: Bertha Henry, County Administrator
County Administration

FROM: Maxwell Gagin, Budget and Management Analyst
Office of Management and Budget

SUBJECT: Financial Impact of Seminole Tribe Fee-to-Trust Application and Proposed Development of Lands in Trust

The Seminole Tribe of Florida (STOF) has submitted an application with the Bureau of Indian Affairs (BIA) to transfer 45-acres of fee land currently owned by STOF into federal trust. Upon approval of the application, the STOF would subsequently develop the property for a 1,000 room resort hotel, retail, restaurant space, convention center, a 2,500 seat showroom, expanded parking garage, and associated facilities. This is in addition to the proposed development on current trust lands, which includes a 500 room hotel and conference facility. Table I includes project specifications for both the proposed development on land in trust as well as the land requested for transfer into the trust:

TABLE I - PROJECT SPECIFICATIONS

Project Components	Land in Trust	Fee-to-Trust Proposal	Both Developments
Hotel	500 rooms	1,000 rooms	1,500 rooms
Hotel Lobby		10,400 sf.	10,400 sf.
Dining	6,700 sf.	54,500 sf.	61,200 sf.
Retail	(1,516 sf.)	47,000 sf.	45,484 sf.
Back-of-House	68,304 sf.	51,308 sf.	119,612 sf.
Circulation		14,700 sf.	14,700 sf.
Spa		19,800 sf.	19,800 sf.
Club/Lounge	(6,054 sf.)	15,300 sf.	9,246 sf.
Conference Facility	93,466 sf.	76,200 sf.	169,666 sf.
Showroom Facility Restrooms		31,500 sf.	31,500 sf.
Restrooms	(924sf.)	5,000 sf.	4,076 sf.
Outdoor Terrace		11,000 sf.	11,000 sf.
Expanded Parking Structure (7 Levels)		3,772 spaces	3,772 spaces

A3-26

As part of the proposed project, the STOF has agreed to a Mitigation Agreement with the City of Coconut Creek to compensate the City for public services and utilities. Additionally, the agreement requires a payment by the STOF to the City in lieu of property taxes and impact fees lost when the property is transferred into the federal trust and removed from the City's tax roll. However, there is currently no agreement with the County to address the impacts Broward County may experience due to the development of STOF lands. The purpose of this report is to detail the financial impact of the STOF Fee-to-Trust application and the subsequent proposed development to Broward County.

Fiscal Impact on Broward County

Broward County is a regional service provider for many services including, but not limited to, airport, seaport, transit, and tourism development. Regional public safety functions including specialized law enforcement, and fire rescue services are provided by the Broward Sheriff's Office, but funded with Broward County's tax dollars. Many of the County's regional services are funded with property taxes, sales taxes, and tourist development taxes. Due to the location of the STOF proposed development within a suburban setting, the area will undoubtedly receive direct as well as intangible benefits from these regional services even though the development will not generate County tax revenues. Additionally, externalities created by the development will inevitably increase the demand – and cost – of some regional services. Some of the regional services impacted by the STOF proposed development in trust can be found in Table II.

TABLE II - IMPACTED REGIONAL SERVICES

Regional Services Provided by Broward County
Airport - transportation for tourists
Broward Addiction Recovery Center (BARC)
Detention/Corrections - incarceration of arrested individuals
Emergency Management - coordination of planning and response to regional emergencies
Fire Rescue Services
Air Rescue - air medical transportation services
HAZMAT - hazardous materials response
Technical Rescue Team - confined space, trench and high angle rescue
Human Services - emergency financial assistance and other social safety net programs
Law Enforcement
Aviation Unit
Bomb Squad
Counter-Terrorism Unit
Gang Unit
SWAT Team
Medical Examiner Services - autopsy, trauma, and toxicology services
Roadway Construction Maintenance
Transit
Tourism Marketing - markets Broward County as a tourist destination nationally and internationally
Seaport - transportation for tourists

A3-26
Cont.

County facilities and services listed in Table II such as the airport, seaport and tourism marketing bring millions of people to South Florida, many who will visit the proposed resort hotel and entertainment complex. Additionally, many of the services listed in Table II relate to public safety, which are both the most costly services to provide and the most heavily funded through tax revenue. For example, a review of bookings by the Seminole Police Department indicated that between 2009 and 2011 the County spent an average of \$727,000 each year housing inmates in County jails. These numbers will likely escalate with the new STOF development, but determining the marginal cost to the County for specialized public safety services as well as additional use of jail beds is difficult to quantify. Other services listed in Table II will likely be impacted by the STOF proposed development in trust. However, calculating an accurate financial impact on these regional services is also problematic. Even though the County recently began receiving revenue from the State Gaming Compact over the last year, the estimated \$550,000 generated to help offset the impacts of activities on Seminole in-trust lands is substantially less than the amount needed to fully mitigate the current impacts to the County prior to the STOF proposed new development.

A3-27

There are several County services where the financial impact of the development can be quantified. Broward County provides regional fixed route transit service on major roadways and subsidizes community bus shuttles provided by cities to transport riders from neighborhoods and other destinations that are located off of major roadways. Currently, the County provides fixed route service on all the major roadways surrounding the development (Sample Rd, Hillsboro Blvd, Lyons Rd and State Rd 7). It is anticipated that the development will result in increased transit demand attributable to employees and customers of the expanded complex. Rerouting buses to provide direct service to the interior of the development would increase the County's annual costs by \$2.32 million (in current dollars) excluding the cost of purchasing additional buses needed to maintain schedules with the route adjustments. Rerouting current community bus routes to provide direct service to the interior of the development would cost the County and municipalities an additional \$.15 million and \$.32 million (in current dollars) respectively, plus the purchase of buses. The cost to purchase and replace additional buses for both fixed and community bus routes would require an annual allocation of approximately \$.32 million (in current dollars) based on a 12 year replacement schedule for fixed route buses and a four year replacement schedule for community buses. The total cost of the enhancements that would be needed to address the impact of the development is approximately \$3.1 million annually (in current dollars). Assuming an annual 3% inflation rate over the next eight years, the cost of this service, including the required capital outlay to purchase buses, is expected to escalate to \$3.92 million annually in 2021.

A3-28

As discussed earlier, the financial impact of the STOF proposed development on other County services is difficult to calculate. The County's financial impact is better represented by the loss in revenue if the land is accepted into trust since taxes and user fees are the principal revenue source funding for regional services.

According to the Broward County Property Appraiser's Office, the total taxable value of the seven properties proposed for inclusion into the trust is \$24,175,850 as of July 1, 2012 – net the value of the new parking garage - and would have resulted in a \$134,248 loss in property tax revenue to the County in fiscal year 2013. Furthermore, the construction of a resort hotel and entertainment complex will substantially increase the taxable value of the properties in question. Thus, any financial impact analysis of the STOF development must include the loss of County property tax revenue after the property is improved. If the construction of the hotel and entertainment complex costs \$350 million, the County would have lost an additional \$1,943,550 in property tax revenue for a total loss of \$2.08 million in fiscal year 2013. Also, the construction of the 500 room hotel on land currently in trust would have resulted in an \$884,217 in lost property tax revenue in fiscal year 2013, if property in trust could be taxed. Once the local economic environment improves and property values begin to recover, the taxable value of the improved properties as well as the property tax revenue generated by these properties would increase as well.

A3-29

The STOF's proposed development in trust, if approved, will also have a negative fiscal impact on four additional taxing jurisdictions. Some of the affected taxing jurisdictions and the amount each would lose in property tax revenue in fiscal year 2013 are found on Table IV.

TABLE III - TAX REVENUE BY JURISDICTION (Based on FY13 estimates)

Jurisdiction	Land in Trust	Fee-to-Trust Proposal	Both Developments
Broward County	884,217	2,077,798	2,962,015
Broward County School Board	1,187,237	2,789,855	3,977,092
Children Services Council	78,056	183,421	261,477
Cocomar Water Control District	23,025	54,106	77,131
North Broward Hospital District	298,561	701,580	1,000,141
TOTAL	\$ 2,471,096	\$ 5,806,760	\$ 8,277,856

A3-30

Additionally, if the resort hotel and entertainment complex were built on land in trust, the properties would be exempt from collecting and remitting sales tax to the State of Florida. Although sales tax is paid directly to the State, counties and municipalities receive shared revenue payments from the State comprised of statewide half cent sales tax revenue. Based on previous studies of the impact of the STOF development, it is estimated that the loss in half cent sales tax revenue to the County can equal as much as \$276,513 if the hotel and entertainment complex were in federal trust.

A3-31

The County also levies a tourist development tax to fund the Greater Fort Lauderdale Convention and Visitors Bureau (CVB) as well as many other tourist attractions. The Greater Fort Lauderdale CVB promotes and markets Broward County as a premier year-round travel and leisure destination. These efforts attract over 10.5 million people to Broward County each year, many of whom will visit the proposed STOF resort hotel and entertainment complex. The County's tourist development tax is equal to 5% of a hotel's total room revenue. Based on the proposed 1,000 room hotel in trust as well as average room and occupancy rates, it is believed that Broward County will lose almost \$2,874,375 in tourist development tax revenue from this development alone. In addition, it is believed that the 500 room hotel to be built on current land in trust would result in an additional \$1,437,188 loss in County tourist development tax revenue, if property in trust could be taxed.

A3-32

Lastly, the STOF's proposed development in trust would negatively impact one-time or user fee-based revenues collected during construction. The largest one-time construction revenue the STOF would be exempt from paying is the Board of Rules and Appeals (BORA) permit fee, which is equal to \$0.68 per \$1,000 in construction value. If the construction of the resort hotel and entertainment complex cost \$350 million, BORA would lose \$234,500 in revenue. Furthermore, the County will lose an additional indeterminate amount of revenue because the development will not need to acquire various environmental licenses and permits that are required by law in Broward County.

A3-33

A summary of the total loss of County revenue in fiscal year 2013 if both resort hotels and the entertainment complex were in trust can be found in Table V below:

A3-34

TABLE V - COUNTY REVENUE LOSS (Based on FY13 estimates)

Type of Tax	Land in Trust	Fee-to-Trust Proposal	Both Developments
Property Tax	884,217	2,077,798	2,962,015
Half Cent Sales Tax	-	276,513	276,513
Tourist Development Tax	1,437,188	2,874,375	4,311,563
RECURRING REVENUE LOSS	\$ 2,321,405	\$ 5,228,686	\$ 7,550,091
BORA Permit Fee	106,686	234,500	341,186
NON-RECURRING REVENUE LOSS	\$ 106,686	\$ 234,500	\$ 341,186
TOTAL REVENUE LOSS	\$ 2,428,091	\$ 5,463,186	\$ 7,891,277

A3-34
Cont.

Summary

As explained in this report, the STOF proposed development in trust will have a financial impact of at approximately \$11-12 million a year to Broward County. The fee-to-trust action and subsequent development will result in the loss of \$7.9 million in revenue that would have been collected to support all other County regional services benefitting the development if the lands were not in the trust. Furthermore, the activities associated with the STOF proposed development are expected to increase the demand for County transit services at a cost of \$3.1 million (in current dollars), with that amount projected to escalate to \$3.92 million annually by 2021.

A3-35



THE SCHOOL BOARD OF BROWARD COUNTY, FLORIDA

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October 15, 2012

Franklin Keel, Regional Director
Eastern Regional Office
Department of the Interior
Bureau of Indian Affairs
545 Marriott Drive, Suite 700
Nashville, Tennessee 37214

Re: **Draft Environmental Impact Statement Scoping Comments – Seminole Tribe of Florida Trust Acquisition Project**

Dear Mr. Keel:

Upon review of the Draft Environmental Impact Statement (DEIS) regarding the Seminole Indian Tribe Fee-To-Trust Application, The School Board of Broward County, Florida (SBBC) in conjunction with Broward County submitted comments about the project proposed in the Application. The District's comments were submitted via a letter dated February 16, 2012, and in it, the District stated concerns it had about the potential impact of the proposed project on the School District. At that time, the DEIS was reviewed to ascertain the following:

1. Whether the statistical data depicted about the SBBC was accurate;
2. Whether statements made about the anticipated impact of the development(s) proposed in the Application on District schools were fairly accurate; and
3. The potential loss of property tax revenue that the SBBC may incur annually if the Seminole Indian Tribe Fee-To-Trust Application is approved.

A4-1

Also, additional comments were provided in Exhibits attached to the letter. Most specifically in regards to Item No. 3 above, the letter stated that the SBBC will lose "...**approximately \$237,000 per year from property tax revenue based on the current taxable value of the property.** However, future loss in revenue is estimated at **approximately \$2.8 million per year** based on the Fishkind and Associates estimated taxable value of the new development. Therefore, the District's position is that the findings contained in the attached Exhibits **should be addressed and permanently remedied before the Seminole Indian Tribe Fee to Trust Application is approved; and if not remedied, the Broward County School District would be negatively impacted.**"

A4-2

Recently, the School District reviewed the Seminole Tribe of Florida's (STOF) revised DEIS which contained responses to the initial comments submitted by the District; and in the response, the STOF stated that "No mitigation is required" to the District's stated concerns about its potential loss of future revenue if the STOF fails to mitigate the projects anticipated impact on the SBBC. The School District does not agree with the STOF's response and again reaffirms that the stated financial harm **should be addressed and permanently remedied before the STOF's Application is approved.**

A4-3

The District also expressed concerns about the potential noise and traffic impact on District schools from the proposed project. In its response, the STOF acknowledged that Monarch High School is the closest school to the project site. However, the STOF did not satisfactorily indicate how it would address the noise and traffic impact to the school. Therefore, the STOF should be required to mitigate the noise and traffic impacts from the project and insure that they do not negatively impact Monarch High School and other District schools that are in close proximity to the project.

A4-4

I trust the Bureau of Indian Affairs will compel the STOF to address the concerns stated herein. Thank you for your cooperation in this matter. If you have additional questions regarding the District's position on this matter, please contact Chris Akagbosu, Director, Portfolio Management & Services Department at (754) 321-2162 or via E-Mail at chris.akagbosu@browardschools.com

Sincerely,



Robert W. Runcie
Superintendent of Schools

RWR/COA:coa

cc: School Board Members

Paul Carland, General Counsel

Ben Leong, Chief Financial Officer

Omar Shim, Director, Capital Budget

Noel Pfeffer, Deputy Broward County Attorney

Bertha W. Henry, County Administrator

Rosemarie C. Fallon, Planning Sector Manager, Planning and Redevelopment Division, Broward County

Chester McGhee, Environmental Protection Specialist, Bureau of Indian Affairs

John Meerscheidt, Analytical Environmental Services



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REGIONAL DIRECTOR

MAYOR
MARILYN GERBER

VICE MAYOR
MIKKIE BELVEDERE

COMMISSIONERS
LOU SARBONE
BECKY TOOLEY
LISA K. ARONSON

October 29, 2012

Mr. Franklin Keel
Regional Director
Eastern Regional Office
Bureau of Indian Affairs
545 Marriott Drive, Suite 700
Nashville, TN 37214

RE: DEIS Comments, Seminole Tribe of Florida Fee-to-Trust Property

Dear Mr. Keel:

In its capacity as a Cooperating Agency, the City of Coconut Creek hereby submits the enclosed comments on the Draft Environmental Impact Statement (DEIS) for the Seminole Tribe of Florida's (STOF) 45.597-acre fee-to-trust request for land located within the City of Coconut Creek, Broward County, Florida. These comments are filed in response to the Notice of Availability issued by the Bureau of Indian Affairs (BIA) and published in the Federal Register on August 31, 2012. The City of Coconut Creek respectfully requests that these comments are incorporated in your review findings and/or suggested alternatives.

As proposed, the STOF's casino expansion development will occur directly within the City's downtown, an area for which the City has been widely recognized for its carefully-considered, sustainable urban planning. The centerpiece of the City's planning efforts is its "MainStreet" project, which has been in various stages of planning and development since 2002. The project and associated land use requirements and building standards are key to the City's economic viability, public health and safety, environmental quality, and growth and development.

Due to the potential adverse environmental and socioeconomic effects that the STOF's proposed trust acquisition and casino expansion within the City's MainStreet project area has to the City, Coconut Creek and the STOF entered into the 2011 Coconut Creek Fee-to-Trust Lands Mitigation Agreement to address those impacts. It is because of this Agreement that the City gives its **support** to the STOF's fee-to-trust application under Alternative A with the exclusion of Sub-Alternative A-1. The purpose

of the City's comments on the DEIS is to strengthen the review of the STOF application and ensure that the City's interests are fully addressed.

A5-1
Cont.

The City's comments are set forth in three sections: General Issues, Specific Comments, and Technical Sufficiency.

A. General Issues

Sub-Alternative A-1 should be eliminated as a viable alternative and placed in Section 2.5 of the DEIS Alternatives Eliminated from Consideration. The following information substantiates this request:

1. Sub-Alternative A-1 is not necessary and should be excluded from consideration for the following reason. The Municipal Service Provider Agreement (MSPA) signed by the City and the STOF in 1999 and subsequently ratified by the Bureau of Indian Affairs affirms that the City shall provide for water, sewer and fire/EMS services on any and all trust property within the service area of Coconut Creek including any property located in the City owned by the STOF and placed into trust in the future. This 1999 Agreement has not been challenged and the City of Coconut Creek is currently providing water, sewer and fire services to both trust and non-trust properties owned by the STOF. It is this Agreement and not the Mitigation Agreement that provides for these services. Specifically, please see DEIS 2.2.2 on page 2-5 and **Section 3.3** of the MSPA, *Additional Trust Lands for Governmental or Economic Development Purposes*.
2. In addition, Sub-Alternative A-1 assumes that the site would be acquired in trust. If the MSPA or 2011 Mitigation Agreement is not in effect, the City would be in a position to challenge the STOF trust land request, and it therefore cannot be assumed that the land would go into trust.
3. The City and STOF currently have five water and wastewater agreements in place which allocate and dedicate 363 equivalent residential connections (ERCs) to the current needs of the Seminole Coconut Creek Casino trust and non-trust properties. In addition, the City has expended significant sums of money on capital improvements and on reserved water and wastewater treatment and transmission capacity with Broward County for the total additional 2,100 ERC's contemplated as being required for the completion of the Seminole project. This reserved capacity has been and will continue to be paid for by the City to Broward County by lump sum assessments, monthly debt service and meter fee payments. As also contemplated by the MSPA, the City shall continue to provide fire, fire rescue, and emergency medical services to all of its MainStreet properties including the 45.595 acres currently owned by the STOF if placed in trust and the 4.88 acres currently in trust.
4. Both the City and Broward County have serious concerns that the

A5-2

A5-3

A5-4

A5-5

construction of additional water wells, a water treatment facility, and a wastewater treatment facility on the property would have significant environmental impacts including a major impact on the surrounding wetlands in the City's MainStreet area including the 14.2 acre cypress preserve wetland that acts as a major feature in the City's downtown development. The health of the wetland is very fragile and warrants the elimination of any alternative that involves the construction of additional water wells. If any of the viable alternatives consider the construction of additional water wells on trust property, a thorough environmental analysis of its impacts on the drinking water wells in the local community and the impact on the above wetlands should be completed and presented as part of the documentation in the EIS. The Cocomar Water Control District through the Broward County Planning and Redevelopment Division provided us with the following statement to include in our comments regarding the environmental impact of developing water wells on the proposed trust property:

A5-5
Cont.

"If the Tribe develops its own Biscayne Aquifer potable water supply wells on site, then there would be a resulting drawdown of the adjacent groundwater and surface water elevations that could impact nearby wetlands and environmentally sensitive lands."

Please be advised that any mitigation of this environmental issue that involves additional recharge pumping into the adjoining canal system would not be allowed due to the South Florida Water Management District Regional Water Availability Rule which does not allow pumping that could impact the Everglades.

A5-6

5. It is stated in the DEIS for Sub-Alternative A-1 and Alternative B under Section 4.14 that if it is infeasible to build new wells and water and wastewater treatment plants on the 45.595 acres, then the Seminole Tribe would contract with the neighboring cities of Coral Springs or Margate. This, too, is prohibited for many reasons. First, the 1999 MSPA between the City and the STOF which was approved by the BIA specifically prohibits this in Section 1.1. Second, Broward County has approved property boundaries for providing water and wastewater services by the City of Coconut Creek. This area is designated to be served solely by the City of Coconut Creek. The City has provided capital infrastructure and has obtained costly reserve capacity to enable services to be provided to this property and thus has a proprietary interest in the area to be serviced over any other Broward County municipality or utility provider. Third, the STOF would be required to obtain easements from the City in order to connect to either of the other municipal systems but those easements could not be approved due to the agreed upon stipulations of the MSPA and the proprietary interests of the City.

A5-7

The Water and Wastewater Feasibility Study commissioned by Analytical Environmental Services (AES) and performed by HydroScience Engineers, Inc. recommends in Section 5 of the DEIS that the project connect to the City of Coconut Creek for Water and Wastewater (pg. 31).

6. The fact that the 1999 Municipal Service Provider Agreement between the STOF and the City as approved by the Bureau of Indian Affairs is the document that legally binds the City and the STOF for the provision of City services on current and future trust lands is confirmed by STOF through its September 22, 2006 Seminole Tribe of Florida Application For Trust Status of 43.965+/- Acres filed with the Department of the Interior through the Bureau of Indian Affairs.* This Seminole Tribe Fee-to-Trust Application to the BIA states the following:

Section F. 6. WATER & WASTEWATER SERVICES / GARBAGE & RECYCLING:

*Pursuant to Section 1.1 of the Municipal Service Provider Agreement and a separate Water & Wastewater Agreement dated September 10, 1999 (Attachment 14), the City shall provide water and wastewater services for a fee @ 125%** of the rate charged City of Coconut Creek residents. Services for garbage, recycling, and removal of debris are provided for in Section 1.4 of the Municipal Service (Provider) Agreement.*

Section F. 4. FIRE, FIRE RESCUE AND EMERGENCY MEDICAL SERVICES

Pursuant to Section 1.2 of the Municipal Service Provider Agreement, property fire services, fire rescue services, and emergency medical services are provided by the City of Coconut Creek. For said services, the Tribe pays fees similar to that charged by the City to other commercial establishments.

In addition to the above, the June 18, 2007 Munitytics report entitled "The Fiscal and Economic Analysis, Seminole Tribe of Florida, Seminole Casino Coconut Creek Expansion" which was commissioned by STOF to perform the socioeconomic analysis for the trust application and which is included in Appendix I of the DEIS, states the following:

Fiscal Impact to Political Subdivisions

The City of Coconut Creek has an existing Municipal Service Provider Agreement with the Tribe that provides for payments in lieu of taxes in exchange for the City of Coconut Creek's pledge to provide various services to the Tribe. The Agreement provides for the payment to the City of Coconut Creek an annual amount of \$1,500,000, adjusted annually for increases in a specified Consumer Price Index. Further, the Agreement

* The application was amended to include 1.68+/- acres of City vacated 40th Street for the construction of the projecting increasing the application to 45.595 acres.

** Authority, Section 180.191 Florida Statutes

between the Tribe and the City contemplated a future expansion of the Tribe's operations and the placing in Trust of additional lands. The Tribe is obligated at that point to make additional annual contributions to the City of amounts equal to the sum of utility fees, franchise fees, and property taxes which would have been assessed on the property were the lands not placed in Trust.

A5-8
Cont.

7. The 2011 Coconut Creek Fee to Trust Lands Mitigation Agreement with the Seminole Tribe of Florida provides for mitigation of impacts not contemplated in the 1999 Municipal Service Provider Agreement (MSPA) and reaffirms the MSPA. Specifically, Section C of the Mitigation Agreement on page 13 states the following:

VALIDITY OF MUNICIPAL SERVICE PROVIDER AGREEMENT BETWEEN THE CITY OF COCONUT CREEK AND THE SEMINOLE TRIBE OF FLORIDA

The CITY and STOF hereby recognize an Intergovernmental Agreement (IGA) titled as a Municipal Service Provider Agreement, entered into between the CITY of Coconut Creek and the Seminole Tribe of Florida, dated September 10, 1999, as interlineated on April 19, 2000, and May 11, 2000, and amended on October 12, 2006. The CITY and STOF hereby acknowledge and agree that the IGA known as the Municipal Service Provider Agreement, as interlineated and amended remains in full force and effect between the parties thereto, and is not amended, repealed, replaced, altered, adjusted, modified, superseded, or revised by any term or condition of this Agreement. Notwithstanding the foregoing, upon receipt by the CITY of the first payment of the initial Tribal Annual Contribution under Paragraph A.3. or the onetime payment under Paragraph A.4, the CITY shall release STOF from its obligation to purchase a minimum five acre parcel for the CITY as set forth in Paragraph 3.2 of the Municipal Service Provider Agreement between the parties hereto dated September 10, 1999, as interlineated on April 19, 2000 and May 11, 2000 and as amended on October 12, 2006.

A5-9

B. SPECIFIC COMMENTS

The following comments address specific information contained in the DEIS by page or section number:

DEIS at 1-1: A complete description of the Proposed Action is required, and as such, the precise acreage covered by the application should be specified throughout the EIS, rather than "approximately 45-acres." By the City's calculation, 45.595 acres are subject to the request.

A5-10

The EIS repeatedly refers to the consideration of "environmental impacts." NEPA also requires the consideration of socioeconomic, land use, and cultural impacts. The EIS

A5-11

headings and introductory discussion should be clear that the NEPA analysis includes all of those categories of impacts.

A5-11
Cont.

