

BOARD OF CLARK COUNTY COMMISSIONERS

Betty Sue Morris • Marc Boldt • Steve Stuart



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CLARK COUNTY  
WASHINGTON

July 16, 2008

Mr. Stanley Speaks  
Northwest Regional Office  
911 NE 11<sup>th</sup> Avenue  
Portland, OR 97232

Dear Mr. Speaks:

Clark County government reviewed all drafts and administrative drafts of the environmental impact statement. Our review team included staff from multiple disciplines and consultants. Our reviewers are experts in their fields and experts in the condition in Clark County and the impacts of development activities. We provide these comments accurately, in good faith and in accordance with the intent and spirit of the NEPA. In the enclosed package, we submit new comments on the FEIS, as well as our comments on previous documents. We have noted that most of our previous comments have not been addressed.

Thank you for the opportunity to provide comments on the Final Environmental Impact Statement (FEIS) prepared for the Cowlitz Indian Tribe Trust Acquisition and Casino Project. We shall look forward to your favorable consideration thereof.

Sincerely,

Betty Sue Morris, Chair

Marc Boldt, Commissioner

Steve Stuart, Commissioner

1 Enclosure  
- Comments on Final EIS

# Clark County Comments Cowlitz Casino-Resort Final EIS

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## **Purpose of the Final EIS**

The EIS process provides the decision makers at the Bureau of Indian Affairs (BIA) and the National Indian Gaming commission (NIGC) with valuable information regarding the impact of the tribe's proposal on the environment. Both the BIA and the NGIC are required to review the EIS because taking land into trust is a federal action. Federal actions need environmental review. There must be alternatives, a discussion of avoidance of effects and mitigation measures.

The purpose of the EIS is to reveal the environmental impacts of the tribe's desire to improve their long-term economic stability and self-governance. The tribe wants to make these improvements by taking land into trust and developing it. Each alternative should be reviewed against two questions:

1. How does this alternative increase economic self-sufficiency for the tribe and are the impacts on the environmental mitigated?
2. How does this alternative lead the tribe to improved self-governance, and are the environmental impacts mitigated?

The Cowlitz Final EIS, therefore, is different from the project level EIS of which local governments are familiar, and is more difficult to review. The environmental impacts are created by the project and its impact on the land. The review, however, is not a traditional project level review where the site plan is examined and detailed engineering and planning solutions are applied to identify and finance mitigation measures. Also different from other EIS, the review considers the economic benefit to the tribe and the potential for enhancing self-governance.

## **Assumptions Used by County in Review of the Final EIS**

Clark County used the following assumptions in the review of the Final EIS:

1. The Cowlitz are a federally recognized tribe.
2. The Cowlitz are recognized as a restored tribe.
3. The Cowlitz have no land in trust or reservation status.
4. The current request for a reservation, if granted, will constitute an initial reservation for the tribe.
5. All reviews take place against currently adopted laws and currently applied policies and procedures at the federal, state and local level.
6. The MOU between Clark County and the Cowlitz is an implementation tool for use if the land is taken into trust or reservation status. The tribal Environment, Public Health and Safety Ordinance serves the same purpose as the MOU, although its content is different than the MOU. Either may be applied as a mitigation measure, but, in and of

themselves, do not eliminate the need for review and identification of mitigation measures.

7. When conflicting sources of data exist, the county will rely upon the sources that are most commonly accepted as reliable.

## Summary Observations on the Final EIS

Appendices 1 through 4 provide detailed questions on the Final EIS, Draft EIS and the Administrative Draft EIS for response by the Bureau of Indian Affairs and the Cowlitz tribe. In the review by the Bureau of Indian Affairs, each response should be identified as a site development issue, as an issue that requires mitigation in the Final EIS. The summary observations and comments, below, capture unifying issues that underlie the detailed responses.

Clark County concludes that Alternatives A and B and C (large and reduced intensity casino-resort alternatives) do not serve the tribe's interests, nor do they serve the interests of the community. Alternative F does not serve the tribes interests by creating limited or no income.

We conclude that Alternative D does not serve the tribe simply because the EIS includes a business park alternative that is unrealistic in the local marketplace. If Alternative D were revised to respond to local market conditions, it might effectively serve the needs of the community and the tribe, with environmental impacts that can be mitigated with readily available tools.

Clark County requests addition of a new, diversified alternative that provides a mix of land uses (for example retail, office, light industrial and a casino).

### The Alternatives

The Draft EIS concludes that Alternatives A and B (large Casino-Resort) create the greatest economic benefit to the tribe because they create the largest revenue stream. Alternative C is a reduced intensity casino, with a minimal decrease in total space and gaming. Alternative E is another large casino option on a site the tribe does not hold.

It appears as though the EIS preference for Alternative A is contrary to the principle of enhancing the tribe's self-governance. The casino management is contracted to the Mohegan, an organization with considerable experience in the preferred alternative's business. This will allow the Cowlitz tribe to focus on its self-governance as it copes with a rapidly changing economic situation and will provide a separation between the management of the business and the management of the tribe.

The EIS does not clearly present financial data related to the partnership with the Mohegan tribe, but it appears as though Alternatives A, B C and E work against self governance, however, because they:

- a) take financial resources away from the tribe to support the management contract;
- b) Make the tribe reliant upon an outside organization for management of their primary asset.
- c) Limit the tribe's meaningful interaction with local education and financial institutions that could support of the asset and their long-term financial health.

Alternative D is a business park option with characteristics that are unreasonable in the Portland metropolitan area. It proposes over building in this market to an extent that no serious investor would entertain participation. The Alternative is not flawed because of the proposed use, it is flawed because of the magnitude and the expectation of immediate build out and profit on the part of the tribe.

The draft discounts Alternative D because there is no inherent "competitive advantage" for the tribe to operate a business park, while statute does provide a competitive advantage in the casino-resort business. The objective of a trust\reservation status with an economic activity is to create better living standards for tribal members and to enhance the opportunity for self-governance. There is no mandate to do this through an activity that has a competitive advantage.

