

CHAPTER 4.0

RESPONSE TO COMMENTS

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Each of the bracketed comments within the 43 representative comment letters contained in **Section 2.0** of this volume if the Final Environmental Impact Statement (EIS) are responded to within this document. Once an issue has been addressed in a response to a comment, subsequent responses to similar comments reference the initial response. If necessary, the chapters in the Final EIS have been modified in response to comments, and the nature and the location of the modification is identified in the response. In many instances, the reader is directed to **Section 3.0** of this volume of the Final EIS when a general response has been developed for the specific comment. This format eliminates redundancy where multiple comments have been submitted on the same issue. Responses to bracketed comments within the representative comment letters are listed below.

COMMENT LETTER 1 (LOG A001): MAYOR CLARENCE BAUMAN, CITY OF CHEWELAH, MARCH 26, 2012

Response to Comment 1-1

Comment noted. Developing the West Plain Casino is expected to increase funding for Tribal programs on and around the Spokane Tribal reservation. The project will, thus, indirectly improve the economic conditions of the Chewelah Valley.

COMMENT LETTER 2 (LOG A002): COMMISSIONER AL FRENCH, COUNTY OF SPOKANE, MARCH 15, 2012

Response to Comment 2-1

Please refer to **General Response 3.1.1** regarding the extension of the comment period. In addition to the notices discussed in **General Response 3.1.1**, the Bureau of Indian Affairs (BIA) sent a letter dated April 11, 2012 directly to the Spokane County Office of County Commissioners announcing the reopening of the Draft EIS comment period for an additional 30 days.

COMMENT LETTER 3 (LOG A003): SPOKANE CITY COUNCIL, CITY OF SPOKANE, MARCH 15, 2012

Response to Comment 3-1

Refer to **General Response 3.6.1**. As noted therein, the Proposed Project would not impede Fairchild Air Force Base (AFB) operations or pose a threat of “encroachment” that would put safety, base operations, and military readiness at stake.

Response to Comment 3-2

Comment noted. Please see **General Response 3.5.2** regarding potential non-gaming substitution effects.

COMMENT LETTER 4 (LOG A004): MAYOR TOM TRUELOVE, CITY OF CHENEY, MARCH 29, 2012

Response to Comment 4-1

Refer to **General Response 3.6.1**. As noted therein, the Proposed Project would not impede Fairchild AFB operations or be considered an “encroachment” that would make Fairchild AFB vulnerable to closure. The Draft EIS concluded that the Proposed Project would be compatible with Fairchild AFB operations with the inclusion of mitigation in Section 5.2.9 of the Final EIS. The Proposed Project would not place additional flight path restrictions or otherwise impact Fairchild AFB’s military value based on the evaluation criteria historically used by past Base Realignment and Closure (BRAC) committees to develop recommendations for base realignment and closure.

Response to Comment 4-2

An analysis of the potential competitive effects of the Proposed Project to existing gaming facilities in the Spokane regional area based on the gaming market and the distance, size, and quality of nearby facilities was conducted and was included as Appendix G of the Draft EIS. Section 4.7 of the Draft EIS summarized the findings of this analysis for each of the alternatives. The analysis within Appendix G of the Draft EIS included an analysis of potential substitution effects on local gaming facilities including Northern Quest, Coeur d’Alene, Chewelah, and Two Rivers. Please refer to **General Response 3.6.1**, regarding the Proposed Project’s compatibility with Fairchild AFB operations.

COMMENT LETTER 5 (LOG A005): TRANSPORTATION PLANNER GREG FIGG, WASHINGTON STATE DEPARTMENT OF TRANSPORTATION, APRIL 12, 2012

Response to Comment 5-1

The “Transit, Bicycle and Pedestrian Facilities” section of the Executive Summary has been revised to include additional detail regarding the proposed pedestrian pathways and sidewalk mitigation listed in Section 5.2.7 of the EIS.

Response to Comment 5-2

Comment noted. The analysis for 2032 conditions at the intersection of State Highway 2 (US-2)/Fairchild AFB entrance was reviewed and revised. Upon review it was noted that the peak hour factor (phf) used for 2032 conditions at this intersection was not consistent with other intersection locations under 2032 analysis scenarios. The phf was adjusted to 0.92, a common and reasonable value for long term analysis scenarios. This phf is consistent with the phf used at the closest analysis intersection (US-2/Craig). Upon correcting the phf, it was determined that the existing single northbound free right turn would operate under acceptable conditions at level of service (LOS) D for 2032 project-related traffic volumes and no mitigation would ultimately be required. The revised analysis results are included in

Traffic Impact Analysis (TIA) Addendum #2, **Appendix R** of the Final EIS. Section 4.15 and Section 5.2.7 of the Final EIS have been revised accordingly.

Response to Comment 5-3

It was confirmed through discussions with Washington State Department of Transportation (WSDOT) that Flint Road/US-2 meets signal warrants as stated in the comment. The intersection of US-2 at Flint Road was therefore included within the scope of the study intersections analyzed in the Final EIS. The resulting analysis of this intersection indicated that project-related traffic would add to the existing unacceptable operating conditions of the intersection. Mitigation has been added in Section 5.2.7 of the Final EIS to facilitate signalization of the intersection. Implementation of the mitigation would result in acceptable operating conditions at the intersection of US-2 at Flint Road.

Response to Comment 5-4

Comment noted. Section 5.0 of the EIS does indicate that there will be two access points. The reference to the spacing of the three roundabouts pertains to the two access intersections and the roundabout at the corner of Craig Road.

Response to Comment 5-5

Comment noted. Refer to Section 5.2.7 of the Final EIS, Mitigation Measure 5.7.2(B) which requires the Tribe to monitor traffic volumes in the buildout year for each project phase and the TIA be updated accordingly to assess the necessity for the improvements outlined in Section 5.2.7. If the results of the updated TIA determine that the traffic improvements identified in Section 5.2.7 should be adjusted due to changes in future traffic background conditions, the recommendations would be made subject to review and approval by WSDOT and the City prior to any modifications to the traffic mitigation plan. Any modifications to the mitigation plan for work within County owned right-of-ways would be made subject to Spokane County approval. In a meeting between WSDOT and BIA representatives on March 27, 2012, WSDOT indicated the referenced mitigation appropriately addresses the issues raised in the comment.

Response to Comment 5-6

The fair share analysis has been revised to exclude existing traffic volumes. These revised fair share contribution calculations were subsequently approved by WSDOT and are provided in Section 5.2.7 of the Final EIS and in TIA Addendum 2 provided in **Appendix R** of the Final EIS.

Response to Comment 5-7

In response to the comment, a discussion of the Medical Lake Interchange was included within the TIA Addendum 2 (**Appendix R** of the Final EIS). As discussed therein, the addition and growth of traffic from a variety of developments including the Proposed Project will add traffic to the Medical Lake Interchange and further degrade the existing unacceptable operating conditions. WSDOT is in the planning level stage of determining and implementing the appropriate improvement for the interchange to

increase operating standards to acceptable conditions. It is expected that the Proposed Project's fair share contribution percentage will apply to the local match or local funding portion of the project, not the entire project cost. As illustrated by the percentages in Table 13 of TIA Addendum 2, traffic generated by Alternative 1 is expected to account for 6% of the total interchange volume in 2040. Sections 3.8, 4.15, and 5.2.7 of the Final EIS have been updated to incorporate the discussion above.

Response to Comment 5-8

The Arrowleaf housing development and Northern Quest C-Store (Travel Plaza) were included within the Hunter's Crossing development "Future Apartments E", which was considered in the list of pipeline projects on page 36 of the TIA (Appendix D of the Draft EIS). Therefore, the Arrowleaf housing development and Northern Quest C-Store traffic volumes were accounted for in the background traffic volumes.

Response to Comment 5-9

Currently, there are no roundabouts within the study roadway network; therefore, degree of saturation was not included in the discussion of LOS standards (Section 3.8.2 of the Draft EIS). Refer to the TIA Addendum 2 in **Appendix R** of the Final EIS for the degree of saturation results of the proposed roundabouts. No additional impacts were identified from the degree of saturation analyses.

Response to Comment 5-10

Comment noted. The VSSIM visual traffic model referenced on page 18 of TIA Addendum 1 was developed by WSDOT as a planning level analysis to compare roundabouts to signalized intersection control at the Main Site Access (Middle Driveway)/US-2 intersection as well as the US-2/Craig intersection. WSDOT utilized the results of the visual model to recommend having two full movement accesses on the US-2 site frontage using roundabout intersection control, along with a roundabout at the US-2/Craig intersection. The recommendations from WSDOT were incorporated into Mitigation Measure 5.2.7(C) (1) of the Draft EIS.

