

# **Scoping Report for the Proposed Casino/Hotel Complex, Community of Anthony, Doña Ana County, New Mexico**

## **1.0 Introduction**

The Bureau of Indian Affairs (BIA), in coordination with the Pueblo of Jemez is preparing an Environmental Impact Statement (EIS) for a proposed Fee-to-Trust transfer and subsequent development of a casino/hotel complex. Council on Environmental Quality (CEQ) Regulations 40 CFR 1501.7 require an early and open process to determine the scope of issues to be addressed and for identifying the significant issues related to a proposed action. This process is termed “scoping.” The scoping process is used to learn the concerns of individuals, groups, and agencies about a proposed project. Scoping is an integral part of the National Environmental Policy Act (NEPA) review process because it allows interested parties an opportunity to participate in developing a list of issues that will be discussed in an EIS. The preparation of an EIS begins with the scoping process. The required public notice for the scoping process is included in the Notice of Intent to prepare an EIS. This scoping report is prepared in accordance with the BIA NEPA Handbook 59 IAM 3-H. BIA may request other agencies to participate as cooperating agencies.

## **2.0 Purpose and Need**

The proposed action serves the mission of the BIA to promote economic opportunity of the Pueblo of Jemez within the spirit of Indian self-determination. The purpose and need for taking the property into federal trust is to carry out the federal government’s responsibility of improving the trust assets of the Pueblo of Jemez. The Pueblo of Jemez would develop uses that would improve the long-term economic condition of the Pueblo and its members through the development of a stable, sustainable source of revenue and employment.

The fee-to-trust acquisition would be made in accordance with the procedures set forth in 25 CFR Part 151. Substantial revenues are needed to provide ongoing independent economic support for tribal governmental functions which would decrease dependence on limited federal and state funds. The Pueblo of Jemez plans to provide essential government services and community development programs, sufficient infrastructure, administrative facilities, housing and to meet other needs of its tribal members. Economic need of the Pueblo is evident in the current socioeconomic conditions of the tribe, many of whose members subsist on incomes below established poverty levels.

## **3.0 Alternatives**

Alternatives for the proposed project include the proposed action and no action. The proposed action is a Fee-to-Trust application for the construction and operation of a casino/hotel complex. The proposed site for the project comprises approximately 111.71 acres and is presently under fee simple ownership by a private individual living in the area. The action as proposed includes the conversion of a 78.431-acre portion of the 111.71-acre fee simple site into federal trust status on behalf of the Pueblo of Jemez for

the construction and operation of the Class III gaming facility. The proposed project includes four components: a 24,000 square foot temporary casino; a 48,000 square foot permanent casino both located on land that would be placed in trust for the Pueblo of Jemez and an associated hotel facility and restaurant facility, both on fee land.

Under the no action alternative, the BIA would take no action to approve the Fee-to-Trust application. Therefore, Class III gaming could not take place on the project site and any development would be subject to existing zoning restrictions and zoning authority of Doña Ana County. It is assumed that the presently undeveloped proposed project site would remain idle, or could be developed consistent with current zoning.

#### **4.0 Notice of Intent**

A Notice of Intent (NOI) to prepare an EIS was published in the Federal Register on March 1, 2005 describing the proposed action and announcing the BIA's intent to prepare an EIS for the proposed action. In addition, an amendment to the NOI was published in the Federal Register on May 18, 2005 to extend the comment period to June 17, 2005. Copies of the Notices of Intent and Affidavits of Publishing are included in the supplementary documentation to this scoping report in Section 1. During the scoping period, comments on the project and EIS could be sent to the BIA or could be submitted during the public informational meeting held during the scoping meeting.

#### **5.0 Public Informational Meeting**

The public information and scoping meeting was held on Wednesday, March 16, 2005 at the VFW Hall, Post 4384, 1800 4<sup>th</sup> Street, Anthony, New Mexico at 7:00 p.m. The meeting was announced in the notice published in the Federal Register and newspapers. Notices that were posted are included in the supplementary documentation to this scoping report in Section 2. The purpose of the meeting was to solicit public comments, views and suggestions to be addressed in the EIS. The meeting was held in a "classroom" format style with a short formal presentation to provide the public with project information and an opportunity to voice their concerns or ideas by oral comments during the meeting. There were 270 individuals who attended the scoping meeting. Participants were encouraged to present oral comments and written comments. The comment period began March 16, 2005, and was originally slated to last 30 days. BIA later extended the scoping period an additional 30 days during which additional comments and concerns on the scope and implementation of the EIS could be submitted. The extended comment period ran from May 18, 2005 until June 17, 2005.