Section 1.4: The purpose and need description included in the DEIS has been greatly expanded and improved over the statement proposed in the scoping process. The City believes that the statement could be strengthened by a reference to the City and STOF's Mitigation Agreement. The 2011 Agreement is an innovative and constructive document that resulted from extensive negotiations between the STOF and City. The net effect of this Agreement is to ensure cooperation between the City and the STOF. The purpose and need statement should make express reference to the Agreement and reflect that the STOF and local government have worked together to achieve a mutually beneficial project. We therefore recommend the addition of the following statement:

A5-12

Furthermore, a purpose of the Proposed Action is to implement the Coconut Creek Fee to Trust Lands Mitigation Agreement, between STOF and the City of Coconut Creek. The parties have developed the Agreement in an express effort to mitigate the potential impacts of the Proposed Action on the City.

DEIS at 2-2: Page 2-2 discusses the potential for a lawsuit to overturn the City's actions related to this proposal. Such a lawsuit has already been unsuccessful at the temporary injunction stage, and the draft EIS should discuss that case and its outcome. Attached please find the court order from the 17th Judicial Circuit dated December 15, 2011.

With regard to any pending litigation brought against the City and the STOF, it is important to note the nature of the allegations set forth in these lawsuits. Specifically, the pleadings are directed to the validity of the approvals and permits issued by the City for the past or future development of the Proposed Project as undertaken or proposed by the Tribe. These approvals and permits relate solely to zoning approvals, site plan approvals, Development of Regional Impact (DRI) approvals, Comprehensive Plan approvals and the like. Nowhere in these lawsuits are there any allegations as to the services rendered by the City to the STOF pursuant to the 1999 Municipal Service Provider Agreement, including water and wastewater (sewer) services, nor any attack upon the Municipal Service Provider Agreement itself. Therefore, only one legal conclusion can be drawn regarding the Municipal Service Provider Agreement as a binding and enforceable legal contract and as to the City providing water and wastewater service and fire/EMS to the STOF: the courts do not have jurisdiction over the service issues, and any appeal periods to legally attack the Municipal Service Provider Agreement have long expired.

A5-13

DEIS at 2-3: Page 2-3 states that "alternatives considered must include those that offer environmental advantages over the Proposed Project and may be feasibly accomplished." NEPA does not require the consideration of all such alternatives that offer "environmental advantages." NEPA requires the consideration of "reasonable alternatives," and some that offer "environmental advantages" may not be reasonable

A5-14

40 C.F.R. Section 1502.14, 1508.25; see also Vermont Yankee Nuclear Power Corp. v. National Resources Defense Council, Inc. 435. U.S. 519 (1978). The City believes that with the removal of Sub-Alternative A-1, the reasonable alternatives have been properly identified.

A5-14
Cont.

DEIS at 2-8: The **Parking** section should include a statement noting that the existing parking structure on non-trust property was recently completed and provides for 2471 parking spaces.

A5-15

DEIS at 2-8: The **Water Supply** section states... "potable water lines that extend around all sides of the project site, except along east of Tract B." There is no watermain parallel along the east side of Tract B as stated, but there is an existing watermain stub.

A5-16

DEIS at 2-9: Under **Wastewater Treatment and Disposal** – the existing wastewater transmission configuration should also be included in the text.

A5-17

DEIS at 2-10: It should be noted in the **Public Health and Safety** section that all viable alternatives must reflect the requirement stipulated in Section 3.4 of the 1999 MSPA entitled **Compliance with South Florida Building Code for Additional Trust Lands**. This section states:

*Any and all improvements and buildings constructed on additional trust lands in the City of Coconut Creek shall be constructed in compliance with the South Florida Building Code, Broward County Edition, as amended or **superseded** at the time of construction of any improvements and buildings to the additional trust lands. The Seminole Tribe shall submit site plans for any proposed development on these additional trust lands for the City's review and comment ninety days prior to the commencement of construction. The Seminole Tribe agrees to provide and deliver to the City the building plans and as built plans with a certificate with an engineer's seal that all the improvements and buildings comply with the South Florida Building Code, Broward County Edition, as amended or superseded at the time of construction of any improvements and buildings to the additional trust lands. **The South Florida Building Code has been superseded by the Florida Building Code and should be noted.***

A5-18

DEIS at 2-11: Under the **Fire and Emergency Medical Service** section, the last sentence should be deleted. The City will be providing this service in accordance with the MSPA.

A5-19

DEIS at 2-11 and any other section that discusses service provisions for Sub-Alternative A-1 and Alternative B: The comments presented in A. above should be reflected in the sections that discuss "service provisions."

A5-20

DEIS at 3.3-2: Hydrology and Water Quality – As previously stated, "discharge of pollutants to water is not permitted." The DEIS still includes it as a possibility, if allowed by the NPDES permit. City and County regulations will not allow discharge of pollutants in waterbodies. This reference should be removed.

A5-21

The discussion of beneficial uses (page 3.3-1) should be combined with the discussion of anti-degradation (page 3.3-5) in the "National Pollutant Discharge Elimination System" section, under the "Point Source Discharges" subheading. A proposed statement would read:

The CWA requires states to develop water quality standards. A water quality standard is composed of: 1) Designated uses of a waterbody which set the water quality goals of a waterbody (e.g., resident fish and aquatic life, water contact recreation), 2) Water quality criteria that define the minimum conditions necessary to achieve the designated uses, and 3) Antidegradation policy that prevents existing water quality from degrading unless specific circumstances apply. The State of Florida has developed its own antidegradation policy in accordance with the CWA, which is incorporated into the NPDES permit process. In addition, under section 401 of the CWA, for all NPDES permits issued by the USEPA (and other federal permits issued in Florida that may result in a discharge to waters of the United States), the State of Florida must review the permit and certify that the permit will not cause a violation of state water quality standards. Both the specific classification of waters by the Florida Department of Environmental Protection and the state's anti-degradation policy are described more fully in the "State Regulatory Setting" section.

A5-21
Cont.

DEIS at 3.5-12: The DEIS refers to an EA issued for the Proposed Action in 2005. BIA withdrew that EA/FONSI on December 22, 2008. The EIS should be revised to indicate that the EA was withdrawn and is not relied on for purposes of this NEPA review.

A5-22

DEIS at 3.10: Utilities and Public Services - Under the sections entitled "Water Supply," the second to last line should read, "To facilitate development on the project site through existing development agreements (PMDD) between STOF and City, the City has guaranteed "reserve capacity" from Broward County and has provided transmission infrastructure to supply the future water supply demand of development. Under the sections entitled "Wastewater Service," the following additional sentence should be added to the first paragraph, "The City has guaranteed and paid for "reserve capacity" from Broward County to supply the future demand for wastewater treatment on the project site."

A5-23

DEIS at Section 4.0: Environmental Consequences - In an effort not to be redundant, any and all comments previously made in this letter which also pertain to those relevant subsections in Section 4, are hereby incorporated as set forth above.

A5-24

DEIS at 4.2-2: Geology and Soils - Well drawdown and lowering of water table for alternatives A1 and B may affect the buildings in the vicinity, including but not limited to the Seminole owned building and adjacent auto dealership. Well drawdown may cause unwanted settlement of said building. A geotechnical analysis should be conducted.

A5-25

APPENDIX E: Transportation Planning Study

Page 2-8:

Item 1. This item discusses the intersection of Sample and NW 54th Avenue. The last line of the paragraph indicates that implementation will be made when warranted by traffic conditions. This sentence should be clarified to say during Phase 3 or when traffic conditions warrant, whichever comes first.

Item 8. Cullum Road is proposed as a four lane section in the areas from NW 54th Avenue and Banks Road. The report incorrectly indicates a two-lane section.

Page 2-10:

Item 11. The West Perimeter Road Greenway between the Sample Road connection and the NW 40th Street connection is referenced as an action which primarily involves enhanced landscaping along the existing two-lane road. This is incorrect. It includes the construction of a 12 foot wide multi-purpose path and landscaping and amenities.

A5-26

Page 3-28:

Table 3-16 makes reference to the NW 39th Street Greenway. This improvement is referenced from several other documents, and should be clarified as the City is unaware of this named Greenway. Please clarify the location of this facility.

C. Technical Sufficiency of the Preliminary Draft Environmental Impact Statement

In addition to the general issues and specific comments discussed in the preceding sections of this letter, the following technical issues should be addressed.

1. **Impacts on and Potential Integration with the City's MainStreet Project and Standards of Development** – Please note as part of the 2011 Mitigation Agreement, the City negotiated and the STOF agreed to abide by certain design standards to assure integration of the site with the remainder of MainStreet. This requirement is important to assure land use compatibility.
2. **General Traffic Impacts** – Alternative A and Sub-Alternative A-1 include Signalization of the West Access, specifically of the northbound SR 7 approach and NW 40th Street connector. This improvement as proposed mitigation has not been studied by the City and was not included as part of the approved DRI or PMDD. The final design of this improvement and the funding for this improvement must be clarified as it may not be feasible due to site constraints.
3. **Noise Impacts** – Noise from outside events and concerts has not been addressed.

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A5-28

A5-29

4. **Utilities** – If an alternative involving the STOF digging water wells and building a water treatment facility and a wastewater treatment facility is to be included in the EIS, additional studies must be performed. The full environmental impact due to well drawdown must be identified and mitigated. It must also be noted that due to delicate environmental balance, withdrawal from the Biscayne Aquifer has been capped and access/impact to the Floridian Aquifer is still questionable. As discussed previously, the City believes the current alternatives on this proposal are not appropriate, and should be moved to the *Alternative Eliminated from Further Consideration* section. **The City also requests that Alternative A not include Sub-Alternative A-1.**
5. **Visual Impacts and Aesthetics** – The Mitigation Agreement must be included in all Alternatives to reflect the agreement between the City and the STOF that the MainStreet Design Standards are followed.
6. **Socioeconomic Impacts** – The Socioeconomic Impact Analysis needs to be updated to include payment provisions from both the MSPA and the Mitigation Agreement for all viable alternatives presented.
7. **Fire/Emergency Medical Services** – The MSPA provides that the City will provide fire/ emergency medical services for all STOF properties and should be noted in all alternatives presented. This also includes medical transport services.
8. **Water Resources and Impacts on Wetlands** – Although the City does not believe that Sub-Alternative A-1 should be included as a viable alternative, there are serious concerns about the management of surface water, especially as it relates to flooding. Since the entire STOF property is a part of the master drainage system/basin, the practicality and system-wide advantage of storing flood-water under an existing 7 story garage are questionable. The existing system consists of well-connected surface water lakes and canals. It has superior overflow capacity and flood-protection for the entire drainage basin. Any alternative that provides for drilling water wells for water supply will have a significant negative impact on the wetlands in the area and needs further study before considered. Sub-Alternative A-1 should be eliminated or considered a separate alternative apart from Alternative A.
9. **Mitigation Measures** – Mitigation measures have been addressed in the 2011 Fee to Trust Mitigation Agreement approved by the City and the STOF and must be included and referenced in **ALL** alternatives with its mitigations clearly listed in the appropriate categories.

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A5-31

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A5-33

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A5-35

The City of Coconut Creek strongly emphasizes that the provisions of the 1999 MSPA (as a separate document) and the 2011 Mitigation Agreement should be included in all of the viable alternatives presented in the EIS. The City of Coconut Creek and the

Seminole Tribe of Florida, after extensive negotiations, developed the Mitigation Agreement in an express effort to abate the potential impacts of the Proposed Action on the City and ensure the support of the City to STOF's development efforts. We unequivocally support Alternative A with the removal of Sub-Alternative A-1 from it.

A5-35
Cont.

The City appreciates the opportunity to participate as a cooperating agency. Through City's comments, we believe a strong and accurate DEIS has been produced. The City requests that it be allowed to continue to serve in that role, and we ask to be provided with the preliminary final EIS for review and comment as a cooperating agency.

A5-36

Thank you for considering the City's comments. If you have any questions or need additional information, please contact me.

Sincerely,



MARILYN GERBER
Mayor

cc: Coconut Creek City Commission
David J. Rivera, City Manager



REGIONAL DIRECTOR
DIA-ERD

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October 12, 2012

Franklin Keel
Eastern Regional Director
Bureau of Indian Affairs
545 Marriott Drive, Suite 700
Nashville, TN 37214

Dear Mr. Keel:

RE: Draft Environmental Impact Statement for the Proposed Seminole Tribe of Florida Fee-to-Trust, City of Coconut Creek, Broward County

As a result of the public hearing attended by City staff on October 9, 2012, this letter is to provide comments on the Draft Environmental Impact Statement for the above-referenced proposal.

Over the past few years, the City has worked in conjunction with the South Florida Regional Planning Council (SFRPC), Broward County, and adjacent cities on the impact this proposed development will have on our region. SFRPC completed an analysis of the regional impacts from the proposed development which showed an overall impact of \$4.2M annually on county and municipal services. Of this impact, \$1.3M would directly impact the City of Coral Springs providing for additional provision of public safety and municipal services.

A6-1

This proposed development will also impact the regional transportation system. Three of the City's major arterials, Sample Road, Wiles Road and US441/State Road 7 will all see substantial impacts from this development. In addition, the recent removal of a proposed University Drive north-south connection between Broward County and Palm Beach County will further exasperate the already impacted roadways for this proposed development.

A6-2

Over the past few years, the cities of Coconut Creek, Coral Springs, Margate and Parkland have been working collaboratively on transportation related issues and future land uses for the region. This work continues and through this effort, future transportation improvements including enhanced transit opportunities will be necessary to make this region sustainable.

A6-3



Franklin Keel
October 12, 2012
Page 2

As a result of the above, the City continues to have serious concerns about the proposed expansion. Thank you for an opportunity to comment on this proposed development.

Sincerely,



Erdal Dönmez
City Manager

cc: John Hearn, City Attorney
Susan Hess, Community Development Director



CITY OF PARKLAND

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October 11, 2012

Franklin Keel
Eastern Regional Director
Bureau of Indian Affairs
545 Marriott Drive, Suite 700
Nashville, TN 32714
Development and Environmental Regulation Division

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REG. DIV. DIRECTOR

RE: DEIS Comments, Seminole Tribe of Florida Fee-to-Trust Project

Dear Mr. Keel:

The City of Parkland ("City") has concerns about the proposed development located northeast of the intersection of State Road 7 / U.S. 441 and Sample Road. The following comments focus on the traffic and public safety impact to the City from the proposed expansion to the existing Seminole Casino:

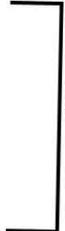
1. As required by Florida Statute, local governments are encouraged to coordinate with adjacent local governments for the purpose of using common methodologies for measuring impacts on transportation facilities. The City was not involved in the development of the methodology for this study.
2. The transportation planning study utilized a 5% significance threshold within the city of Coconut Creek. However, it is standard practice of Broward County to utilize 3% significance on large scale projects. Please revise analysis with 3% threshold.
3. Trip generation for the expansion project shows a net increase of 521 trips if one is using the existing calculation for trips per gaming unit at the existing casino. However, this was based upon calculated data from the Hard Rock Hotel & Casino, ITE and the existing Seminole Coconut Creek Casino. Ultimately, the build-out trip generation utilized the existing Seminole Coconut Creek Casino (0.6388 trips per gaming unit) trip per gaming unit to project trips, when it appears that the Hard Rock Hotel & Casino trip generation rate (0.9405 trip per gaming unit) may have been more appropriate. Please provide a trip comparison, additional backup for this assumption and data from additional Seminole casinos, such as the Hard Rock located in Tampa, FL.

A7-1

A7-2

A7-3

4. The City also has concerns with public safety and service for law enforcement for the residents. With a potential increase in traffic and crime, additional officers are needed for traffic patrol and criminal investigation on a 24-hour, 7-day-a-week basis. The development is expected to bring additional visitors to the project vicinity which would also lead to an increase in demand for fire and rescue services around the project area.



A7-4

While there exists the possibility of other impacts on the City of Parkland from the proposed expansion, the City's main emphasis is on the safety and well-being for all Parkland residents. We thank you for the opportunity to review and provide comments on the Draft Environmental Impact Statement (DEIS) prepared for the Seminole Fee-To-Trust Development Project, also known as the Seminole Coconut Creek Casino Expansion Project. If you have any questions, please do not hesitate to contact me at 954-753-5040.

Sincerely,

Tamara Allen Frost
Planning & Zoning Director



SOUTH FLORIDA WATER MANAGEMENT DISTRICT

October 4, 2012

Mr. Franklin Keel
Eastern Regional Director
Bureau of Indian Affairs
545 Marriott Drive, Suite 700
Nashville, TN 37214

Dear Mr. Keel:

Subject: Draft Environmental Impact Statement for the Proposed Seminole Tribe of Florida Fee-to-Trust, City of Coconut Creek, Broward County, Florida

Thank you for the opportunity to review the Draft Environmental Impact Statement (DEIS) Seminole Tribe of Florida (Tribe) Fee-To-Trust. The South Florida Water Management District (SFWMD) has completed its review of the DEIS provided by the Bureau of Indian Affairs. The DEIS addresses potential environmental effects of transferring 45-acres of Tribe fee simple lands into federal trust for the Seminole Tribe of Florida. The SFWMD does not have comments on the transfer of land to Tribal Trust status. However, the SFWMD offers the following recommendations in preparing the Environmental Impact Statement for the proposed action and for project development, assuming the land is transferred to Tribal Trust status:

A8-1

- The chosen Alternative A indicates water supply needs will be met via either on-site water supply and wastewater treatment systems or connection to a regional utility provider. The SFWMD encourages the Tribe consider connection to a permitted, regional municipal utility provider to more closely harmonize Tribal water supply interests with Florida's water right allocation system and, thereby, increase certainty of their water supply.

A8-2

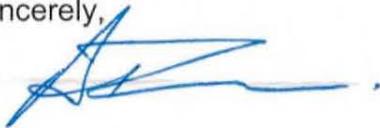
- As both proposed surface water management system design alternatives involve work on non Tribal Trust lands, the project, if pursued, will require review as part of an Environmental Resource Permit application. Review by staff determined the two proposed surface water management system design alternatives are viable; however, given that the Drainage Report (Appendix B) only summarized the model results and did not include the entire analysis, a complete surface water management system analysis will be required in order to allow staff to ascertain whether compliance with the SFWMD and Cocomar Water Control District design criteria has been achieved.

A8-3

Mr. Franklin Keel
October 4, 2012
Page 2

We appreciate the Bureau of Indian Affairs and the Tribe's willingness to work cooperatively with the SFWMD in developing sound, sustainable solutions to meet the Tribe's future water supply needs and to protect the region's water resources. If you have any questions, please contact me at (561) 682-6684 or via email, aramire@sfwmd.gov.

Sincerely,



Armando Ramirez
Tribal and Federal Affairs Liaison
Office of Everglades Policy and Coordination
South Florida Water Management District

AR/pv

c: Craig D. Tepper, Seminole Tribe of Florida
Jim Shore, General Counsel, Seminole Tribe of Florida
Stephen A. Walker, Esq., Lewis, Longman & Walker, P.A.

WRITTEN COMMENT CARD

BUREAU OF INDIAN AFFAIRS - DRAFT EIS PUBLIC HEARING
SEMINOLE FEE-TO-TRUST PROJECT
CITY OF COCONUT CREEK, FLORIDA

CITY OF COCONUT CREEK COMMISSION CHAMBERS
October 9, 2012

IF YOU WOULD LIKE TO SUBMIT A WRITTEN STATEMENT, PLEASE COMPLETE THE FOLLOWING INFORMATION AND COMMENT IN THE SPACE PROVIDED BELOW. GIVE TO ATTENDANT OR DROP IN THE WRITTEN COMMENT BOX. COMMENTS MAY ALSO BE SUBMITTED BY MAIL TO THE ADDRESS LISTED BELOW.

(Please write legibly)

Name: MARTIN GOLDMAN Organization: —

Address: 2660 NW 42ND AVE COCONUT CREEK, FL 33066

Comment: I WAS PRESENT @ THE MEETING HELD AT THE COCONUT CREEK'S COMMISSION CENTRE ON OCTOBER 9, 2012.

IT DOES NOT SEEM TO ME THAT THERE IS ANY REASON NOT TO APPROVE THIS DEVELOPMENT.

Please give to attendant, drop in Written Comment Box, or mail to the Bureau of Indian Affairs, Attention: Mr. Franklin Keel, Regional Director, Bureau of Indian Affairs, Eastern Region, 545 Marriot Drive, Suite 700, Nashville, TN, 37214. Please include your name, return address, and the caption: "DEIS Comments, Seminole Fee-to-Trust Project," on the first page of your written comments.

RECEIVED
2012 OCT
P 2:07
REGIONAL DIRECTOR

11-1

UNITED STATES DEPARTMENT OF INTERIOR
BUREAU OF INDIAN AFFAIRS

PUBLIC HEARING

ADDRESSING THE BURDENS AND NEGATIVE ENVIRONMENTAL IMPACT
OF THE APPLICATION OF FEE TO TRUST OF 44 ACRES LOCATED IN COCONUT CREEK FL
BY THE SEMINOLE TRIBE OF FL

Page | 1

ORAL TESTIMONY OF KAREN STENZEL-NOWICKI, DAVIE FL

October 9, 2012

My name is Karen Stenzel-Nowicki. I am a 28 year resident and property owner in the Town of Davie FL located 2 miles west of the Seminole Tribe of FL property on US441/SR7 in Davie and Hollywood, over the FL Turnpike now known as the Seminole Hard Rock Hotel and Casino, Hollywood.

Let me preface my public testimony by stating my heritage is rich in Native American Culture.

My great-grandmother was a member of the Shinnecock of Long Island Tribe.

<http://www.bia.gov/idc/groups/xofa/documents/text/idc002764.pdf>

They were culturally affiliated with, as well as politically subject to, the Pequot and Narragansett, the more powerful tribes of southern New England across Long Island Sound.

Like the other Native peoples of Long Island, the Shinnecock made *wampompeag* (wampum), shell beads strung onto threads that were used as currency, for record-keeping, and for aesthetic purposes. These shell beads have been found at inhabited sites as far west as the Rocky Mountains, showing their value in trade. Although other New England tribes produced *wampompeag*, the Indians of Long Island are reputed to have made the best. The tribe was subject to raids by the Pequot and other New England tribes to control this valuable trade commodity. The Europeans quickly learned the value of the Shinnecock *wampompeag* in trade with other tribes.

While the Shinnecock's history can be traced prior to the year 1700, the tribe was only recently recognized in 2010 as a Native American Tribe by the United States Government. And, currently are in negotiations with the State of New York to secure non-native land for gaming. Their reservation is located in Southhampton, Long Island, New York.

I2-1

However, we are not here today to discuss Native American Culture. We are here today to discuss the acquisition of non-native lands by a Native American Tribe, namely the Seminole Tribe of FL and their application to the United States Government, Department of Interior, Bureau of Indian Affairs. This is also about non-native business, "big business", namely hotels, gaming and entertainment, and the vast environmental impact these non-native activities have on the suburban and urban communities they are surrounded by in Broward County FL.

Page | 2

For the past 12 years our Davie community has suffered immeasurable harm at the hands of the Seminole Tribe of FL as a result of their non-native activities taking place and emanating from their property on US441/SR7 in Hollywood-Davie FL prior to, and, subsequent to re-development of their property into what is now the Seminole Hard Rock Hotel and Casino, Hollywood FL. And, for the past 12 years it has been brought to the attention of local, county, state and federal government, their agencies ,and, their elected and appointed representatives charged with jurisdiction over this including the US Congress, the US Department of Interior, Bureau of Indian Affairs and the National Indian Gaming Commission.

12-2

The 12 year record of these abuses include, but are not limited to negative environmental impact, fire safety hazards and crime including alcohol related driving, robbery, rape and suspicious deaths on their properties. Using Public Open Space Parks and Lakes for Tribal Fire Department training drills against local, county and state statute. The abuses also include the eviction of many hundreds of citizens from mobile home parks without the proper state mandated exit plan or proper compensation required by state law. This record includes , but not limited to Federal, State, County and Town documents, police reports, sound meter readings, video documentation, correspondence and news coverage.

Some of the negative environmental impacts which continue up to this day over Columbus Day Weekend include horrendous bass noise emanating from their property at all hours of the day and night often until 5am in the morning from the previous afternoon without ceasing. The bass noise reaching recorded sound meter levels above 100, not only permeates the environment over 2 miles away, it

causes serious tremors and vibrations shaking homes and structures. Fireworks explosives lasting at least 30 minutes with "Finales" likened to bombs being dropped on the surrounding communities creating tremors and inflicting fear in all around them including human as well as animal life.

Often, these Fireworks explosives are during "Red Flag" alerts in the State of FL when we are under severe fire warnings. The explosives wreak havoc on surrounding communities' families, residences, pets, businesses, livestock, wildlife who inhabit our Open Space Parks, "Protected" Wildlife Wetland Preserves and affect health including myself getting migraine headaches.

My daughter, who is an Honors Biology Pre-Medicine Major in her senior year at Florida Atlantic University, serving in Student Government, a community mentor of children and assisting the neighborhood elderly, is unable to study in her room because of the environmental abuses inflicted on the surrounding community by the Seminole Tribe of FL and their unregulated, uncontrolled "nonnative activities" taking place on their property.

Without success, the Tribe has tried to "cover up" these environmental abuses via the traffic sound of the FL Turnpike and other superficial, unsuccessful remedies.

What is most disturbing about this unmitigated assault on the surrounding communities by the Seminole Tribe of FL and it's leaders are responses given to members of the surrounding community. When asked to stop these non-native activities which are negatively impacting the quality of life and the ability of families and businesses to peacefully coexist, the Tribe and it's representatives' response is, "We can do what we want, we don't give a "SH--", we've got so much money, sue us because you'll lose and we'll win". I have personally been the recipient of this exact response on numerous occasions.