Alternative D is discounted with the contention that there is a lesser probability that tribal members can gain the higher level of education and experience necessary for employment in the business park. Currently, over 80 percent of the employable Cowlitz are employed in a variety of communities in a variety of jobs. It seems reasonable that 100 (the employment projected for tribal members in a casino-resort) could be employed in a business park. Tribal revenue and personal income from a business park should help future education and employment opportunities, giving a greater number of tribal members a higher probability of higher income employment over time. A casino-resort, in contrast, will provide low wage jobs, and no improvement in education will improve access to higher paying jobs on the site.

If Alternative D were re-drafted to reflect local market conditions it would generate less revenue than the Alternative D presented in the EIS. Even in this scenario Alternative D warrants serious consideration because it creates:

- a) Higher wages for tribal members working on the site;
- b) Higher wages for non-tribal members;
- c) No need for mitigation funds relating to gambling that draw away from the revenue;
- d) No need for a management agreement with the Mohegan that takes revenue away to another source.

The deficiencies in the alternatives and their analysis are similar to the deficiencies identified in the Draft EIS. Nothing of substance changed between the Draft EIS and the Final EIS.

## **Tribal Revenue**

The Final EIS employs a gaming revenue estimation model with assumptions and methodologies that are less reliable and applicable than the assumptions and methodologies used by other models. It replicated the Draft EIS and is subject to the same comments made on the earlier draft.

A close examination of the model used to project gaming revenues reveals that the model over-projects revenue. Application of the more commonly accepted models for gaming project a slower build out rate and smaller market share. The consequences of lower than projected revenue could be serious for the tribe and for the community. Many development forms, including casinos, require substantial upfront investment with income and cash flow projected as quickly as possible. If this does not occur, the tribe may be faced with the need for alternate on-site uses, for example a retail center instead of the RV park. Traffic impacts, public service impacts and fiscal impacts could be significantly different with other land uses.

The Johnson-Gardner report, an Appendix of the comments made on the Draft EIS, should be referenced for specific questions that need response.

## **Personal Income and Employment**

The Final EIS's estimate of personal income for operating employees is approximately \$28,000. The Final EIS underestimates the potential need for social services and housing for workers who will make wages near poverty level. No substantive change is made from the Draft EIS, and the comments made on that document are resubmitted for response.

The data in the EIS asserts that the majority of the employees for the low-wage jobs will be existing residents of the county. The analysis ignores the implications of the wage estimate and the local employment market, and commute costs. The EIS masks the practical necessity for the majority of casino-resort workers to move to Clark County. Low-wage workers are inclined to move close to employment to avoid commute costs. Given the differing Washington\Oregon tax structure, it is unreasonable to assume that low-wage workers would live in Oregon and work in Washington. It is unlikely that a casino, which typically draws specialty workers from other casino-resorts, would draw workers from Oregon without relocation. The current commute pattern does not reflect a strong northbound commute trend for low wagers.

If the employees are drawn to Clark County from other areas, which seems likely, there is no discussion of how the jurisdictions will deal with the need for almost 3,000 units of affordable housing for new employees and their households. These impacts will ripple to other providers of education and social services. Multiple school districts may be influenced by an influx of children of casino-resort employees. The Draft EIS should address and mitigate the impacts on the jurisdictions most likely to see significant impact and should not avoid this responsibility through definition of the study areas and ignoring local housing and employment trends.

## **Impact on Resources**

By definition, construction of a major development on a rural site will have environmental impacts. Soils and watersheds will be disturbed, stormwater and wastewater will flow, potable water will be consumed, light and noise will increase. Overall, the EIS does an adequate job of identification of impacts and of addressing mitigation.

Appendix 1 includes specific questions on resources needing response. Many comments submitted in the Draft EIS comments were not addressed substantively, and should be reconsidered as part of this submission. These detailed comments should be reviewed by the Bureau of Indian Affairs, and each should be identified as a site development issue, or one that requires mitigation in the Final EIS.

## **Impacts on Transportation**

Comments on the transportation element of the Final EIS can be separated into comments on:

- a) impact of the alternatives upon the tribe's future and the impact on the community;
- b) impacts on the site and surrounding jurisdictions, as would be analyzed in a project EIS submitted for a major development project, and;
- c) relationship between the county MOU, which is cited as mitigation for traffic impact, in comparison to the terms of the MOU.

In all three areas, the Final EIS fails to adequately portray or mitigate the traffic impacts on the site. When poor transportation modeling is combined with the socio-economic and revenue issues identified earlier, it is difficult to assess the impact of the alternatives on the site.

The Final EIS does not adequately assess and analyze the transportation impacts of the alternatives on the site, on the surrounding community, on the financial viability of the project or on the tribe's goals for self-sufficiency. The drafters of the document chose California comparables that do not reflect northwest conditions and standards for analysis. The level of service assumptions, methodologies and other factors in the models do not reflect county conditions and therefore detach the analysis from local costing principles, level of service standards, and mitigation already agreed to by the Cowlitz tribe. The tribe agreed to use county standards when assessing the environmental impacts on the site, but the consulting firm hired to prepare the analysis did not do so in the Final EIS

The inadequacy of the transportation analysis has a direct impact on the tribe's goals for sovereignty and self-sufficiency, because it masks the costs of potential road improvements and the impact the road improvement commitments may have on the revenue generation (believed to be over projected in the revenue model) and the resulting benefit to tribal members.

Clark County attempted to use the Final EIS to assess the impacts on traffic conditions such as traffic gaps for turning movements, queue distances, lane storage, etc. This level of detail is regularly applied to project EIS and site analysis. At this level, the impact of the project

alternatives is not clear, and cannot be costed or compared to the MOU signed with the county or the tribes EPHA ordinance.

The Final EIS does an inadequate job of assessing impacts of the replacement of the I-5 bridge, which will coincide with the development and opening of the casino-resort. The site selection was based on capitalizing on the Portland market, yet the EIS ignores the potential impact of reduced transportation access during construction, and the benefit of increased access after completion. This omission has serious transportation and operating revenue implications.

The Final EIS cites the MOU with Clark County as mitigation for the transportation impacts, but in several places, uses assumptions and principles that contradict the MOU. The contradictions but must be remedied for the analysis to support the mitigation the tribe claims is provided in the MOU.

Appendix 1 includes specific transportation questions needing response. The comments made in the Draft EIS are resubmitted for consideration. Clark County requests use of comparable Washington and Oregon casinos and resorts in the transportation analysis, specifically including the Tulalip development near Marysville, Washington.

