

**FINDING OF NO SIGNIFICANT IMPACT
FOR THE
AGUA CALIENTE BAND OF CAHUILLA INDIANS CATHEDRAL CITY FEE-TO-
TRUST CASINO PROJECT**

In 2017, the Agua Caliente Band of Cahuilla Indians (Tribe) submitted to the Bureau of Indian Affairs (BIA) an application to transfer into trust approximately 13 acres of land known as the Section 33 Parcel in the City of Cathedral City (City or Cathedral City), Riverside County, California, for gaming and other purposes.

The BIA prepared an environmental assessment (EA) pursuant to the National Environmental Policy Act (NEPA), 42 U.S.C § 4321 *et seq.* Section 11 of the Tribal-State Compact requires the Tribe to prepare a Tribal Environmental Impact Report (TEIR) to analyze the potential off-reservation environmental impacts of the proposed project. To reduce paperwork and eliminate redundancy, the TEIR was prepared in coordination with the EA, resulting in a joint EA/TEIR. The BIA initiated a scoping comment period for the EA/TEIR from December 29, 2017, to January 29, 2018, with a scoping hearing held on January 18, 2018. The BIA made the EA/TEIR available to the public on October 19, 2018, for a 45-day public comment period ending on December 3, 2018. The final EA/TEIR is available on-line at <https://www.cathedralcitycasino.com>.

The EA/TEIR evaluated the transfer of the Section 33 Parcel by the United States into trust for the benefit of the Tribe (Proposed Action) and the subsequent development of the Section 33 Parcel (Proposed Project) by the Tribe. The BIA made the EA/TEIR available for state agency and public review from October 19, 2018, through December 3, 2018. The BIA published a notice of availability in the *Desert Sun*, and made copies of the draft EA/TEIR available online and at the Cathedral City Branch Library. The BIA received three comments from the public. The BIA reviewed the comments, and addressed them as appropriate in the final EA.

Based on the findings in the EA, I determine that transferring the Section 33 Parcel into trust and the subsequent development of the Section 33 Parcel for gaming purposes will have no significant impacts to the quality of the human environment with implementation of the mitigation measures and best management practices specified in the EA. In accordance with Section 102(2)(c) of the National Environmental Policy Act, 42 U.S.C § 4321 *et seq.*, an environmental impact statement is not be required.

Discussion

The EA/TEIR analyzed the following alternatives:

Proposed Action Alternative

The proposed action consists of the transfer into trust of the approximately 13-acre Section 33 Parcel in Cathedral City. The Tribe proposes to develop a casino with 40,000 square feet (sf) of gaming floor space, with parking, and mixed-use facilities, including a combination of tribal

government office space, restaurants, and retail uses totaling 125,000 sf of development. The casino will have approximately 500 Class III gaming devices and 8 table games.

Reduced Intensity Alternative

The Reduced Intensity Alternative consists of the transfer of the Section 33 Parcel into trust and the subsequent development of a 40,000 sf casino, parking, and mixed-use facilities. The Reduced Intensity Alternative is similar to the Proposed Action Alternative, except that the mixed-use facilities will be reduced in size and the total development area will consist of 103,000 sf.

Non-Gaming Alternative

The Non-Gaming Alternative consists of the transfer of the Section 33 Parcel into trust and the subsequent development of commercial uses on the site, including a combination of tribal government office space, restaurants, and retail uses totaling 90,000 sf of development.

No Action Alternative

Under the No Action Alternative, none of the development alternatives will be implemented. No land will be transferred into trust and no development will occur.

Findings

The BIA evaluated potential direct, indirect, and cumulative impacts to land resources, water resources, air quality, biological resources, cultural resources, socioeconomic and environmental justice conditions, transportation/circulation, land use, public services and utilities, visual resources, noise, hazardous materials, and cumulative impacts. The EA/TEIR describes the Best Management Practices (BMPs) within each section that have been incorporated into the project design to eliminate or substantially reduce any environmental consequences to less than significant. See EA § 2.2.3. In addition, the EA/TEIR describes in each section the additional mitigation measures that will be implemented to further mitigate potential environmental impacts. See EA § 5.0. The Tribe will implement protective measures and BMPs, including regulatory requirements, green construction methods as adopted under the Tribal Building and Safety Code, and voluntary measures that have been incorporated into the design of the Proposed Action to eliminate or substantially reduce environmental consequences. The EA/TEIR concludes that the project design and implementation of BMPs will ensure that impacts to these resources will be less than significant.

Land Resources (EA § 4.1) – The Proposed Project will not conflict with or impact land use, planning restrictions, or land resources. In 2006, Cathedral City adopted ordinance number 624 which stated that the downtown area should be redeveloped to “eliminate conditions of blight by: providing needed public improvements, encouraging rehabilitation of deteriorating structures, and facilitating land assembly and development which will result in employment

opportunities...” The Tribe has been working in cooperation with the City for this common vision, with the gaming facility providing an anchor for further growth of a walkable Downtown Art and Design Village. The Section 33 Parcel is disturbed and developed land, which was formerly used for residential uses, and is designated “urban” in the City General Plan. The Proposed Project is consistent with current and future land use. Having considered potential land resources impacts during project design/planning, with the implementation of BMPs incorporated into the project, impacts to land resources will be less than significant.