Attendees were asked to sign in. Display boards were located inside the VFW Hall near the entry. The display boards included a map of the proposed project site and "before" and "after" photos depicting visual simulations of the project. The sign-in sheets and images of display boards are included in the supplementary documentation to this scoping report in Section 2. A court reporter from the firm Reporters, Ink, 221 N. Kansas St. El Paso, TX 79901 reported the proceedings of the scoping meeting by machine shorthand.

The formal presentation began at 7:07 p.m. and ended at 10:18 p.m. Ms. Janelle Jersey, representing the BIA Southwest Regional Office in Albuquerque, NM, provided an overview of the proposed project, introduced BIA representatives, outlined the structure of the meeting, and described the role of BIA in the EIS process. Dr. Tony Payan acted as moderator and Spanish interpreter for the scoping meeting so that comments could be made in English or Spanish. All presentations, proceedings, and comments throughout the evening were translated in Spanish. Dr. Payan reminded participants that the BIA was also accepting written comments during the scoping comment period until April 18, 2005.

Mr. Payan introduced Michael Toledo, Jr., Governor of the Pueblo of Jemez. Governor Toledo gave a presentation about the Pueblo of Jemez and the need for the project. Mr. Payan then requested members of the audience who had signed up to speak to line up by the number they were given during sign-in to speak. There were 58 individuals who signed up to speak and there were 36 individuals who actually presented oral comments. There were 21 written comments submitted at the scoping meeting. The transcript is provided in the supplementary documentation to this scoping report in Section 3.

## **6.0 Other Comments**

Written comments were provided to BIA via mail during the scoping period. Respondents included businesses, organizations, Tribal representatives, elected officials, and individuals.

## **7.0 Distribution of All Comments**

The distribution of all comments is presented in Table 1; many comments were presented as duplicate form letters. The intent of the EIS is to address effects to the environment. Some issues raised during scoping did not have a significant effect on the human environment related to the proposed project, were determined to be either not relevant to the EIS analysis or beyond the scope of the EIS, or have been previously addressed by federal or state laws, regulations, or policies. These issues range from regulatory responsibility questions and BIA procedural questions to legal requests and documentation requests. These issues are summarized and included in the supplementary documentation to this scoping report in Section 4 and are not considered further in the NEPA analysis.

## **8.0 Petition in Opposition to the Proposed Project**

A petition in opposition of the proposed project with 1,060 signatures was submitted during the scoping period and entered into the record. The petition is included in the supplementary documentation to this scoping report in Section 5.

## **9.0 Petition in Support of the Proposed Project**

A petition in favor of the proposed project with 11,074 signatures was submitted and entered into the record. The petition is included in the supplementary documentation to this scoping report in Section 6.

**Table 1**  
**Distribution of All Comments**

<b>component</b>	<b>Issue</b>	<b>number of comments</b>
<b>Socioeconomic</b>	<b>opposing issues</b>	
	Potential loss of jobs/income	346
	Concern for revenues going to developer	234
	Impacts to horse racing industry	232
	Impacts on revenues at Sunland Park and other casinos	124
	Concern that profits would leave Doña Ana County	94
	Impacts to racing purses	83
	Concern regarding operation of a 24-hour casino	79
	Bankruptcy impacts	54
	General concern for socioeconomic impacts	40
	Crime impacts	39
	Prostitution impacts	31
	Social services impacts	30
	Impacts on tax revenues	26
	Impacts to restaurants and local businesses	23
	Concern for relocation of racing personnel and horses to other tracks	22
	Problem gambler impacts	21
	Divorce impacts	19
	Job availability to Jemez Pueblo members	19
	Poverty/Low-income community impacts	15
	Impacts on quality of life/community lifestyle	13
	Impacts on families/community	12
	Domestic violence/abuse impacts	11
	Suicide impacts	9
	Housing/Affordable housing impacts	9
	DWI impacts	9
	Job training information and administration	8
	Gambling impacts	7
	Drug use and trafficking impacts	7
	Schools impacts	7
	Seasonal/part time workers	6
	Concern that project will not create economic development	6
	No need for another casino, too many already	5
	Gambling erodes work ethic	5
Increase in property taxes	5	
Jobs and labor market conditions	5	
Safety/welfare of children impacts	5	
US/Mexico border impacts	5	
Bonding capacity, bond rating, industrial revenue bond impacts	5	
Impacts to Jemez Pueblo economic development and need	5	
Cost benefit analysis between Jemez Pueblo and Anthony	5	
Oversaturation of market	4	
Concern for facility that sells alcohol	4	
Alcoholism impacts	4	
Juvenile gambling impacts	4	
Incarceration/prosecution impacts and costs	4	