### **Impacts on Jurisdictions**

The EIS defines primary and secondary study areas that lead to an underassessment of the potential impacts of the large casino alternatives on the City of Vancouver, Battle Ground, and Camas. The study area includes adjacent areas of low population and moderately high income. This leads to an appearance of minimal impact, and therefore minimal need for mitigation in surrounding cities.

Very few cities in the United States have the unique tax base of La Center, Washington. Over 60 percent of the tax revenue of this city comes from the private gaming industry. The gaming is in small, privately owned and operated card rooms. The emergence of a tribal casino on the outskirts of this city has the potential to seriously impact the stability of the municipality in a manner far exceeding the financial implications. The Final EIS acknowledges a financial impact and offers short-term (10-year) mitigation by providing funds to the city. Locally owned and operated businesses, however, provide more than tax base. They provide community leadership. They provide the sponsorships, relationships and community activities that make a town a viable center of economic and social interaction.

A large casino resort near La Center, operated by a Connecticut corporation and owned by a tribe that has a minimal local resident population, cannot mitigate the impact of the loss of local business and leadership through mitigation dollars. The Final EIS is seriously deficient in its assessment of impact. This impact is significant and adequate community based mitigation has not been identified. La Center, as a city, will be changed forever if the local businesses leave. This environmental impact cannot be ignored.

The Final EIS produces little discussion of the potential impacts of federal tax incentives for location of non-tribal businesses on tribal land and the extent to which the incentives might impact neighboring jurisdictions and their economies. The federal tax regulations provide cost incentives for development on tribal land. These tools can be powerful incentives for drawing land uses to areas that might not otherwise be attractive for those uses. The potential impacts are not discussed in the analysis of the casino-resort or the business park. This discussion takes on additional importance when coupled with the potential for smaller than projected gaming revenue and pressure to develop alternate land uses.

The Final EIS does not address smoking inside the facility. This is an issue with both economic competitiveness and air quality ramifications. It is not addressed in either context in the document.

Appendix 1 includes specific questions needing response. Questions submitted with the Draft EIS are resubmitted. Appendix 4 includes questions forwarded during the scoping phase that were not addressed.

## **Mitigation**

Throughout the document, the Final EIS cites the MOU with Clark County as providing mitigation for issues. The analysis, however, selectively applies the principles in the MOU or contradicts them. In a somewhat circular set of arguments, the analysis uses assumptions that contradict the principles of the MOU, concludes that there are no\ minimal\mitigatable impacts, and then claims the MOU will provide the mitigation for the impacts. This flaw is particularly acute in the transportation analysis.

The MOU is an implementation tool that addresses the development of a proposal on the site. Implementation of the MOU may provide one of many forms of mitigation. It should not be cited as a means of dismissing an environmental impact, or as a means to obfuscate transportation impacts.

## **Conclusion**

This Final EIS, unfortunately, does not adequately describe the alternatives or their impacts and provides an unreliable and inadequate source of information for decision making.

**Appendix 1**  
**Specific Comments on Final EIS**

## **Staff Response to Tribal Environmental, Health and Safety Ordinance Section G: Compliance with Clark County Ordinances**

Section G of the EPHS ordinance commits the tribe to developing the site in a manner consistent with 2004 codes as set forth in the MOU. The tribe claims that the ordinance “replaces” the MOU in content and intent. This is not true when viewed in light of the specification that the EPHS review takes place using 2004 adopted county code.

It is true that the MOU refers to 2004 codes. It is not correct, however, to state that the MOU intended the tribe would be required to comply with the 2004 codes, regardless of the date of construction. The MOU allows the county to review the tribe’s proposal based on the codes in effect at the time of development. There was no intent to lock the county into a time in the past, 2004, and to ignore improvements in transportation, site plan, water quality, storm water and other provisions enacted by the community for the community’s protection.

Today, in 2008, it is clear that the federal approval process takes many years. It is very likely that construction on the site, if it occurs at all, will not take place for several more years. It is in keeping with the spirit and intent of the MOU, and by the tribes statements that the EPHS ordinance “replaces” the MOU, that the codes under review should be the current codes of the community.

### **Possible mitigation measure for inclusion in the EIS**

Any MOU or tribal ordinance that provides review of the site by the local jurisdiction, or any review of the site by the jurisdiction without benefit of the MOU or EPHS, shall occur in accordance with the currently adopted ordinances of the jurisdiction.

MEMO

TO: Marlia Jenkins  
FROM: Oliver Orjiako  
DATE: June 5, 2008  
SUBJECT: Comments on Cowlitz Final EIS

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There is no adequate discussion of reasonable measures to address problem of pathological gambling. A contribution of "no less than \$50, 000 annually to a program that treats problem gamblers" as a mitigation measure is woefully insufficient given the scale of resort proposed and impact area.

Second, it is not clear how mitigation 5.2.6 (A) and (C) would work. There is no established mechanism to replace lost revenues by the City of La Center due to reduced taxes from the existing card rooms.

Similarly, there is no way of relating payments to the City of La Center and Ridgefield from what appears to be an unreliable revenue projections.

Finally, all of the comments that was raised when the DEIS was issues were not addressed. The comments are herein in the table.

Page number	Section topic	Comment
3.6	Cultural and Paleontological Resources	1. No comment.
3.7	Socioeconomic Conditions  Major Employers  Employment  Income  Housing	2. The primary area excludes the majority of urbanizing area and the City of Vancouver. Separate Clark County income from that of other four counties. The population of the tribe is so small to realize any potential employment benefits. Given the size and the fact that most live in rural areas, what is the market size for the gaming area. Major Employers in Clark County as stated are not in primary area. Need to explore how to obtain information on current employment data so that growth in employment can be measured for both native and non-native American. Much of the lower income can be traced to lower labor force participation. It is not clear if the Indian households median family income stated (page 3.7-1), is compared to county,