Water Resources (EA § 4.2) – The Proposed Project will have no direct impacts to water resources. The Tribe shall comply with the National Pollutant Discharge Elimination System General Construction Permit from the U.S. Environmental Protection Agency (USEPA) for construction site runoff during the construction phase in compliance with the Clean Water Act, 33 U.S.C. § 1251 *et seq.* The Tribe shall prepare a Stormwater Pollution Prevention Plan for the project site. Construction of the Proposed Project will not alter the 100-year floodplain boundaries or flooding elevations. Potable water will be supplied from groundwater resources. Operation of the Proposed Project will only use approximately 0.02% of the total projected outflows in 2020, which is a less-than-significant use of groundwater. Installation of grates, filter bags, bio-retention facilities, vegetated filter strips, and permeable pavement will remove trash, debris, and sediment from stormwater runoff. Having considered potential water resources impacts during project design/planning, with the implementation of BMPs incorporated into the project, impacts to water resources will be less than significant.

Air Quality (EA § 4.3) – During construction, BMPs will be implemented to control the production of fugitive dust (particulate matter [PM₁₀]), to prevent wind erosion of bare and stockpiled soils, and to reduce emissions of criteria pollutants, greenhouse gases, and diesel particulate matter. During operation, adequate ingress and egress at entrances will be provided to minimize vehicle idling and traffic congestion. The Section 33 Parcel is within an area classified as severe nonattainment for ozone and ozone precursors; therefore, a federal general conformity determination analysis will be required prior to operation of the casino and associated facilities. Stationary source project-related operational emissions will be quantified and compared to the applicable threshold to determine if the Tribe will apply for a permit under the Tribal New Source Review. Adherence to the applicable thresholds and permits, as well as implementation of mitigation measures, will reduce, eliminate, or compensate for any impacts to air quality. Having considered potential air quality impacts during project design/planning, with the implementation of BMPs incorporated into the project, impacts to air quality will be less than significant.

Biological Resources (EA § 4.4) – There are no unique or sensitive ecosystems or biological communities within the Section 33 Parcel. The western yellow bat is a state special-status species that may have the potential to occur within the site within palm skirts. Implementation of mitigation measures will prevent violation of state regulations related to special-status species as well as avoid or reduce any impacts to this species. Construction of the Proposed Project may affect migratory birds and other birds of prey because the Section 33 Parcel has sparse tree and

vegetation cover. Implementation of mitigation measures will ensure no adverse effects on biological resources will occur. Impacts to biological resources will be less than significant.

Cultural Resources (EA § 4.5) – No known historic properties, archaeological sites, or cultural materials are present within the Section 33 Parcel. An inadvertent discovery of archaeological resources shall be subject to Section 106 of the National Historic Preservation Act, 16 U.S.C. § 470, the Native American Graves Protection and Repatriation Act, 25 U.S.C. § 3001 *et seq.*, and the Archaeological Resources Protection Act, 16 U.S.C § 470aa-mm. Procedures for review of discoveries shall be followed pursuant to 36 C.F.R. § 800.13. Adherence to applicable laws and the BMPs incorporated into the project will ensure that no adverse effects to previously unknown cultural resources will occur. Impacts to cultural resources will be less than significant.

Socioeconomic Conditions (EA § 4.6) – During construction, the Proposed Project will create approximately 680 new jobs during construction and approximately 808 during operation. While tax revenues to the local, state, and federal governments are expected to increase, the City is expected to have a net decrease as a result of providing increased public services. The Tribe may negotiate with the City and the County to offset potential fiscal impacts. It is expected that approximately 60 new employees will relocate to the City. The City's housing has a 19% vacancy rate, which will provide a sufficient number of homes to accommodate the new employees. Minority communities, including the Tribe, are located within the census tract that contains the site as well as an adjacent census tract. The Proposed Project's beneficial impacts on the local economy will also positively impact the minority populations, including the Tribe. The Tribe will benefit by increased revenues to fund tribal government services, create a tribal court system, and address homelessness on the reservation. Impacts to socioeconomic conditions and environmental justice will be less than significant.

Transportation/Circulation (EA § 4.7) – A traffic impact study conducted in 2018 determined that implementation of mitigation measures including restriping of lanes, lane additions, and installation of traffic signals will reduce traffic impacts to less than significant. The Tribe will contact SunLine Transit Agency at least thirty days in advance of work commencing so that arrangements can be made to remove, replace, and/or relocate the existing bus stop facilities to meet the needs of all passengers, including the disabled, seniors, and children. Implementation of mitigation measures will ensure less than significant impacts to transportation/circulation.

Land Use (EA § 4.8) – The Section 33 Parcel is located within the City's land use designation for commercial and entertainment entities. The surrounding lots are either empty but previously developed, contain commercial uses, or are public parks. The Proposed Project is compatible with existing and planned land use. Having considered potential land use conflicts during project design/planning, with the implementation of air quality, noise, traffic, and visual resource BMPs incorporated into the project and mitigation measures, impacts to land use will be less than significant.

