

SECTION 1.0

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The Bureau of Indian Affairs (BIA) is preparing an Environmental Impact Statement (EIS) for a proposed Fee-to-Trust transfer of 305± acres and subsequent development of a casino/hotel resort and other ancillary uses by the North Fork Rancheria in Madera County, California. This scoping report describes the EIS scoping process, explains the purpose and need for the Proposed Action, describes the proposed project and alternatives, and summarizes the issues identified during the scoping process.

1.0 INTRODUCTION

The National Environmental Policy Act (NEPA) provides a national policy to integrate environmental considerations into the planning process and decisions of federal agencies. NEPA provides an interdisciplinary framework to ensure that federal agency decision-makers consider environmental factors. The key procedure required by NEPA is the preparation of an EIS for any major federal action that may significantly affect the quality of the environment. Public involvement, which is an important aspect of the NEPA procedures, is provided for at various steps in the development of an EIS. The first opportunity for public involvement is the EIS scoping process.

1.1 EIS Scoping Process

The “scope” of an EIS means the range of environmental issues to be addressed, the types of project effects to be considered, and the range of project alternatives to be analyzed. The EIS scoping process is designed to provide an opportunity for the public and other federal and state agencies to provide input that will help determine the scope of the EIS.

The first formal step in the preparation of an EIS is publication of a Notice of Intent (NOI) to prepare an EIS. The NOI describes the Proposed Action and the reasons why an EIS will be prepared. The BIA published the NOI for this Proposed Action in the *Federal Register* on October 27, 2004 with the comment period beginning on October 27, 2004 and ending on November 26, 2004 (**Appendix A**). The NOI was published in the Madera Tribune on November 12, 2004.

The October 27, 2004 NOI also served to announce the public scoping meeting. The BIA held a public scoping meeting on November 15, 2004 at the Hatfield Hall, Madera District Fairgrounds, Madera, California. The scoping meeting was conducted by the following representatives of the BIA: Patrick O’Mallan, Environmental Protection Specialist, and John Ryzik, Acting Chief of the Division of Environmental, Cultural, Resource Management and Safety for the Pacific Region. The scoping meeting provided a forum for the public to address the members of the BIA regarding the scope of the EIS. Transcripts of the public meeting are provided in **Appendix B**. The speaker cards submitted by

individuals who spoke at the meeting are provided in **Appendix C**. A list of speakers at the public scoping meeting has been incorporated into **Table 3-1** (see **Section 3.1**). Written comment cards received during the scoping meeting are provided in **Appendix D**. The issues that were raised during the public scoping meeting have been summarized in **Section 3.2**.

In response to a request, the BIA extended the public comment period to December 15, 2004. Notices extending the comment period were published in the Madera Tribune and Fresno Bee on November 29, 2004 and December 7, 2004. The Madera Tribune notice incorrectly listed the extended comment deadline as December 10, 2004. Thus, a correction was published in the Madera Tribune on December 3, 2004.

The BIA issued a second extension of the comment period to May 6, 2005. The BIA then published a Notice of Correction (NOC) in the *Federal Register* on April 6, 2005. The NOC amended the October 2004 NOI to include a description of possible project alternatives and also to further extend the scoping comment period to May 6, 2005. The BIA published the NOC in the Madera Tribune on April 8, 2005 and in the Fresno Bee on April 9, 2005 (**Appendix A**).

Comment letters received during the scoping process are included in **Appendix C**. The range of issues to be addressed in the EIS may be expanded based on comments received during the scoping process.

1.2 Cooperating Agencies

The lead agency (BIA) may request that another agency having jurisdiction by law or having special expertise with respect to anticipated environmental issues be a “cooperating agency.” Cooperating agencies participate in the scoping process and, on the lead agency’s request, may develop information to be included in the EIS. A cooperating agency normally must use its own funds in undertaking its responsibilities under NEPA. However, the Council on Environmental Quality (CEQ) NEPA regulations require that, to the extent possible, a lead agency fund “those major activities or analyses it requests from cooperating agencies” (40 C.F.R. § 1501.6).

Cooperating Agency is defined in The Bureau of National Affairs, Inc. publication *The Environmental Impact Statement Process* (Number 27-2nd) as follows:

The concept of the “cooperating agency” was an innovation of the Council on Environmental Quality (CEQ) NEPA regulations. In the past, agencies other than the lead agency were unlikely to participate in the preparation of the environmental impact statement, but subsequently would comment, often unfavorably, on it. The cooperating agency concept is designed to persuade other agencies to assist the lead agency in its preparation of the environmental impact statement, and to ensure a draft statement that reflects the expertise of more varied agencies.

The NEPA regulations define a cooperating agency as “any Federal agency other than a lead agency which has jurisdiction by law or special expertise with respect to any environmental impact involved in a proposal” that requires an environmental impact statement. (40 C.F.R. § 1508.5) “Jurisdiction by law” refers to “agency authority to approve, veto, or finance all or part of a proposal.” “Special expertise” means statutory responsibility, agency mission, or related program expertise. A similarly qualified state or local agency or an affected Indian tribe may become a cooperating agency.

An agency that has “jurisdiction by law” shall be a cooperating agency upon the lead agency’s request. Any other federal agency with “special expertise” relating to pertinent environmental issues may be a cooperating agency at the lead agency’s request. An agency may also request that the lead agency designate it as a cooperating agency.”

The lead agency must request the participation of each cooperating agency at the earliest possible time. Further, it must use the cooperating agencies’ environmental analyses and proposals “to the maximum extent possible consistent with its responsibility as lead agency.”

Each cooperating agency is similarly required to participate in the process at the earliest possible time and to “assume on request of the lead agency, responsibility for developing information and preparing environmental analyses including portions of the environmental impact statement concerning which the cooperating agency has special expertise.”

Because they are apt to be cooperating agencies in a large number of cases, agencies such as the Environmental Protection Agency, the National Oceanic and Atmospheric administration, and the Fish and Wildlife Service have claimed that the cooperating agency function would impinge upon their other program commitments. Therefore, the regulations permit a potential cooperating agency to inform the lead agency and CEQ that “other program commitments preclude any involvement or the degree of involvement requested in the action that is the subject of the environmental impact statement.”

The BIA has formally requested Cooperating Agency participation from the Environmental Protection Agency (EPA), the National Indian Gaming Commission (NIGC), U.S. Fish and Wildlife Service (USFWS), U.S. Army Corp of Engineers, California Department of Transportation (CalTrans), Madera County, the City of Madera, and the Madera Irrigation District (MIP). The NIGC will serve as a Cooperating Agency for the Proposed Action (**Appendix E**).

1.3 EIS Schedule and Public Review

The current schedule anticipates that the Draft EIS will be available for public review in early 2006. The public review period for the Draft EIS will be 45 days. A public hearing on the Draft EIS will be held

during the review period. The Final EIS is currently scheduled to be available for review in mid-2006. A decision on the project may be made 30 days after the Final EIS is released.