Perhaps, the most public comment was made by Seminole Tribal leader, Max Osceola at the Hard Rock Café location in Times Square, Manhattan, during the press conference at the announcement of the Seminole Tribe of FL's acquisition of the Hark Rock International Enterprise, "Our ancestors sold Manhattan for trinkets. Today, with the acquisition of the Hard Rock cafes we're going to

buy Manhattan back one hamburger at a time".

Recent WRITTEN testimony OF JOHN ECHOHAWK, EXECUTIVE DIRECTOR OF NATIVE AMERICAN RIGHTS FUND on Sept. 13, 2012 to the US SENATE COMMITTEE ON INDIAN AFFAIRS ADDRESSING THE COSTLY ADMINISTRATIVE BURDENS AND NEGATIVE IMPACTS OF THE CARCIERI AND PATCHECK DECISIONS argues the costs of the U.S. Supreme Court's 2009 decision in Carcieri v. Salazar, and, the U.S. Supreme Court's more recent decision in the Match-E-Be-Nash-She-Wish Band of Pottawatomi Indians (Gun Lake Tribe) v. Patchak, to the Native American Tribes, putting the tribes in danger of losing opportunities for economic development projects, increasing on-reservation housing for tribal members, including the elderly, and many other tribal governmental initiatives.

Mr. Echohawk argued the U.S. Supreme Court's decision based on the construction of the language from 25 U.S.C. Statute 479, "any recognized Indian Tribe now under Federal jurisdiction" which requires an Indian Tribe to be under federal jurisdiction by 1934 in order to make application of non-native land into their tribal land trust, was detrimental to the Indian Tribes' future economic opportunities, and, "TRAMPLES" over the "sovereign immunity of the United States and the once-broad protections for Indian lands under the Quiet Title Act". As well as it's ambiguity of "under Federal jurisdiction" and "Federally recognized" Indian tribes.

Further, Mr. Echohawk argued the immediate need for the United States Congress to take immediate action now to tell the Court in no uncertain terms that it got it wrong in Carcieri, to avert a "catastrophic crisis" that there is nothing exceptional about Indian law, and nothing special to protect the relationship between the United States and its Indian people.

I stand before you today testifying it is the United States Government who HAS NOT offered protections to it's own people against horrendous, ongoing abuses by the Seminole Tribe of FL, the Tribal representatives and it's non-native activities. The abuses over the past 12 years are "clearly well-documented" and have created terrible hardship on the surrounding communities, affecting their

health, well-being and welfare. And, the ability to peacefully exist and have peaceful enjoyment of their homes and families, and to conduct business in a peaceful environment conducive to future economic growth necessary for surrounding communities to prosper.

Page | 5

I stand before you, testifying of the EVICTION of families including children, disabled and the elderly residents of Davie FL from the Stirling Road Mobile Home Park without the Seminole Tribe of FL filing the proper Exit Plan to the State of FL providing for replacement housing and proper financial remuneration.

And, I stand before you, testifying as we speak, the Seminole Tribe of FL has in the past 2 weeks filed EVICTION NOTICE ON many hundreds of Senior Citizens, elderly, disabled and infirmed living on the Stirling Estates Mobile Home Park located on their US441/SR7 property in Hollywood FL leaving most of these elderly, disabled and infirmed without a place to go and without the financial means to do so.

It is now with GREAT URGENCY, the IMMEDIATE responsibility of United States Government and ALL the members of the United States Congress to see clearly what is really occurring and being inflicted on it's citizens at the mercy of the Seminole Tribe of FL. And, to take swift, immediate action by enacting legislation that PROTECTS SURROUNDING COMMUNITIES, IT'S RESIDENTS AND BUSINESSES from the abuses by Indian tribes and their "non-native activities", namely the Seminole Tribe of FL, it's representatives and it's non-native activities and businesses.

And, it is the United States Government and the United States Congress who must continue to recognize the necessity to protect the rights of the local, county, state and federal jurisdictions over "non-native land" acquired by Indian tribes in the United States. "Sovereign-immunity" was not meant for use by the Indian tribes to "TRAMPLE" over the rights of the citizens of this great nation, the United States, in which all Indian tribes are "Dependent Nations" and enjoy many entitlements.

12-4
Cont.

My 12 year record is available for review by all government agencies, departments, committees from the federal to local level, to all elected and appointed officials from members of the United States Congress to the municipal leadership charged with protecting it's citizens.

In closing, based on my testimony, and my record, which is available for review upon request, it is IMPERATIVE the United States Government, Department of Interior, Bureau of Indian Affairs DENY THE APPLICATION MADE BY THE SEMINOLE TRIBE OF FL TO ENTER INTO THEIR TRIBAL LAND TRUST THE 44 ACRES LOCATED ON US 441/SR7 IN COCONUT CREEK FL. AND, FURTHER, TO TAKE IMMEDIATE ACTION TO PROTECT THE SURROUNDING COMMUNITIES OF THE SEMINOLE TRIBE OF FL PROPERTIES LOCATED IN DAVIE, HOLLYWOOD, COCONUT CREEK AND ELSEWHERE IN FL FROM FURTHER ABUSES AND NEGATIVE IMPACT AT THE HANDS OF THIS INDIAN TRIBE, NAMELY, THE SEMINOLE TRIBE OF FL.

The Miami Herald

Posted on Thu, Oct. 04, 2012

Seminole Tribe forcing mobile home residents to leave

BY DANIEL CHANG

The Miami Herald



Olga Torregrossa will not be able to move her mobile home. Instead, she's packing up her Hummel figurine collection and a love seat that opens into a twin-size bed and moving in with a friend. "I'll have to make a new life," Torregrossa said.

Home since 1972 has been a double-wide mobile home with wood paneled interior walls, a simple but elegant living room, and a screened front porch from where Olga Torregrossa has watched her 55-and-older deed restricted community grow alongside the Seminole Tribe's casinos near Hollywood.

Just as the Seminole Mobile Home Estates grew from a small trailer park to one of the biggest in Broward — with more than 700 units, and about 1,500 non-tribal residents — the tribe's casinos to the north exploded from a modest bingo hall in 1979 to the lavish, Las Vegas-style Seminole Hard Rock Hotel and Casino that debuted in 2004.

But that symbiotic and sometimes contentious relationship will come to an end in summer 2013. The Seminoles have announced plans to close the park after buying out the management company that held a lease to run it through March 2024.

In case residents doubted the tribe's intentions, the Seminoles erected a chain-link fence around the community center, swimming pool, bowling alley, exercise room and other common areas on the same day the park's closure was announced.

Only the laundry room and mailbox bank remain open.

Residents, such as Torregrossa, 88, have been asked to leave, preferably by January.

"I have no choice," Torregrossa said as she stacked cardboard boxes for her move. "I feel like I'm leaving everything, all my friends."

Like many residents of the park, Torregrossa owns an older unit that may not survive a move. Its walls could buckle, or the roof could cave in.

Nor can all residents afford the estimated \$15,000 to \$30,000 expense to have a crew pull a

mobile home from the ground, tow it to a new park and set it up again.

Torregrossa said she plans to leave by mid-October and move in with a friend and neighbor who will have her mobile home towed to a park in Fort Lauderdale.

The friend's mobile home is big enough to accommodate Torregrossa, but not the decades worth of belongings she has amassed.

Torregrossa said she plans to take a love seat that opens into a twin-sized bed; an octagonal display case filled with her Hummel figurines collection; and some framed photographs of her late husband, Thomas Torregrossa, who died in 1985.

"At least there will be something there that I feel is mine," she said.

Everything else — the double-wide mobile home; the dining room and living room furniture that she shared with her late husband; the master bedroom set; the odds and ends of her life — will stay behind.

And though she is resigned to move, Torregrossa said she loses sleep mulling unanswered questions: Will she like the new park in Fort Lauderdale? Will she get along with her new roommate, who's a smoker unlike herself?

Torregrossa said the new park is much smaller than Seminole Mobile Home Estates and does not offer the amenities or the social activities that she enjoys, such as an exercise room and dance nights in the fall. On the other hand, she said, the new park sits on a nice lake.

"I'll have to make a new life," she said. "Maybe it will be better. Who knows?"

Still, Torregrossa cannot help but feel betrayed sometimes.

"What a rotten deal we're getting," she said. "I thought they'd carry me out. I never thought they'd throw us out."

Residents were given notice of the park's closure on Sept. 14, and many allege that park managers knew of the change years ago but neglected to inform residents, including several who bought their homes within the past several years.

Many residents said managers assured them the park would not close until 2024 under a long-term lease with the Bureau of Indian Affairs, which holds the land in trust for the Seminoles.

"People's lives are being destroyed," said Glenn Nitta, 63, who bought his home in 2004. "They allowed people to move in here, fix up their places or even buy new ones, and they knew all along what they were going to do."

Nitta said he was quoted a price of \$29,000 to move his double-wide mobile home to a park in Coconut Creek.

"This is my home. I own it," he said. "I'm able to move it because all my life I've been saving up money. I don't know what for. I guess this is it. But I'm going to be broke after this. My life savings

are gone.”

The Seminoles have said they are closing the park to build homes for tribal members. The mobile home park takes up about 110 acres of the total 497-acre reservation.

More than 200 tribal families are on a waiting list for housing on the reservation, said tribal spokesman Gary Bitner.

Although residents believed they could live in the mobile home park until 2024, the Seminoles only committed to keeping it open until 2013.

But that commitment was never put in writing for the residents.

“They weren’t told because it wasn’t clear cut,” Bitner said. “It’s not a decision that was made until this year.”

The Seminoles made the commitment to residents shortly after the tribe seized control of the property from the former management company, Hollywood Mobile Home Estates, in summer 2008.

The Seminoles forced that company off the property with no prior notice, and with a strong police presence, citing a litany of alleged lease violations that included desecration of a tribal cemetery.

But Hollywood Mobile Home Estates sued the Seminoles, and a federal judge ordered the tribe in July 2011 to return the park to the former management company. The tribe complied.

The Seminoles then negotiated to buy out Hollywood Mobile Home Estates, Bitner said, and the tribe reassumed management of the park this spring.

“Any discussion about a time frame of closing the park was pretty much speculation until the tribe did have management,” he said.

Residents said they don’t begrudge the Seminoles their land, but they are upset about the manner in which the tribe announced the closure and simultaneously erected padlocked fences around the park’s common areas.

Bitner said the tribe wanted to send a clear message.

“It was important to make the case that the park is indeed closing,” he said. “It couldn’t continue as business as usual because people need to realize that this is real. This is happening.”

Gerald Timmons, 69, who bought a home in the park in 2004, said he gets the message.

Now he wants the park’s managers to hear his: “We’ve been cheated,” he said.

Timmons produced a prospectus given to him by the park’s previous managers when he moved in. The documents include a copy of the master land lease, between the Seminoles and a group of private companies, which began in March 1969 and extends through March 2024.

Based on that master land lease, Timmons said, he paid \$15,000 for his mobile home, which was built in 1971. He invested another \$60,000 in improvements, including a covered porch, a car port, new siding, new plywood and sheetrock floors, new windows and a remodeled kitchen and bath.

But the improvements Timmons made to his home, particularly the floors, have made it impossible to move. He said a moving company told him that his mobile home is too heavy and may break if placed on a tractor trailer and hauled away.

As a year-round resident with a fixed income of less than \$40,000 a year, Timmons said he qualifies for the Seminoles' offer of financial assistance of up to \$3,000 for abandonment or moving expenses. He said he will sell what he can of his mobile home for scrap parts. But that's hardly enough to make up for the interruption of his plans.

Timmons, who has esophageal cancer, said he created a comfortable home for the long term. Now he feels like the bottom fell out.

"We had planned on staying in it until we died," he said, "and now it's being taken from us."

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DEIS COMMENTS
SEMINOLE TRIBE OF FLORIDA FEE-TO TRUST PROJECT

FROM POMPANO PARK, INC.
POMPANO BEACH, FL
OCTOBER 30, 2010

Comments submitted, on behalf of Pompano Park, by:

David O. Stewart
Ropes & Gray, LLP
700 12th St, NW
Washington, DC 20005
202-508-4610

Submitted to:

Franklin Keel, Eastern Regional Director
Bureau of Indian Affairs
545 Marriott Drive, Suite 700
Nashville, TN 37214

In response to Notice of Availability of Environmental Impact Statement in
77 Fed. Reg. 53225 (August 31, 2012)

These comments are submitted on behalf of Pompano Park, Inc., which operates a racetrack and slot machine casino seven miles from the Seminole Coconut Creek Casino that is the subject of the draft Environmental Impact Statement (EIS) prepared for the project of the Seminole Tribe of Florida (Tribe). Because the Draft EIS suffers from substantial defects, it should not be converted to a Final EIS until those failings are corrected, if they can be. Indeed, these comments question whether a Final EIS can ever properly be issued for this project.

The Tribe seeks the transfer of 45 acres of land it owns in fee simple to trust status under the procedures established by the Indian Reorganization Act (IRA) and the Indian Gaming Regulatory Act (IGRA). The principal defects in the Draft EIS are:

- It fails to address in a meaningful fashion the severe stormwater drainage challenges associated with the Tribe's proposed project. Rather than review plausible strategies for

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mitigating and resolving that problem, the Draft EIS offers approaches that range from the fanciful to the fantastic, failing to disclose critical problems that each approach would present. Until the Tribe provides practical methods for mitigating the stormwater problems, the Draft EIS cannot be deemed adequate.

13-3
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- The Draft EIS also presents a fundamentally misleading traffic analysis that profoundly understates the traffic impacts of the proposed project by employing several false premises. Each of those false premises is biased in the same direction: to produce a dramatic underestimate of the traffic generated by this project. Because of these errors, no party can make a meaningful evaluation of the traffic analysis in the Draft EIS.
- In addition, the Draft EIS suffers from material errors in its treatment of socioeconomic issues, as well as wetlands and biological resources. All should be addressed and corrected, if such correction is possible.
- Under the IRA, the Tribe must demonstrate that placing the land into trust is “necessary.” This extraordinarily wealthy tribe cannot meet the statutory standard for demonstrating need.
- In its earlier, woefully inadequate Environmental Assessment for this project, the Tribe assumed that because no actual gaming machine or gaming table would be located in the structures to be built on the proposed trust land, its application would not be subject to the two-part determination required for off-reservation gambling sites under IGRA. The Draft EIS repeats that error. BIA should recognize that, under the criteria for off-reservation land-into-trust applications announced by Secretary Salazar, this application is subject to the two-part determination.

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1. Factual Background

a. The Tribe Continues to Parlay Its Competitive Advantages Into Financial Success

The Tribe currently operates its Coconut Creek casino on a four-acre parcel that was taken into trust in 1985, after the Tribe swapped another parcel of land with the state for the Coconut Creek site. For a number of years, the tribe offered electronic bingo gaming there, then in 2008 upgraded to slot machine games on a gambling floor of 30,000 square feet. The Tribe purchased roughly 45 acres of surrounding land in 2000. Since then, it has explored several alternative methods for developing that land as part of a casino megaresort.

In February of this year, the Tribe opened a \$150 million expansion of its Coconut Creek casino. This huge casino now includes 2,500 slot machines and approximately 70 blackjack tables, plus a new poker room with forty tables. It offers dining options such as NYY Steak (an upscale steakhouse that is a joint venture with the New York Yankees) and the New York-style 1st Street Deli. A new parking structure accommodates 2,400 vehicles.¹

The dramatically-expanded Coconut Creek Casino is only a modest part of the Tribe's overall gambling empire, which reportedly generates more than \$2 billion of annual revenue.² (Because the Tribe is operated as a private entity, it does not report its financial results publicly.) The Seminole empire includes ownership of Hard Rock International, which spans the globe with 135 cafes and fifteen hotels and casinos in 51 different nations. Major casino hotels are located in Florida, Mississippi, Illinois, Nevada, California, Bali, Macau, Penang, Singapore, and the Dominican Republic. New properties are under development in Panama, Hungary, Dubai, and Abu Dhabi.³ Through its Seminole Gaming subsidiary, the Tribe operates several casinos in Florida in addition to its Coconut Creek location. The two Seminole Hard Rock properties in Florida are giant casino megaresorts in Tampa and Hollywood. The Hollywood property

13-8

1. Factual Background

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13-8
Cont.

b. The Tribe's Current Proposal

The Draft EIS addresses the tribe's proposal to build a massive gambling resort around the existing Coconut Creek Casino. As described in that document, the Tribe intends to build "a destination resort that includes a 1,000 room twenty-story hotel tower, 2,500 seat showroom, an expanded parking structure, a pool and spa facility, 47,000 square feet of retail, a conference center, and associated facilities." The gargantuan scale of this project warrants a moment of consideration. The hotel would be four times larger than the Tribe's hotel in Tampa, which supports the sixth-largest casino in the world; it would be more than twice as large as the hotel that serves the Tribe's Hard Rock Hollywood casino; it would not only be the largest in its neighborhood – by far – but would be the largest hotel in South Florida. This massive development is the subject of Alternative A and Alternative A-1 in the Draft EIS.

Unsurprisingly, Alternatives A and A-1 would both impose large environmental impacts.¹⁰

The Tribe's Alternative B, labeled "reduced intensity," would halve the total number of hotel rooms built, which would reduce the height of the hotel tower by half, as well. Alternative C would involve no change to the current use of the 45 acres at issue.

2. The Draft EIS Fails to Address Adequately The Site's Stormwater Management

The Coconut Creek project would create a serious stormwater management problem. After acknowledging the problem, the Draft EIS attempts to paper it over without identifying any plausible strategy for coping with it. Stormwater management is a serious matter in South Florida. The region receives roughly 60 inches of rain annually, and the land is mostly flat. Moreover, the region experiences seasonal hurricanes which bring torrential rains in very short periods of time. Those factors make stormwater management critical. Indeed, the Draft EIS

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acknowledges that the South Florida Water Management District (SFWMD) recently increased the requirements for retention ponds for the overall site.

Yet the project would substantially reduce the site's current capacity for managing stormwater by (i) dramatically increasing impervious surfaces, which would increase runoff, and (ii) filling in entirely one current retention pond (pond 7 on Tract G) and partially filling in two others (ponds 4 and 5 on Tract D), while creating only one additional pond on Parcel B. The net effect would be a significant shortfall of between 1.77 and 2.1 acres in the stormwater retention ponds that are required for the site by the SFWMD Master Drainage Permit. The Draft EIS recites both numbers for the shortfall – 1.77 acres and 2.1 acres – without explaining what circumstances might make either number accurate, so it is unclear how reliable either number is. Draft EIS at 4.3-1, 4.14-2.

For Alternatives A and A-1, which involve the most intensive development, the Draft EIS suggests three possible strategies for making up this acute shortfall, but offers no basis for believing that any of them is even remotely feasible. The Draft EIS nowhere suggests that the Cocomar district of the SFWMD or Broward County has approved or even smiled upon any of these alternatives. Moreover, the Draft EIS misstates key conditions that affect the stormwater problem.

First, the Draft EIS suggests that a replacement pond might be built on the undeveloped Johns Family Trust property adjacent to the site. *Id.* Yet a different section of the Draft EIS acknowledges that the owners of that property have filed plans with the City of Coconut Creek to develop the property for “mixed use commercial, retail, and residential development[s].” *Id.* at 3.13-3. In a neighborhood where drainage is a chronic and serious problem, it strains credulity to expect that this neighboring property owner will devote a portion of its site to resolve the

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Tribe's drainage problems; the Draft EIS certainly recites no evidence that the owners would be open to such a lower use of their property. To develop its own site, the Johns Property Trust will need to install substantial retention ponds of its own to develop, which doubtless will be a far higher priority than helping out the Tribe.

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Second, and even more far-fetched, the Draft EIS suggests that the Tribe might connect to the Northwest Cocomar Basin by running a 60-inch drainage pipe for 3.2 miles from the casino site to a four-acre property owned by the tribe, where a retention pond of at least two acres would be built. The Draft EIS mistakenly asserts that this massive 60-inch pipe would pass through only tribal property and public rights-of-way, supposedly "eliminating the need to involve adjoining property owner approvals." Draft EIS, Appendix B at 18. In truth, the proposed path for that 60-inch pipe, as demonstrated in Attachment A to these comments, would cross 47 different parcels of land. For twelve of those parcels, the pipe would cross existing rights of way; the other 35 parcels, however, are owned by 23 different individuals, businesses, and public entities, including two community associations, two condominium associations, the City of Coconut Creek, the Florida Department of Transportation, Broward County, and the Cocomar Water Control District. To install a 60-inch drainage pipe across all of those properties would require the purchase of easements up to 20 feet across. The expense and difficulty of securing such permissions from property owners who themselves face demanding drainage requirements, combined with the construction expense of the pipeline itself, make this alternative no better than pure speculation.

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Third, for Alternatives A, A-1, and B, the Draft EIS proposes to use underground storage of stormwater until it can be discharged from the site through some unspecified mechanism. The Draft EIS never acknowledges, however, the substantial issues surrounding underground storage.

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The runoff from parking lots will be contaminated with petroleum products, yet water held in underground storage will not be subject to required water treatment since it will not be exposed to either sunlight or plant life. Underground vaults for storing stormwater runoff also entail unusually high expense and carry with them significant maintenance and repair challenges, particularly when the vaults are beneath buildings, as proposed in the Draft EIS. Neither the Cocomar District of the SFWMD nor Broward County has ever approved underground water storage of this type, and both have been extremely reluctant to consider it as a solution to drainage problems. For all of these reasons, this suggested response to the stormwater management situation is also entirely unrealistic.

As the Supreme Court explained in *Robertson v. Methow Valley Citizens Council*, 490 U.S. 332, 351 (1989), a principal purpose of an EIS under the National Environmental Policy Act (NEPA) is to identify adverse environmental effects from a proposed action and “discuss the extent to which the adverse effects can be avoided.” The Court added that “the omission of a reasonably complete discussion of possible mitigation measures would undermine” NEPA by denying to the federal agency involved and to other interested groups the ability to “properly evaluate the severity of the adverse effects.” *Id.* at 352.

By offering superficial discussion of the possible mitigation measures for the severe stormwater management challenges of this site, and by omitting critical considerations and misstating relevant factors, the Draft EIS creates exactly that situation. The discussion in the Draft EIS falls far short of NEPA requirements, which a recent appellate decision laid out:

Detailed quantitative assessments of possible mitigation measures are generally necessary when a federal agency prepared an EIS to assess the impacts of a relatively contained, site-specific proposal.

San Juan Citizens Alliance v. Stiles, 654 F.3d 1038, 1054 (10th Cir. 2011) (emphasis added); see also *South Fork Band Council of Western Shoshone of Nevada v. U.S. Department of the Interior*, 588 F.3d 718, 727 (9th Cir. 2009). This Draft EIS – for a “contained, site-specific proposal – should not become final without such detailed assessments.

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3. **The Traffic Analysis Is Based On False Assumptions That Systematically Underestimate Traffic Generation From This Site**

The traffic analysis in the Draft EIS is based on fundamentally flawed data that dramatically undercounts the traffic that will accompany the development of this huge project, and includes other errors. These failings include:

- The traffic analysis assumes – without substantive explanation – that vehicle trips generated by this project will be very similar to the experience at the Seminole Hard Rock Casino and Hotel in Hollywood, Florida. But the Hollywood Hard Rock property differs from the Coconut Creek project in essential respects, and the Draft EIS makes no attempt to adjust its estimates to account for those material disparities.
- The initial traffic counts for the Coconut Creek site were performed at the site in February 2011, but the casino floor at the facility has quadrupled in size since then, with a corresponding explosion in vehicle traffic. Although the Draft EIS claims to have made adjustments for that expansion of the casino, nothing in the traffic analysis explains that supposed adjustment or allows evaluation of whether it has been done correctly.
- The traffic counts for Hollywood Hard Rock casino, which are used as a starting-point for the traffic generation estimates in the Draft EIS, were performed in 2007 and do not account for changes in that facility over the last five years. Accordingly, those numbers are also underestimated.

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- The Draft EIS projects that one-fourth of the traffic from the project site will exit onto State Road 7 through a right-turn-only driveway, and proposes to address this additional traffic flow with an additional traffic light. That situation, based on the information provided by the Draft EIS, will impose a serious degradation of traffic flow on State Road 7 and will create potentially dangerous conditions.

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- The Draft EIS uses an arbitrarily limited Study Area for its traffic analysis, which effectively ignores numerous roadways that will experience much higher traffic volumes as a result of the proposed project. Yet the Draft EIS provides no justification for this limitation.

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The entire traffic analysis in the Draft EIS is profoundly biased because the traffic generation estimates – which are the basis for all of the predicted impacts and the mitigation strategies proposed to respond to them – assume that the Coconut Creek project and the Hollywood Hard Rock project are so similar that the experience with the latter project will predict experience in Coconut Creek. Draft EIS, Appendix E §§ 3.5, 3.5.4. But that assumption is not true.

Most plainly, the two properties are not the same size. Not counting hotel capacity, the Coconut Creek project includes roughly 550,000 square feet of non-casino development space (Draft EIS, Appendix E at Tbls. 2-2, 2-3, 2-7 & 2-9), while Hollywood Hard Rock has less than 500,000 square feet of such space. Draft EIS, Appendix E § 3.5.4 & Tbl. 3-4. This size disparity grows even greater when the hotels at the respective facilities are considered: Coconut Creek’s 1,000 to 1,500 room hotel would be more than double the size of the 481-room hotel in Hollywood. When this far greater hotel capacity is included as part of the non-casino space at Coconut Creek, the total non-casino space at that facility would be as much as 50% greater than the non-casino space at Hollywood Hard Rock. Consequently, the estimated trip generation

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from the Coconut Creek non-casino space should be projected as significantly higher than from the Hollywood Hard Rock non-casino space. Yet the Draft EIS assumes that the two projects are, in fact, of similar size and will produce similar vehicle trip experience.