Public Services and Utilities (EA § 4.9) – All utility agencies have enough capacity to provide water, wastewater, electricity, gas, and solid waste services for the Proposed Project. Minor

upgrades to the water and sewer pipes will be built to accommodate additional flows. In accordance with Section 11.7 of the Tribal-State Compact, the Tribe and County entered into an intergovernmental agreement to ensure implementation of mitigation measures for impacts to the off-reservation environment. The Tribe will voluntarily pay development impact fees to the City, as identified in Chapter 3.17 of the City's Municipal Code, to provide compensation for public services to the Proposed Project, thereby offsetting any impacts to the City's public services. Additionally, the City Urban Revitalization Corporation has received proceeds from the land acquisition transaction and will utilize those funds to build a new fire station immediately north of Parcel 33. This fire station will serve both on and off-reservation communities; therefore, there will not be a significant impact to public services. Having considered potential public services impacts during project design/planning, with the BMPs incorporated into the project and implementation of mitigation measures, impacts to public services will be less than significant.

Visual Resources (EA § 4.10) – The Proposed Project will be consistent with surrounding commercial developments and will not substantially block scenic views of the mountains or the surrounding valley; therefore, no significant impacts to visual resources will occur. The Proposed Project will introduce new sources of light; however, placement of floodlights on buildings will be designed to not cast light off site. Outdoor light fixtures shall be fully or partially shielded and filtered consistent with the City Municipal Code § 9.89.050, and perimeter lighting shall be installed consistent with the City Municipal Code § 8.34.110. Having considered potential visual resource impacts during project design/planning, with the implementation of BMPs incorporated into the project, no adverse effects to visual resources will occur. Impacts to visual resources will be less than significant.

Noise (EA § 4.11) – Construction activities will be limited to daytime hours consistent with the City's Municipal Code § 11.96.070, unless an early work permit is issued by the Tribe in consultation with the City. Mitigation measures will be implemented during operation to prevent violation of the Federal Noise Abatement Criteria standards used by the Federal Highway Administration and City and the Federal Transit Administration's guidelines for vibration damage criteria (40 C.F.R. § 1508.27b(10)). Having considered potential noise impacts during project design/planning, with the implementation of BMPs incorporated into the project and mitigation measures, no adverse impacts to the ambient noise environment will occur during construction or operation. Impacts from noise will be less than significant.

Hazardous Materials (EA § 4.12) – A Phase I Environmental Site Assessment was completed in July 2017 and a Limited Phase II Environmental Evaluation was completed in February of 2018. Based on the Assessment and Evaluation, the following measures are recommended to prevent violation of federal and state regulations related to hazardous material imposed for the protection of the environment (40 C.F.R. § 1508.27b(10)): Concrete piping/crushed concrete encountered during grading/development should be evaluated by an asbestos consultant prior to removal from the site and subsequent off-site disposal. Any discolored soils, noxious odors, and/or buried objects/debris encountered during clearing and grubbing or future grading and development should be left in place until an environmental professional can evaluate the conditions and

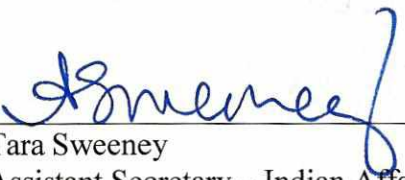
provide recommendations if needed. An environmental professional should monitor excavation and removal of buried concrete structures and/or debris.

Implementation of BMPs during construction will limit the release of hazardous materials. In the event that contaminated soil and/or groundwater is encountered during earth-moving activities, all work shall be halted until a professional hazardous materials specialist or other qualified individual assesses the extent of contamination. If contamination is determined to be hazardous, the Tribe shall consult with the USEPA to determine the appropriate course of action, including development of a Sampling and Remediation Plan if necessary. Contaminated soils that are determined to be hazardous shall be disposed of in accordance with federal regulations. Having considered potential hazardous materials impacts during project design/planning, with the implementation of BMPs incorporated into the project and mitigation measures, impacts from hazardous materials will be less than significant.

Cumulative Impacts (EA § 4.13) – Implementation of BMPs and/or mitigation measures will ensure that cumulative impacts to land resources, water resources, air quality, biological resources, cultural resources, socioeconomic and environmental justice conditions, transportation/circulation, land use, public services and utilities, visual resources, noise, hazardous materials are not significant. There will be no significant growth inducing or other indirect effects. Cumulative impacts will be less than significant.

Determination

Based on the findings in the EA, I determine that transferring the Section 33 Parcel into trust for the benefit of the Agua Caliente Band of Cahuilla Indians and the subsequent development of the Section 33 Parcel by the Tribe will have no significant impact on the quality of the human environment. In accordance with Section 102(2)(c) of NEPA, an environmental impact statement is not required. This fulfills the requirements of NEPA as set out in the Council on Environmental Quality Regulations for Implementing NEPA (40 C.F.R. §§ 1500-1508) and the BIA NEPA Guidebook (59 IAM 3-H, August 2012).


Tara Sweeney
Assistant Secretary – Indian Affairs

OCT 07 2019
Date