Response to Comment 5-11

A Grading and Drainage Analysis Report for the project site was included as Appendix F of the Draft EIS. The report includes grading plans for each of the proposed alternatives which took into account the run-off rates and drainage needs caused by the increase in impervious surfaces within the project site, including entrance/exits along US-2. It should be noted that, while the Tribe will pay a fair share contribution to traffic improvements along US-2 and State Route 902 (SR-902), construction of these improvements is outside of its jurisdiction and control.

Mitigation Measure A under Section 5.2.7 of the Draft EIS sets requirements for work within federal and state right-of-ways including, but not limited to (1) proposed changes to State facilities must be designed to current WSDOT standards and specifications; (2) plans for any proposed access or construction within US-2 right-of-way must be reviewed and approved by WSDOT and Federal Highway Administration (FHWA) prior to beginning work; (3) engineering calculations, plans and reports submitted for review

and approval must bear the seal and original signature of a professional engineer; and (4) construction must be done in accordance with the current WSDOT Standard Specifications for Road, Bridge, and Municipal construction manual. These requirements will ensure that appropriate stormwater and drainage facilities will be incorporated into the design of traffic improvements.

An analysis of indirect effects from off-site traffic mitigation improvements was included in Section 4.14.1 of the Draft EIS. As discussed therein, the increase in impervious surfaces and additional cut-and-fill embankments from the off-site traffic mitigation could result in erosion of soils. Stable fill material, engineered embankments, and erosion control features would be used to reduce the potential for slope instability, subsidence, and erosion in accordance with the agency (WSDOT, County, and/or City) requirements for roadway construction within its jurisdiction. Curb and gutters, inlets, and other drainage facilities would be constructed to meet the standards of the jurisdictional agency for each improvement and provide adequate facilities to direct stormwater runoff.

COMMENT LETTER 6 (LOG A006): DIRECTOR JAMIE WYROBECK, ECONOMIC DEVELOPMENT COUNCIL, COUNTY OF PEND OREILLE, MARCH 20, 2012

Response to Comment 6-1

Comment noted. Please refer to **General Response 3.5.1** regarding potential indirect impacts on local communities and non-profit organizations.

COMMENT LETTER 7 (LOG A007): MANAGER CHRISTINE B. REICHGOTT, U.S. ENVIRONMENTAL PROTECTION AGENCY, APRIL 16, 2012

Response to Comment 7-1

Comment noted. The BIA appreciates the Environmental Protection Agency's (EPA's) review of and recommendations for the EIS analysis. Please refer to the Responses below which address specific comments related to stormwater, cumulative impacts, and energy efficiency.

Response to Comment 7-2

As noted by the commenter, the Draft EIS analyzes potential effects to water quality resulting from construction of the Proposed Project in Section 4.3. This analysis included potential impacts from ground-disturbing activities such as clearing and grubbing, mass grading, and excavation; the routine use of potentially hazardous construction materials such as concrete washings, oil, and grease, which may spill onto the ground and be dissolved in stormwater; and the potential discharge of pollutants, including grease, oil, fuel and sediments, to surface waters from construction activities and accidents. Appropriate mitigation and Best Management Practices (BMPs) were included in Section 5.2.2 of the Draft EIS which would reduce these potential construction-related impacts to less than significant levels through preparation and implementation of a Stormwater Pollution Prevention Plan (SWPPP) in accordance with the National Pollutant Discharge Elimination System (NPDES) administered by the EPA. The SWPPP will be submitted to the EPA as part of the Notice of Intent that will be filed by the Tribe to obtain coverage under the General Construction NPDES Permit. The mitigation within the Final EIS has been

revised to clarify that the BMPs shall consist of the most effective and efficient measures known at the time of construction.

A discussion of the total maximum daily loads (TMDLs) associated with the Lower Spokane River was included in Section 3.3.1 of the Draft EIS. In order to prevent adverse effects to surface water quality, including the Lower Spokane River, the project was designed to contain and dispose of all stormwater on site through vegetated detention swales consistent with existing conditions. Section 4.3 of the Final EIS has been revised to clarify that by containing all of the stormwater on site, no pollutants will be discharged to the Lower Spokane River; therefore, the project would not contribute to the exceedence of established TMDLs.

According to the EPA website referred to by the commenter, “[Low Impact Development (LID)] is an approach to land development (or re-development) that works with nature to manage stormwater as close to its source as possible. LID employs principles such as preserving and recreating natural landscape features, minimizing effective imperviousness to create functional and appealing site drainage that treat stormwater as a resource rather than a waste product. There are many practices that have been used to adhere to these principles such as *bioretention facilities*, rain gardens, vegetated rooftops, rain barrels, and permeable pavements.”¹ (*emphasis added*). The vegetated detention swales that would be developed as part of the project are designed to preserve the natural hydrologic functions of the site, including interception, depression storage, and infiltration and, therefore, are considered a LID technique. Section 2.0 of the Final EIS has been revised to clarify this. Furthermore, as described in Section 2.0 of the Draft EIS, in accordance with the Intergovernmental Agreement (IGA), stormwater facilities on the project site shall be constructed in reasonable conformity with the standards set forth in the Airway Heights Public Works Standards, which refers to Spokane County Guidelines for Stormwater Management standards. The guidelines for stormwater management were replaced by the Spokane Regional Stormwater Manual (SRSM) in June 2008. The SRSM meets or exceeds applicable criteria established by the Washington Department of Ecology’s (WDOE’s) Stormwater Management Manual for Eastern Washington².

The intent of Section 438 of the Energy Independence and Security Act (EISA) is to require federal agencies to develop and redevelop applicable facilities in a manner that maintains or restores stormwater runoff to the maximum extent feasible³. Implementation of Section 438 of the EISA can be achieved through the use of green infrastructure (GI)/ LID² infrastructure. Section 401(8) of the EISA states that “[t]he term ‘Federal facility’ means any building that is constructed, renovated, leased, or purchased in part or in whole for the use by the Federal Government.” Although it does not strictly apply to the project, Section 438 of the EISA was considered during review of the Proposed Project. The LID infrastructure included as a component of the Proposed Project has been determined to be consistent with Section 438 of EISA.

¹ EPA, 2012, Low Impact Development (LID). <http://water.epa.gov/polwaste/green/index.cfm#fact>. Accessed in July 2012.

² Spokane County, City of Spokane, City of Spokane Valley, 2008. Spokane Regional Stormwater Manual. April 2008. Available online at: http://www.spokanecounty.org/data/engineers/srsm_apr08final/SRSM_April2008Final.pdf. Accessed in July 2012.

³ EPA, 2009. Technical Guidance on Implementing the Stormwater Runoff Requirements for Federal Projects under Section 438 of the Energy Independence and Security Act (EPA 841-B-09-001). December 2009.

Response to Comment 7-3

Emissions shown in Table 3.4-2 in Section 3.4 of the Final EIS include emission sources within Spokane County that are published by the Washington Department of Ecology (DOE). Table 3.4-2 of the Final EIS has been expanded to include the 2011 stationary source emissions inventory for FAFB as reported to the Spokane Regional Clean Air Agency. The DOE did not report specific information on its website for all potential emission sources due to resource constraints; however, the absence of source-specific information does not affect the designated attainment status of the Spokane Region. Attainment status is designated by the EPA based on air quality monitoring. Spokane County air quality monitoring data is summarized in Table 3.4-3 of the Final EIS. As shown in the table, there have been no violations of the NAAQS in recent years. The Spokane Regional Clean Air Agency collects stationary source emissions data and reports these emissions to the DOE. The DOE estimates mobile source emissions for the Spokane region and combines the mobile and stationary source emissions to determine the region's total emission inventory. If a monitoring station within a region records an exceedance(s) which results in a violation of the NAAQS for one or more criteria pollutants, then the region is subsequently determined to be in "non-attainment". The DOE then uses that region's emissions inventory, which includes all emissions sources within the region (mobile and stationary), to develop a State Implementation Plan to reduce the criteria pollutant in violation of the NAAQS⁴.

The air quality analysis provided in Section 4.4 and Section 4.15 of the Final EIS is based upon the EPA designated attainment status. Since emissions from all existing emission sources within the Spokane region were considered when determining the region's attainment status through review of monitoring data, and the air quality analysis in the Final EIS is based on the attainment determination, the air quality analysis in the Final EIS considers all cumulative emission sources (including such emission sources as aircraft) within the Spokane region when describing project-related air quality effects.