Tourism/tourist spending impacts	4
Loss of worker productivity	4
Concern for business cycle impacts	4
Impacts to Jemez Pueblo lifestyle and traditional culture	4
Impacts to rejuvenation of horse farming	3
Rape impacts	3
Organized crime impacts	3
Foreclosure impacts	3
Concern for moral and economic impacts	3
Homelessness impacts	3
Concern that those gambling can least afford it	3
Medical/hospital services to non-US citizens without health insurance	3
Murder impacts	2
Conduct study in 50-mile radius	2
Additional income hasn't helped other Native American tribes	1
Impacts on Infrastructure	1
Harms citizens of the community	1
Uphold President Bush's family values	1
Concern that middle class will move out of community	1
Impacts to local control	1
Concerns regarding proposed trust fund and foundation	1
Foreign worker impacts	1
Gaming competition in Texas	1
Find other sources of jobs for Doña Ana County	1
Greed	1
Total: 1,755	

**supportive issues**

Provides needed jobs and income with benefits	102
What the community wants (petition in support)/self-determination	57
Tribe would benefit from economic development	38
General support in development of project in Anthony	25
No impacts expected to Sunland Park Racetrack and other casinos	13
Positive boost to economic and economic development	12
New businesses to area	7
Tourism	6
Poverty/Low-incomes would improve	5
Will improve quality of life	4
More services	4
Currently area is an underserved market	4
Unifying cultural bonds	3
Gambling is an individual choice	3
Other casinos haven't caused socioeconomic problems	3
Will provide help for problem gamblers	2
Competition is good	2
Offsets tax losses	2
Project is environmentally safe	1
Provides recreation	1
Hiring preference and job training	1
Jemez Pueblo doesn't have to provide jobs for members at casino	1
Total: 296	

<b>Regulatory and Procedural</b>	Trust land issues concerning off-reservation casino	47
	Casino should go on Jemez reservation	42
	Reservation shopping	10
	Possible discrimination regarding hiring preference and purchasing	10
	Additional review period/extensions	10
	Exempt from complying with laws, i.e. anti-smoking laws	7
	Opens up Doña Ana County to other tribal casinos	5
	Compliance with IGRA	5
	Study radius per IGRA	3
	Procedural inadequacies with scoping	3
	Less local opinion and loss of local oversight	3
	Concerns regarding La Paz Agreement	3
	Right to unionize	2
	Off-reservation gambling violates compacts with State of NM	2
	Laws regarding trust fund and foundation	2
	Right to privatize	1
	Requirements allowing non-gaming services	1
	Protect other tribe's rights and economic opportunities for members	1
	Land is within 50 miles held in trust for Ft. Sill Apache Tribe	1
	Go through elected officials	1
	Americans with Disabilities Act	1
Total: 160		
<b>Water</b>	Study impacts to water/water quality, groundwater, use requirements	14
	Water rights impacts	9
	Capacity/expansion of existing water and sewer system/costs	9
	Impacts of unregulated growth on water	1
	No new depletions in Rio Grande Basin	1
	Safe drinking water standards	1
	Increased irrigation impacts	1
	Impacts to water quota to Texas	1
Total: 37		
<b>Other</b>	<b>opposing issues</b>	
	Project is not in community interest	7
	Nuisance odors and flies	4
	Spread of Western Equine Encephalitis	3
	Plan for bubonic plague outbreak	3
	Ensure health insurance for casino employees	3
	Site is 300 miles away from Jemez Pueblo	1
	Preserve character of the State of NM	1
	Not all Jemez Pueblo supports project	1
	Impacts on fuel, gas, electric supplies regarding auxiliary power on site	1
	Impact of community attitudes	1
	Rio Grande Council of Governments has not expressed support	1
	City of Sunland Park requests responsible agency status per NEPA	1
	Concern for project being close to Las Cruces	1
	Total: 28	