	<p>Mortality rate</p> <p>Property tax and revenues</p> <p>Schools</p> <p>Parks and Recreation</p>	<p>state, or national averages? The number of members dissatisfied with current housing situation and number requesting housing assistance is not consistent. There is no data on current mortality rate.</p> <p>The section on property tax and revenues need major work. Need to discuss the implication of a major development as proposed which the profits are not taxable and their presence diverts funds from a taxable activity. Need to address student enrollment of Cowlitz Indian tribe as baseline condition. No discussion of existing condition that included Cowlitz County in regional comment. Need to discuss current characteristics of Wildlife Refuge, Paradise Point and the Tri-Mountain. What are the implications of the proposed development on these facilities?</p>
3.13	Aesthetics Setting	<p>3. A building complex larger than any other structure in the county is not consistent with county GMA policies that encourage local character and small town theme. The size, scale, and style of the proposed building did not represent any cultural or tribal heritage or theme. The significant size and scale of the building, with reliance on glass increases glare and potential impact on the view shed. Description of general land use in the vicinity of the site mentioned an unnamed seasonal creek along the northern border but no identification of measures to mitigate impacts.</p>
4.6	Cultural and Paleontological Resources	<p>4. No comment.</p>
4.7-1 page 1	<p>Socioeconomic Conditions</p> <p>Employment</p>	<p>5. From discussion in section 3.7, there are 3,200 tribe members. If 3,151 employees are needed and only 100 will be tribe members, what are the potential impacts to the remaining 3,100 tribal members of the Cowlitz Indian. In addition, if 3,100 employees are non-tribal members and</p>

	<p>Wages</p> <p>Gaming Revenue</p> <p>Developing as Business Park</p> <p>Problem and Pathological gambling</p> <p>Impacts to Local Jurisdictions</p>	<p>are making an average wage of \$28,000, is it not lower than the household income in the primary area? The income is not significant enough to lessen dependant on supplemental public assistance and related community social services. Which comparable industries were examined to show that the wages are 60% higher? There is no documentation that 90 percent of the employment will come from within Clark and Cowlitz counties. The estimated gaming revenue is very high even with the substitution effect. What is the population/customer base from which the estimate is drawn? Please include the economic effects of the region. There is no discussion of the proposed site developing as business/industrial activity with higher salary jobs, the benefits to the community as a whole.</p> <p>On page 4.7-6, it is noted that the introduction of Alternative A may increase the percentage of problem gamblers by as much as 0.5% or an increase of approximately 1,717 persons. If 3% of these persons seek treatment, what happens to the other 97%? What mitigation is planned? It seems that the presence of the casino would have significant impacts. What is the basis of the conclusion that, "effects of problem gambling services would be less than significant". Please provide evidence from other casino operations of similar size. Please define market size and specify if the gaming casino is a "destination" or a service to local clientele so that effects can be analyzed. For example, if casinos encourage pathological gambling and these people turn to crime to feed a habit, the effect could be felt within 50 miles of a casino. While Alternative A describes gaming revenue and benefits to local jurisdictions, there is no data to support</p>
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		<p>the costs addressed in section 4. Casino profits are not taxable. Therefore, their presence diverts funds from a taxable activity.</p>
4.13	Aesthetics	<p>6. A building complex larger than any other structure in the county is not consistent with county GMA policies that encourage local character and small town theme. The size, scale, and style of the proposed building did not represent any cultural or tribal heritage or theme. The significant size and scale of the building, with reliance on glass increases glare and potential impact on the view shed. Description of general land use in the vicinity of the site mentioned an unnamed seasonal creek along the northern border but no identification of measures to mitigate impacts.</p>

CLARK COUNTY  
DEPARTMENT OF PUBLIC WORKS  
Transportation Engineering / Operations

**Memo**

**TO:** Steve Schulte, P.E., Transportation Program Manager  
**CC:** Bill Wright, P.E., Transportation Operations Engineering Manager  
**FROM:** Robert D. Klug, P.E., Traffic Engineer  
**DATE:** June 16, 2008  
**Re:** Review of Cowlitz Final EIS Traffic Elements

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This memorandum documents Clark County Public Works, Traffic Engineering review of the Cowlitz Tribe Final EIS. The primary focus of this review is a high level review, due to the short review time.

**General Comments Regarding Traffic Study and Proposed Mitigations**

The Traffic Study, and the Final EIS includes a series of proposed mitigations. There is insufficient information in either document to evaluate the adequacy of the proposed mitigations. The County will not be able to approve any list of proposed mitigations, until the applicant provides all traffic models used in the development of the EIS, to the County for review.

The Applicant's traffic consultant provided Synchro model files to the County in November 2005, as part of a review of the Pre-Draft EIS. These files were found to be incomplete, and had significant errors in the modeling that directly affected the output of the traffic models. The Applicant's traffic consultant has not provided any copies of detailed model files used in the Draft, or the Final EIS for review. It is not possible to evaluate the adequacy of the traffic modeling, or the proposed mitigation list, based solely on the Level of Service (LOS) letter and the output value of the average, or maximum delay from the model.

One comment by the County in review of the Draft EIS submittal stated "*All evaluations, assumptions, methodologies, and findings should be consistent with the MOU between Clark County and the Cowlitz Indian Tribe....*" (Comment A005-15). The Applicant's response to this was "*The DEIS was prepared for the purposes of analyzing the environmental consequences of federal actions including the proposed trust acquisition and approval of a gaming management contract. The purpose of the document is not to analyze compliance with the MOU agreement between the Cowlitz Indian Tribe and Clark County. Therefore, it is not essential that all evaluations and methodologies utilized in the EIS are consistent with the MOU.*" (Response A005-15).

Since the purpose of the Final EIS is not specifically to determine the mitigations necessary to have compliance to the standards for the traffic system, the Pre-Draft traffic modeling was found to need significant quality control in order to be representative of the impacts of the proposed development, and the Final EIS was provided for review without detailed modeling output, no conclusions can be made about the adequacy of the proposed traffic mitigation list.

The Draft EIS comments by the County included the following "*The Draft EIS contains numerous Synchro model runs analyzing intersection levels of service. These model runs were not reviewed by the County as part of the Draft EIS review due to preliminary nature of the work and due to the uncertainties regarding underlying assumptions, methodologies and other factors as stated in these*

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comments. *Detailed reviews of the final model runs will be made as part of the later development review process and compared with the MOU requirements.*" (Comment A005-18). The Applicant's response was " *The comment is noted.*" (Response A005-18).