Project-related emissions are presented in **Appendix T** of the Final EIS and represent the anticipated emissions of air pollutants of concern attributable to the Proposed Project and project alternatives in accordance with a conformity determination required for Federal actions under the Clean Air Act (40 CFR Part 53). The analysis of direct effects to air quality that could result from the construction and operation of each alternative is provided in Section 4.4 of the Final EIS. As noted in Section 4.4 of the Final EIS, the project area is in attainment for all criteria air pollutants; therefore, project emissions do not require a conformity determination. However, because the project site is located two miles west of a maintenance area for CO and PM₁₀ and mobile emissions from project-related vehicles traveling through the maintenance area to the project site could contribute towards poor air quality conditions in this area, a general conformity analysis will be conducted prior to federal action. Mitigation measures provided in Section 5.2.3 of the Final EIS are recommended to minimize project-related criteria pollutant emissions and reduce DPM emissions from construction equipment by approximately 85 percent, avoiding potentially adverse effects to nearby sensitive receptors. Implementation of mitigation measures C 1 and C 15 provided in Section 5.2.3 of the Final EIS would reduce mobile emissions resulting from the project

⁴ Westby, April, 2012. Personal communication with April Westby, Engineer, Spokane Regional Clean Air Agency. Ms. Westby confirmed that all emission sources in the Spokane region were included when the DOE submitted its SIP to the EPA.

and prevent further deterioration of cumulative air quality conditions in the adjacent area which is designated as a maintenance area for CO and PM₁₀.

Response to Comment 7-4

Executive Order (E.O.) 13514, Federal Leadership in Environmental, Energy, and Economic Performance (E.O. 13514) requires agencies to incorporate sustainability provisions in their operation and management of Federal facilities and fleets, including increased energy efficiency, water conservation, eliminating waste and increasing recycling of waste materials. E.O. 13514 requires identification and analysis of impacts from energy usage during the National Environmental Policy Act (NEPA) process for proposals for new or expanded Federal facilities. As discussed in Section 1.1 of the Draft EIS, the Proposed Action addressed in the EIS is the two-part determination under Section 20 of Indian Gaming Regulatory Act (IGRA). The development of the Proposed Project would be a direct result of the Federal Action; however, the facilities would not constitute “Federal facilities” and therefore E.O. 13514 does not strictly apply to the Proposed Project. Regardless, impacts from energy usage have been addressed within the EIS and sustainability provisions have been incorporated into the project design or recommended as mitigation measures consistent with E.O. 13514. Refer to the discussion of greenhouse gas (GHG) emissions resulting from energy use in Section 4.15 of the EIS. Additional mitigation measures have been incorporated into Section 5.2.3 of the Final EIS to reduce energy usage consistent with E.O. 13514. These measures include the installation of energy efficient lighting, advanced lighting design, solar water heating, and the planting of trees to strategically reduce building cooling requirements. Accordingly, the Proposed Action would be consistent with the intent of E.O. 13514 with the adoption of energy efficiency and conservation measures similar to Federal facilities.

COMMENT LETTER 8 (LOG A008): CHIEF CIVIL DEPUTY PROSECUTING ATTORNEY JAMES EMACIO, COUNTY OF SPOKANE, APRIL 9, 2012

Response to Comment 8-1

Please refer to **General Response 3.1.1** regarding the extension of the comment period. In addition to the notices discussed in **General Response 3.1.1**, the BIA sent a letter dated April 11, 2012 directly to the Spokane County Office of County Commissioners announcing the reopening of the Draft EIS comment period for an additional 30 days.

COMMENT LETTER 9 (LOG A009): SUPERINTENDENT TIMOTHY AMES, WELLPINIT SCHOOL DISTRICT, APRIL 13, 2012

Response to Comment 9-1

Comments noted. Please refer to **General Response 3.2.1** regarding expressions of opinion and non-substantive comments. In regards to the request to be included as a cooperating agency, 49 CFR 1501.6 requires, among other things, that each cooperating agency (1) participate in the NEPA process at the earliest possible time; (2) participate in the scoping process; (3) assume on request of the lead agency responsibility for developing information and preparing environmental analyses; (4) make available staff support at the lead agency’s request. Furthermore Section 6.2 B of the BIA’s NEPA Handbook (59 IAM 3-8) states that cooperating agencies should be identified and confirmed in writing by the time the scoping

process is completed. Since the request was submitted after the end of the scoping period and the BIA does not require the Wellpinit School District to develop any information or environmental analysis, the BIA respectfully denies the request to include the Wellpinit School District as a cooperating agency for the purposes of NEPA. The BIA will consider the information and input provided by the Wellpinit School District in its decision on the Proposed Action.

COMMENT LETTER 10 (LOG A010): BRENDA JOHNSON, U.S. GEOLOGIC SURVEY, APRIL 10, 2012

Response to Comment 10-1

The U.S. Geological Survey's review of the Draft EIS is noted.

COMMENT LETTER 11 (LOG A011): EXECUTIVE DIRECTOR KEVIN WALLACE, SPOKANE REGIONAL TRANSIT COUNCIL, APRIL 13, 2012

Response to Comment 11-1

Transportation safety, including pedestrian and bicycle safety, is discussed in Section 4.8 of the Draft EIS. As discussed therein, improvements to the intersection of US-2/Craig Road and two site access points have been recommended as mitigation within Section 5.2.7 of the EIS to manage safe ingress and egress of traffic at the project site in accordance with the TIA and Addenda (Appendix D of the Draft EIS and **Appendix R** of the Final EIS) and consultation with WSDOT. These mitigation measures include the installation of two full-movement accesses on the US-2 site frontage using roundabout intersection control, along with a roundabout at the US-2/Craig Road intersection. The three roundabouts would be equally spaced approximately 0.25 miles apart. As shown in Addendum 1 to the TIA provided in Appendix D of the Draft EIS, the westerly access would be positioned near the property boundary providing access to the overall site as well as the existing Spoko Fuel facility. The middle roundabout would be located just east of the proposed main access as shown on Figure 2-4. The results of the TIA Addendum 1 indicate that this access configuration would operate better, provide greater capacity, and disperse traffic more evenly when compared to the originally proposed access driveways, reducing the project's impact to US-2 corridor traffic flow and operations, and would also improve transportation safety.

To further reduce potential impacts to bicycle and pedestrian facilities and to improve connectivity and circulation, mitigation is provided in Section 5.2.7 of the Draft EIS consistent with the Spokane Regional Transportation Council "Smart Routes" regional planning process. The text within Section 4.8 of the Final EIS has been supplemented to state that the mitigation is "consistent with the current (2010-2011) Smart Routes project list, the recommendation in the West Plains-Spokane International Airport Transportation Study (2011), the Spokane Regional Bike Plan (2008), and the Spokane Regional Pedestrian Plan (2009)". Section 5.2.7 of the Final EIS has been clarified to state that these measures include installation of pedestrian pathways and bike lanes along US-2 and Craig Road project site frontages in accordance with applicable requirements of WSDOT, City of Airway Heights, and Spokane County in order to comply with local bike/pedestrian plans developed by WSDOT and/or the City of Airway Heights in the vicinity of the project. Pedestrian facilities along the frontage of US-2 shall consist

of a separated multi-use pathway that aligns with other planned and existing pedestrian pathways along the US-2 corridor consistent with the Spokane Regional Transportation Council “Smart Routes” regional planning process. In addition, sidewalks and pathways shall be planned and constructed on the site to connect site development to transit stops and public path and bikeways to encourage and facilitate use of transit and non-motorized travel modes. These mitigation features specifically address the safety of non-motorized and transit users.

Response to Comment 11-2

Addendum 1 to the TIA provided as Appendix D to the Draft EIS includes a discussion concerning the construction of a 21st Avenue extension to mitigate impacts to the intersection of US-2 and Hayford Avenue from the implementation of the Proposed Project. As noted therein, the modeling and analysis work completed by Spokane Regional Transportation Council (SRTC) indicated that this improvement had beneficial impacts on the US-2 corridor by offloading a significant amount of through traffic which will improve operations at the US-2/Hayford Road intersection. The resulting LOS at the intersection of US-2/Hayford Road would be within acceptable ranges with respect to the significance criteria outlined in Section 4.8 of the EIS.