Additional factors undermine the attempt to treat the two properties as equivalent.

Hollywood Hard Rock is largely designed to serve as a vacation resort. Its conference space is very limited (40,000 square feet) and it is not aimed at a business market. In contrast, Coconut Creek has much greater conference space (169,000 square feet, more than four times as much) and a much higher ratio of hotel rooms to casino space, which suggests a classification closer to a business-oriented hotel. Business hotels with active conference business generate considerably higher rates of traffic than do vacation hotels. But the Draft EIS makes no attempt to account for this difference.

Moreover, another basis for the traffic analysis in the Draft EIS has equivalent flaws. One key basis for trip generation analysis is the actual traffic currently counted at the site. The analysis in the Draft EIS is based on traffic counts performed at the site in April 2011 (Draft EIS, Appendix E § 3.5), when the casino space at Coconut Creek was only 30,000 square feet. It now is 126,000 square feet. Although the Draft EIS claims to have adjusted the traffic counts to account for that increase in the casino floor, it does not describe what that adjustment entailed. *Id.* Also, the casino expansion was under way in April 2011, so ongoing construction doubtless deterred some patrons from attending the casino at that time, further suppressing the customary traffic to the property.¹ Accordingly, it is impossible to evaluate whether the adjustment was done in a plausible fashion.

¹ The Draft EIS asserts that because of on-site construction, not all traffic counts could be completed and were supplemented by traffic counts in March 2012. Draft EIS § 3.5.1, p. 3-11 n.10. We could find no 2012 data in any of the appendices to the Draft EIS.

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The Draft EIS also does not acknowledge that a key purpose of the proposed project is to make the casino more prominent and to increase traffic to the casino itself, which means that current trip generation statistics (even if they were accurate) would underestimate the trips to the casino when all of the linked services and facilities are added and fully integrated. By failing to factor that consideration into its projections, the Draft EIS even further skews its traffic generation estimates too low.

The comparison between the Hollywood Hard Rock and Coconut Creek facilities is deeply flawed for another reason. The traffic counts at Hollywood Hard Rock were performed in 2007, more than five years ago. In the intervening period, that casino has added live table games (blackjack, roulette, etc.), which doubtless generated additional traffic. The Coconut Creek Casino currently offers table games. Accordingly, the 2007 counts at Hollywood Hard Rock significantly underestimate the traffic generated at that facility today, and also the traffic that can be expected from a facility offering full live table games. Yet the Draft EIS makes no mention of this methodological error and describes no effort to correct for it.

Because the Draft EIS systematically underestimates traffic generation in all of these ways, the total underestimation of traffic could be on a scale of between 50 and 100 percent.

Even at the indefensibly low trip generation estimates in the Draft EIS, one part of the proposed traffic plan risks major traffic impacts without a meaningful mitigation strategy that would avoid potentially unsafe conditions. The plan for the Coconut Creek project estimates that 25% of the traffic leaving the site will depart on a driveway that feeds into State Road 7 going north, near its intersection with State Road 441. Draft EIS, Appendix E at Figs. 3.6, 3.7 & 3.8. This is a busy stretch of roadway with complex traffic patterns. In addition to through traffic on State Road 7, many vehicles turn onto that road from Sample Road just before the proposed

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driveway, and many others turn off of State Road 7 onto Cullen Road immediately past the proposed driveway. That means that the heavy load of additional vehicles coming from Coconut Creek site will enter directly into a merging and weaving roadway section that already involves challenges and risks to drivers. The Draft EIS proposes to deal with this additional traffic load with a traffic light at the end of the new driveway.

The net result of the Coconut Creek project would be to degrade significantly the current flow of traffic on State Road 7, while the proposed new traffic light would only exacerbate that degradation by further interrupting travel and slowing motorists. Moreover, the traffic study in the Draft EIS overstates the carrying capacity of State Road 7 by assuming that all four northbound lanes are dedicated to through traffic. With vehicles turning onto the road from the casino's driveway and turning off the road onto Cullen Road, however, the righthand lane will not be available to through traffic; because drivers in the other lanes will be shifting to prepare for turns (as with the weaving area noted above) or to avoid entering traffic, a substantial slowing is unavoidable. Finally, the Draft EIS includes no analyses demonstrating that the additional traffic light, or any other measure, will mitigate either the degradation of traffic flow or the increased risk to motorists. Because of those impacts, many motorists will avoid the State Road 7 exit from the Coconut Creek property and clog the other exits from the site. That will mean that the analysis in the Draft EIS of traffic exiting from the rest of the site is based on false assumptions, as well.

Another fundamental flaw infects the entire traffic analysis in the Draft EIS. The Study Area for the traffic analysis was arbitrarily limited to those roads where the afternoon peak traffic trips equal or exceed five percent above the peak-directional adopted level of service standard. That definition applies to Developments of Regional Impact (DRI), as defined in Florida Statute

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380.06. But the Coconut Creek site is not a DRI. The traffic study provides no justification for adopting this limitation, which effectively ignores the impact of the project on a wide range of streets that would experience large increases in traffic volume. The Draft EIS either should provide a sound justification for ignoring these impacts or should account for them and provide meaningful mitigation strategies for them.

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For all of these reasons, the traffic analysis in the Draft EIS should be completely overhauled and reasonable mitigation alternatives identified before it can be made a Final EIS.

4. The Treatments of Socioeconomic, Wetlands, and Endangered Issues Are Incomplete and Flawed

In its discussion of socioeconomic effects of the proposed development, the Draft EIS commits additional errors, drastically underestimating the competitive impact it will have on neighboring businesses. The document downplays this impact by cheerily suggesting that the Coconut Creek casino is “similar” to the competing facility operated by Pompano Park. Draft EIS at 4.7-4. But as Fitch Ratings service recently pointed out, that assertion is false. *See supra* p. 5. In fact, the Tribe’s gambling venues enjoy major competitive advantages over “pari-mutuels” like Pompano Park, including:

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- Through its Tribal-State Gaming Compact, the Tribe pays an effective gaming tax rate of 12%; Pompano Park’s gaming tax rate is three times that level, at 35%.
- Pompano Park and other pari-mutuels are not allowed to offer live-action table games like blackjack, but only electronic versions of them; the Tribe’s casinos offer those games.
- The Tribe’s casino can allow smoking by its patrons, while smoking is forbidden in pari-mutuel facilities. Numerous studies have found that smoking bans substantially reduce gaming revenue at a casino.¹¹

– With its most recent expansion, the Coconut Creek Casino now offers 2,500 slot machines and 70 blackjack tables; in contrast, Pompano Park has 1,400 slot machines and 6 electronic table games, which means that the Tribe’s facility is more than half-again as large and offers a greater range of gambling choices for prospective customers.

The proposed project would exacerbate these existing competitive advantages by converting the Coconut Creek Casino into a “destination” megaresort, with live entertainment, dining and retail options not available at Pompano Park and other pari-mutuel locations. The Draft EIS attempts to shrug off this last competitive advantage by pointing to Pompano Park’s proposal to develop similar amenities, but that proposal remains in a preliminary and speculative stage, in considerable measure due to the competitive advantages bestowed by law on the Tribe’s Coconut Creek facility. Accordingly, the Draft EIS’s discussion of socioeconomic factors is inaccurate and incomplete.

When discussing wetlands issues, the Draft EIS suffers from flawed methodology and makes inconsistent statements. It relies, for example, on a 1984 National Wetlands Inventory by the U.S. Department of the Interior Fish and Wildlife Service, but that document is 28 years old and no longer reflects current conditions. Draft EIS at 3.5-11. Also confusing is the assertion in the Biological Assessment (Appendix A at 21) that the investigator found no jurisdictional waters of the United States, a statement which is contradicted by the data sheet attached in Appendix D to that Biological Assessment and which records observations “taken inside maintained ‘natural wetland’ in Tract D opposite casino main entrance.” The Draft EIS also includes no maps or visual locations for the four sample points used to prepare the cited wetland data forms of the U.S. Army Corps of Engineers. Without such data, the wetlands assertions in the Draft EIS cannot be evaluated.

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The Draft EIS states, based on a 2005 letter from the Fish and Wildlife Service, that the project site is within the foraging area for six colonies of wood stork. Draft EIS at 3.5-12. Our own review of the documentation provided suggests that the site is within the foraging areas of three wood stork colonies, not six, which undermines confidence in the Draft EIS treatment of this issue. The preservation of wood stork habitat has been a priority for this region. In recent years, threats to wood stork habitat triggered a multi-year litigation over a flawed EIS issued for a mining proposal.¹² The Draft EIS examination of this question should be expanded.

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5. The Draft EIS Does Not Explain Why the Project is “Necessary”

By law, land may be taken into trust for a tribe like the Seminoles only “[w]hen the Secretary determines that the acquisition of the land is *necessary* to facilitate tribal self-determination, economic development, or Indian housing.” 25 C.F.R. § 151.3(a)(3) (emphasis added). This concern is centrally implicated when a tribe seeks to use the land-into-trust program to develop tribal gaming properties, a process that triggers – in the words of Interior Secretary Ken Salazar in a 2010 memorandum that appears on the Department’s website – “difficult and contentious issues.”¹³ The Tribe asserts incorrectly that this project is not related to gaming and thus is not subject to the approvals established for such projects by IGRA; we will address this error in the section after this one. Yet the “necessary” standard, which derives from the Indian Reorganization Act (IRA), applies to all land-into-trust applications, whether they involve gaming or not, and should be addressed adequately in any Final EIS.

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In a 2009 decision denying a land-into-trust acquisition sought by the Menominee Tribe of Wisconsin, the Bureau of Indian Affairs explained why this requirement is essential to meet the goals of the IRA:¹⁴

“The IRA was enacted to reverse the devastating effects and tremendous loss of land that resulted from the failed allotment era policies. The legislative history of the IRA indicates that ‘[t]he intent and purpose of the Reorganization Act was ‘to rehabilitate the Indian’s economic life and to give him a chance to develop the initiative destroyed by a century of oppression and paternalism.’ *Mescalero Apache Tribe v. Jones*, 411 U.S. 145, 152 (1973) (quoting H.R. Rep. No. 73-1804, at 6 (1934)). The broad goal was ‘to conserve and develop Indian lands and resources.’ H.R. Rep. No. 1804, at 5.

“The legislative history also reveals that Congress believed that additional land was essential for the economic advancement and self-support of the Indian communities. *See, e.g.*, S. Rep. No. 73-1080, at 2 (1934); H.R. Rep. No. 1804, at 6 (noting that the purchase of lands would help Indians be self-supporting); 78 Cong. Rec. 11,730; S. Rep. No. 1080, at 2. In other words, the IRA was to restore Indian lands so that tribes could develop thriving, self-sufficient communities.”

To ensure that the land-into-trust process serves these congressional goals, the controlling regulations require that the Tribe demonstrate its need for additional land for one of three specific purposes: “tribal self-determination, economic development, or Indian housing.” 25 C.F.R. § 151.3(a)(3); Waukau Letter at 6. The first and third of these goals are irrelevant to the Coconut Creek application. The Seminole Tribe of Florida already occupies 90,000 acres of reservation land and has a long-standing tribal self-government structure, so these 45 acres in Coconut Creek will have no impact on the Tribe’s self-determination. In fact, the Tribe’s home page trumpets that it is “the only tribe in America who never signed a peace treaty.” Seminole Tribe of Florida, <http://www.semtribe.com/> (last visited Oct. 10, 2012). Moreover, the Tribe does not propose to use the Coconut Creek parcel for housing of any sort. Accordingly, the only

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way the Tribe can satisfy the IRA's requirement of "necessity" would be by showing that this acquisition is necessary for economic development.

The Draft EIS attempts to meet this standard by reciting six supposed reasons why the 45 acres to be taken into trust are "necessary."¹⁵ None of the six is grounded in fact or even remotely persuasive.

- *"Consolidate STOF land holdings surrounding the existing trust property into one contiguous trust property."* Draft EIS at i (emphasis added).

At best, this statement is a tautology, or a circular restatement of the Tribe's goal: The Tribe wants 45 acres to be added to its trust lands in Coconut Creek so it will then have 45 more acres of trust lands in Coconut Creek. The statement provides no reason why such a consolidation is necessary for "tribal self-determination, economic development, or Indian housing."

- *"Strengthen the socioeconomic status of STOF by providing an augmented revenue source that could be used to fund the tribal government; fund a variety of social, housing, governmental, administrative, educational, health and welfare services to improve the quality of life of tribal members; and provide capital for other economic development and investment opportunities." Id.* (emphasis added).

The Tribe's more than \$2 billion in annual revenue makes this assertion entirely untenable. Although the secrecy of the Tribe's finances prevents us from knowing how much of that money represents net profit, simple arithmetic suggests that profits are very good. The Tribe currently pays annual dividends to each member of \$90,000; spread over 3,300 members, that totals approximately \$300 million. Before it pays those dividends, of course, the Tribe allocates revenue to pay for tribal government, for its extensive services for tribal members (such as lifetime free tuition), and for other investments for economic development. Of all the economic entities in the United States, the Tribe is one of the least in need of having its socioeconomic status strengthened by granting additional government benefits.

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Two local comparisons are instructive. The City of Coconut Creek serves approximately 50,000 residents. Its budget for FY2012 was approximately \$99 million. Broward County serves approximately 1.8 million people on an annual budget of roughly \$700 million. The Tribe, with revenues exceeding \$2 billion, provides services to 3,300 members, or less than 10 percent the population of the city, and less than 1 percent the population of the county. The Tribe's current resources, without a new gambling megaresort in Coconut Creek, far exceed any governmental needs it can credibly claim to have.

Moreover, in the *Menominee* case, BIA dismissed the claim that the trust acquisition was "necessary" because the intended off-reservation gaming venture would have generated more funds for tribal government. As that letter observed, "All governments, including tribal governments, can make the argument that revenues are necessary. But under the regulations, the pertinent analysis is whether the land itself is *necessary*."¹⁶ Noting that the Menominee tribe had at least 8,138 acres of reservation land to use for economic development, the agency concluded that the record did not show that existing Menominee reservations were "unable to support additional economic development."¹⁷

The *Menominee* letter emphasized the critical policy issues posed by off-reservation casinos, which are by far the most controversial element of tribal gaming. The argument that off-reservation casinos should be fostered because their cash flow will support other tribal activities, the letter insisted, "could be used by most Tribes to justify all land-into-trust applications."¹⁸ The BIA holding squarely rejected such reasoning, and fundamentally undermines this assertion in the Draft EIS. The Seminole Tribe already operates more than one hundred Hard Rock facilities around the globe that are not on trust land; it is not "necessary" for this Coconut Creek facility to be on trust land, either.

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- *“Increase the ability for STOF to make donations to charitable organizations and governmental operations, including local educational institutions.” Id. (emphasis added).*

We have the same response as in the preceding section; the Tribe’s current resources amply satisfy this goal.

- *“Provide business and job opportunities for Tribal members and non-Tribal members.” Id. (emphasis added).*

This assertion is breathtaking in its audacity. The Tribe’s dividend payments more than meet the economic needs of tribal members. Moreover, current employment opportunities for Tribal members are arguably greater than for any other group of comparably-situated Americans. Tribal businesses employ almost 10,000 people, and currently have well over 200 current open positions. *See p. 4, supra.* The Tribe cannot credibly contend that the Coconut Creek megaresort would meet any current need for employment opportunities, particularly since the Coconut Creek property is not located at a reservation where tribal members live.

The Tribe has six reservations in Florida occupying 98,500 acres of land. The Coconut Creek parcel, in contrast, is not a reservation but trust land; it includes no residences. The closest reservation is in Hollywood, 20 miles away, where the Tribe’s headquarters and two casinos already offer extensive employment opportunities. Two other reservations house tribe members: Big Cypress Reservation, some 70 miles from Coconut Creek, and Brighton Reservation, 120 miles from Coconut Creek. Greater economic activity at the Coconut Creek site would offer no meaningful employment opportunity to those distant communities, even if tribe members needed such opportunity.

Comparable factors were dispositive in BIA’s 2009 rejection of a land-into-trust application by the Bad River Band of Lake Superior Chippewa Indians and the St. Croix Chippewa Tribe

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(jointly, “the Chippewas”). In support of their application to take land into trust to build a casino more than 300 miles from their respective reservations, the Bad River Band argued that the cash flow from the casino would “be used to satisfy Tribal needs on the reservations.” The BIA concluded that the land acquisition would not be used to “support tribal housing, government infrastructure, or to resolve local land management conflicts,” but rather was proposed because of “its proximity to urban markets” for a casino. Letter from George Skibine to Eugene Bigboy, Sr. and Hazel Hindsley, at 2 (Jan. 13, 2009). The letter also noted that because of the great distance between the reservations and the proposed casino site, the casino would not provide employment opportunities for reservation-based members of the tribes. Accordingly, BIA declined to take the land into trust. The same reasoning applies to this case.

- *“Allow STOF to diversify its holdings over time, so that it is no longer dependent upon the Federal or State government or even upon gaming to survive and prosper.”* Draft EIS at i (emphasis added).

This assertion is almost as audacious as the one before. This tribe is not dependent on Federal or state government; indeed, it is in better financial condition than either. By acquiring the Hard Rock empire, the Tribe has achieved global diversification and definitively reduced its dependence on the gaming business. Indeed, it is using its extensive current revenues to diversify traditional tribal businesses based on agriculture (orange juice, sugar cane, and cattle) and construction (shell pit).

- *“Operation of the hotel/resort and related facilities would require the purchase of goods and services, increasing opportunities for local businesses and stimulating the local economy.”* *Id.* (emphasis added).

This assertion is irrelevant to any judgment whether the land-into-trust transaction is “necessary,” since the IRA’s legal standard on this point is concerned only with the need of the

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Tribe, not of the surrounding non-tribal community. In any event, The Coconut Creek community does not need such stimulus. According to the Draft EIS, current unemployment rate in that community is a shade over 4%, or the equivalent of full employment. Draft EIS, at 3.7-3.

By targeting the Coconut Creek property for dramatic expansion, the Tribe is not serving any need of its members or the community, but simply targeting a promising casino market, specifically Palm Beach County. BIA precedents have rejected the economic development rationale for such land-into-trust acquisitions; that an expanded Coconut Creek casino would increase the Seminoles' already bountiful revenues is of no significance to the determination of necessity under the IRA regulations. Until the Draft EIS effectively demonstrates the need for the 45 acres to be taken into trust, it should not be made final.

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6. The Land-into-Trust Application is Subject to IGRA's Two-Part Determination

Throughout the years it has promoted this land-into-trust application, the Tribe has contended that the land will house no actual betting or wagering, so is not subject to IGRA's two-part determination. 25 U.S.C. § 2719(b)(1)(A). As Secretary Salazar explained in his June 2010 memo on land-into-trust procedures, that two-part determination is the "normal rule" for off-reservation lands to be taken into trust for "potential gaming purposes."¹⁹ He called for the application of "principled and transparent criteria" when making such gaming determinations.²⁰ In that spirit, the Draft EIS should recognize that the proposed acquisition is intended solely for "gaming purposes" and is subject to the two-part determination.²¹

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Under the two-part determination, IGRA states that the Secretary can approve a land-into-trust application for a "gaming establishment" if he concludes it is in the best interest of the tribe and will not be detrimental to the surrounding community; the state's governor must concur in that finding, which thereby ensures that local governments have a voice in the process. When

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the Tribe claims that the application does not involve gaming and so is immune from the two-part determination, it ignores the plain meaning of “gaming establishment” under gaming law.

By using the term “gaming establishment” in IGRA, rather than “casino” or “gaming floor,” Congress in 1988 plainly intended the two-part determination to apply to all parts of a casino-resort development. Numerous elements combine to make up a casino mega-resort like the one proposed by the Tribe for Coconut Creek, and all are part of the “gaming establishment.” The land at issue here would contain many activities that make up the integrated casino megaresort intended by the Tribe, such as the hotel, multiple restaurants and bars, a spa and health club, convention facilities, a performance arena, and retail stores. Indeed, this land will include such critical features as storm water retention ponds, “back of house” functions (financial and administrative offices that support gaming), and the very entrance to the casino, including an 8-lane drop-off area. Each component is designed to increase gaming revenues by drawing additional customers to the mega-casino. By creating an integrated casino-hotel resort, the Tribe's proposed expansion plainly concerns a “gaming establishment.”

This conclusion is powerfully reinforced by the meaning of “gaming establishment” under Nevada law. Nevada was incontestably the leading gaming law jurisdiction when IGRA was adopted in 1988, as it still is, so Congress reasonably drew from Nevada law in drafting IGRA. Nevada’s gaming statutes define “establishment” as “any premises wherein or whereon any gaming is done”: the establishment is the entire premises, not simply the square footage that is occupied by gaming machines or gaming tables. Nev. Rev. Stat. § 463.0148. This was the holding of the Nevada Supreme Court in *State v. Glusman*, 98 Nev. 412 (1982), involving an owner of a dress shop with stores within two casino resorts. The dress shop argued that it was unconstitutional to subject it to licensing as though it was a gaming business. The Nevada

13-30
Cont.

Supreme Court ruled that the state’s gaming statutes authorized the licensing of “persons and businesses who choose to conduct non-gaming business operations on the premises of a gaming establishment.” *Id.* at 421. So the “gaming establishment” included the dress shop and other non-gaming activities as well. That no gaming tables or gaming machines operated in the dress shop did not change that conclusion, which applies with equal force to the 47,000 square feet of retail space proposed by the Tribe for its Coconut Creek site.

The Nevada Attorney General has issued several opinions applying this holding. In 1985 – also before the adoption of IGRA – that official advised that a casino entertainment tax did not apply to “a rock concert given either outdoors in a stadium or *inside an auditorium in a gaming establishment.*” Nevada AG Opinion No. 85-17 (Nov. 12, 1985) (emphasis added). That there would be no gambling in the auditorium did not alter the conclusion that it was part of a “gaming establishment” – just like the 2,500-seat performance venue proposed by the Tribe for its Coconut Creek site.

Five years later, the Attorney General was asked whether the purchaser of real estate on which a casino was located had to acquire a gaming license. The Attorney General emphasized the distinction between owning an interest in gaming “operations” and owning interests in gaming “establishments.” Nevada AG Opinion No. 90-10, at 45 (July 12, 1990).

An interest in a “gaming operation,” which exclusively involves the conduct of gaming, is a narrower interest than an interest in a “gaming establishment.” The former involves the property and proceeds related to dealing, operating, maintaining, or exposing for play any “game.” Nev. Rev. Stat. §§ 463.0153, .0179 (1989). The latter relates to the premises wherein or whereon gaming is done. *Id.* § 463.0148. In this regard, the concept of “premises” is quite expansive. Nev. Gaming Comm’n Reg. 1.145 (1989).

13-30
Cont.

The Attorney General specifically concluded that hotel rooms were part of the gaming establishment, but were not part of the gaming operation – just like the 1,000-room hotel that the Tribe projects for its Coconut Creek site. The Nevada regulation applying to transfers of interest in gaming operations, he concluded, “does not apply to a person acquiring the premises comprising a licensed gaming establishment with the intent to operate the nongaming aspects of the establishment, such as the hotel and restaurants.” Nevada AG Opinion No. 90-10, at 46.²²

13-30
Cont.

Because all of the elements of the proposed Coconut Creek megaresort would be part of a gaming establishment, they are properly subject to IGRA’s two-part determination.

Conclusion

For all of the reasons set out in these comments and in the comments filed by other concerned parties, the Draft EIS is seriously incomplete and flawed. To satisfy NEPA, the Draft EIS must be substantially expanded to provide both reliable analyses of the major environmental impacts at issue and meaningful mitigation strategies for dealing with them. Even with such expansions, the Draft EIS does not demonstrate that the requested land transfer is “necessary” under IRA requirements, nor that it would somehow be exempt from the two-part determination procedure of IGRA.

13-31

¹ *Big, Better Coconut Creek Casino Now Open*, CBS LOCAL, Feb. 2, 2012, ; *Florida Seminole’s Casino Expansion Rivals Vegas Resorts*, INDIAN COUNTRY TODAY MEDIA NETWORK, Feb. 4, 2012; Howard Stutz, *Seminole Tribe on top in Florida*, CASINO CITY TIMES, Feb. 13, 2012.

² Steve Huettel, *Florida’s Indian Casinos Brought in \$2 billion in 1st Year of Expanded Gambling*, THE LEDGER.COM, Mar. 2, 2011; Nick Sortal, *Florida gambling: Room to Grow*, SUN SENTINEL, June 27, 2012; Michael Sasso, *Casino proposal holds high stakes for Seminoles’ gambling monopoly*, TAMPA BAY ONLINE, Jan. 31, 2012.

³ *Seminole Tribal Council reaffirms Commitment to Management Teams of Seminole Gaming and hard Rock International*, PRWEB.COM, July 14, 2011.

⁴ *Seminole Hard Rock Hotel & Casino Tampa in \$75 Million Expansion*, HOTEL BUSINESS REVIEW, July 5, 2012.

⁵ Brett Daly, *Seminole Tribe expands business operations*, THE SEMINOLE TRIBUNE, Mar. 27, 2012.

⁶ Defendant’s Memorandum in Support of a Reasonable Sentence, *United States v. David Roger Cypress*, No. 12-80061-CR-KMW, at 7 n.9 (S.D. Fla., Aug.1, 2012); Jessica R. Cattelino, *Fungibility: Florida Seminole Casino Dividends and the Fiscal Politics of Indigeneity*, 111 AMERICAN ANTHROPOLOGIST 190, 192 (June 2009).