The final list of traffic mitigations will need to be determined as part of the site specific application for development of this site.

### **General Comments Regarding Final EIS**

The traffic portions of the Final EIS did not address the majority of the County's comments regarding traffic issues discussed in the previous comments by the County, on the various Draft EIS submittals.

### **Status of MOU.**

The Final EIS makes repeated mention of the MOU, specifically about traffic mitigations. At this time, how the MOU will be incorporated into the final mitigation package is unclear. Any proposed mitigations will need to meet the standards in effect at the time that this project is considered vested in the development review process.

The Final EIS includes a modified Traffic Study, where on pages 10 and 11, there is language proposed for how to interpret the MOU. There is no discussion in the Supplemental Traffic Study regarding the status of the MOU, or how that status may affect the proposed mitigations.

Without having a final determination of what the Tribe will mitigate to, it is not possible to evaluate the general traffic mitigations proposed in the Final EIS.

### **Original Traffic Study Vs. Supplemental Traffic Study**

The Draft EIS included a Traffic Study, dated December 2006. The Final EIS included a Supplemental Traffic Study, dated April 2007. There were several comments from the County on the Draft EIS regarding methodology, scope, and adequacy of the traffic analysis performed for the Draft EIS, and the December 2006 Traffic Study – which was a part of the Draft EIS.

The Appendix B "Cowlitz Indian Tribe Trust Acquisition and Casino Project Final EIS General Comments and Responses" stated on Page B-29 that "*Additional casino trip generation case studies were added to the analysis in the Supplemental TIS for estimating vehicle trips and very conservative assumptions regarding retail, the RV park, event trips and casino trips were applied.*" This same page of the Applicant's response also stated "*Additionally the Supplemental TIS provides an enhanced discussion of trip distribution and assignment.*"

A page by page comparison of the December 2006 Traffic Study (for the Draft EIS) and the April 2007 Supplemental Traffic Study (for the Final EIS) showed that few differences existed between these two documents. Each of the tables of LOS outputs were compared between the two documents, showing that the output of the LOS methodology were exactly the same for each and every scenario, at each and every intersection. If the methodologies, or traffic volumes were modified in the LOS calculations, then the resulting output listed on the tables would be different between the two traffic studies.

It is not clear how the response by the Applicant regarding the revision of the Traffic Study has been accomplished.

There are minor differences between the December 2006 Traffic Study provided in the Draft EIS, and the Supplemental December Traffic Study provided in the Final EIS. Few of the comments from previous County reviews of the draft EIS reviews were incorporated into the Supplemental Traffic Study.

## **Alternate Mitigations Should Be Reviewed**

The Applicant has proposed to signalize the on and off-ramps for the I-5 interchange at NW 319<sup>th</sup> / LaCenter Rd. This signalization is to provide for their additional proposed traffic. The signalization of the northbound on / off ramps on the east side of the interchange creates a significant problem for Paradise Park Rd. The Traffic Study states on Page 91 "*The Cowlitz Tribe has no power of eminent domain and thus cannot realign Paradise Park Road away from the I-5 interchange outside of the current right of way.*" The Applicant's Interchange Justification Report (IJR) states almost the same thing on Page 53.

The Final EIS does not mention alternate mitigations that may be appropriate to evaluate, such as providing a combined signal for Paradise Park Rd, and the I-5 northbound interchange, similar to what is located on the northbound I-5 interchange in Woodland. This type of interchange may not be the most desirable configuration for the interchange, however, it would address the ability for Paradise Park Rd to connect with NW 319<sup>th</sup> St / Paradise Park Rd. This could be accepted as an interim measure, with a circulation plan being adopted showing Paradise Park Rd being realigned east as shown on Figure 5 (Page 16) of the Applicant's Interchange Justification Report (IJR).

## **Proportional Share Of Mitigations**

The traffic study makes mention of minor impacts (Paradise Park Rd connection with LaCenter Rd, and a proposed contribution for the signalization of LaCenter Rd / Timmen Road intersection for instance), and proposes that since the Cowlitz Tribe has no right of eminent domain, they should only be responsible for a proportional share of the cost of a future public project to improve specific intersections. This is not consistent with the original MOU, and may not be consistent with how the original MOU may be modified in a potential future version.

## **SimTraffic Screen Capture**

The Traffic Study shows several screen captures of mitigated conditions. The screen capture should not be used to show how "well" a situation will work with the mitigations. Without knowing the specific parameters used for the simulation, the screen captures provide no useful information for the evaluation of the proposed mitigation scenarios.

Many of the screen capture shots show I-5 and the ramps. Presumably, the SimTraffic model was feeding traffic to the arterial network via the freeway, and ramps. SimTraffic is not capable of modeling freeway sections, as the car following models are strictly only built and calibrated to how vehicles drive on urban arterials. The SimTraffic simulation will incorrectly meter the traffic on the freeways, and not be able to show the effects of merge / diverge of freeway traffic ramps.

## **Functional Classification of Roads.**

The updated Traffic study recommends that NW 319<sup>th</sup> St be converted from a rural minor collector to a 5-lane collector road. The County has no standard for a 5-lane collector road. It is not clear why this should be a 5-lane non-standard collector, as opposed to a M-4cb. The M-4cb would be consistent with the 5-lanes of travel, likely consistent with the peaking nature of traffic, and have other benefits, such as access management requirements, that would benefit the traveling public.

From a larger perspective, freeway interchanges typically are to higher classifications of roads, such as urban arterials, as opposed to urban collectors.

## **Speed Limits on Roads**

Generally, only the Board of County Commissioners has the authority to establish statutory speed limits on public roads within the unincorporated County. It is not established as to whom the statutory authority will belong to, within tribal land.

The Traffic study recommends that there be an internal ring road, with a posted 25 mph speed limit. It is not clear as to what standard this internal ring road would be designed to (local access, collector, or industrial road). There is not sufficient information in the Traffic study to determine if a simple 2-lane road would be appropriate, or to accommodate the peaking levels of traffic for events, the ring road should have center turn lanes, etc.

### **Traffic Management Plan**

The Supplemental Traffic Study recommends that the "*Tribe and County agree on a traffic management plan for event nights and cover operations*" as mitigation. The expectations of the function and outcome of the traffic management plan are not described in the Traffic Study.