<b>supportive issues</b>		
	Opposition group should shut down same business that supports it	4
	Opposition doesn't live in Anthony	2
	Extensions given by BIA in review hurt the process	2
	Venue offers more than gambling	2
	Opposition group aims to hinder casino project	2
	Accurate information is important in making decision on casino	1
	Jemez Pueblo reached out to the County and the community	1
	Understanding of the need for the project to be off-reservation	1
	Good outweighs bad	1
	Would bring more Native Americans to the area	1
	Approval should not be subject to new guidelines	1
	Move approval expeditiously	1
	Need for entertainment facility for senior citizens	1
	Project may later benefit other tribes	1
	Potential for cheaper gasoline	1
	Sunland Park Racetrack owner has many more casinos	1
	Total: 23	
<b>Land Use</b>	Impacts on zoning	8
	Increased land value impacts on affordable housing	8
	Compatibility with surrounding area: height, size, building type, density	4
	Previous uses of site	3
	Impacts on recreation areas and need for more	3
	Impacts on agricultural activities/reduction of agricultural lands	3
	Project description for entire site	3
	Land use impacts	2
	Loss of open space	1
	Any other use would be issue also	1
	Total: 36	
<b>Traffic</b>	Traffic study and impacts from increased traffic/costs	40
	Impacts on public transportation/private transportation system	5
	Impacts on road improvements caused by project and costs	5
	Confer with NM Department of Transportation	4
	Impacts on public school transportation system	3
	Ensure safety on bike/pedestrian paths	3
	Total: 60	
<b>Cultural Resources</b>	Concern regarding ancestral ties to the area	38
	Recognized tribes' concern for movement into their historic territory	5
	Religious site or sacred site impacts	3
	SHPO findings	3
	Spanish land grants impacts	3
	Historic district/property impacts	3
	Camino Real impacts	3
	Consultation with Mescalero and Ysleta del Sur Tribes	1
	Total: 59	

<b>Public Services</b>	Impacts on law enforcement/fire/medical services/costs	12
	Ensure fire safety	4
	Public safety and evacuation plan	3
	Health inspections for food service	3
	Total: 22	
<b>Soils</b>	Slopes, impervious surfaces, runoff, drainage on site	8
	Impacts from underground storage tanks on site	6
	Perform Phase I environmental assessment	5
	Identify information on pesticides and heavy metals on site	5
	Floodplain impacts	4
	Settling and soil stability issues	4
	Total: 32	
<b>Environmental Justice</b>	Study minority and low-income populations	12
	Identify BIA criteria for environmental justice consideration	3
	Total: 15	
<b>Air Quality</b>	Impacts to air quality	4
	Impacts if non-attainment area and meeting PM-10 requirements	4
	Compliance with incinerators	4
	Particulate control plan/dust control measures	3
	Auxiliary power generating air quality issues	3
	Air quality impacts from increased traffic	2
	Total: 20	
<b>Alternatives</b>	Identify and study other site locations considered	6
	Attract some other business on this site	1
	Total: 7	
<b>Aesthetics</b>	Effects of laser light shows	4
	Impacts from glare on residents, habitat, wildlife/complaint process	3
	Impacts from night lighting	2
	Total: 9	
<b>Biology</b>	Perform endangered species survey	6
	Distressed vegetation on site	3
	Poisonous plants, insects, animals on site	3
	Impact on wildlife loss	2
	Impact to biological diversity	1
	Total: 15	
<b>Hazardous Materials</b>	If selling gas/fireworks, how to be handled, sold, stored	4
	Identify if site is within 3000 feet of toxic or solid waste landfill site	4
	Identify if site is Superfund site or CERCLA site	3
	Inventory of hazardous materials on site	3
	Identify if chemical spills, pipelines, abandoned machinery on site	3
	Impacts from PCBs from electric substation if migrated to site	3
	Total: 20	

<b>Noise</b>	Perform noise assessment/contour maps	6
	Identify public process for noise complaints	2
	Impacts of noise on commercial dairy	3
	Total: 11	
<b>Physiography</b>	Identify if seismic faults or fractures, hazardous terrain occur on site	3
	Total: 3	
<b>Cumulative</b>	Cumulative impacts of business and residential secondary growth	1
	Total: 1	