⁷ Michael Vazquez, *Seminole ask employees to contribute to PAC*, THE MIAMI HERALD, June 30, 2012.

⁸ Notice of Violation, NOV-10-01, National Indian Gaming Commission (June 3, 2010); Jay Weaver, *Ex-Seminole leader sentenced to 1-1/2 years in prison for income tax offense*, THE MIAMI HERALD, Aug. 9, 2012.

⁹ www.Followthemoney.org (search for Seminole Tribe of Florida); Michael Sasso, *Casino Proposal holds high stakes for Seminoles’ gambling monopoly*, TAMPA BAY ONLINE, Jan. 31, 2012; *Fitch Upgrades Seminole’s Gaming Bonds to ‘BBB-’; Special Obligation Bonds to ‘BB+’; Outlook Stable*, Press Release, June 25, 2012.

¹⁰ Draft EIS at Tbl. ES-1; *Florida Seminole’s Casino Expansion Rivals Vegas Resorts*, INDIAN COUNTRY TODAY MEDIA NETWORK, Feb. 4, 2012

¹¹ E.g., Thomas A. Garrett and Michael R. Pakko, *The Revenue Performance of Casinos after a Smoking Ban: The Case of Illinois*, Working Paper 2009-027B, Federal Reserve Bank of St. Louis (June 2009).

¹² See *Sierra Club v. Strock*, 495 F. Supp. 2d 1188 (S.D. Fla. 2007), *vacated sub nom. Sierra Club v. Van Antwerp*, 526 F.2d 1353 (11th Cir. 2008); *Sierra Club v. Van Antwerp*, 661 F.3d 1147 (D.C. Cir. 2011).

¹³ Memorandum from Ken Salazar to Assistant Secretary Indian Affairs, at 2 (June 18, 2010), (“Salazar Memo”) <http://www.bia.gov/cs/groups/public/documents/text/idc009878.pdf>.

¹⁴ “Decisions on Indian Gaming Applications,” Memorandum from Secretary Ken Salazar to Assistant Secretary – Indian Affairs, June 18, 2010; Letter from George Skibine, Acting Assistant Secretary, to Lisa Waukau, Menominee Indian Tribe of Wisconsin, at 9 (Jan. 7, 2009) (“Waukau Letter”).

¹⁵ Draft EIS at i (Executive Summary). In different contexts, federal courts have consistently distinguished between what a party may want or wish, and that which is “needs” or is “necessary” to it. *Western Air Lines, Inc. v. Summerfield*, 347 U.S. 67 (1954) (in determining airline’s “need” for revenue, agency must consider non-transportation sources of revenue); *DOJ v. Federal Labor Relations Authority*, 991 F.2d 285 (5th Cir. 1993) (denying production of documents demanded by union because documents may be “useful” but were not “necessary”).

¹⁶ Waukau Letter.

¹⁷ *Id.*

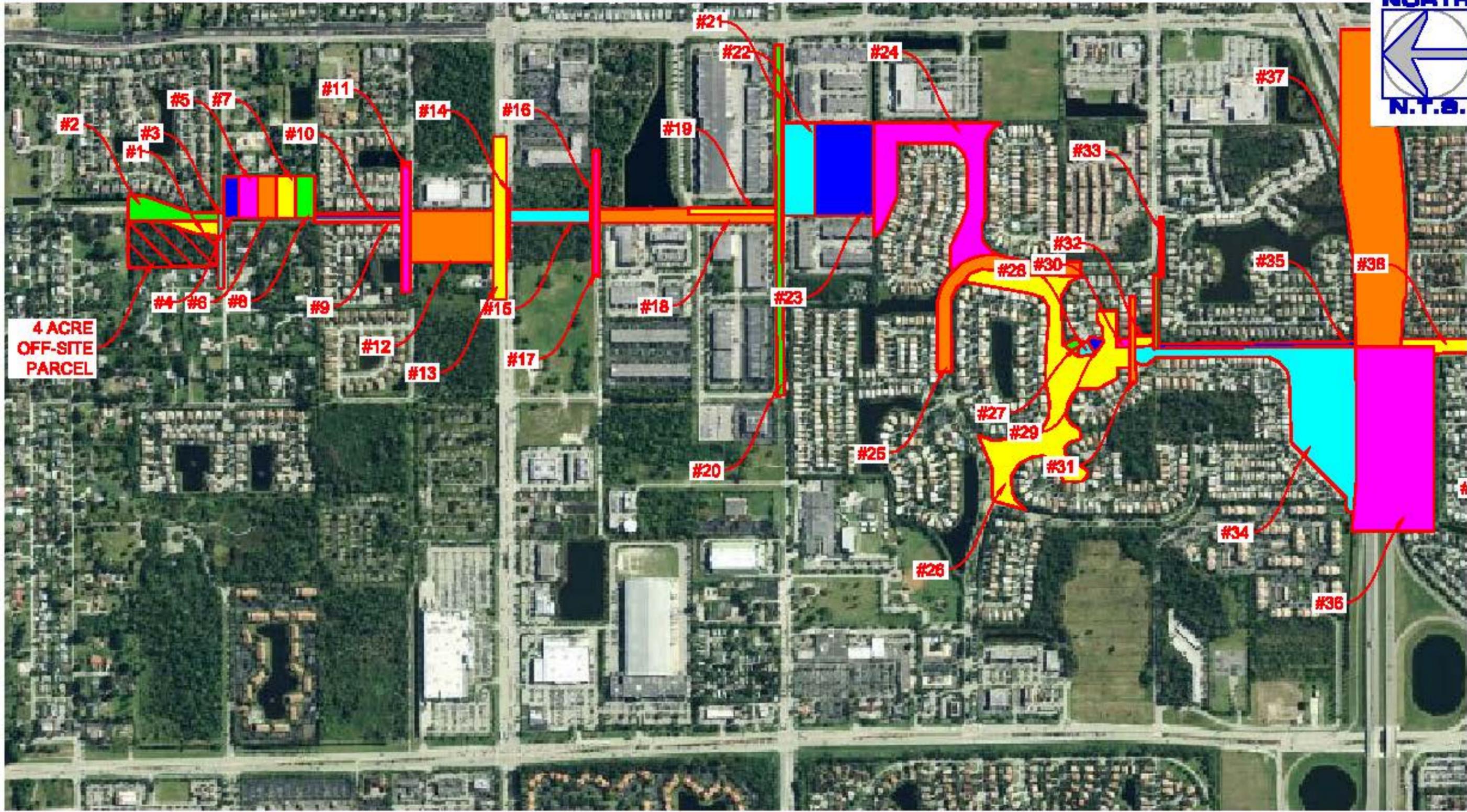
¹⁸ *Id.*

¹⁹ Salazar Memo.

²⁰ *Id.*

²¹ *Id.*

²² This conclusion is not changed by the use of the term “gambling establishment” – not “gaming establishment” – in a 1961 statute barring the operation of “gambling ships” from U.S. ports. 18 U.S.C. § 1081. In addition to using a different term (“gambling” rather than “gaming”), that earlier statute dealt with the unique circumstances of an entire ship dedicated to the purpose of gambling. If Congress in 1988 had wished to incorporate into IGRA the meaning of “gambling establishment” from that earlier statute, it should have used that term. Instead, it used “gaming establishment,” drawing on Nevada’s distinction between gaming “operations” (the space within which gambling occurs) and a gaming “establishment” (the entire premises within a portion of which gaming occurs).



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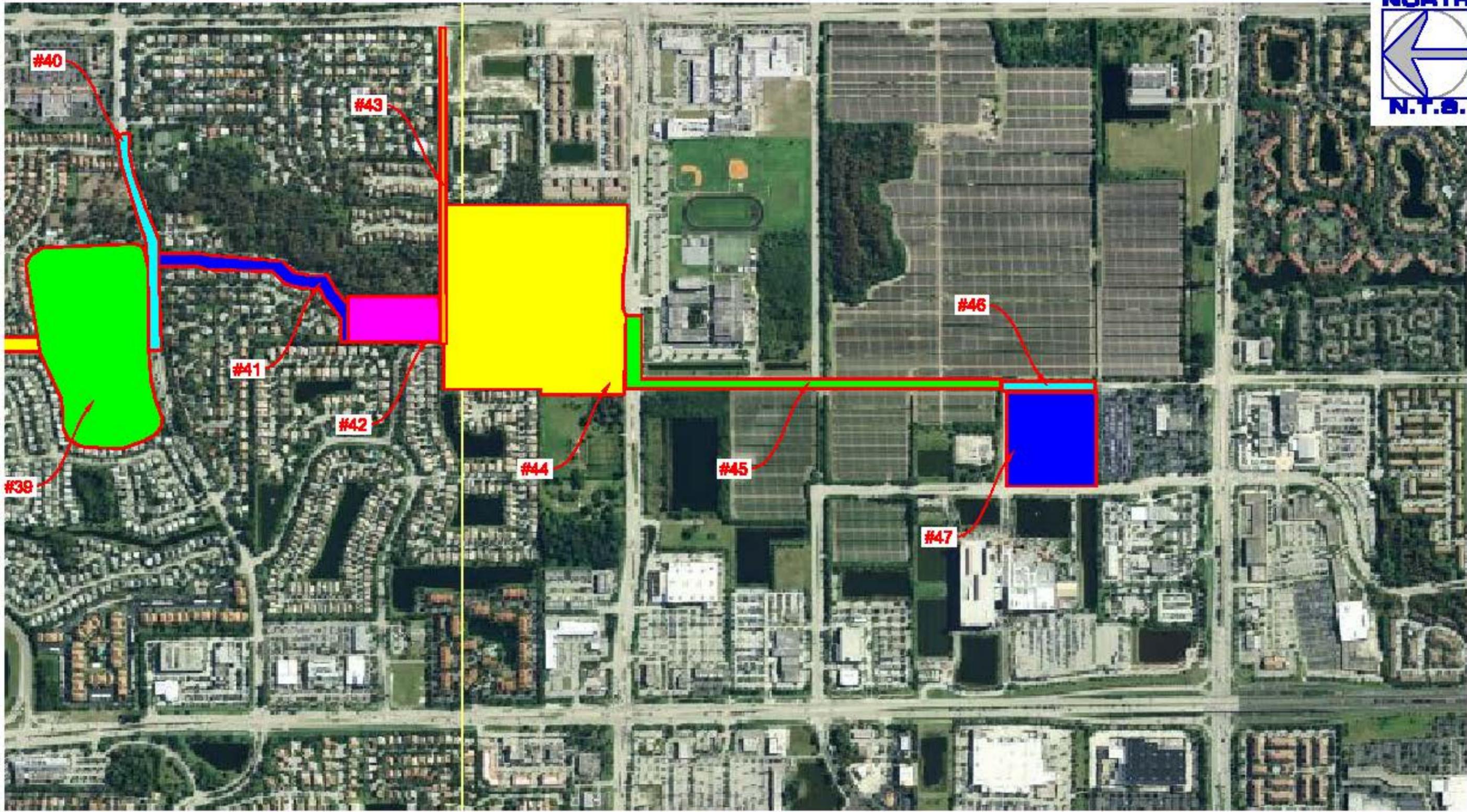
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- Phase I ESAs

COCONUT CREEK CASINO

PREPARED FOR:
 ROPES & GRAY, LLP

OWNERSHIP INFORMATION EXHIBIT

Date: 9/27/12	Sheet: 1	of: 3
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Date: 9/27/12	Sheet: 2	of: 3
Proj No: 07-0015.00		



	OWNER	FOLIO #
1	BROWARD COUNTY BOARD OF COUNTY COMMISSIONERS	474231010120
2	BROWARD COUNTY BOARD OF COUNTY COMMISSIONERS	474231010131
3	RIGHT-OF-WAY	
4	WOLF,MICHELLE MARIE & SHAWN P	474231220010
5	SMITH,LEE & TAMI	474231220020
6	HIGH FIN ENTERPRISES LTD PRTR	474231220030
7	CAPATA,MARIAN & MIHAELA	474231220040
8	SEGER,GLENN A & CANDICE K	474231010205
9	COCOMAR WATER CONTROL DISTRICT	474231250330
10	COCOMAR WATER CONTROL DISTRICT	474231250340
11	RIGHT-OF-WAY	
12	HILLSBORO EXECUTIVE PARK COMM CONDO	484206AB
13	RIGHT-OF-WAY	
14	RIGHT-OF-WAY	
15	BROWARD COUNTY BOARD OF COUNTY COMMISSIONERS	484206110022
16	RIGHT-OF-WAY	
17	RIGHT-OF-WAY	
18	RIGHT-OF-WAY	
19	PUBLIC LAND % CITY OF COCONUT CREEK	484206140030
20	RIGHT-OF-WAY	
21	RIGHT-OF-WAY	
22	INDUSTRIAL DEVELOPMENT CO LLO	484206070030
23	INDUSTRIAL DEVELOPMENT CO LLO	484206070040
24	REGENCY LAKES COMMUNITY ASSN % CAMPBELL MANAGEMENT	484206160100
25	REGENCY LAKES COMMUNITY ASSN % CAMPBELL MANAGEMENT	484206160170
26	JOHNSON,MAJ ANNA-LISA MAJ ANNA-LISA JOHNSON REV TR	484206250130
27	HAAS,JOAN M H/E GOLDBERG,LEON ETAL	484206250140
28	GUZI,DONALD & URSULA	484206250150
29	REGENCY LAKES COMMUNITY ASSN % CAMPBELL MANAGEMENT	484206160090
30	PENNINO,SANDRA WHEELER & DANIELE	484206250270
31	C/O CABBELL PROPERTY MANAGEMENT	484206250640
32	VANDIVIER,CINDY	484206250600
33	SAWGRASS EXCHANGE PROP OWNER % UNITED COMM MGMT CORP	484207130051
34	REGENCY LAKES COMMUNITY ASSN % CAMPBELL MANAGEMENT	484206160110
35	VICTORIA ISLES COMMUNITY ASSOC % INTERGRITY PROP MGMT	484207150010
36	FLORIDA TURNPIKE ENTERPRISE	484207010051
37	FLORIDA DEPT OF TRANSPORTATION OFFICE OF RIGHT OF WAY	484207010012
38	PUBLIC LAND % CITY OF COCONUT CREEK	484207020120
39	WINSTON PARK FOUNDATION INC	484207020100
40	PUBLIC LAND % CITY OF COCONUT CREEK	484207020110
41	CITY OF COCONUT CREEK	484207032770
42	CITY OF COCONUT CREEK	484207100030
43	RIGHT-OF-WAY	
44	EVERGREEN LAKES CONDO	484218AA
45	RIGHT-OF-WAY	
46	RIGHT-OF-WAY	
47	CITY OF COCONUT CREEK	484218030050

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Proj No.: 07-0015.001		

**Broward Group of the Sierra Club • South Florida Audubon Society •
South Florida Wildlands Association • Reef Rescue • Sea Turtle
Oversight Protection, Inc.**

Via electronic submission

October 30, 2012

Chester McGhee
Regional Environmental Scientist
Bureau of Indian Affairs
U.S. Department of the Interior
545 Marriott Drive, Suite 700
Nashville, TN 37214

Dear Chester:

The Broward Group of the Sierra Club, South Florida Audubon Society (Broward), South Florida Wildlands Association, Reef Rescue, and Sea Turtle Oversight Protection appreciate the opportunity to provide comments on the proposed “fee to trust” application by the Seminole Tribe of Florida (STOF) on a property located in Coconut Creek. Collectively, our groups represent thousands of Broward residents deeply concerned about the future health of the ecosystem of Broward County. Due to numerous environmental consequences which would flow from this federal action, some of which we describe in detail below, we are opposed to the proposed action. We instead urge that the Bureau of Indian Affairs (BIA) select Alternative “C”:

14-1

Under Alternative C, the No Action Alternative, no land would be placed into federal trust. Land use jurisdiction of the project site would remain with the City of Coconut Creek.

The STOF’s proposal, now under consideration by the BIA, would transfer 45 acres of land which the tribe currently owns “fee simple” to federal trust status. Aside from creating new sovereign lands for the tribe, the proposed federal action would facilitate construction of new hotel, shopping, dining, and entertainment facilities adjacent to the existing Seminole Creek Casino by removing most regulatory and permitting requirements - in addition to relieving the tribe of tax liabilities. The Executive Summary presented in the Bureau of Indian Affairs’ (BIA) Draft Environmental Impact Statement (DEIS) summarizes the proposed project at buildout under Alternative A:

14-2

Alternative A consists of the phased construction of a hotel/resort facility, spa, conference center, structured parking, and retail village to be constructed on the approximately 45-acre site located in the City of Coconut Creek. Under Alternative A, development would include a 1,000-room twenty-story hotel tower adjacent to a resort-type pool and spa area along

the western boundary of the project site, a conference center, and a 2,500 seat showroom facility. Alternative A would additionally include the previously abandoned section of NW 40th Street upon which a seven-level 2,400 space parking garage has been developed. Alternative A would increase an expansion of this parking structure on Tract G.

The project is massive in scope and would result in the construction of one of the largest entertainment venues in south Florida in a community with an approximate population of only 50,000. The “Gotta Whole Lot to Love” brochure produced for the existing Seminole Hard Rock Resort and Casino in the southern end of Broward County (Hollywood) provides a colorful description of what can be expected from the greatly expanded Coconut Creek Resort Casino:

We’re not just a hotel and casino – we’re a 24/7/365 rock-the-house performance of greatest hits. Slots, Blackjack, South Florida’s premier Poker Room, world-class restaurants, nightclubs, shopping, and luxurious hotel rooms literally made for rockstars - all in one hot ‘n’ sunny, convenient location. We’re here to amplify the way you play. Welcome to the main stage.

The Coconut Creek Casino (without planned expansion) already advertises throughout Broward and Palm Beach Counties. With potential customers in the millions and the Seminoles’ demonstrated expertise in developing and operating resort casinos on the local, regional and international level, we have absolutely no doubt that this venue would grow to become at least the equal of the Seminoles’ Hard Rock Resort and Casino in Hollywood with regard to visitation. We also have no doubt that a venue of this type - if developed - would draw a significant portion of the existing clientele of the Seminole Hard Rock for at least occasional visits and bring in customers from south Broward and even Miami-Dade County in addition to those from the north. The distance between the two venues is only about 15 miles. In fact the location of the Seminole Creek Casino at or near the geographic center of the South Florida Metropolitan Area (Miami-Dade, Broward, and Palm Beach Counties) would appear to make it an ideal location from the business standpoint. With over 5.5 million residents (2010 census) in the metropolitan area and millions more annual tourists and “snowbirds”, the completed Coconut Creek Casino would have the potential as well as capacity to become the largest and most profitable casino resort in Florida.

Hard numbers on visitation have not been easy to come by. However, we were able to locate this estimate of visitation at the Seminole’s Hard Rock Casino in Tampa. From a July, 2012 article in the Tampa Bay Times (Expansion puts Seminole Hard Rock Casino in top tier of gaming halls):

The casino has seen a noticeable increase in visitors, Hoppe (Douglas Hoppe - VP of Sales and Marketing) said. On average, the casino has about 20,000 visitors, with 30,000 coming through on bigger days, such as Memorial Day weekend.

“A lot of casinos in Vegas on a Friday night would be happy to have the kind of vibe and business we have now on a Monday afternoon,” Hoppe said.

14-2
Cont.

It is logical to conclude at least similar numbers for the expanded Coconut Creek facility.

Although the municipal governments of both Broward County and Coconut Creek have expressed objections to the “fee to trust” transfer of this property in the past (due to loss of tax revenue plus additional strain on city and county infrastructure, services, and resources), those objections have now settled on the amount of financial compensation each municipality is willing to accept as “mitigation”. The City of Coconut Creek has finalized an annual monetary settlement while the county is “still in negotiations” with the STOF over an amount. In their most recent letter on the topic, Broward County provided this information:

COUNTY REVENUE LOSS (Based on FY13 estimates)

Type of Tax	Land in Trust	Fee-to-Trust Proposal	Both Developments
Broward County Property Tax	884,217	2,077,798	2,962,015
Cocomar Water Control District Property Tax*	23,025	54,106	77,131
Half Cent Sales Tax	-	276,513	276,513
Tourist Development Tax	1,437,188	2,874,375	4,311,563
TOTAL RECURRING REVENUE LOSS	\$2,344,430	\$5,282,792	\$7,627,222

14-3

* The Cocomar Water Control District is a special taxing district of the County Commission

The county added:

It should be noted that compensation, in addition to the recurring revenue loss identified in the table, may be needed to offset costs of direct services related to the development of the land placed into trust. For example, any rerouting of buses to provide direct service to the interior of the development would increase the County’s operating and capital costs...

While we agree with both governments that costs will be incurred from this project that do deserve to be compensated, we also take the position that the environmental impacts from the project will reverberate throughout the local area and the Greater Everglades in ways that will not and cannot be mitigated by monetary payments to any government entity. They are qualitatively different than the example the county provided of insufficient bus service which can be rectified simply by adding additional service. We also believe that the DEIS has been woefully inadequate in identifying the full array of environmental impacts from this massive project.

The National Environmental Protection Act (NEPA) does not require a particular outcome from an environmental review of a potential federal action. We are aware that

14-4

the proposed alternative in a NEPA process can differ from the federal agency's eventual "preferred alternative" or "environmentally preferred alternative". However, NEPA does require a rigorous examination of environmental impacts which would flow from that decision before it is made. From the Council on Environmental Quality's FAQ's on NEPA:

The 'environmental consequences' section should be devoted largely to a scientific analysis of the direct and indirect environmental effects of the proposed action and of each of the alternatives. It forms the analytic basis for the concise comparison in the "alternatives" section.

We believe that the DEIS prepared for this potential action has failed to identify the full range of environmental impacts - "direct and indirect" - which would result if the BIA granted trust status to these lands in order to facilitate construction of one of the largest - if not the largest - entertainment venues in south Florida. As mentioned in the Hollywood Hard Rock brochure, the key word here is "amplify". In a county already struggling to balance quality of life with an already severely strained and degraded ecosystem, the proposed project will:

Draw enormous quantities of potable water from the only major source the county currently has - the Biscayne Aquifer - leading to draw downs and possibly salt water intrusion;

Add to the amount of semi-treated waste water currently being discharged to the Atlantic Ocean in "sewage outfall pipes";

Significantly increase polluted stormwater runoff entering into both the aquifer and the marine waters of Broward County through drainage canals;

Generate a large increase in traffic on local roads already deemed to be "at capacity" and contribute to urban sprawl;

Significantly impact migratory birds which utilize large swaths of Broward County as part of the "Atlantic flyway" during fall and spring migrations.

We will provide additional information on each of the above.

Potable Water

The Biscayne Aquifer is the sole source of potable water for virtually all of Broward County. The DEIS describes anticipated water use from the casino as follows:

The average daily potable water demand under Alternative A is estimated to be 390,000 gallons per day (gpd) (including a 15% contingency to account for system losses), with a peak demand of approximately 534,000 gpd (Appendix C). Peak Hour Demand is estimated to be 885,000 gallons.

I4-4
Cont.

I4-5

Although massive, the DEIS concludes that this quantity of water is available through the agreements currently in place between the City of Coconut Creek and the STOF and the secondary agreement Coconut Creek has with Broward County to obtain water for re-sale to its commercial and residential customer base (approximately 11,064 customers according to the DEIS). That municipal supply is ultimately dependent on the agreement Broward County has with the South Florida Water Management District (SFWMD) to obtain potable directly from the Biscayne Aquifer through two municipal wellfields in the northern end of the county.

However, this arrangement is completely contingent on sufficient water in the Biscayne Aquifer to meet the demand. This is not at all guaranteed - and adding this quantity of new use could lead to a significant draw down of the aquifer - as well as adding to the well known problem of salt water intruding into the still freshwater portions of the Biscayne Aquifer in Broward County.

Both possibilities are acknowledged by SFWMD in the "Limiting Conditions" section of the Consumptive Use Permit that Broward County has with the SFWMD and which serves the City of Coconut Creek:

9. Permittee shall mitigate harm to existing legal uses caused by the permittee's withdrawals as determined through reference to the conditions for permit issuance. When harm occurs, or is imminent, the District will require the permittee to modify withdrawal rates or mitigate the harm. Harm, as determined through reference to the conditions for permit issuance, includes:

A) Reduction in surface or ground water levels that prevents an adjacent withdrawal facility from producing water, or

B) Induced movement of saline water or pollutants into a withdrawal facility to a degree that causes the water to be unsuitable for the use intended.

The problem of insufficient water in the Biscayne Aquifer for human needs, agriculture and recreation, and for the health of the Everglades is well established. As noted in a recent press release from the SFWMD - "South Florida Forecast: An Uncommonly Average Dry Season" the district notes that a majority of the dry seasons in the past 14 years have been below average:

South Florida is forecast to experience one of the few dry seasons with near-average rainfall in the past 14 years, officials announced today at a joint briefing by the South Florida Water Management District (SFWMD) and the National Weather Service (NWS)...Only two South Florida dry seasons, 1998-1999 and 2003-2004, have actually been about average in the past 14 years, with two above average and 10 below average dry seasons.

As recently as last year, the City of West Palm Beach was nearly out of water before summer rains finally alleviated what had been one of the worst droughts on record. See article from the Palm Beach Post from February of 2011:

The source of West Palm Beach's drinking water "will probably be exhausted" by March and the city will not be allowed to pull water from its well field in violation of its permit, as it did to weather this year's drought, regional water managers warned the city commission Tuesday.

"I think you need to approach this with the concept that you're facing a significant event and do everything you can and we're going to do everything we can do to help," said Scott Burns, the water shortage incident commander at the South Florida Water Management District. "I think you need to plan on alternatives and that those sources won't be there."

14-5
Cont.