Response to Comment 11-3

The comments concerning Transit Assumptions are similar to comments received from the Spokane Transit Authority. Refer to **Responses to Comments 13-1** through **13-4** regarding revisions to the transit analysis. The transit analysis provided in the Draft EIS assumed one percent of new trips would come and go to the Proposed Project via public transportation. In response to the comment, the analysis was modified to assume two percent of the new trips would be accommodated by public transit (refer to Section 4.8 of the Final EIS). No new significant effects were identified. Mitigation Measure 5.2.7(K) (1) of the Draft EIS would require the Tribe to work with STA to provide adequate and safe public transportation further reducing impacts associated with public transit.

Response to Comment 11-4

Mitigation Measures 5.2.7(C)(5) of the Draft EIS states that the Tribe shall fully fund the development of the unfinished portion of the 6th Avenue extension should the roadway improvement not be funded and implemented at the time of project implementation. With the inclusion of this mitigation measure, the 6th Avenue extension would have a funding mechanism to be completed prior to the opening of the selected alternative. Sections 3.8 and 4.8 of the Final EIS have been revised to clarify that the 6th Avenue extension is a planned improvement within the City’s Six Year Transportation Improvement Plan.

Response to Comment 11-5

Comment noted. The description of the consistency of proposed mitigation for bicycle and pedestrian facilities with regional plans has been expanded in Section 4.8.2 of the Final EIS to include consistency with the current (2010-2011) Smart Routes project list, the recommendation in the West Plains-Spokane International Airport Transportation Study (2011), the Spokane Regional Bike Plan (2008), and the Spokane Regional Pedestrian Plan (2009).

COMMENT LETTER 12 (LOG A012): MAYOR PATRICK RUSHING, CITY OF AIRWAY HEIGHTS, APRIL 12, 2012**Response to Comment 12-1**

The City's position that the Proposed Project would not be an encroachment on the Fairchild AFB is noted. A detailed evaluation of compatibility of the Proposed Project with Fairchild AFB operations and consistency with the City's land use regulations and the Air Installation Compatible Use Zone (AICUZ) is provided in Sections 3.9 and 4.9 of the Final EIS. As noted therein and in **General Response 3.6.1**, within the implementation of mitigation measures in Section 5.0 of the Final EIS, the Proposed Project would not create an air navigation hazard or otherwise impede Fairchild AFB operations. Beneficial socioeconomic impacts related to the local economy and employment are addressed in Section 4.7 of the Final EIS and will be considered in the BIA's decision on the Proposed Action.

COMMENT LETTER 13 (LOG A013): DIRECTOR OF PLANNING KARL OTTERSTROM, SPOKANE TRANSIT AUTHORITY, MAY 9, 2012**Response to Comment 13-1**

AES contacted Karl Otterstrom, Director of Planning of the Spokane Transit Authority (STA) in 2011 to obtain STA bus capacity values and hourly ridership data. Mr. Otterstrom said that this data was not available and provided AES with an average weekday ridership value 1,280. AES appreciates the additional information provided by Mr. Otterstrom in STA's comment letter on the DEIS indicating that average ridership in 2011 was 1,345. AES incorporated the updated information and associated analyses in Sections 3.8, 4.8, and 4.15 of the Final EIS. The results of the analysis with the updated transit information did not result in any newly identified significant impacts and are consistent with the findings of the Draft EIS.

Response to Comment 13-2

As indicated in the comment, a majority of STA's operational budget is generated from state sales tax. While the commenter is correct that the Tribe would not pay sales tax on the project site these impacts would be mitigated through indirect and induced output spending in the surrounding County generating sales tax to offset use by project patrons of STA services. For example, indirect and induced outputs for the operation of Alternative 1 were estimated to total \$37.5 million and \$50.1 million, respectively (Appendix J of the Draft EIS). Indirect and induced output would be dispersed and distributed among a variety of different industries and businesses throughout the County. As discussed in Appendix J of the Draft EIS, the construction of Alternative 1 is estimated to generate approximately \$3.5 million in sales tax revenue while the operation of Alternative 1 is estimated to generate approximately \$2.5 million in sales tax revenue. At the corresponding rate of six-tenths percent for all retail sales as indicated by the commenter, the State Department of Revenue would disperse approximately \$14,883 of the estimated indirect and induced outputs from the operation of Alternative 1 to STA per year. In addition, Mitigation for the potential loss of revenue to the Spokane Transit Agency (STA) would be provided through the State Gaming Compact between the Spokane Tribe and the State of Washington, as well as the IGA between the Tribe, the City of Airway Heights, and Spokane County (Appendix C of the Draft EIS).

As stated within the State Gaming Compact (Section 2, subsection A, {12}), the Spokane Tribe “agrees to continue its commitment of investing in the health and welfare of the community by providing for programs that benefit tribal and nontribal members through Community Investments and Contributions. Community Investments and Contributions are intended to support programs including... transit services.” The Tribe may make Community Investments and Contributions by either distributing its contributions directly to local jurisdictions or by making direct payments to, or for, projects or entities supporting programs in the areas identified in the State Gaming Compact.

Section 4.8 of the Final EIS has been in response to the updated bus capacity and ridership information provided by STA. In response to the specific revisions requests provided by STA, the peak number of riders generated by Alternatives 1, 2, and 3 were added to the peak ridership hour of Route 61 and the corresponding trip loads were calculated identifying adequate capacity to meet the increased ridership associated with the project alternatives. Accordingly, no mitigation is required in accordance with the results of the analysis conducted as requested by STA. The analysis for weekends is not necessary to add to Section 4.8 of the Final EIS as the weekday ridership exhibits the highest existing bus ridership rates and therefore the greatest potential for impacts. Assuming the operation of two buses per hour during the weekend, peak hour ridership is much lower compared to the weekdays resulting in 22 riders on each bus during the weekend at the max peak hour ridership using the same analysis methodology described above and in Section 4.8 of the Final EIS. This would result in 17 passenger spaces of remaining seating capacity per bus, which is adequate to meet the peak-hour transit needs of the project alternatives.

Response to Comment 13-3

Refer to the **Response to Comment 13-2** concerning fiscal impacts to STA. As shown in Section 4.8 of the Final EIS, no significant adverse effect would occur to public transit with the implementation of the Proposed Project. Mitigation Measure 5.2.7(J)(1) in the Final EIS has been revised to eliminate the addition of a new stop within the project site and expanded to include the relocation of the outbound bus stop west of Craig Road/ US-2 intersection. Any bus stop improvements along US-2 shall be developed in accordance with the WSDOT Traffic Manual M 51-02.03 and other relevant requirements.

Response to Comment 13-4

Because implementation of the Proposed Project would not result in a significant adverse impact to public transportation, as shown in Section 4.8 of the Final EIS, requested mitigation measures (a.) and (b.) are not warranted. However, requested mitigation measure (c.) has been included within Mitigation Measure 5.2.7(J) (1) of the Final EIS. The requested addition to Mitigation Measure 5.2.7(J) (3) has been incorporated into the Final EIS. Revision of Mitigation Measure 5.2.7(J) (4) is not required to mitigate the effects on transit identified in the Final EIS.

COMMENT LETTER 14 (LOG A014): MAYOR DAVID A. CONDON, CITY OF SPOKANE, MAY 11, 2012

Response to Comment 14-1

Comments noted. Please refer to **General Response 3.2.1** regarding expressions of opinion and non-substantive comments and **General Response 3.2.2** regarding compliance with gaming regulations. Responses to the commenter's specific comments are provided below.

Response to Comment 14-2

As noted in Section 1.3 of the EIS, the U.S. Air Force (Air Force) is participating in the NEPA review process for the Proposed Project as a cooperating agency. The November 11, 2011 statements from the Air Force quoted in the City's comment were concerning a preliminary administrative draft version of the EIS that was provided to the Air Force by the BIA for review and input. The January 2012 Draft EIS released to the public includes revisions made by the BIA in response to input and suggestions provided by the Air Force during cooperating agency review of the preliminary draft document. These revisions included numerous clarifications to Sections 3.9 and 4.9 of the Draft EIS, as well as the addition of mitigation measures in Section 5.2.8.

Refer to **General Response 3.6.1** regarding compatibility of the Proposed Project with Fairchild AFB operations. As noted therein, the Proposed Project would not impede Fairchild AFB operations or pose a threat of "encroachment" that would put safety, base operations, and military readiness at stake.

Response to Comment 14-3

The Final EIS has been revised to reflect the Air Force's limitations with respect to available air space, as well as the Tribe's commitment to accept as normal any nuisances associated with the Air Force flight patterns over the project and site. Further, in response to input provided by the Air Force, the Final EIS has been revised to clarify that Fairchild AFB does not intend to change current or future flight operations even if new aircraft are assigned to the installation or the mitigation described in the EIS to avoid compatibility issues associated with noise levels from aircraft operations proves ineffective. Refer to **General Response 3.6.1** and Section 4.9 of the Final EIS.