Some proposed elements of the traffic management plan for the egress are discussed on pages 146 and 147 of the Traffic Study. There is no corresponding discussion about the ingress for large events.

There is discussion about what the start times for events will be, where there may be overlapping of the ingress traffic to the event, and the peak hour traffic.

There is no proposal to limit early starts of events, where a potential early start would have overlapping traffic for the event.

This is important to note, as the signals and road configurations may not work for the overlapping normal background peak hour traffic, plus the event bound traffic.

### **Pedestrian Crossings of NW 319<sup>th</sup> St**

The Supplemental Traffic Study recommends that there should be a pedestrian crossing of NW 319<sup>th</sup> St including "*a crosswalk plus either a pedestrian actuated flashing crosswalk treatment, similar to what is used in multiple locations around the Portland / Vancouver area or a pedestrian signal.*" It is unlikely that the County would accept the installation of a flashing crosswalk, however, pedestrian signals may be appropriate. There is not sufficient detail in the Traffic Study to know what location(s) are being proposed, or how the safety of the crossing pedestrians will be accommodated, crossing a proposed 5-lane section of NW 319<sup>th</sup> St.

The Applicant should provide as part of their site plan, detailed pedestrian routings through their site, showing how pedestrians will be guided through the site to reasonably safe crossings of the roadway network.

### **Shuttle Bus Service For Events**

The Supplemental Traffic Study now recommends that for larger events onsite, "*... in lieu of physical improvements to I-5, traffic mitigation will consist of the Tribe operating shuttle buses running to the Cowlitz site from outlying locations, such as downtown Vancouver and two or three park and ride sites, to carry trips during large events at the events / conference center, that would mitigate for the added traffic on I-5 and I-205 during event days.*"

This may be acceptable, however, clear, and specific level of service, advertising and ridership goals need to be defined, along with a clear expectation of the long term ongoing cost of this type of service in lieu of physical improvements needs to be provided by the Tribe to the County.

### **Future Traffic Volumes Along NW 319<sup>th</sup> / LaCenter Rd**

The County's Draft EIS comments included discussion about how the "*roadway widths and geometry, turn lane requirements, traffic signal and intersection spacing and driveway locations, all public roadways will need to be designed to accommodate future background growth in the greater site vicinity.*" (Comment A005-22).

The Applicant's response was "*Traffic conditions used for the level of service impact analysis in Section 4.8 and resulting mitigation measures to roadways presented in Section 5.2.7 take into consideration 2010 buildout conditions as well the Cowlitz Casino.*" (Response A005-22).

This is an important distinction regarding roadway classification, and all assumptions necessary. The Applicant has clearly stated in their response that no long term modeling of future traffic was taken into consideration, for the traffic to serve east of the I-5 / 319<sup>th</sup> interchange (LaCenter and points east), nor points west, south, or north of the Cowlitz Casino site. It would be unusual and shortsighted to allow significant modification to an interchange and / or the change of the designation of the roadway network without consideration of the long term of those facilities.

### **Coincidental Events at Cowlitz Events Center and Clark County Amphitheater**

The Final EIS discusses the potential of ingress traffic for the Clark County Amphitheater being on I-5 at approximately the same time as the ingress traffic for the Cowlitz Events Center.

The Final EIS states on Page 4.8-20 "*Since the Amphitheater is a seasonal facility, with approximately 15 to 20 events per year (based on experience for 2004 through 2006)... likely only 3 to 4 times per year would coincidentally scheduled events occur.*"

The analysis should not be based on the number of events in the 2004 through 2006 season. The analysis should be based on the permitted, vested, use of the Clark County Amphitheater – with 44 events per year, which includes 4 events per year with over 15,300 patrons, 20 events per year with between 9,000 and 15,299 patrons, and another 20 events per year with under 9,000 patrons. Additionally, the Clark County Amphitheater may have additional shows during the Clark County fair that do not count towards the 44 shows per year.

Since the actual number of Amphitheater specific events may be up to 44 per year, and the EIS is based on 15 to 20 events per year, it stands to reason that the number of coincidentally scheduled events would likely be 9 to 12 times per year, instead of the 3 or 4 times per year described by the Applicant's FEIS.

Transportation Arterial Plan comments

Page number	Section topic	Comment
Appendix T; p.106	Traffic Impact Study Table A-2: Average Daily Traffic	1. Other County staff are reviewing operational and technical data. The focus of this review is the functional classification of affected roadways under each of the alternatives.
"	"	2. NW 319 <sup>th</sup> St. west of I-5 is currently classified as a Rural Major Collector on the County's Arterial Plan Map. The average daily traffic projections for Alternatives A - D range from 31,050 to 39,050 trips per day in 2010. Based on the design criteria in Table 40.350.030-2 in the Unified Development Code, these projected volumes would require a six lane roadway, either a Parkway Arterial or a Principal Arterial. The future classification of NW 319 <sup>th</sup> St. should be considered in the roadway's design, including intersection spacing ( <b>minimum 600'</b> ), grade, centerline radius, access and sight distance. <b>There was no response to this comment in the FEIS, even though the classification of this roadway will substantially affect the future design of NW 319<sup>th</sup> Street, the future location of the intersection with NW 31<sup>st</sup> Avenue and the spacing and location of future site access points under Alternatives A-D.</b>
"	"	3. Traffic on LaCenter Road east of I-5 will increase to about 14,000 trips per day under Alternatives A - E. Analysis of this roadway should be based on the design criteria for a Minor Arterial (M-2cb). <b>The response to this comment in the FEIS conflicts with the data provided in Table A-2. According to this data, Alternatives A-D would increase traffic on LaCenter Rd by at least 1,000 ADT. The current and future functional classification of LaCenter Rd is significant, because the project will exacerbate the projected PM peak hour failing level of service at LaCenter Rd and Paradise Park Rd. No mitigation measures are proposed in Section 5.0 of the FEIS, though it is noted that WSDOT or "some other agency with eminent domain authority shall realign this frontage road approximately 300 feet east of its current location to provide adequate intersection spacing."</b> This re-alignment is not on any agency's capital facilities plan. Both the R-2 and M-2cb classifications require 500' minimum full