The Biscayne Aquifer is the sole source of water for the Florida Keys, all of Miami-Dade and Broward Counties, and the southern end of Palm Beach County. It contains a finite capacity of water and that capacity has often been reached. Coupled with changing weather patterns during the dry season, projects such as the expanded casino at Coconut Creek unnecessarily tax the existing supply. Broward County is well aware of the problem and is urging municipalities to develop alternative water supplies (at great cost) as well as practice conservation (i.e. use less water). The estimated water usage by this facility will cancel out a great deal of that conservation - and hasten the need to develop costly and largely untested alternative water supplies.

As mentioned previously, salt water intrusion is a severe problem that has already led to the closure of numerous well-fields in eastern Broward County. In the U.S. Geological Survey paper - Movement of the Saltwater Interface in the Surficial Aquifer System in Response to Hydrologic Stresses and Water-Management Practices, Broward County, Florida (Dausman and Langevin, 2004) the problem is described as follows:

Saltwater intrusion occurs in coastal aquifers when saline ground water intrudes and contaminates a freshwater aquifer. Mixing occurs in the aquifer at the interface between fresh ground water and saline water. This mixing zone is referred to as the saltwater interface. The extent of saltwater intrusion, or the inland position of the saltwater interface, is highly dependent on freshwater levels within the aquifer. If water levels increase in the freshwater part of the aquifer, the interface can move seaward; however, if water levels decrease, the interface may move inland and pose a potential threat to municipal well fields. Movement of the interface is not instantaneous. Months, years, or decades may be required before the interface reaches equilibrium with surrounding water levels.

14-6

The paper goes on to describe the specific problem in Broward County:

Saltwater intrusion is a potential threat to the potable water supply in Broward County and surrounding areas along the southeastern coast of

Florida. This complicates the management of ground-water resources along the coastal region where competing flood protection and water-supply needs must be satisfied. Specifically, saltwater intrusion is of concern because it can contaminate freshwater in the surficial aquifer system, which includes the lower part of the surficial aquifer system and the Biscayne aquifer (the upper part); the Biscayne aquifer is the principal source of potable water in southeastern Florida.

It should be noted that one of the two Broward County wellfields which serve the City of Coconut Creek is just west of the line of salt water interface. Many of the eastern wellfields in Broward County, such as those which formerly served the City of Dania Beach have already been closed. Here the study explains the precise mechanism by which the impact occurs as a result of pumping:

Ground-water withdrawals from the Biscayne aquifer are the sole source of potable water in Broward County and the major source of agricultural irrigation. The effects of pumping can be seen as cones of depression centered at municipal well fields. The upconing of saline ground water from the lower part of the surficial aquifer system is thought to occur beneath some of the well fields. Lateral saltwater intrusion also has been observed as a result of well-field pumping (Dunn, 2001).

Assessing the threat to Broward's water supply from salt water intrusion into wellfields from the additional withdrawal of hundreds of thousands of gallons daily as a result of the Casino expansion must be included in the environmental impact statement for this project. Sea level rise – another major source of salt water intrusion (the movement of the freshwater/saltwater interface from east to west as sea levels rise) is also known to be occurring – and with increasing speed. This factor must also be considered and taken up in the EIS in light of the enormous demand for potable water the Coconut Creek project will demand.

Wastewater

Wastewater from the expanded project is estimated at approximately 420,000 gpd. According to the DEIS, the ultimate destination for that wastewater is the Broward County North Regional Wastewater Treatment Plant (WWTP).

The treatment plant is a sequencing batch reactor, which treats wastewater and then discharges effluent to the Atlantic Ocean. The WWTP has a permitted capacity of 95-million gallons per day (MGD). Estimated average 2011 annual flows, including proposed development flows, are 65.3 MGD (Broward County, 2012). The North Regional WWTP additionally includes a reclaimed water treatment plant that provides filtration and disinfection. Reclaimed water is currently provided for irrigation and other non-potable uses (Broward County, 2011a). Reclaimed water is currently not available to customers in the vicinity of the project site.

The practice of using ocean outfall pipes as a way of dealing with semi-treated wastewater has had a long and tortured history in Broward County and throughout south Florida. Indications are that nutrient levels and other undesirable constituents (micro-organisms, cleaners and disinfectants, pharmaceuticals, etc.) found in the semi-treated effluent have been having an increasingly negative impact on coral reefs and other marine organisms. After years of controversy, in 2012 the Florida legislature finally decided to phase out all outfall pipes in use in south Florida. The Florida Department of Environmental Protection provides this legislative summary:

F.S. 403.086 regarding ocean outfall facilities. The several local government facilities in Southeast Florida that discharge some 300 million gallons per day of domestic wastewater through ocean outfalls must eliminate flow to those outfalls, including reusing at least 60 percent of the treated wastewater for beneficial purposes by December 31, 2025. They must make incremental progress toward that date as defined in the law. An ocean outfall facility may not be able to meet the 60 percent reuse requirement if other entities that currently provide flow to the facility for treatment and disposal divert that flow to other locations for treatment or disposal.

But in spite of this, the additional wastewater from the Coconut Creek facility will continue to enter the Atlantic Ocean through the north Broward outfall pipe and will continue to have negative impacts on the marine ecosystem. As noted in a study prepared for the U.S Environmental Protection Agency - Identification of Land-based Pollution in South Florida Coral Reefs: Host Specific Viruses as Conservative Markers for Human Sewage (Lipp, Griffin, Futch 2006):

Southeast Florida is densely populated, with a human population of 4,000 people mi-2 (www.censusscope.org) that is expected to at least double by 2020 to a total 15 million (Finkl and Charlier, 2003). In terms of population, Broward County is the second largest county in the state and the 15th in the nation, with over 1.7 million people as of 2006. Such concentrated populations place increased burden on existing infrastructure in dealing with sewage treatment and disposal.

This study also notes the impact of an increase in impervious surfaces – another outcome from the Coconut Creek expansion.

The increasing population densities cause increases in the amount of impervious surfaces, which facilitate storm water runoff into local waterways. Both point and non-point source pollution has a significant impact on coastal water quality.

In looking at the outfall pipes, the study found the following:

Outfall samples were taken in 2007 from both the Broward and Hollywood Outfalls. At the Broward Outfall, fecal coliform bacteria were found at a concentration of 236 CFU L-1, enterococci at 66 CFU L-1, and C. perfringens at 1956 CFU L-1. FIB analysis was not performed for samples from the Hollywood Outfall. Enteric viruses, adenoviruses and enteroviruses were not detected; however, both outfalls were positive for norovirus G1.

The study reached the following conclusion:

In densely populated coastal areas, such as southeast Florida, land based sources of pollution to marine environments are becoming increasingly significant for their potential negative impacts to coastal marine ecosystems. Pollution causes harmful algal blooms and creates human health risk. The full impact of sewage in offshore reef environments and recreational waters is yet to be monitored or fully investigated, including where the most significant source of contaminants may arise (e.g., inlets, outfalls, submarine groundwater discharge, among others).

In the action before the BIA, the results of Alternative A will significantly add to the volume of water entering the outfall pipes and thus increase degradation of Broward's marine environment, threats to public health as well as Broward's ocean based tourist economy. This is a direct impact from the project which must be thoroughly investigated by the agency.

Stormwater Runoff

As noted in the above study, stormwater runoff is a significant source of pollution in Broward's marine waters and in the health of its surficial aquifer. The DEIS indicates that the project proposed in Alternative A will create more runoff than the remaining on-site retention ponds will be capable of handling. The quantity of stormwater is projected to increase while the existing retention ponds decrease in size and volume as the land they occupy is utilized for the projected development. There will therefore be a need for deep well storage, conveyance to an additional retention pond further north (by obtaining rights of way across numerous properties, and/or dumping of stormwater in the Hillsboro Canal for eventual release into the Intracoastal Waterway and the Atlantic Ocean.

As was noted during the public meeting on the proposal, Broward County has emphasized the negative impacts of stormwater runoff in the "Water Quality" section of the county website:

Stormwater runoff contains a number of contaminants that can contribute to public health problems. It's estimated that approximately 80 to 95 percent of the heavy metals like lead, zinc, copper, cadmium, and mercury that enter Florida waters are the result of runoff from our yards, farms, streets, and

other paved areas. That is why it is vital to control the amount of stormwater that flows off our properties and into our water management system. It's also important that we care for our water management system and make sure that it is working correctly, so that it can mitigate the effects of those contaminants before they can reach our drinking water supplies or aquatic environments.

Once again, Alternative A will add significantly to the negative impacts of stormwater runoff to Broward County. The thousands of additional cars coming to the future resort/casino as a result of the proposed expansion will significantly add to the volume of oil, grease, anti-freeze, gasoline, corroded metals and other forms of pollution which will enter Broward's marine waters and aquifer. It should be emphasized that the Biscayne Aquifer is a surficial aquifer. The water in the retention ponds is connected to the aquifer via highly porous limestone and should be considered for hydrological purposes to be the aquifer itself. Impacts from runoff need to be examined well beyond the question of volume and capacity alone.

14-8
Cont.

Traffic and Sprawl

By a convenient coincidence, in June of 2012 the Metropolitan Planning Organizations of both Broward and Palm Beach Counties completed a study called "The State Road 7 Common Vision – A Collaborative Effort to Address Mobility in Northern Broward and Southwest Palm Beach Counties". As the study investigated conditions along State Road 7 from Sample Road in Broward County to Glades Road in Palm Beach County it presents a thorough analysis of current conditions (the proposed project is located at the intersection of Sample Road and State Road 7) along with well thought out recommendations by planners. We quote this relevant section of current conditions in full:

SR 7 Today

Land uses in the SR 7 corridor have developed in a typical suburban pattern. This pattern segregates uses by creating single-use, disconnected areas. As a result, shopping, housing, schools, and recreation are not organized in an intrinsically connected, compact manner. Use of an automobile is needed to access these disconnected areas and parking has become a dominant feature of the landscape. This sprawling and disconnected development relies upon a limited roadway network that gradually degrades the mobility of a community.

This erosion of mobility is inevitable as most vehicular trips must occur on a limited number of collector streets and arterial roads, such as SR 7. Local streets that are comfortable and safe for pedestrians and bicyclists—as well as motorists—are either disconnected from most destinations or are insufficient to handle vehicular travel demands. With most of the traffic volume accommodated on fewer and fewer local roads, SR 7 has needed to

14-9

become increasingly wide and auto-dominant, and less able to provide a safe or desirable environment for bicyclists and pedestrians.

Today, SR 7 is a six-lane regional roadway transportation facility with multiple turn lanes at each major intersection and is, once again, is near capacity, with 2011 daily traffic volumes ranging from 39,000 north of Sample Road to 51,000 south of Glades Road. It is one of only five north-south connections between Broward and Palm Beach counties west of I-95 including Florida’s Turnpike. Since 1989, when SR 7 was last widened in 1989 (albeit with many subsequent intersection improvements through the years).

I4-9
Cont.

The BIA must look at the consequences of this project from the standpoint of traffic patterns which are already “at capacity” on both State Road 7 and Sample Road. The projected turn lanes will do nothing to create the kind of access that was originally intended for this site in Coconut Creek’s “Main Street Project” in which a centralized downtown area would provide all amenities in an area filled with parks and open spaces and which would be accessible in ways other than automobiles (walking and bicycles). The project would essentially create a mega-hub of traffic at the intersection of SR 7 and Sample Road – impacting residential neighborhoods and schools and impacting traffic flow throughout northwest Broward County. Huge increases in CO2 emissions would be expected from this project as a result of increased engine idling in traffic alone. The cost to the human environment is high here – and again must be investigated in full by the BIA.

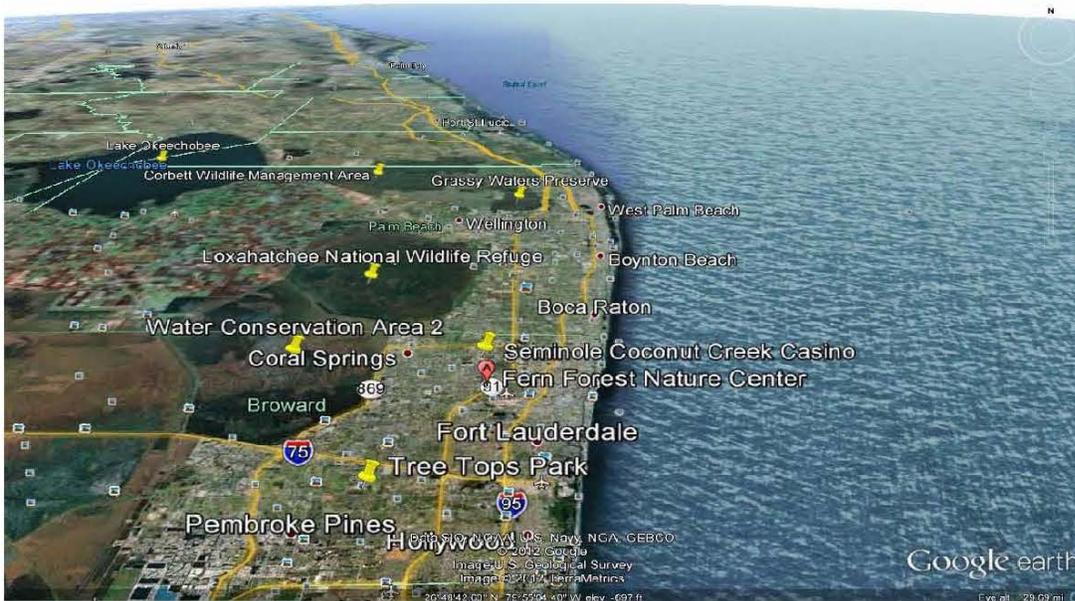
I4-10

Wildlife

While both the BIA and the U.S. Fish and Wildlife Service have downplayed the impacts to wildlife from Alternative A – noting mainly that the wetlands and retention ponds are not currently utilized by the Federally endangered woodstork – it is clear that the site has the potential to cause tremendous disruptions to the large number of migratory birds which utilize the area during fall and spring migrations. At 20 stories and with 1000 rooms, the well-lit hotel is by far the tallest structure for miles around. It is also only a few miles from the northern and central Everglades – including the Loxahatchee National Wildlife Refuge.

I4-11

See location map on the following page:



These comments were provided via email from Dr. Christine Sheppard – American Bird Conservatory’s Bird Collision Campaign Manager:

Collision with glass is the single biggest killer of birds in the United States, with a billion or more lost to collisions each year. Unlike some sources of mortality that predominantly kill weaker individuals, there is no distinction among victims of glass. Because glass is equally dangerous for strong, healthy, breeding adults, of both common and rare species, it can have a particularly serious impact on populations. Even small amounts of glass can be deadly. Large glass structures have been documented to kill thousands of birds a year.

The majority of birds killed by glass are night migrating songbirds. Songbirds follow a ‘broad front’ migratory pattern, spreading out across the landscape, unlike species such as waterfowl that tend to follow rivers and coastlines. Geographical features do shape songbird migration and birds migrating down the east coast of the U.S. avoid flying over the ocean until they reach the tip of Florida; this concentrates birds as they enter the state.

Birds are attracted to and confused by light. Powerful beams can literally trap birds in a circling pattern that can directly result in fatal collisions. Light pollution in general attracts birds into the built environment. After hours of flight by night, they need to feed by day and many collide with nearby glass with fatal results.

Time does not allow any further explanation of these consequences. Clearly this project would create a ripple effect of environmental and social impacts extending far beyond the

project site. We request the BIA not take this action and decide in favor of Alternative C – the no action alternative.

□ I4-12

Sincerely,

Matthew Schwartz
Executive Director
South Florida Wildlands Association
s/ Matthew Schwartz

Mara Shlackman
Chair
Broward Group of the Sierra Club
s/ Mara Shlackman

Grant Campbell
Conservation Chair
South Florida Audubon Society
s/ Grant Campbell

Richard WhiteCloud
Founding Director
Sea Turtle Oversight Protection, Inc.
s/ Richard WhiteCloud

Ed Tichenor
Director
Reef Rescue
s/ Ed Tichenor

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2012 NOV -6 A 11: 39

October 12, 2012

Mr. Franklin Keel
Eastern Regional Director
Bureau of Indian Affairs
545 Marriott Drive, Suite 700
Nashville, TN. 37214

Re: Seminole Tribe of Florida Coconut Creek EIS Review (Project No. 201211.01)

Dear Mr. Keel:

The purpose of this letter is to offer constructive comments regarding the proposed ***Seminole Tribe of Florida (STOF) - Trust Acquisition and Resort Project Draft Environmental Impact Statement.***

My professional expertise is in planning and development, environmental and water resources management. Formerly, I served as the Broward Service Center Director for the South Florida Water Management District (SFWMD). As you may know, SFWMD is Florida's largest water management agency, serving 16 counties, over 150 municipalities, over 7 million people, 1800 employees with a \$1 billion budget responsible for water supply, water quality, flood protection and the preservation and restoration of Florida's natural resources.

As the former Broward Service Center, I lead all strategic and operational aspects of the delivery of water resource services to Broward County and the 31 cities within the county. I served as liaison for local, state, and federal governments and for community groups within Broward County. Provided and assisted with the coordination of permitting and other agency functions, coordinated with local stakeholders, managed major projects and messaging.

The focus of my comments center on the proposed Wetlands and Drainage Analysis prepared by Analytical Environmental Services, NEPA Environmental Impact Statement for the Seminole Tribe of Florida. The STOF Fee-to-Trust application to the Bureau of Indian Affairs proposes a significant amount of development for the 45+/- acre property which includes a 1,000 room resort hotel, retail and restaurant spaces, a convention center, a 2,500-seat showroom, an expanded garage and other related facilities. This intensive development is in addition to a proposed 500 -room hotel and conference center development. Because of its proposed location it will have an impact on water resources and water quality in addition to City of Coconut Creek, Broward County and other regional services.

15-1

15-2

Wetlands

Based on the EIS, more documentation is needed to assess the wetland delineation within the project site. Maps showing the locations of the sample points are needed to provide a more accurate review by U.S Department of the Interior, Fish and Wild Life Service.

15-3

Water Resources and Drainage

The EIS addresses the need to have offsite storage of storm water and the need for a connection to the Cocomar Water Control District (CWCD) North West Basin. Alternative "A" option would require water storage within the CWCD North West Basin on only 4 acres of STOF land downstream. This would require delivering that water via pipe, through approximately 27 parcels of private property and into the Hillsborough Canal for discharge to the ocean. **Please note that the proposed option would be in direct conflict with the recommendations of the "Broward County Water Resource Task Force (BCWRTF)" recommendations.**

The Water Resources Task Force was created by Resolution of the Broward County Commission which includes collaboration with the Broward League of Cities and the South Florida Water Management District. "The Task Force has identified and evaluated opportunities and impediments to providing future regional water supply, water conservation, waste water treatment, and water reclamation strategies of greatest efficiency and cost effectiveness."

15-4

The BCWRTF recommends the promotion of collaborative regional water supply strategies that benefit the region with an emphasis on areas that contribute to the volume of waste water currently discharged via outfalls with the goal to achieve 60% reuse of water discharged through outfalls by the year 2025, pursuant to Florida State Law.

In summary, the Alternative "A" option would be a massive development that would be in conflict with the proposed recommendations of the BCWRTF. Confining storm water run-off on site would require less intensive development and mitigate any impacts to water quality for North West Basin in Broward County.

If you have any questions or comments, please feel free to contact me.

Respectfully Submitted,



Elbert L. Waters, M.C.P., J.D.

ELBERT L. WATERS, M.C.P., J.D.

Elbert L. Waters has over thirty years of successful planning and management of complex urban development projects, private sector planning and land development consulting with specific emphasis in the areas of: Urban Development; Community Services Management; Land Use and Zoning; Community and Economic Development; Urban Real Estate/Finance Development; Neighborhood Redevelopment; Affordable Housing Development/Finance; Urban Design; Neighborhood Job/Training; Neighborhood Commercial Revitalization. In addition, he has extensive financial, operating programs, capital budget/managerial, Municipal and federal administration. Bert served as Broward Service Center Director, South Florida Water Management District, responsible for water resources and development for the Broward County and its thirty-one (31) cities (pop. 1.7 million).



Bert served as the Assistant City Administrator for the City of West Palm Beach, Florida. He was responsible for management oversight of economic development services, which included the Planning and Zoning Department; Construction Services; Code Enforcement; and Executive Director of the Community Redevelopment Areas (CRA).

Bert served as the Director of Community Planning & Development for the City of North Miami, Florida (4th largest city in Miami-Dade County). He was responsible for management of the department, which included Planning and Zoning, Code Enforcement (C.A.R.E.), Economic and Business Development, Building and Inspections, Engineering and Construction Management and the CDBG/State Housing Initiative Program (S.H.I.P.). Bert served as a Community Builder Fellow, U.S. Department of Housing and Urban Development, serving as the federal coordinator under HUD for the Miami-Dade Empowerment Zone Trust, Inc. The Empowerment Zone is a \$25.0 Million economic development initiative for Miami-Dade County.

Bert served in various positions with the City of Miami, Florida, as the Director of Community Development/ Housing (\$30.0 Million budget); Assistant Director of Planning, Building and Zoning (\$4.0 Million budget); Chief of Land Development, Planning and Development Department; Neighborhood Administrator; and Urban Designer/ Downtown Planner for the Planning Department. Bert helped develop the 1994 Miami/Metro-Dade County Empowerment Zone application, the Wynwood SAFE Neighborhood Improvement District, and the Wynwood Foreign Trade Zone. He helped create four (4) Urban Redevelopment Plans that provided economic opportunities for residents of Southeast/Overtown Park West, DuPont Plaza, and the Model City/Liberty City areas of Miami. Bert is a Life Member of Omega Psi Phi Fraternity, Inc., former board member of the Urban League of Greater Miami, Inc., and current board member of the Urban League of Broward County, and former member of One Hundred Black Men of South Florida, Inc. Bert was the Executive Director and Cofounder of the Community Design Center of Columbia, Inc., and a neighborhood planning/design nonprofit organization in Columbia, South Carolina. Also, he served as a member of the Planning Accreditation Board (an Affiliate of the American Planning Association), Site Visit Team.

Bert received a Bachelor's of Technology in Architectural Engineering from Florida A&M University; Master's in City Planning/Urban Design from Georgia Institute of Technology; and a Juris Doctor degree from the University Of Miami School Of Law. Mr. Waters is a John L. Loeb Fellow in Advanced Environmental Design, Harvard University Graduate School of Design. In addition, Mr. Waters completed the U. S. Department of Housing & Urban Development, Community Builder Fellows, Executive Program in Public Management, Harvard University John F. Kennedy School of Government. Also, he is an ELI Fellow, Executive Leadership Institute, National Forum for Black Public Administrators. Bert is an avid Jazz Trumpet/Flugelhorn player.

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2012 NOV -6 A 11:39

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REGISTER

October 14, 2012

Mr. Franklin Keel
Eastern Regional Director
Bureau of Indian Affairs
545 Marriott Drive, Suite 700
Nashville, TN 37214

RE: Seminole Tribe of Florida Coconut Creek EIS Review
Project No. 201211.01

Dear Mr. Keel:

As a resident of Broward County and a transportation planner, I have reviewed the August 2012 draft Environmental Impact Statement (EIS) transportation analysis (Appendix E). While the new transportation analysis is a vast improvement over previous studies completed for this project, it still contains a number of assumptions that cause concern for the validity of its findings and conclusions. A discussion of those assumptions and the concerns raised by them follows:

Trip Generation and Internal Capture – Trip generation for the project is based on an interesting mix of trip generation rates from the Institute of Transportation Engineers (ITE), and traffic counts at the existing casino site in the City of Coconut Creek and at the Seminole Tribe of Florida's Hollywood Hard Rock Casino site located on tribal lands between the Town of Davie and City of Hollywood, Florida. To the degree that the recent counts taken at the studied casino site in Coconut Creek are applied, there is little to argue. However, the study also relies upon five-year-old counts at the Hollywood Hard Rock Casino site to determine a trip generation rate for non-casino traffic. Although the transportation analysis assumes that nothing has changed at the Hollywood site, there is no attempt to verify this assumption. A relatively small increase in traffic generated by that site could seriously affect the low trip generation rate assumed for the non-casino-related trips and would also increase the number of roadway segments meeting the 5% significance threshold assumed for establishing the transportation analysis study area.

16-1

In addition, while the analysis never actually defines the internal capture rate between the different land uses contained within the development, it is possible to calculate it from the information contained in Section 3.5.5 (last paragraph) where it is stated that the non-casino land uses will generate 639 p.m. peak-hour trips rather than the 2,746 p.m. peak-hour trips estimated by means of ITE trip generation data. Comparing these two numbers reveals that an internal capture rate of 76.7% is applied to the project's non-casino land uses.

16-2

While the applicant will, no doubt, claim that this rate, which was never identified, is simply the truth obtained from their traffic data, they are mixing and matching traffic counts from two different sites and, in regards to the Hollywood site, did not bother to verify that the five-year-old counts were in any way accurate representations of today's conditions. This could have been accomplished by simply conducting new counts at the Hollywood site access points and comparing the old counts with the new.

16-3

In addition, having quickly reviewed a number of other EIS transportation analyses prepared for the Bureau of Indian Affairs, no other incidence of such a high internal capture rate was found—even on rural sites where the casino resort development was essentially the only game in town—a condition that is certainly not true in Broward County where there are a number of competing casino resorts operating or under development.

16-4

Finally, the applicant is assuming a high level of internal capture between uses, including the casino land use, while not taking into account the impacts of the future expansion of the casino and other Tract 65 development as project-related trips. In effect, they take credit for the internal capture between the trust land and non-trust land uses to reduce their non-casino-related external trips and then claim no responsibility for the effects of new future trips generated by the Tract 65 property.