Section 4.11 of the EIS states that maximum exterior and interior noise levels from aircraft would cause periodic annoyance and would not result in acute or chronic human health effects, and according to the findings of the Federal Aviation Administration's (FAA) Noise Abatement Policy, vibration from aircraft passing over the site would not be harmful to humans or damaging to the hotel structure (FAA, 2000). Section 3.9 of the Final EIS has been revised to clarify that vibration levels on the project site would not cause human health effects.

Response to Comment 14-4

As discussed in detail in Section 4.9 of the EIS, the Proposed Project is consistent with all applicable strategies of the Final Joint Land Use Study (JLUS). A discussion of specific issues raised in the comment is below.

Strategy 36. Other Sensitive Uses in MIA 4

The Military Influence Area (MIA) boundaries within the Final JLUS were defined based on the primary areas of aircraft over flight and potential for exposure to noise and vibrations from aircraft under existing conditions and possible future mission scenarios at the AFB (Spokane County, 2009). MIA 3 is a generalized area defined by a ¼-mile radius around the 65 dB Ldn noise contour line for the future noise scenario combining the use of 32 KC-767A aircraft and 16 B-52 aircraft. MIA 4 was based on a number of inputs including the areas of primary aircraft over flight (close pattern flight) and areas potentially exposed to noise levels of 70 dB Ldn and above. The JLUS indicates that intensification of land use designations within MIA 4 should not occur without site specific studies defining the appropriateness of the change in relation to the protection of operations at Fairchild AFB (Spokane County, 2009). The proposed casino-resort is clearly outside of the MIA 4 boundary, and the remaining areas within the project site are on the very outer margin of MIA 3. The JLUS does not include a qualifying statement that development on the fringe of MIA 3 should be subject to compatibility strategies for MIA 4 or vice versa. Regardless, a site specific study of the compatibility of the Proposed Project with Fairchild AFB has been completed in consultation with the AF and is summarized within Section 4.9 of the EIS. As stated therein and within **General Response 3.6.1**, with mitigation the Proposed Project would be compatible with Fairchild AFB operations.

Even if the casino-resort was proposed within the MIA 4 boundary, it does not meet the definition of a “public assembly facility” in the context used within the JLUS. The JLUS provides specific examples of public assembly facilities. Under Strategy 36 of the JLUS, public assembly facilities are defined to include theaters, stadiums, community centers, churches, and similar facilities. On page 5-5 of the JLUS under the definition of sensitive land uses, public assembly facilities are defined to include spectator amphitheatre, spectator sports facility, and theatre. A casino-resort is not similar to the public assembly facilities described within the JLUS. The casino-resort would be a privately operated facility. The nature of the entertainment within the casino does not require low background noise as would be required by a theatre or centralized event to be observed by spectators. The proposed convention/banquet room would be ancillary to the casino and would primarily be used for tribal events. As noted in **General Response 3.6.1**, the Tribe has committed to not issuing complaints regarding air force traffic over the project site and will incorporate sound attenuation features into the proposed casino-resort to minimize interior noise levels.

Strategy 50. Intensity Standards for Non-Residential.

Again, the commenter argues that a strict interpretation of the JLUS strategies is not consistent with the intent of the strategies. As noted in the City’s comment, the intent of Strategy 50 is to prevent large concentrations of people (defined in Strategy 50 as more than 150 person per gross acre) within areas impacted by aviation operations (defined in Strategy 50 as MIA 4). The area proposed for development within the project site consists of approximately 121 acres (not including the pre-existing Spoko Fuel and wetland preservation area). Assuming a maximum occupancy of 150 persons per gross acre, approximately 18,150 persons would be allowed within the project site under the recommendations of this strategy. As noted within Table 4.9-1 of the DEIS, under full build-out conditions, Alternative 1 would employ 2,087 persons, and is expected to experience an average of 7,734 patrons per day. Using an overly conservative assumption that all patrons and employees would be present within the site at the

same time, the total number of people within the site would be 9,821 under Alternative 1, which is well below the maximum occupancy level recommended by this strategy.

Sensitive Land Use Definition on Page 5-5 of the JLUS

The comment notes that the JLUS defines hotel as a sensitive land use that should be excluded from *certain locations* near airfields. The comment then draws the conclusion that the hotel under Alternatives 1 and 3 is an incompatible use. There are no compatibility strategies within the JLUS that indicate the development of a hotel would be considered an incompatible use within the project site. Refer to Section 4.9, Table 4.9-1 of the EIS. As noted in the table, Strategy 10 of the JLUS states that Air Force Land Use Compatibility Guidelines should be used to evaluate land use proposals assuming predicted noise levels under the potential future mission scenario involving a mix of next generation air refueling aircraft (32 KC-767A) and B-52 aircraft. Under this future scenario (which is the maximum future noise level scenario for the project site), the project site is located between the 65 dB to 70 dB Ldn contours. The U.S. Air Force Recommended Land Use Compatibility Guidelines provided in Table 3-1 of the AICUZ indicate that hotels, which would be classified as “transient lodging” (Standard Land Use Coding Manual No. 15), are an acceptable use within the 65-69 dB noise contour with the inclusion of measures to achieve outdoor to indoor noise level reduction. Mitigation in Section 5.2.10 of the EIS would result in the use of sound attenuation materials for construction of the proposed hotel that would achieve a maximum interior noise level of 45 dB Ldn. Strategy 36 applies to “Other Sensitive Uses in MIA 4”, not all sensitive land uses as these are addressed within other compatibility strategies of the JLUS. Therefore, the proposed location of the hotel under Alternatives 1 and 3 would not be considered an incompatible use based on the JLUS strategies.

Response to Comment 14-5

Refer to **General Response 3.6.1**. The Draft EIS concluded that the Proposed Project would be compatible with Fairchild AFB operations with the inclusion of mitigation in Section 5.2.9 of the Final EIS. The Proposed Project would not place additional flight path restrictions or otherwise impact Fairchild AFB’s military value based on the evaluation criteria historically used by past BRAC committees to develop recommendations for base realignment and closure.

Response to Comment 14-6

The project site is not located within or adjacent to the City of Spokane, therefore, an evaluation of project consistency with City of Spokane land use regulations is not warranted. Refer to **General Response 3.6.2**.

Response to Comment 14-7

Refer to **General Response 3.6.1**. As outlined in Section 4.9 of the EIS and **Response to Comment 14-4** above, the Proposed Project is consistent with the Final JLUS.

Response to Comment 14-8

Please refer to **General Response 3.4** regarding the consideration and elimination of off-site alternatives, and **General Response 3.6.1** regarding compatibility with Fairchild AFB operations. As noted therein, the Proposed Project would be consistent with air force base operations; therefore, consideration of an off-site alternative to avoid land use conflicts is not warranted.

Response to Comment 14-9

The study area defined in the TIA was based on the results of the scoping process (refer to Section 1.4 of the EIS) and through consultation with WSDOT, Spokane County, and the City of Airway Heights, which were the jurisdictional agencies of the study roadway network at the time the TIA was developed. It should be noted that as of January 1, 2012, some of the intersections east of Hayford were annexed/incorporated into the City of Spokane. A public scoping meeting was held on September 16, 2009, which provided opportunity for the public (including the City of Spokane) to have their concerns addressed in the Draft EIS.

In response to the comments received on the Draft EIS, an addendum to the TIA was prepared which evaluated five additional intersections outside the study area that would be influenced by project traffic (**Appendix R** of the Final EIS). These intersections are Deer Heights Road at US-2, Flint Road at US-2, Deno Road at Hayford Road, Spotted Road at US-2, and Sprague Road at Hayford Road, the first four of which are located within the City of Spokane. It was determined that with the addition of project generated trips, Sprague Road at Hayford Road would operate at an acceptable LOS; therefore, no further analysis was conducted at this intersection (refer to TIA Addendum 2 in **Appendix R** of the Final EIS). **Appendix R** of the Final EIS presents a detailed analysis of existing conduits and project related impacts to the additional intersections identified above. This analysis has been summarized within Section 3.8, 4.8, and 4.15 of the Final EIS. With the implementation of additional mitigation identified in **Appendix R** and Section 5.2.7 of the Final EIS, none of the four intersections would operate at an unacceptable LOS with the addition of project-related traffic; therefore no significant adverse effects to the intersections located within the City of Spokane were identified. It should be noted that with the exception of Deno Road at Hayford Road, these intersections are within WSDOT's jurisdiction.