		<p><b>intersection spacing. The FEIS proposal does not commit to contributing to a solution to this future failing intersection or provide any safety analysis.</b></p>
"	"	<p>4. NW 31<sup>st</sup> Ave. is currently classified as a rural major collector. Projected ADT volumes in Table A-2, if correct, would not warrant more than a rural minor collector classification. Any re-alignment proposal should take into account the current road classification as well as the future urban standard. <b>There was no response in the FEIS, although this issue is a critical in determining the feasibility of this site for high traffic generating uses. Intersection spacing requirements affect any decisions about the re-alignment of NW 31<sup>st</sup> Ave and the location and spacing of site driveways.</b></p>
"	"	<p>5. Pioneer St. east of I-5 is classified as an urban collector. Every alternative shows daily volumes in 2010 that exceed the design volumes for a collector. For Alternative E, a six lane Parkway or principal Arterial would be required. All other alternatives would require at least a four lane Minor Arterial. <b>FEIS response does not address how a four lane roadway can accommodate the projected future traffic volumes (38,663 ADT; 2074 eastbound, 1306 westbound during the PM peak) on Pioneer Rd east of I-5 under Alternative D.</b></p>
Appendix T; p.107	Table A-3: PM Peak Hr Traffic	<p>6. For Alternatives A - D, the PM peak hour volumes given for I-5 between LaCenter and Ridgefield exceed the nominal capacity of an interstate with two-lanes in each direction. For Alternative A - E, the PM peak hour volumes show I-5 south of the Ridgefield interchange will exceed 4,000, which is the nominal capacity of a two lane interstate. No mitigation to these mainline highway segments was proposed. <b>There was no response in the FEIS. Tables A-2 and A-3 indicate that the proposal will increase daily traffic on I-5 between the LaCenter and Ridgefield Interchanges by at least 20,000 ADT and Alternatives A-C would add over 1,000 new trips traveling northbound to the site, exceeding the capacity of this two lane segment and likely triggering failure. Alternative D would result in PM peak hour failure in the southbound direction. No mitigation is proposed.</b></p>



MEMORANDUM

TO: Bill Barron  
FROM: Marlia Jenkins  
DATE: June 16, 2008  
SUBJECT: Comments on Cowlitz Casino Resort Final EIS

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Most comments made on earlier drafts were not substantively addressed. These comments should carry forward, as well as the following.

**AESTHETICS**

The FEIS proposes screening views at the medium range. Medium range is not defined in terms of distance or impacts. A definition should be provided, or there is no way to apply the mitigation.

**INDIRECT AND GROWTH INDUCING EFFECTS**

Calculations of the dispersal of housing, etc. are calculated against the county's total land base. It would be more appropriate to calculate that 90 percent of growth is directed at urban growth areas, and 10 percent is directed at rural areas, and split the impact accordingly.

The comparable gaming facilities used in the Post Development Review are not truly comparable to the proposed facility. They are located in small communities, at a distance from a metropolitan area, and are considerably smaller than the facility proposed in Clark County. The study should be supplemented with comparable casinos, based on newer date of construction, location and size of facility.

**CUMULATIVE EFFECTS**

The Cumulative Effects section does not mention the replacement of the I-5 Bridge as an effect. While the new bridge me under construction, it can be expected than the constrained traffic and incontinence will decrease attractiveness to the Portland market. Once the replacement is finished, it can be expected that the new bridge will increase the

location's attractiveness to the Portland market. Neither is mentioned. This has ramifications for both employment and patronage at the facility.

## **SOCIO-ECONOMIC COMMENTS AND POSSIBLE MITIGATION**

The Final EIS does not change the underlying assumptions in the socio-economic analysis, so all the comments made on the draft document carry forward. Given the Cowlitz are not changing their assumptions, one possible course of action is to suggest mitigation measures to mitigate in the event their assumptions are incorrect. Possible mitigation measures include:

For example:

The tribe claims that adjacent residential property values will not be impacted. Clark County could request a mitigation measure that compensates residential property owners within 1,000 of the casino-resort property with a one time payment available at the time of housing sale, if requested by the residential property owners. Compensation could be available only if homes are maintained in suitable repair and are not subject to building code or other county code violations, and compensation could be available only if the assessed value of the home has declined by at least 2 percent more than comparable housing, as defined by the assessor, within one mile of the casino site. Compensation could be available beginning at the time of site construction, and extending until the final phase of the casino-resort is completed. The compensation might be a cash payment, an option to purchase, or any other vehicle mutually agreeable to the homeowner and the tribe.

The tribe contends that 90 percent of employees will be Clark County residents. Assumptions for housing, school impact and transportation are based on this contention. Clark County staff does not believe this trend will materialize. Clark County could ask for a mitigation measure in the event local employment is not as anticipated. For example, at the time of employment, each employee of the casino resort could be asked to document their place of residence 30, 60 and 90 days before the date of employment offer. The tribe could be required to report this data annually to the county. If less than 90 percent of the employees of the casino resided outside of Clark County 60 days before the employment offer, the tribe could be required, by mitigation, to pay an employment mitigation fee to the county. The employment mitigation fee could be collected by the county and split equally between programs that support schools, and affordable housing. For each percentage under 90 percent, the employment impact fee could be \$50,000, or some other meaningful amount adjusted annually for a cost of living indicator. Mitigation could require the fee to be in effect for 10 years from the date of initial hiring related to any phase (temporary or permanent) of the casino resort. This might not apply to construction employment.

The tribe contends that the approximately to 4,000 construction employees at the site will be local metropolitan residents. Even if this is true, the employment will trigger a ripple of in-migration of construction employees for other work in the metropolitan

region. As mitigation, the tribe could be required to fund a housing program aimed at serving singles and families in the \$40,000 to \$50,000 income range in the metropolitan area. The housing program could include references for affordable housing rentals and ownership, shared housing placements, etc. It should be available to persons not employed at the casino site. The program might be managed by an agency other than the tribe with interest and skill in housing.

The cumulative effects of the Vancouver Convention Center, the Amphitheater, card rooms and Casino Resort add a large entertainment industry in Clark County. This is a new industry for the county and cooperation between the facilities is essential. As mitigation, the county could ask the tribe to participate, both financially and in-kind, in local organizations dedicated to promoting and coordinating the entertainment industry in Clark County.