16-5

Because the applicant has elected to use a comparison of external project trips to roadway capacity criterion for determining the project study area, this measure of internal capture rate is critical, as it affects the number of external project trips, and should not be accepted without some demonstration that the traffic volumes from the Hollywood site are, in fact, an accurate representation of conditions in the current study year.

Tract 65 traffic – As noted above, the EIS transportation analysis claims that traffic generated by Tract 65, the portion of the Seminole Tribe's property that is already trust land, is the majority of the trips associated with the casino resort. Because this portion of the development is already in trust, the effect of these trips on area roadways is largely ignored. In fact, because the trust land trips are treated as committed development trips, they are assumed to be approved and to, if anything, make the background traffic conditions of area roadways look worse before considering the trips associated with the remainder of the development. In this way, the actual impact of the development is reduced in size and significance. Yet, patrons of the casino do, in fact, have to use the over-capacity roads in the area to access the trust land.

16-6

The net effect is to ignore the largest trip generator, except to use it to justify an unusually large overall internal capture rate, and focus on the smaller, non-casino trip generators. It should be noted that no other EIS was found in our review of the available reports for a tribal casino resort where future trips from the tribal lands were ignored in the transportation analysis of project impacts that may require mitigation.

Study Area – In Section 3.11 of the transportation analysis it is noted that Developments of Regional Impact (DRIs), a type of large-scale development defined by Florida Statute

16-7

380.06, assume roadway segments to be of significance and meriting study when the project traffic on those roadway segments is equal to or greater than 5% of the roadway segment's approved level of service maximum-service volume, that is, the roadway segment's "capacity."

Using this DRI practice as a justification, the applicant defined the study area as those roadway segments where the project traffic equaled or exceeded 5% of the roadway segment's capacity. What is missing from this section is any recognition that, while this is, in fact, the criterion for determining a DRI's study area, there is no requirement to use this method for determining the study area for an EIS. In fact, in a brief review of other Bureau of Indian Affairs (BIA) draft EIS transportation analyses, not one could be found with an equivalent study area criterion. It was possible, however, to find EIS transportation analyses that looked at any roadway segment that was affected by 25 project trips (Harrah's Rincon Casino Resort Expansion EIS), every roadway segment between two major expressway interchanges (Coverdale Rancheria EIS), every major intersection within the entire community (Cascade Locks Resort and Casino Project EIS), and roadways extending into the adjoining county (Point Molate Tribal Destination Resort and Casino Project EIS). While I am sure there are many other examples to be found, I think these make the case that study area boundaries for Environmental Impact Statements vary widely, but in no other case were reduced to the level identified for this project.

16-7
Cont.

Further, this arbitrary study area definition (this is not a DRI analysis) is defended in the draft EIS as, "This definition was applied here since it has been universally applied statewide to large development such as regional malls, airports, sports stadia, and very large scale residential and commercial developments." This statement is simply untrue. Many large-scale developments in Florida have not been DRIs and, besides, there is no compelling reason to accept this criterion for an EIS. Large projects in Florida routinely use a 3% significance threshold for the purpose of Land Use Plan Amendments and, in a number of jurisdictions, use a 1% significance threshold for traffic impact studies of any size of development. Many other jurisdictions in Florida have no set criterion for determining study area boundaries and do not employ a significance test of any sort. Neither the City of Coconut Creek nor Broward County publishes any required study area criterion, so the choice made by the applicant was not mandated by local government requirements.

16-8

What the applicant's study area criterion does is limit the study area to roadway segments within the City of Coconut Creek while ignoring the impact of the project on adjoining communities. The original study area, as discussed in Section 3.2.2, was much larger and would have considered the effects of project traffic on roadways within those communities.

In summary, the selected study area criterion, coupled with a very large internal capture rate for the non-casino land uses and no consideration of the overall effect of the project (Not including the Tract 65 future traffic volumes as a part of the project trips) results in a study area that is too small and does not reflect the actual impact of the project on the

16-9

Mr. Franklin Keel
October 14, 2012
Page 4 of 4

roadways and communities surrounding the development. It is recommended that the BIA require the applicant to:

1. Evaluate a larger study area, as defined in Section 3.2.2 of their report;
2. Collect new counts at the Hollywood Hard Rock Casino Resort to verify that the 2007 counts are representative of today's conditions;
3. Address the trips associated with the future casino expansion in the future project trips analysis and reduce the internal capture rate for non-casino trips.

Should you have any questions or comments regarding these comments, please do not hesitate to contact me.

Very truly yours,



Thomas A. Hall
President

TAH/kh

Cc: Matthew Schwartz, Sierra Club Florida

16-9
Cont.

ORIGINAL

PUBLIC HEARING
BIA DRAFT ENVIRONMENTAL IMPACT STATEMENT
FOR THE PROPOSED TRANSFER OF FEE PROPERTY
INTO FEDERAL TRUST
SEMINOLE TRIBE OF FLORIDA
SEMINOLE FEE-TO-TRUST PROJECT

Tuesday October 9, 2012

PRESENT:

CHET MCGHEE, BUREAU OF INDIAN AFFAIRS,
FACILITATOR
JOHN MEERSCHIEDT, ANALYTICAL ENVIRONMENTAL
SERVICES, SENIOR PROJECT MANAGER

1 MR. MCGHEE: Good evening and thank you for being
2 here tonight. My name is Chet McGhee and I'm the Regional
3 Environmental Scientist with the Bureau of Indian Affairs.
4 I will be a facilitator at the Public Hearing this
5 evening. At the table with me is Mr. John Meerscheidt
6 from Analytical Environmental Services. AES is our
7 Environmental Impact Statement consultant for this
8 project. Mr. Dave Sawyer, also from AES, is at the
9 sign-in table and he can provide additional information if
10 needed. We are here tonight to take comments on the BIA's
11 Draft Environmental Impact Statement for the proposed
12 trust -- proposed transfer of fee property into Federal
13 trust at the benefit of the Seminole Tribe of Florida.
14 The Tribe intends to develop the property as a resort
15 complex including a 1,000-room hotel. The property, owned
16 by the Tribe, is approximately 46 acres located within the
17 city limits of Coconut Creek, Florida.

18

19 Now, it's important for me to point out that I am not a
20 decision maker on this application. My role, with the
21 assistance of AES, is to make sure the decision maker is
22 totally aware of all environmental issues before they make
23 this decision. Tonight's hearing is a very important
24 first step in that process.

25

1 Before we get started tonight, I'd like to cover a couple
2 of ground rules for the hearing. First, this is not a
3 question-and-answer session. We are simply here to listen
4 and get your comments on the Draft EIS of this project.
5 Please be aware that all comments will be recorded tonight
6 and will become a part of the official record. Secondly,
7 we ask that you present your comments in a manner that is
8 polite and courteous to everyone here tonight. The use of
9 profanity and/or threatening language will not be allowed.
10 And lastly, we ask for you to turn your cell phone off or
11 put it on vibrate.

12

13 Again, I would just like to thank you all for being here
14 tonight. Your comments will help us prepare a complete
15 and comprehensive Environmental Impact Statement for this
16 project. And with that said, I will now turn the meeting
17 over to John, who will explain the logistics of the
18 meeting and provide a brief power-point presentation of
19 the Draft EIS and the EIS process.

20

21 MR. MEERSCHIEDT: Thank you, Chet, and good
22 evening to everyone. If you haven't signed in already,
23 please do so. There's a sign-in sheet in the lobby and we
24 will accept both written and spoken comments tonight, and
25 we encourage you to make your thoughts known and provide

1 comments. If you have a letter written that you would
2 like to submit, please hand it to Dave Sawyer in the back,
3 and we will also take comment cards that you can use to
4 provide a written comment. You can pick up a card, make a
5 comment and put it in one of the boxes at the back of the
6 room or hand it to Dave.. You can also mail it to the BIA
7 at the address on the card. Just make sure that it is
8 submitted prior to the deadline, which is October 15,
9 2012.

10

11 If you would like to speak at tonight's hearing, please
12 fill out one of the speaker cards available at the back
13 table. After you fill out a speaker card, hand it to
14 David or put it in the box and when we call your name, you
15 can provide a verbal comment. Please write your name as
16 legibly as possible. We will take speakers in the order
17 that I have received the speaker cards. Everyone will be
18 given five minutes to speak to make sure that everyone has
19 the opportunity. After all of the speakers have given
20 their comments, assuming that there's time, we will
21 provide individuals with an additional five minutes to
22 continue their remarks if they would like to speak
23 further.

24

25 With that said, in a public forum such as this, this is

1 not the best place for lengthy comments, due to the time
2 constraints. If you have a lengthy comment, I encourage
3 you to submit that comment in writing. All comments
4 receive equal weight, whether they are spoken or written.
5

6 We have a court reporter present who will record all of
7 the spoken comments word-for-word so that you can be
8 considered fully in the Final EIS. When you begin to
9 speak, please state your name for the record and speak as
10 clearly as possible so that the court reporter can
11 accurately document your words.

12

13 And please understand that the purpose of tonight's
14 hearing is not to have a question-and-answer session or a
15 debate. We will not respond to any questions or engage in
16 any debate. We are here to listen to your comments and
17 concerns and make sure that all of your comments are
18 carefully recorded. The Final EIS will address all of the
19 substantive issues and concerns raised tonight. Thank you
20 for coming and participating in the process. I will now
21 give a brief power-point presentation on the EIS process,
22 the proposed action, the purpose and need for the proposed
23 action and the alternatives considered in the EIS.

24

25 Here's a photo of the front page of the Draft EIS. I

1 think most of you have seen probably the electronic copy.
2 It's available by disk. It's also available at
3 www.seminoleeis.com.

4

5 And here's an overview of the FEPA process. The first
6 step is a Notice of Intent and Scoping, and that was done
7 in the fall of 2010. There was a Public Hearing held on
8 September 15th of that year, and then we issued a Sovereign
9 Report in June of 2011. In between June of 2011 and 2012,
10 AES prepared the Draft Environmental Impact Statement that
11 we often refer to as the EIS, and that document describes
12 the affected environment, the alternatives, the potential
13 environmental affects of the various alternatives and
14 mitigation measures to avoid or minimize the environmental
15 -- adverse environmental impacts. The Draft EIS was
16 published at the end of August, and the comment period
17 runs from August 31st until October 15th. As you know,
18 this is a Public Hearing to solicit comments to the Draft
19 EIS. After the public review closes on October 15th, the
20 BIA will prepare a Final EIS that includes responses to
21 all substantive comments and makes this document available
22 to the public for review for at least 30 days. The fianl
23 step is to -- that after the Final EIS is issued, there's
24 a 30-day waiting period and then the BIA will issue a
25 Record of Decision, often referred to as a ROD, that

1 includes BIA's decision on the proposed action and
2 issuance of the ROD, and it's a legal process.

3

4 As this slide states, the purpose and need of the proposed
5 project is to strengthen the economic position of the
6 Seminole Tribe of Florida, increase the ability of the
7 Tribe to make donations to charitable organizations, fund
8 local government programs and diversify the Tribe's
9 holdings.

10

11 And I'm sure most of you are familiar with the project
12 site. The site is located -- it doesn't show very well --
13 north of Sample Road, it's outlined in red and it's
14 located east of SR 7/US 441 and south of Cullum Road a
15 ways. The site does not include Tract 65, which is
16 currently in trust, Federal trust for the Seminole Tribe.

17

18 After this ariel photograph was taken, the Tribe has
19 constructed a parking garage on the northern portion of
20 the site, a new retention pond on the southern portion --
21 and I'm sorry, this doesn't work -- and a parking garage
22 on the northern portion as well. And all of these
23 improvements were done with the necessary approvals and
24 permits.

25

1 The Draft EIS evaluated three potential alternatives and
2 two subalternatives. Alternatives A and B, as well as
3 Subalternative A-1 entail bringing the property into
4 Federal trust for the benefit of the Tribe. Alternative C
5 and Subalternative C-1 are predicated on the site
6 remaining in fee and not being brought into Federal trust.
7 And once again, please note that none of the alternatives
8 include gaming. Gaming is limited to Tract 65. And we'll
9 go into details in just a second. But the alternatives,
10 Alternative A, in addition to providing a 1,000-room hotel
11 and showroom and additional parking, is limited to -- the
12 hotel is limited to a height of no more than 275 feet. A
13 new addition to the parking garage will be located to the
14 east of the recently constructed parking garage.

15

16 Alternative A includes public services, such as water,
17 waste water treatment, police and fire. Those will be
18 provided by the City. Storm water retention will be
19 provided by the newly constructed pond on the southern
20 boundry of the site, Retention Pond Six, and a newly
21 constructed off-site retention pond, and here's a copy of
22 the diagram. Purple is retail, pink is the resort, the
23 yellow is the hotel tower and the parking is on the
24 northern portion in blue.

25

1 Sub Alternative A-1 is similar to Alternative A; however,
2 the waste water treatment and water supply would be
3 provided on-site by the Tribe.

4

5 Alternative B is a reduced alternative. That would reduce
6 the size of the hotel from 1000 rooms to 500 rooms, and it
7 would also not include two parcels on the northern
8 boundry. That would be Parcels G and H. And like
9 Alternative A and Subalternative A-1, Alternative B
10 assumes that the existing zoning and site plan approvals,
11 permits and other agreements between the City and the
12 Seminole Tribe are no longer enforced and that the Tribe
13 would develop on-site water wells, waste water treatment
14 plant and an on-site fire station. Here's a diagram of
15 Alternative B.

16

17 Alternative C is configured in a similar manner to
18 Alternative A. The main difference between these two
19 alternatives is that the site will not be brought into
20 Federal trust and the Tribe would develop a site in
21 compliance with the Seminole Planned Mainstreet
22 Development District, commonly called the PMDD.

23

24 And Subalternative C-1 is more of what people think of as
25 a traditional alternative. The site would not be brought

1 into Federal trust, would not be developed further. It
2 would remain in its current condition.

3

4 And here's a list of the issues that we address in the
5 Draft Environmental Impact Statement. The next steps, the
6 first is that comments on the Draft will be due to the BIA
7 by October 15, 2015, and please hand in your comments
8 tonight or mail them to the BIA in accordance. We will
9 then analyze the comments and then prepare a Final Draft
10 EIS that will respond to the comments and make any changes
11 or corrections that are necessary. After the issuance of
12 the Final EIS there's a 30-day waiting period, and then at
13 that point the BIA will issue a Record of Decision that
14 would conclude the EIS process.

15

16 If you wish to mail in your comments, here's contact
17 information. You can send your comments to Chet and me at
18 the address above or you can also send them to Mr. Frank
19 McKeel, who is the Regional Director of the BIA, at the
20 address on the slide. And you can also, if you wish, mail
21 a request to be added to the mail list. And all of the
22 documents that we produce will be posted to the website.

23

24 And now I'll turn the meeting over to Chet, who will call
25 the speakers.

1

2 MR. MCGHEE: Thank you, John. We will begin the
3 comment portion of tonight's meeting by providing our
4 applicant, the Seminole Tribe of Florida, the first
5 opportunity to speak. Speaking for the Tribe will be the
6 Director of the Environmental Resource Management
7 Department, Mr. Craig Tepper.

8

9 MR. TEPPER: Thank you. Public speaking is
10 always a challenge, especially to me, but I'll give it a
11 shot. And I'll try and talk into this microphone and not
12 break it. Again, I am the Director of the Environmental
13 Resource Management Department for the Seminole Tribe of
14 Florida for all the tribal lands. First I'd like to thank
15 Mr. McGhee and the Bureau of Indian affairs and Mr.
16 Meerscheidt with AES, their consultant, for all of the
17 work that they've produced to put together that document
18 that's out there on the table for the Environmental Impact
19 Statement for this project. And I'd like to have this
20 opportunity to make this statement for the record for the
21 Tribe.

22

23 On behalf of the Tribe, I'd like to welcome you here
24 tonight and thank you for coming out, and the Tribe looks
25 forward to hearing all of your concerns and will do what

PH1-1

1 we can to make sure that they are all documented and
2 appropriately addressed. The Seminole Tribe is a
3 3,300-plus member American Indian Tribe that lives on six
4 Federal reservations in Florida that comprize 90,000-plus
5 acres of land. The six reservations are located from
6 Tampa across the State to Fort Pierce and then down south
7 into the Everglades, what's known as the western side of
8 the Everglades. The Seminole Tribe has been in Florida
9 for at least 200 years, and the Tribe was Federally
10 recognized in 1957 by the Indian Reorganization Act of the
11 United States Federal government. We're excited about
12 this project and about taking this land into trust in and
13 around the Coconut Creek Casino. This will allow us to
14 consolidate the tribal trust lands and better manage the
15 project under Federal and tribal authority to eliminate
16 sometimes conflicting jurisdictions between the Tribe, the
17 Federal government, the City, the County, numerous
18 drainage districts and of course the State of Florida. We
19 are anxious to move forward with this project. We've been
20 looking at it for quite a few years, maybe a decade or
21 more, and we would want to make our commitment to you
22 tonight to address any of the significant environmental
23 impacts and appropriately make sure that everyone's input
24 is received tonight.
25

1 And thank you very much for this short presentation, and I
2 want to turn it back over to Mr. McGhee, who's going to
3 hold the Bureau of Indian Affairs hearing tonight.

4

5 MR. MCGHEE: Thank you, Mr. Tepper. We would
6 now like to give elected officials present tonight an
7 opportunity to give a comment for the record, and we're
8 going to start with the Mayor of the City of Coconut
9 Creek, Marilyn Gerber.

10 MAYOR GERBER: Good evening. I am Mayor Marilyn
11 Gerber, and on behalf of the entire City Commission I
12 would like to welcome you to the beautiful City of Coconut
13 Creek, the butterfly capital of the world. Thank you for
14 providing the City and members of the public the
15 opportunity to comment on the Seminole Tribe of Florida's
16 Final Draft Environmental Impact Statement for the
17 proposed fee to trust acquisition and casino development
18 on land located within Coconut Creek. As a city
19 commission and a cooperating agency in this process, our
20 first priority is to protect the safety, wellbeing and
21 quality of life for all of Coconut Creek's current and
22 future residents.

23

24 The City has worked hard to create a beautiful, peaceful,
25 well-planned community. We have been hugely successful in

PH1-1
Cont.

PH2-1

1 our efforts and commitment to environmental leadership.
2 In 2010, Money Magazine voted our city as the 48th best
3 place to live in America. It is thanks to our careful
4 planning and green focus that we enjoy such a wonderful
5 city in which to live and work.

6

7 Although the City and the Seminole Tribe have a history
8 dating to the mid 1980s when the Seminole Tribe first
9 acquired land within the City, our most recent history
10 dates from 1999 when the City and the Seminole Tribe
11 negotiated and entered into a Municipal Service Provider
12 Agreement whereby the City, in exchange for consideration
13 from the Seminole Tribe, agreed to provide water, waste
14 water, fire, EMS and other municipal services to the 4.8
15 acres of preexisting trust land and any future lands
16 placed into trust. If approved, the Tribe's fee to trust
17 application to the Bureau of Indian Affairs will result in
18 the removal of approximately 47 acres of land from local
19 jurisdiction and tax rolls. At the time of submittal, the
20 City vigorously objected to this application, citing
21 concerns over what would happen on the land, how it would
22 be developed and the impacts it would have on Coconut
23 Creek. In addition, the City would have also lost the
24 right to collect certain revenues that would have been
25 used to offset the impacts associated with the

PH2-1
Cont.

PH2-2

1 development. The City Commission and the City staff
2 attended the Environmental Impact Study Scoping Hearing on
3 September 15th, 2010, at Coral Springs High School to
4 voice our concerns regarding the numerous possible
5 environmental, economic and public safety impacts that we
6 wish to be addressed in the study. On September 16th,
7 2010, we also addressed these concerns in writing to Mr.
8 Franklin McKeel, Eastern Regional Director of the Bureau
9 of Indian Affairs. Acknowledging the concerns of the
10 City, the Seminole Tribe entered into negotiations with
11 the City to address the issues regarding the Seminole
12 Tribe's trust application, which culminated in a Coconut
13 Creek fee to trust lands mitigation agreement approved by
14 both the Seminole Tribe and the City. This mitigation
15 agreement is the culmination of many months of
16 negotiations between the Seminole Tribe and the City and
17 gives the City development and economic assurances. This
18 agreement led to the City's approval of Resolution number
19 2011-44, which withdrew the City's objections to the trust
20 application. This resolution was transmitted to the
21 Bureau of Indian Affairs. As a cooperating agency, the
22 City received a copy of the Preliminary Draft of the
23 Environmental Impact Study by Analytical Environmental
24 Services in December 2011 to review, and on February 16th,
25 we submitted numerous comments and concerns regarding this

PH2-2
Cont.

PH2-3

1 draft. The majority of these concerns have been addressd
2 in the Final Draft EIS, and although some technical items
3 remain at issue, which will be included in our written
4 comments to the BIA, the City enthusiastically supports
5 Alternative A. Thank you for the opportunity to be heard.

6

7 MR. MCGHEE: Thank you, Mayor Gerber, and also
8 thank you for letting us host our meeting here.

9

10 Are there any other elected officials here that would like
11 to speak?

12

13 To manage this meeting in an efficient manner, I'm going
14 to read five names at a time for people to come up to
15 speak based on when we received their speaker cards.
16 Please remember to identify yourself at the beginning of
17 your remarks. If your name is hard to spell, please spell
18 it on the record for our reporter. The first five are
19 James Spinks, Matthew Schwartz, Larry Lemelbaum, Martin
20 Stoner and Sowande Johnson.

21 MR. SPINKS: Good evening. I'm James Spinks, I'm
22 with Calvin Giordano & Associates, Fort Lauderdale,
23 Florida, here on behalf of the City of Parkland.

24

25 On behalf of the City of Parkland, we would like to object

PH2-3
Cont.

PH3-1

1 to the project at this point based on the traffic analysis
2 provided by the EIS. The EIS study limits impact to Wiles
3 Road. We feel at this time that the impacts of traffic
4 will go greatly beyond Wiles Road, most likely into Palm
5 Beach County. We would like to work with you all. We're
6 very familiar with the area, the traffic patterns, the
7 surrounding conditions, and we would like to work with you
8 all on getting a successful project and mitigating the
9 traffic throughout its entire limits and not just in the
10 City of Coconut Creek. Thank you.

11

12 MR. SCHWARTZ: Thank you for having me here
13 today. My name is Matthew Schwartz. I am the
14 Conservation Chair of the Broward Group of the Sierrra
15 Club. I am also the Executive Director of a small
16 organization here in South Florida called the South
17 Florida Wildlife Association. Unfortunately I found out
18 about this project too late to bring this issue to the
19 respective boards of both organizations, so I am simply
20 here tonight as a resident of South Florida and a
21 long-time environmentalist here in our region. Without
22 getting into the necessity of this project and whether or
23 not it meets the statutory requirements for putting lands
24 in trust, and I believe it does not meet those
25 requirements, let's look at some of the environmental

PH3-1
Cont.

PH4-1

1 impacts.

2

3 This is clearly a massive project, and the environmental
4 impacts are going to be equally massive from it. It's
5 going to occur in a community called Coconut Creek, which
6 the Mayor just talked about has won numerous awards for
7 sustainability and green development. Here's a press
8 release from A Thousand Friends of Florida. The City of
9 Coconut Creek in Broward County received A Thousand
10 Friends of Florida's Better Community Award for its
11 sustainability, community planning, and it goes on to talk
12 about other awards that Coconut Creek has won from Florida
13 Audubon. It also is the first -- I think it's called the
14 Community Wildlife Habitat in Florida, awarded by the
15 National Wildlife Federation. So clearly Coconut Creek --
16 I remember meeting the Mayor Jim Waldman years ago, who
17 told me about that; that this is one of the special
18 communities here in Broward County.

19

20 Let's look at some of the impacts and how this project is
21 going to interfere with that reputation of the City as the
22 butterfly capital of the world and green builder.

23

24 Traffic. I was not able to find out in the DEIS what the
25 estimated visitation of this project is going to be. I

PH4-1
Cont.

PH4-2

1 did find an article in the Tampa Bay Times about the
2 casino, the Hard Rock Casino in Tampa, which also just
3 went through a massive expansion. And this is from
4 Douglas Hoppe, the VP of Sales and Marketing, "The casino
5 has seen noticeable increase in visitors." Hoppe said.
6 "On average, the casino has about 20,000 visitors, with
7 30,000 coming through on bigger days, such as Memorial Day
8 weekend." "A lot of casinos in Vegas on a Friday night
9 would be happy to have the kind of vibe and business we
10 now have on a Monday afternoon." This is the Hard Rock in
11 Tampa, also owned by the Seminoles.

12

13 This is a community of 50,000. We're talking about
14 20,000, 30,000, maybe more, coming to this institution on
15 a daily basis. It's going to serve all of North Broward,
16 it's going to serve Palm Beach County and maybe points
17 beyond, plus all of the influx of tourists, of snow birds.
18 This is what -- so basically, the DEIS says that the
19 problem is manageable; we could tweak Sample Road a little
20 bit, tweak 54th Avenue.

21

22 Here's what the MPOs of Broward County and Palm Beach
23 County, which studied State Road 7, this is what they said
24 in a mission statement. "Today, SR 7/441 is a 6-lane
25 regional roadway transportation facility, with multiple

PH4-2
Cont.

1 lanes at each major intersection, and it is once again at
2 nearly capacity."