Response to Comment 14-10

Please see **General Response 3.5.2** regarding potential non-gaming substitution effects.

Response to Comment 14-11

Please refer to **General Response 3.7** regarding water supply.

Response to Comment 14-12

As discussed in Subsection 4.7.1 of the Draft EIS, there are anticipated to be approximately 14,185 vacant housing units in Spokane County in 2013. Therefore, based on regional housing stock projections, and current trends in Spokane County housing market data, there are anticipated to be more than enough

vacant homes to support potential impacts to the regional labor market under Alternative 1. Not all of these vacant housing units are located in the City of Spokane and many employees may choose to live in the closer area of Airway Heights. In addition, Section 4.8 of the Final EIS provides an analysis of the current public transportation system with regards to the project-related ridership. Cost effective public transportation from the City of Spokane to the project site is already provided through the STA which operates a bus stop at the intersection of Craig Road and US-2. As shown in Section 4.8 of the Final EIS, no significant adverse effect would occur to public transportation system with the implementation of the Proposed Project. Mitigation is provided in Section 5.2.7 of the Final EIS that would further reduce or eliminate adverse impacts from the Proposed Project to public transportation. Therefore, cost effective transportation to the project area would still be available after the implementation of the Proposed Project.

Response to Comment 14-13

Comments Noted. Please refer to **Response to Comments 14-1** through **14-12** regarding the commenter's specific comments. Please refer to **General Response 3.2.1** regarding expressions of opinion and non-substantive comments.

COMMENT LETTER 15 (LOG A015): SEPA COORDINATOR TERRI COSTELLO, STATE OF WASHINGTON, DEPARTMENT OF ECOLOGY, MAY 10, 2012

Response to Comment 15-1

The scope of the comments from the State of Washington Department of Ecology is noted.

As described in Section 1.5.2 of the Draft EIS, an IGA between the Tribe, City, and Spokane County was executed on April 10, 2007 and amended on August 26, 2010 (Appendix C of the Draft EIS). Section 2.1.6 of the IGA requires that "the design and construction of the sewer and water system for the Property shall be in reasonable conformity with Chapters 13.06 and 13.04, respectively, of the Airway Heights Municipal Code and the City Public Works Standards." Chapter 13.06 Article IV of the Airway Heights Municipal Code establishes a wastewater pretreatment regulatory program for the City, consisting of requirements for collection system users and enables the City, and the City of Spokane, to comply with state and federal laws, including the Clean Water Act (33 USC 1251, et seq.) and the General Pretreatment Regulations (40 CFR Part 403). Therefore, the IGA would ensure that the design and construction of the sewer system for the property would be in reasonable conformity with the City's pretreatment provisions, as suggested by the commenter. Clarification has been added to Section 2.0 of the Final EIS.

COMMENT LETTER 16 (LOG A016): COMMISSIONER AL FRENCH, COUNTY OF SPOKANE, MAY 16, 2012

Response to Comment 16-1

Comments and Attorney General Opinion noted. In accordance with the guidelines in the BIA's NEPA Handbook (59 IAM 3-8), Spokane County, as a cooperating agency, has had an opportunity review and submit comments on the preliminary Final EIS.

COMMENT LETTER 17 (LOG A017): CITY COUNCIL PRESIDENT BEN STUCKART, CITY OF SPOKANE, OFFICE OF CITY COUNCIL, MAY 16, 2012

Response to Comment 17-1

Comment noted. Refer to **General Response 3.2.1**.

COMMENT LETTER 18 (LOG A018): TRAFFIC ENGINEER BARRY GREEN, SPOKANE COUNTY DIVISION OF ENGINEERING AND ROADS, MAY 16, 2012

Response to Comment 18-1

The Spokane County Division of Engineers and Roads is concerned about impacts to county roads, particularly Craig from SR 902 to Airway Heights' city limits, from north Airway Heights city limits to Deno Road, and Deno Road from Craig Road to Hayford Road. The commenter states these are narrow roads with narrow gravel or non-existent shoulders. As discussed on Page 21 of the TIA, it was determined through consultation with WSDOT, the County, the City of Airway Heights, and the traffic engineer that no roadway segments would need to be analyzed in the TIA, and that this approach is common since intersections are typically the weak link within the transportation network. Although intersections were analyzed, various roadway mitigation measures, such as roadway widening to ensure adequate movement through the study roadway intersections, were included as mitigation in Section 5.7.2 of the Draft EIS. Payments through the IGA and MOA would provide discretionary funds to the County and City that would be available for road maintenance and repair as necessary to maintain existing service levels. Refer to **Response to Comment 23-38** concerning the operational mobility of Fairchild AFB.

COMMENT LETTER 19 (LOG T001): GOVERNMENTAL AFFAIRS DIRECTOR LOUIS PITT JR., CONFEDERATED TRIBES OF THE WARM SPRINGS RESERVATION OF OREGON, MARCH 26, 2012

Response to Comment 19-1

Comments noted. The beneficial socioeconomic effects of the Proposed Project are discussed in Section 4.7 of the EIS. Please refer to **General Response 3.2.1** regarding expressions of opinion and non-substantive comments.

COMMENT LETTER 20 (LOG T002): DIRECTOR TERRY KNAPTON, KALISPEL CAREER CENTER, KALISPEL TRIBE OF INDIANS, MARCH 20, 2012

Response to Comment 20-1

Please refer to **General Response 3.5.1** regarding potential effects on the Kalispel Tribe and indirect impacts on local communities and non-profit organizations.

COMMENT LETTER 21 (LOG T003): DIRECTOR SEV JONES, KALISPEL PLANNING DEPARTMENT, KALISPEL TRIBE OF INDIANS, MARCH 20, 2012

Response to Comment 21-1

Please refer to **General Response 3.5.1** regarding potential effects on the Kalispel Tribe and indirect impacts on local communities and non-profit organizations.

COMMENT LETTER 22 (LOG T004): CHAIRMAN GLEN NENEMA, KALISPEL TRIBE OF INDIANS, MARCH 26, 2012

Response to Comment 22-1

Please refer to **General Response 3.1.1** regarding the extension of the comment period. In addition to the notices discussed in **General Response 3.1.1**, the BIA sent a letter dated April 11, 2012 directly to the Kalispel Tribe of Indians announcing the reopening of the Draft EIS comment period for an additional 30 days.

COMMENT LETTER 23 (LOG T005): CHAIRMAN GLEN NENEMA KALISPEL TRIBE OF INDIANS, MAY 16, 2012

Response to Comment 23-1

Comment noted. The redacted versions of the appendices provided by the commenter are included with Comment Letter 23 in **Section 2.0** of this document pursuant to 40 CFR 1606.6(f) and the BIA's NEPA Handbook, Section 6.4F1(b). While the BIA has considered the confidential business information provided in the non-redacted version of the letter in developing responses to comments and preparation of the Final EIS, financial information has been kept confidential.

Response to Comment 23-2

Comments noted. Please refer to **General Response 3.5.1** regarding potential effects on the Kalispel Tribe, **General Response 3.5.4** regarding impacts to the Spokane Tribe, and **General Response 3.2.2** regarding compliance with Section 20 of IGRA. Section 4.7 of the Final EIS has been expanded to include additional discussion of potential effects to the Kalispel Tribe. Refer to **Response to Comment 23-33** regarding impacts to the City of Spokane. Refer to **General Response 3.6.1** regarding compatibility with Fairchild AFB operations.

Implementing regulations for NEPA, 40 CFR 1502.9(c) provide guidance on circumstances under which a lead agency should prepare a Supplemental Draft EIS. These regulations provide that the agency should prepare a supplement to the Draft EIS if the "agency makes substantial changes in the proposed action that are relevant to environmental concerns" or "there are significant new circumstances or information relevant to environmental concerns and bearing on the proposed action or its impacts." The agency "may also prepare supplements when the agency determines that the purposes of the Act [NEPA] will be furthered by doing so."

Substantial changes relevant to environmental concerns in the Proposed Action have not been made, nor has a new alternative been introduced as the Proposed Action. Similarly, there are no significant new circumstances or information relevant to environmental concerns and bearing on the Proposed Action or its impacts. In response to comments received on the Draft EIS, the EIS has been supplemented, improved, and modified its analysis and made factual corrections. While new information has been presented, the information has not resulted in substantial changes in the EIS's conclusions regarding the environmental impacts of the Proposed Action.