As mitigation against potential card room revenue loss, the tribe has offered La Center a MOU to compensate for revenue loss. If the City of La Center chooses not to enter into an agreement with the tribe to replace lost gaming revenues, the county might ask for mitigation that provides equivalent dollars to Clark County, with the purpose of having the funds distributed equally between the cities of La Center, Battle Ground and Ridgefield as compensation for economic impacts.

## **STORMWATER AND POSSIBLE MITIGATION**

Another mitigation measure might address the discrepancy between the EPHS Ordinance and the MOU:

The tribe shall comply with the most currently adopted stormwater ordinance by Clark County. The county expects to adopt a new ordinance in 2008. This mitigation measure will bring the tribes' EPHS ordinance into line with the MOU, and will protect the environment. Stormwater protection is a federal directive, and the tribe should be expected to comply with the most current standards, not a 2004 ordinance

## **Response to Cowlitz Casino Report FINAL EIS Public Health Issues Surrounding Water Capacity**

The Final EIS notes that as an alternative to CPU water, the tribe may drill wells for water supply.

### **Wells in the vicinity**

Three existing domestic wells have been properly decommissioned thus far on parcels planned for the Cowlitz development (Hansen Drilling). They each exceeded 300 feet deep.

Available well records for the region list final depths starting around 260 feet and averaging around 330 feet. A common construction feature is fine-mesh well screens to access water from the thick sequences of very fine to fine sand.

Well yields are better than adequate by Clark County standards. However, high water capacities require larger diameter, more advanced well designs. Wells of this type would likely target deeper zones than what are typically accessed by residential domestic wells. Some ground water zones are low to moderately mineralized. CPU and their consultants have experience in developing the deeper water zones east and north of Ridgefield going back to 1994.

Local residents have questioned the number of wells within a one mile radius of the site and the impacts on the wells if the casino were to use wells as a water source.

Where the center of radius is measured greatly influences the number of active wells captured. The casino property is fairly large. One mile could capture vastly different numbers of wells depending on radius placement. As no municipal water lines are currently available, it can be assumed that any residence, farm or commercial site falling within 1 mile has a water source that is a well. Certainly more than the mentioned 15 wells are present. There is no comprehensive data set for such a query.

### **Laws pertaining to well use and well construction**

Listed are several common state regulations applied to wells.

Chapter 173-160 WAC

Minimum Standards for Construction and Maintenance of Wells (Ecology)

90.03 RCW

Washington state water law, water rights etc (Ecology)

90.48 RCW

Washington state water pollution law (Ecology)

Chapter 246-290 WAC  
Group A Public Water Systems (Dept. of Health)

CCPH may assist the above agencies in performing duties required in the application of above rules if asked. No LOCAL drinking water related rules are identified at this time. Any water systems developed exclusively by the Cowlitz would be the responsibility of the state drinking water office to address. The local health jurisdiction does not have this authority by written agreement with DOH.

**Water Capacity**

While well yields may be adequate at the present time, Clark Public Utilities is projecting that they have enough water to meet consumer needs for no more than the next 20 years unless new, productive wells and new water rights can be obtained. Staff have serious doubts about the accuracy of even that projection given the fact that:

- (a) they have not figured climate change into their modeling, which per a Portland study may reduce supply by as much as 30% below what utilities are projecting as summer flows decrease due to earlier snowmelt,
- (b) we share part of the aquifer with Portland, so as they grow our water supply will be impacted in a manner that no one has yet really studied, and
- (c) the Columbia River also replenishes our aquifer and itself may be challenged in terms of both quantity and quality by upstream impacts.

**Suggested mitigation for inclusion in the Final EIS**

Prior to approving any development that will require extensive new water supplies and may impact individual domestic well owners, the aquifer should be independently evaluated and modeled for long-term capacity to determine the impact such a water extraction development would have on the aquifer and the supplies available to current residents of the area as well as to agricultural pursuits.

## ***CleanWater Comments on the Final EIS***

### **Response to Comments**

As far as I can tell, none of my comments on the draft EIS were addressed. They are:

43, 44, 45, 46, 47, 50, and 51 in the BOCC-submitted letter.

### **Specific comments on this document:**

Figure 3.3.3. Does not delineate the drainage from SW part of site to Allen Canyon Creek.

Section 5 barely touches on mitigation measures needed to address impacts to surface water and ground water due to stormwater runoff and lost recharge. There is:

- no mention of mitigation for impacts to stream flow due to reduced infiltration
- no mention of the use of the Ecology 2005 Stormwater Management Manual for Western Washington to design treatment and flow control sites to protect streams. While not state code, this manual is AKART (or the acceptable level of treatment) for development projects to meet state water quality standards defined in Chapter 173-201A.

## **Stormwater and erosion control comments June 2008**

The FEIS should make it clear that if the applicant gets their own Phase 1 municipal stormwater permit from DOE or EPA the county code will apply where more stringent than DOE or EPA requirements.

The FEIS should be clear that the tribe must comply with the stormwater code in effect at the time the project is submitted to the county for review. Review may take place under either the MOU or under the EPHS Ordinance. The EPHS indicates the existing code (as of June 2008) is the code the tribe will follow. This is not an acceptable mitigation nor is it compliant with the intent and letter of the MOU with the county. The tribe should, in the interest of environmental protection, adopt the most current standards in use in the county and approved by the State of Washington.

Administrative Draft Final EIS county comments are not completely addressed in the final EIS (such as item #37, 42,59, 86-94, 109) and should be addressed.

The FEIS review of stormwater proposals was confined to code and the applicable standards and did not include review of engineering or technical details. Review for code compliance will occur at the time of preliminary and/or final engineering plan submittals.

## **Staff Response to Environmental Consequences Section 4.9 (Land Use)**

The text does not reflect the current status of the urban growth area in which the proposal is located and should be updated to describe the compatibility with current zoning, which is agricultural.

The Western Washington Growth Management Hearings Board determined that lands included within the La Center UGA, including lands in the tribe's casino-resort proposal should not be included within the UGA because of their agricultural character. At this time, the lands are not part of the UGA and have reverted to agricultural planning and zoning designations.

The county is appealing the hearing board decision.

**Appendix 2**  
**Comments on Administrative Draft of Final EIS**