3

4 It's currently at capacity, and people who live down here
5 know that. Sample Road, by the way, becomes a parking lot
6 at rush hour, going from east to west; people returning to
7 the western communities. Traffic backs up for blocks. So
8 basically, we're putting a bottleneck at one of the major
9 intersections, a major north-south corridor in our region.
10 The vision document didn't treat Sample Road, but as I --
11 I talked about that already.

12

13 Impacts to Broward County water supply, waste water and
14 runoff, we believe these impacts are also of similar
15 magnitude and are not being dealt with nearly sufficiently
16 in the DEIS. The DEIS acknowledges that the existing
17 retention ponds will be inadequate to handle the amount of
18 running off -- runoff coming from the expanded project and
19 do feel that facilities will have to be constructed.

20

21 Here's what Broward County says about storm water runoff
22 and how bad it is. "Storm water runoff contains a number
23 of contaminants that can contribute to public health
24 problems. It's estimated that approximately 80 to 95
25 percent of the heavy metals like lead, zinc, copper,

PH4-2
Cont.

PH4-3

PH4-4

PH4-5

1 cadmium and mercury that enters Florida's water is the
2 result of runoff from our paved areas, roads, streets, et
3 cetera. This is why it is vital to control the amount of
4 storm water that flows off of our properties and into our
5 water management system." Clearly, we are increasing that
6 runoff tremendously with this project.

PH4-5
Cont.

7
8 Water consumption, another big issue. Let's talk about
9 that generally. Broward County acknowledges that they are
10 short of water, that in the future they are going to have
11 to turn to alternatives water supplies. One city,
12 Pembroke Pines, had a plan to take its sewage, clean it up
13 and charge it -- run it right back into the aquafir,
14 drinking -- basically having the residents drink their own
15 sewage.

PH4-6

16
17 Conservation is a major tool that's supposed to be used.
18 This is hardly conservation. This is massive consumption.

PH4-7

19
20 Waste water, a similar problem. Broward County has not
21 dealt with its waste water problem yet. Most of it goes
22 into runoff, into outflow pipes directly into the
23 Atlantic. South Florida is the only place in the United
24 States that still uses basically outflow pipes into the
25 ocean. It's treated to what they say, we removed the

PH4-8

1 solids, that's it. The other way they do it is they dump
2 it onto the ground, deep well injection, where the EPA has
3 said it's not safe. It moves; laterally, horizontally.

PH4-8
Cont.

4
5 Let's talk about one other impact that I want to get on
6 the record; bird collisions. One of the known causes of
7 the bird deaths in the United States is running into small
8 buildings or running into tall buildings. Here's an
9 article from the New York Times quoting a scientist, an
10 ornithologist --

PH4-9

11

12 MR. MCGHEE: Time, please.

13

14 MR. SCHWARTZ: Time. Okay. Thank you very much.
15 We do urge you to choose Alternative C; no action. Do not
16 permit this project in this location. Thank you.

PH4-10

17

18 MR. MCGHEE: Okay, thank you for your comments
19 and like I said, after everyone has had an opportunity to
20 speak, if you feel like you didn't have an opportunity to
21 finish your comment, you will have a chance to come back
22 up and finish your comment.

23

24 MR. LEMELBAUM: My name is Larry Lemelbaum. I'm
25 on the Board of Directors of Cocomar and I'm here

PH5-1

1 representing Cocomar Water Control District. We have a
2 system that operates very efficiently. Diverting water
3 from it or adding to it might cause us a minor hitch.
4 What we request is permitting to the South Florida Water
5 Management District and Cocomar for any changes that
6 you're going to make and when you're going into our system
7 in the northwest basin.

PH5-1
Cont.

8
9 We have a system route where we drain from the casino
10 property across Sample Road into Fisherman's Landing. We
11 want that to be maintained as it is.

12

13 If this land becomes trust land, what happens to the ad
14 valorem taxes to the Cocomar District, which comes out to
15 a lot of money? I'd like to have that question answered.

PH5-2

16

17 This is a system that's working perfectly. There's nobody
18 in this area had to go out in a boat no matter what kind
19 of storms we had. Do you have enough water retention on
20 this property if you don't hook up? If you want to be
21 self independent. You got to get into our northwest
22 basin, otherwise you're going to have problems. In our
23 northwest basin, we have three gigantic pump stations
24 which could pump north, pump south, almost a million
25 gallons per minute. So we have the capability of handling

PH5-3

1 anything, but we want to be notified through South Florida
2 Water Management for permitting and Cocomar. Thank you.

3

4 CHIEF STONER: Good evening, gentlemen. My name
5 is Martin Stoner. I'm a Chief with the Parkland District
6 of the Broward Sheriff's office. The Broward Sheriff's
7 Office is the service provider for law enforcement to the
8 City of Parkland. I want to go back to a letter from the
9 South Florida Regional Planning Council dated to the City
10 of Parkland on March 26, 2007. This letter talks about a
11 request from several cities in the area, of which Parkland
12 was one, that the Regional Planning Council prepared a
13 summary of some of the expected impacts of the development
14 proposed for the Seminole Casino project in Coconut Creek.
15 Part of that Analysis of Impact included public safety.
16 That public safety impact on Parkland would be for the
17 police. We do feel that with the expansion of the casino
18 there would be a law enforcement impact in the city of
19 both persons and traffic. And what we are proposing, what
20 we are asking is that if the casino is expanded that the
21 Seminole Tribe assist us with additional personnel to work
22 with and keep the city safe from any other person, traffic
23 that comes in so that we have that committment. They
24 asked me to come in tonight and put that on the record so
25 that they know what our feelings are about this even

PH5-3
Cont.

PH6-1

1 though we do lie to the north, northwest of the proposed
2 project. Thank you very much for your time.

3

4 MR. MEERSCHIEDT: And once again, if I can jump
5 in and ask people, if they have their comments written,
6 please submit them to us.

7

8 MR. MCGHEE: And Sowande Johnson?

9

10 MR. JOHNSON: Yeah, I'm here for the City of
11 Parkland, but no further comments, thank you.

12

13 MR. MCGHEE: Okay, we only have two more
14 speakers. The first one is Gretchen Hirt.

15 MS. HIRT: Good evening. Gretchen Hirt,
16 Assistant to the County Administrator for Broward County
17 Government.

18

19 Thank you for this opportunity to offer public comments
20 related to the Seminole Tribe of Florida's fee to trust
21 land transfer proposal of approximately 45 acres of land
22 located in the City of Coconut Creek. We are pleased to
23 report that Broward County has begun a dialogue with the
24 Seminole Tribe of Florida to discuss the financial and
25 environmental impacts affecting Broward County Government

PH6-1
Cont.

PH7-1

1 from the proposed land transfer and future development.
2 We fully expect that the Tribe will negotiate in good
3 faith with the County and remain hopeful that we can come
4 to terms on an agreement which satisfactorily addresses
5 all of our issues. And until such time, Broward County
6 will seek to preserve its ability to oppose the transfer
7 of land to trust and will be submitting formal comments to
8 the Draft EIS within the prescribed time period on or
9 before October 15th. We appreciate the Bureau of Indian
10 Affairs' willingness to meet with us to discuss our
11 concerns throughout this process. Thank you.

12

13 MR. MCGHEE: Thank you. Is there anyone else
14 that would like to speak or, Mr. Schwartz, would you like
15 to come back up and finish your comments?

16

17 MR. SCHWARTZ: Sure, thank you. Thank you for
18 the opportunity to do this. It's very rare that I get a
19 second crack at unfinished comments.

20

21 So we were talking about bird deaths, and I guess it
22 really would be not hyperbole to say this is probably
23 going to be a beacon of death, that 20-story tower. If
24 you go up to the seventh floor of the parking lot that's
25 there right now, as I did the other day; I went up there

PH7-1
Cont.

PH4-9
Cont. from
page 22

1 at night and looked around. Nothing comes close. You're
2 the highest structure in the surrounding area. Look to
3 the north, look south. You have to look all the way east
4 and south to I guess the towers of Pompano Beach, to see
5 structures that come anywhere close to what we're talking
6 about building there. And it's a known cause of death.
7 As I was reading from the New York Times article, the
8 combination of glass, tall buildings, bright light is
9 extremely dangerous to birds, according to Daniel Klein,
10 an ornithologist at Lowenberg College in Allentown,
11 Pennsylvania. He says that a conservative estimate is
12 that more 100 million birds die each year from crashing
13 into glass and structures of all types, even houses. And
14 the DEIS acknowledges that that's going to be a problem,
15 but you're only talking about tweaking light. This is a
16 major flyway for migratory birds; Broward County, South
17 Florida in general. There are hundreds of resident
18 species in addition to the migratory ones, and it's just
19 -- the glass alone, birds cannot necessarily recognize the
20 difference between reflection and building and sky, and
21 they smack into buildings in great numbers. We're losing
22 our birds in South Florida. That's a big problem.

23

24 I can't really go into everything, but I think the
25 sustainability issue is really key here. Broward County,

PH4-9
Cont.

PH4-10

1 Coconut Creek, local organizations like Kids Ecology
2 Corps, they teach children and family to go eco; pay
3 attention to what you're doing, pay attention to your
4 water use, how much light you use, change out your
5 incandescent light bulbs. So here we are bringing this
6 massive production, massive project in an area that's
7 already overstressed with development, traffic, pollution,
8 CO2. I mean, you could even take the big picture; the
9 amount of people coming into an area like this, the CO2
10 production involved in increasing the car traffic in our
11 region, and a good chunk of that CO2 we produce. One
12 gallon of gasoline -- everybody here, one gallon of
13 gasoline, burn it, it produces 20 pounds of CO2. A good
14 percentage of that CO2 is going in our oceans. And that's
15 creating acidification of our oceans. We're going to lose
16 our coral reefs, possibly within our lifetime. This is
17 not an eco friendly development. This is a massive,
18 unnecessary development that's bringing us in the wrong
19 direction.

20

21 The Seminole Tribe, I'm not at odds with them. They are
22 an important part of South Florida. When I do talks on
23 the Everglades in a more calm, relaxed way with a
24 power-point show, I never fail to talk about the history
25 of the Seminoles in South Florida and the role they play.

PH4-10
Cont.

PH4-11

1 I'm allies with the Seminoles on two issues right now.
2 We're both together trying to block motorized recreation
3 into the Big Cypress Addition lands, which border the
4 south end of their property, and we're also allies trying
5 to fight FP&L from building a 3,750 megawat gas plant on
6 the north side of their property, very close to the big
7 Cypress Head and in primary panther habitat. They don't
8 want that gas plant there because they think it's not
9 compatible with their tribe, with the Big Cypress Seminole
10 Reservation. And they're also concerned about the massive
11 amounts of water it will use.

12

13 I would ask them to reconsider this project. I'm not a
14 stranger to development projects in South Florida. One of
15 the ones I worked with was a few miles from here, the
16 Cocomar project. That was on the border of Coconut Creek
17 and Margate. And we stopped that because one of the
18 principals, Kohl's or Lowe's, who were going to move into
19 the shopping center decided they didn't want to cause that
20 kind of environmental impact to the community and they
21 pulled out. And I would ask the Seminoles that are here
22 today to realize this is a high impact project in a
23 sensitive area in an already stressed out region.
24 Reconsider the project. Think about other ways that you
25 can develop your gaming and your entertainment industry in

PH4-11
Cont.

1 a way that's more compatible with the community and with
2 our region. Thanks a lot.

3

4 MR. MCGHEE: Thank you, Mr. Schwartz.

5

6 MR. MEERSCHIEDT: We have two more here.

7

8 MR. MCGHEE: All right, our next speaker is going
9 to be Trenni Martinez.

10

11 MR. MARTINEZ: Hello, everyone. I'm Trenni
12 Martinez. Nice to see everybody in here. I'm the
13 Assistant General Manager actually at the casino and a
14 resident of Parkland, so I'm very close here and
15 absolutely we understand that there is a great deal of
16 impact. We've always understood that whenever we're doing
17 projects. We've obviously finished a huge project that
18 was painstakingly -- time that went into where the water
19 is going and all of the other environmental impacts, and
20 absolutely, we understand that.

21

22 And the flip side is all of the jobs and all of the
23 economic gain that comes from it. We just added 700 jobs,
24 you know, and there's only a few of those that are the
25 director and the type that are very specialized. Most of

1 those came from the community and people that are living
2 close. And all of -- you know, most of these jobs that
3 are being created will also be from all of the people that
4 live in the community and that are living very close and
5 who will be able to get to work very close, and those are
6 those land-level jobs and have benefits such that we are
7 able to provide, which is a huge, huge thing. I mean, I
8 know people who are working, a lot of them work just for
9 the benefits, and the Seminole Tribe is very generous in
10 the benefit packages they offer. And that is a huge
11 addition to the community, to be able to give another
12 1,500 -- I don't know an exact number of how many more.
13 It's got to be at least 1,000, 1,500 more jobs if we are
14 able to continue to develop like we do. So thank you very
15 much and I just hope that we are able to continue to build
16 the development with the City and make it even better, so
17 thank you.

18

19 MR. MCGHEE: Okay, our next speaker is Elbert
20 Waters.

21

22 MR. WATERS: Good evening. My name is Elbert
23 Waters and I'm here just briefly to speak on the matter.
24 I come from here as a former director of the South Florida
25 Water Management District, as the Broward Services

PH8-1
Cont.

PH9-1

1 Director. I am a water resources management professional
2 concerned with specifically the environmental issues
3 pertaining to large scale developments. I come as an
4 individual with that interest, and I will be providing
5 more comments later but as it relates to the matter here
6 today I'm going to be specifically trying to address your
7 capacity of storage on-site. That's a major area which I
8 believe the developers need to seriously consider in terms
9 of it not being a situation where it's going to heavily
10 impact the current water storage areas within and around
11 the Coconut Creek area. So I'm going to be submitting it
12 by the due date that has been established. Thank you.

13

14 MR. MCGHEE: Thank you, Mr. Waters, and the last
15 speaker card that I have is for Miss Karen
16 Stenzel-Nowicki.

17

18 MS. STENZEL-NOWICKI: Good evening and thank you.
19 My name is Karen Stenzel-Nowicki. I am a 28-year resident
20 and property owner of the Town of Davie, FL, located two
21 miles west of the Seminole Tribe of Florida property on US
22 441/State Road 7 in Davie and Hollywood over the Florida
23 Turnpike, now known as the Seminole Hard Rock Casino and
24 Hotel Hollywood.

25

PH9-1
Cont.

PH10-1

1 Let me preface my public testimony by stating my heritage
2 is rich in Native American culture. My great-grandmother
3 was a member of the Shinnecock of Long Island Tribe. They
4 were culturally affiliated with as well as politically
5 subject to the Pequot and Naraganset, the more powerful
6 tribes of southern New England and across Long Island
7 Sound. Like the other native peoples of Long Island, the
8 Shinnecock made wampompeag, beads, shell beads strung onto
9 threads that were used as currency, for record keeping and
10 for aesthetic purposes. These shell beads have been found
11 at inhabited sites as far west as the Rocky Mountains,
12 showing their value in trade. Although other New England
13 tribes produced wampompeag, the Indians of Long Island are
14 reputed to have made the best. The tribe was subject to
15 raids by the Pequot and other New England tribes to
16 control this valuable commodity. The Europeans quickly
17 learned the value of the Shinnecock wampompeag in trade
18 with other tribes. While the Shinnecock's history can be
19 traced prior to the year 1700, the tribe was only recently
20 recognized in 2010 as a Native American Tribe by the
21 United States government and currently are in negotiations
22 with the State of New York to secure non-native land for
23 gaming. Their reservation is located in South Hampton,
24 Long Island, New York.
25

PH10-1
Cont.

1 However, we are not here today to discuss Native American
2 culture. We are here today to discuss the acquisition of
3 non-native lands by a Native American tribe, namely the
4 Seminole Tribe of Florida, and their application to the
5 United States government, Department of Interior, Bureau
6 of Indian Affairs. This is also about non-native
7 business, big business; namely hotels, gaming and
8 entertainment, and the vast environmental impact these
9 non-native activities have on the suburban and urban
10 communities they are surrounded by in Broward County,
11 Florida.

12

13 For the past 12 years, our Davie community has suffered
14 immeasurable harm at the hands of the Seminole Tribe of
15 Florida as a result of their non-native activities taking
16 place and emanating from their property on US 441/State
17 Road 7 in Hollywood, Florida, prior to and subsequent to
18 redevelopment of their property in what is now known as
19 the Seminole Hard Rock Hotel and Casino Hollywood Florida.
20 And for the past 12 years, it has been brought to the
21 attention of Local, County, State and Federal government,
22 their agencies, and their elected and appointed
23 representatives charged with jurisdiction over this,
24 including the U.S. Congress, the U.S. Department of
25 Interior, Bureau of Indian Affairs and the National Indian

PH10-1
Cont.

1 Gaming Commission.

2

3 The 12-year record of these abuses include but are not
4 limited to negative environmental impact, fire safety
5 hazards and crime including alcohol-related driving,
6 robbery, rape and suspicious deaths on their properties,
7 using open public space and lakes for Tribal fire
8 department training drills against Local, County and State
9 statute.

10

11 The abuses also include the eviction of many hundreds of
12 citizens from mobile home parks without the proper
13 State-mandated exit plan or proper compensation required
14 by State law. This record includes, but not limited to,
15 Federal, State, County and Town documents, police reports,
16 sound meter readings, video documentation, correspondence
17 and news coverage. Some of the negative impacts, which
18 continue up to this day, over Columbus Day weekend,
19 include horrendous bass noise emanating from their
20 property all hours of the day and night, often until 5:00
21 a.m. in the morning from the previous afternoon without
22 ceasing. The bass noise, reaching recorded sound meter
23 levels over 100, not only permeates the environment over
24 two miles away, it causes serious tremors and vibrations,
25 shaking homes and structures.

PH10-1
Cont.

1
2 Fireworks explosives lasting at least 30 minutes with
3 finales likend to bombs being dropped on the surrounding
4 communities creating tremors and inflicting fear in all
5 around them, including human as well as animal life.
6 Often, these fireworks explosives are during "Red Flag"
7 alerts in the State of Florida, when we are under severe
8 fire warnings. The explosives wreak havoc on surrounding
9 communities, families, residences, pets, businesses,
10 livestock, wildlife who inhabit our open space parks,
11 protected wildlife, wetland preserves, and affect health,
12 including myself getting migraines headaches. My
13 daughter, who is an honors biology pre-medicine major in
14 her senior year at Florida Atlantic University, serving in
15 student government, a community mentor of children and
16 assisting the neighborhood elderly, is unable to study in
17 her room because of the environmental abuses inflicted on
18 the surrounding community by the Seminole Tribe of Florida
19 and their unregulated, uncontrolled, non-native activities
20 taking place on their property.
21
22 Without success, the Tribe has tried to cover up these
23 environmental abuses via the traffic sound of the Florida
24 Turnpike and other superficial unsuccessful remedies.
25

PH10-1
Cont.

1 What is most disturbing about this unmitigated assault on
2 the surrounding communities by the Seminole Tribe of
3 Florida and its leaders are responses given to members of
4 the surrounding community. When asked to stop these
5 non-native activities which are negatively impacting the
6 quality of live and the ability of families and businesses
7 to coexist, the Tribe and its representatives' response
8 is, "We can do what we want, we don't give a blank, we've
9 got so much money, sue us because you'll lose and we'll
10 win." I have personally been the recipient of this exact
11 response on numerous occasions.

12

13 Perhaps the most public comment was made by Seminole
14 tribal leader Max Osceola at the Hard Rock Cafe location
15 in Times Square, Manhattan, during the press conference at
16 the announcement of the Seminole Tribe of Florida's
17 acquisition of the Hard Rock International Enterprise.
18 "Our ancestors sold Manhattan for trinkets. Today, with
19 the acquisition of the Hard Rock Cafes, we're going to buy
20 Manhattan back one hamburger at a time."

21

22 Recent written testimony of John Echohawk, Executive
23 Director of Native American Rights Fund on September 13,
24 2012, to the U.S. Senate Committee on Indian Affairs,
25 addressing the costly administrative burdens and negative

PH10-1
Cont.

1 impacts of the Carcierri and Patcheck decisions argues the
2 costs of the U.S. Supreme Court's 2009 decision in
3 Carcierri v. Salazar and the U.S. Supreme Court's more
4 recent decision in the Match-E-Be-Nash-She-Wish Band
5 Pottawatomi Indians (Gun Lake Tribe) v. Patchak to the
6 Native American Tribes, putting the tribes in danger of
7 losing opportunities for economic development projects,
8 increasing on-reservation housing for tribal members
9 including the elderly and many other tribal governmental
10 initiatives. Mr. Echohawk argued the U.S. Supreme Court's
11 decision based on the construction of the language from
12 25th United States Code Statute 479, "any recognized
13 Indian tribe now under Federal jurisdiction" which
14 requires an Indian tribe to be under Federal jurisdiction
15 by 1934 in order to make application of non-native land
16 into their tribal land trust was "detrimental to the
17 Indians' future economic opportunities and tramples over
18 the sovereign immunity of the United States and the once
19 broad protections for Indian lands under the Quiet Title
20 Act, as well as its ambiguity of 'under Federal
21 jurisdiction' and 'Federally recognized' Indian tribes.
22 Further, Mr. Echohawk argued the immediate need for the
23 United States Congress to take immediate action now to
24 tell the Court in no uncertain terms that it got it wrong
25 in Carcierri, to avert a catastrophic crisis; that there is

PH10-1
Cont.

1 nothing exceptional about Indian law and nothing special
2 to protect the relationship between the United States and
3 its Indian people.

4

5 I stand before you today testifying it is the United
6 States government who has not offered protections to its
7 own people against horrendous ongoing abuses by the
8 Seminole Tribe of Florida, the tribal representatives and
9 its non-native activities. The abuses over the past 12
10 years are clearly well-documented and have created
11 terrible hardship on the surrounding communities,
12 affecting their health, wellbeing and welfare and the
13 ability to peacefully exist and have peaceful enjoyment of
14 their homes and families and to conduct business in a
15 peaceful environment conducive to future economic growth
16 necessary for surrounding communities to prosper.

17

18 I stand before you testifying of the eviction of families
19 including children, disabled and the elderly residents of
20 Davie, Florida, from the Stirling Road Mobile Home Park
21 without the Seminole Tribe of Florida filing the proper
22 exit plan to the State of Florida, providing for
23 replacement housing and proper financial remuneration, and
24 I stand before you today testifying as we speak, the
25 Seminole Tribe of Florida has in the past two weeks filed

PH10-1
Cont.

1 eviction notice on many hundreds of senior citizens,
2 elderly, disabled and infirmed living on the Stirling
3 Estates Mobile Home Park located on the US 441/State Road
4 7 property in Hollywood, Florida, leaving most of these
5 elderly, disabled and infirmed without a place to go and
6 without the financial means to do so.

7

8 It is now with great urgency the immediate responsibility
9 of the United States government and all the members of
10 this Congress to see clearly what is really occurring and
11 being inflicted on its citizenry at the mercy of the
12 Seminole Tribe of Florida and to take swift, immediate
13 action by enacting legislation that protects surrounding
14 communities, its residences and its businesses from the
15 abuses by Indian tribes and their non-native activities,
16 namely the Seminole Tribe of Florida, it's representatives
17 and it's non-native activities and businesses. And it's
18 the United States Government and the United States
19 Congress who must continue to recognize the necessity to
20 protect the rights of the Local, County, State and Federal
21 jurisdictions over non-native land acquired by Indian
22 tribes in the United States. Soverign immunity was not
23 meant for use by the Indian tribes to trample over the
24 rights of the citizens of this great nation, the United
25 States, in which all Indian tribes are dependent nations

PH10-1
Cont.

1 and enjoy many entitlements.

2

3 My 12-year record is available for review by all
4 government agencies, departments, committees, from the
5 Federal to Local level, to all elected and appointed
6 officials from members of the United States Congress to
7 the municipal leadership charged with protecting its
8 citizens.

9

10 In closing, based on my testimony and my record, which is
11 available for review upon request, it is imperative the
12 United States government, Department of Indian Affairs
13 deny the application made by the Seminole Tribe of Florida
14 to enter into their tribal land trust the 44 acres located
15 on US 441/State Road 7 in Coconut Creek, Florida, and
16 further to take immediate action to protect the
17 surrounding communities of the Seminole Tribe of Florida
18 properties located in Davie, Hollywood, Coconut Creek and
19 elsewhere in Florida from abuses and negative impact at
20 the hands of this Indian tribe, namely the Seminole Tribe
21 of Florida. Thank you for your time.

22

23 MR. MCGHEE: Thank you for your time. Is there
24 anyone else here tonight that would like to provide
25 comments on the project? If there are no other comments,

PH10-1
Cont.

1 I'd like to once again thank you all for coming tonight
2 and I'm going to adjourn the meeting. We will address the
3 comments in the Final EIS. If you signed in tonight or
4 brought in a comment, you will receive a Final Notice of
5 the EIS when available. Thank you.

6 (Whereupon the meeting was adjourned at 7:05 p.m.)

7

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STATE OF FLORIDA)
)
COUNTY OF BROWARD)

I, MICHELLE RUBIN, Shorthand Reporter and
Notary Public in and for the State of Florida at
Large, do hereby certify that the foregoing
transcript, Pages 1 to and including Page 42, is a
true and correct transcription of the Public Hearing
concerning the Draft Environmental Impact Statement for
the Proposed Seminole Tribe of Florida Fee-To-Trust, City
of Coconut Creek, Broward County, Florida held on October
9th, 2012, commencing at 6:00 p.m.

Dated this 13th day of October, 2012.


MICHELLE RUBIN, SHORTHAND REPORTER



MICHELLE RUBIN
MY COMMISSION # EE 833567
EXPIRES: September 13, 2016
Bonded Thru Budget Notary Services