Response to Comment 23-3

Please refer to **General Response 3.5.1** regarding potential effects on the Kalispel Tribe. The report entitled "Potential Economic Impact of the Proposed Spokane Tribe Casino on the Kalispel Tribe of Indians"⁵ prepared by Nathan Associates, provided by the Kalispel Tribe as an exhibit to its comment letter, is based on information contained in two external documents: 1) the Financial Performance Analysis: NQRC⁶ Report prepared by PKF Consulting, and 2) a letter from Tribal Financial Advisors (TFA), the firm that assisted with the Kalispel Tribe's loan for construction of Northern Quest and tribal facilities. As described in detail within **Appendix V** of the Final EIS, the Financial Performance Analysis Report contains errors in methodology and application. Besides a number of miscellaneous errors, it was found that the report does not contain sufficient evidence to support the following definitions, assumptions, and conclusions presented in the report:

- Definition of the residential market area and population estimates.
- Application of gaming participation rates.
- Framing of the tourism market.
- Not accounting for Total Market revenues and assigning 100 percent capture to Northern Quest in the baseline scenario.
- Application of capture rates.
- Claim that "given limitations and the numerous gaming options in the region, the addition of the proposed Spokane Tribe facility will not significantly grow the gaming market."
- Conclusions regarding Earnings before Interest, Taxes, Depreciation, and Amortization (EBITDA) impacts.

Because the Financial Performance Analysis Report, which provides the revenue and income impacts used as the basis of Nathan Associates' analysis of potential economic impact on the Kalispel Tribe, contains numerous errors and contradictions, and because no sensitivity test was done to assess at what level of casino profit Kalispel's loan would be in default, the Nathan Associates' analysis was found to be an unreliable estimation of potential economic impacts on the Kalispel Tribe from the Proposed Project (see **Appendix V** of the Final EIS).

⁵ Nathan Associates Inc., 2012. The Potential Economic Impact of the Proposed Spokane Tribe Casino on the Kalispel Tribe of Indians. May 16, 2012.

⁶ PKF Consulting, 2012. Financial Performance Analysis Northern Quest Resort and Casino, Airway Heights, Washington. March 27, 2012.

Response to Comment 23-4

Section 4.7 and Appendix J of the Draft EIS clearly acknowledge that impacts from construction are one-time-only. Examples include, but are not limited to:

- “Under Alternative 1, construction activities are estimated to cost approximately \$404.3 million, which is expected to generate a *one-time* total output of approximately \$301.9 million within the County” (page 4.7-2 of the Draft EIS, *emphasis added*)
- Table 4.7-1: *One-Time* Construction Economic Impact (Millions) (page 4.7-2 of the Draft EIS, *emphasis added*)
- “For full buildout under Alternative 1, investment in construction activities would generate a *one-time* total of approximately 2,216 employment positions within the County.” (page 4.7-6 of the Draft EIS, *emphasis added*)
- “Under Alternative 2, construction activities are estimated to cost approximately \$160.0 million, which is expected to generate a *one-time* total output of approximately \$121.6 million within the County.” (page 4.7-15 of the Draft EIS, *emphasis added*)
- “Though the impacts from construction activities are *one-time and non-recurring*, they are expected to generate considerable positive effects to the County beyond the construction sector.” (page 3 of Appendix J of the Draft EIS, *emphasis added*)

Response to Comment 23-5

Nowhere does the Draft EIS state or assume “that there will be little or no substitution effect.” On the contrary, Section 4.7 and Appendix G of the Draft EIS clearly analyze the potential gaming and non-gaming substitution effects of each alternative on other local gaming facilities and businesses. Please refer to **General Response 3.5.1** regarding potential effects on the Kalispel Tribe and **Response to Comment 23-3** regarding the Financial Performance Analysis Report provided by the Kalispel Tribe.

Response to Comment 23-6

Please refer to **General Response 3.5.1** regarding potential effects on the Kalispel Tribe. At the time the Innovation Group conducted its impact analysis, the proposed buildout schedule for Alternative 1 was 2015. The schedule being pushed back to 2020 does not undermine the economic impact analysis; in fact, it makes the original analysis more conservative. The delay in operation gives Northern Quest the competitive advantage for an additional five years of having a hotel, larger casino, and more amenities than the proposed Spokane facility. Additionally, it provides an additional five years of population and income growth increasing demand in the area. The Financial Performance Analysis Report provided by the Kalispel Tribe projects revenue growth of 3 percent compounded annually; therefore, according to the projections provided by the Kalispel Tribe, the market will grow by 15.8 percent between 2015 and 2020. Thereby eliminating most of the 20.9 percent additional impact projected in Appendix G of the Draft EIS as a result of the Phase II and III expansions under Alternative 1.

Response to Comment 23-7

Conclusions with respect to tax revenues are adequately supported through the analysis contained in the EIS. Appendix J of the Draft EIS contains the formal tax impact analysis which was summarized in Section 4.7 of the Draft EIS. The tax impact analysis used the standard Input-Output analysis from the IMPLAN model to determine potential impacts. Section 5.2.6 of the Draft EIS contains a schedule of payments for mitigating adverse impacts on local and state governments and Appendix C of the Draft EIS contained the State and local agreements which enforce the payments.

Response to Comment 23-8

Section 4.7 of the Final EIS has been revised to clarify that while tax revenues generated by existing gaming facilities would temporarily be reduced proportional to the estimated substitution effect described therein, the net impact to tax revenues as a result of the Proposed Project would be positive.

Please refer to **Response to Comment 23-3** regarding the Financial Performance Analysis Report provided by the Kalispel Tribe. As mentioned therein and discussed in detail in **Appendix V** of the Final EIS, the report's claim of market inelasticity is not sufficiently supported by the evidence. **Appendix V** of the Final EIS provides a substantial analysis of other gaming markets and concludes that all available evidence from other gaming markets clearly indicate that, even in markets much more saturated than Spokane, the opening of a new casino has led to market growth. Therefore, the overall tax revenue effect would be positive as described in Section 4.7 of the EIS.

Response to Comment 23-9

Section 4.7 of the Final EIS has been revised to clarify that while employment opportunities at existing gaming facilities may temporarily be reduced proportional to the estimated substitution effect described above, the net impact to employment opportunities as a result of the Proposed Project would be positive.

Response to Comment 23-10

Section 4.7 of the Final EIS has been revised to clarify that while employment opportunities at existing gaming facilities may temporarily be reduced proportional to the estimated substitution effect described above, the net impact to employment opportunities as a result of the Proposed Project would be positive. Therefore, the Proposed Project would cause a significant net gain in County employment and net reduction in poverty.

Response to Comment 23-11

There is a formal gravity model analysis in Appendix G of the Draft EIS that estimates the impact on existing facilities. Please refer to **Response to Comment 23-10** regarding the net gain in jobs that would occur as a result of the Proposed Project despite any temporary reduction in jobs at other facilities.

Response to Comment 23-12

The beneficial impacts of the Proposed Project to the Spokane Tribe are described in Draft EIS sections 1.2 and 4.7.1. This issue will also be considered by the Secretary of the Interior prior to making a 2-Part Determination. Please refer to **General Response 3.5.4** regarding impacts to the Spokane Tribe.

Response to Comment 23-13

As assessed in Appendix G of the Draft EIS, the combined impact from buildout of Alternatives 1 on the Chewelah and Two Rivers casinos is estimated to be \$5.2 million. This loss in revenue for the Tribe would be offset by the gaming revenues from Alternative 1 (see Table 6 of Appendix J of the Draft EIS). Moreover, in the absence of the proposed West Plains Casino, the Kalispel Tribe would be expected to undergo expansions to the Northern Quest Casino that would impact Chewelah and Two Rivers casinos with no offset to the reduction in revenues for the Spokane Tribe. Given the strong growth forecast by the Financial Performance Analysis Report provided by the Kalispel Tribe, it would make economic sense for Northern Quest to expand in the absence of the proposed Spokane facility (**Appendix V** of the Final EIS).

Response to Comment 23-14

Please refer to **General Response 3.5.1** regarding potential substitution effects on the Northern Quest Casino. Refer to **Response to Comment 23-15** regarding the presentation of conclusions concerning substitution effects to the Spokane regional area gaming market.

Response to Comment 23-15

As noted in the Kalispel comments, Appendix G of the Draft EIS estimates a 24.1 percent reduction in total gaming revenue on existing casinos in 2013 from the operation of Phase I of Alternative 1 (identical to Alternative 2), and a further 16.7 percent reduction in 2015 from the operation of Phase II and III of Alternative 1. However, it is not correct to simply add 24.1 percent to 16.7 percent for a substitution effect of 40.8 percent. The 16.7 percent is applied in Appendix G of the Draft EIS to a base that has already been reduced by 24.1 percent. Therefore, the correct substitution combined effect for 2015 is 36.8 percent (or $1 - (0.757 * 0.833)$). Section 4.7 of the Final EIS (page 4.7-4) has been revised to include the correct percentage from Appendix G of the Draft EIS and clarified to note that this percentage is the anticipated gaming revenue substitution effect for the entire Spokane gaming market.

Moreover, since Alternative 1 is now proposed for 2020 and not 2015, the 16.7 percent additional impact from the operation of Phases II and III would be mitigated by five years of population and income growth, which the Financial Performance Analysis Report provided by the Kalispel Tribe estimates to be 15.8 percent over this period, reducing the additional impact of Phases II and III of Alternative 1 to 0.9 percent. This results in a combined impact of all phases of Alternative 1 of approximately 25 percent in 2020. Therefore, the 36.8 percent substitution effect referenced in the Section 4.7 of the Final EIS is an overestimate.

Response to Comment 23-16

Refer to **Response to Comment 23-16**. The five percent reduction in revenues from Phase II was provided as a separate estimate if Phase III is not developed. Appendix G of the Draft EIS clearly states that the Alternative 1 impact includes all three phases of development and represents the maximum impact. The 5 percent reduction in revenues from Phase II is included in the 16.7 percent cumulative reduction estimated for Phase III.

Response to Comment 23-17

As discussed in **Response to Comments 23-15** and **23-16**, the Alternative 1 impact includes all three phases of development and represents the maximum impact; therefore, it is incorrect to add in the 6.2 percent impact of Phase II to the estimated impacts of Phase I and III. Please refer to **General Response 3.5.1** regarding potential substitution effects on the Northern Quest Casino. As discussed in detail within Appendix G of the Draft EIS and summarized in Section 4.7 of the Final EIS, operation of Phase I of Alternative 1 in 2013 is anticipated to cause a 29.5 percent reduction in gaming revenues (i.e. gaming substitution effect) at the Northern Quest Casino. The additional reduction in gaming revenues in 2015 from the operation of Phases II and III of Alternative 1 was estimated to be 20.9 percent. The estimated combined effect of Alternative 1, including all three phases of development, for 2015 would be 44.2 percent (or $1 - (0.705 * 0.791)$). However, as discussed in **Appendix V** to the Final EIS, since Alternative 1 is now proposed for 2020 and not 2015, the original estimate of 20.9 percent additional reduction in gaming revenues from the operation of Phases II and III would be inherently mitigated by five years of population and income growth. Assuming a population and income growth of 15.8 percent over this period (see **Response to Comment 23-6**), the reduction in gaming revenues from the operation of Phase II and III would be reduced to 5.1 percent. This results in a combined reduction in gaming revenues of all phases of Alternative 1 of approximately 33 percent in 2020.

Please refer to **Response to Comment 23-3** regarding the Financial Performance Analysis Report provided by the Kalispel Tribe.

Response to Comment 23-18

Please see **Response to Comments 23-8** and **23-10** above. Section 4.7 of the Final EIS has been revised to clarify that while substitution effects on existing gaming facilities would temporarily affect tax revenues and employment opportunities, the net economic impact of the Proposed Project would be positive.

Response to Comment 23-19

Please see **Response to Comment 23-13** above. Referring to the anticipated revenue from the Proposed Project as an offset to the negative revenue impacts to the Tribe's existing casinos is not misleading. The revenue generated from operation of the Proposed Project would substantially increase income for the Spokane tribal government despite the reduction in revenues at the Chewelah and Two Rivers casinos.

Response to Comment 23-20

Please refer to **General Response 3.5.4** and Appendix G of the Draft EIS regarding impacts to the Chewelah and Two Rivers casinos from the operation of Northern Quest Casino. Section 4.7 and Appendix G of the Draft EIS clearly state that the Proposed Project would affect the Chewelah and Two Rivers casinos.

Response to Comment 23-21

Please refer to **General Response 3.5.1** regarding potential effects on the Kalispel Tribe.

Please refer to **Response to Comment 23-3** regarding the Financial Performance Analysis Report provided by the Kalispel Tribe. As mentioned therein and discussed in detail in **Appendix V** of the Final EIS, the report's claim of market inelasticity is not sufficiently supported by the evidence. **Appendix V** of the Final EIS provides a substantial analysis of other gaming markets and concludes that all available evidence from other gaming markets clearly indicate that, even in markets much more saturated than Spokane, the opening of a new casino has led to market growth.

The major substantive difference between a commercial casino and an Indian casino is that commercial casinos in limited-license jurisdictions typically pay high gaming taxes, which gives them lower EBITDA margins than most tribal casinos. With few exceptions, gaming revenue at tribal casinos is not public information. The data for the comparable commercial set are all available from state gaming commissions. Regarding the comparables from western Washington: it is fact, not anecdote, that Nooksack, Skagit Valley, Puyallup, Muckleshoot, Tulalip, Swinomish, and Angel of the Winds all remain on-going operations. As discussed above, additional comparable analysis of impacts and market saturation is contained in **Appendix V** of the Final EIS.

Response to Comment 23-22

Please refer to **General Response 3.5.1** regarding potential effects on the Kalispel Tribe.

Response to Comment 23-23

Please refer to **General Response 3.5.1** regarding potential effects on the Kalispel Tribe and **Response to Comment 23-3** regarding the Financial Performance Analysis Report provided by the Kalispel Tribe. As mentioned therein, because the Financial Performance Analysis Report, which provides the revenue and income impacts used in Nathan Associates' analysis of potential economic impact on the Kalispel Tribe, contains numerous errors and contradictions and because no sensitivity test was done to assess at what level of casino profit Kalispel's loan would be in default, the Nathan Associates' analysis was found to be an unreliable estimation of potential economic impacts on the Kalispel Tribe from the Proposed Project (see **Appendix V** of the Final EIS).

Response to Comment 23-24

The Blue Chip Casino suffered the greatest impact from a newly opened competitor, which is apparently why it was chosen for this particular point of analysis. Please refer to **Appendix V** of the Final EIS, which contains an extensive discussion which expands upon the discussion presented in the Appendix G of the Draft EIS. The analysis supports the Draft EIS assertion that revenue growth typically resumes after approximately 12 months of impact. The following is a summary of findings from the various studies discussed in **Appendix V** of the Final EIS:

- Ameristar St. Charles suffered a drop of 22.9 percent from the opening of Maryland Heights Casino (to \$111 million in 1998). After 14 months of decline, revenue resumed growth, increasing by 1.2 percent in 1999 and 4.4 percent in 2000.
- After being impacted in 1997 by two new casino openings, Argosy and Harrah's in Kansas City experienced strong revenue growth and after experiencing a 9.6 percent decline because of an expansion at Argosy, Harrah's Kansas City resumed growth in 2005.
- The riverboat casinos in Lake Charles, Louisiana experienced 17 months of decline following the late February 2002 opening of Delta Downs, which has intercepting location for Houston gamblers. Thereafter, revenue grew by 5.7 percent in 2004 and 25.6 percent in 2005.
- The Grand Victoria Casino in Rising Sun, Indiana, experienced a 14.1 percent decline following the October 2000 opening of Belterra, which was a superior quality facility that intercepted the Louisville market. However, despite a poor location and poor facility the Grand Victoria managed five straight years of revenue growth after absorbing the impact in 2001.

Regarding the comment on the aggregation of gaming revenue data for the Blue Chip Casino by calendar year: this is incorrect. August-December 2007 was not incorporated into the pre-impact period. The Blue Chip Casino generated \$289 million in **2006**, not 2007. This data is publicly available from the Indiana Gaming Commission. Blue Chip experienced 16 months of decline (August 2007-January 2009) following the opening of Four Winds in August 2007 before rebounding for calendar year 2009. Between calendar year 2006 and calendar year 2008, Blue Chip revenue declined by a total of 37.1 percent. In 2009 gaming revenues increased by 3.2 percent.

Regarding the comment on the decline in gaming revenue at the Blue Chip Casino following the introduction of the nearby competitor: it is not valid to hold Four Winds responsible for declining revenues at Blue Chip in 2010 and 2011. Blue Chip had eight months of revenue growth in 2009, indicating the cycle of impact had been broken. There were many other cumulative influences in 2010 and 2011, including above-average snowfall in the winter of 2010, the opening of Firekeepers Casino in August 2009, and the lack of employment recovery in the region. Blue Chip's host city, Michigan City, in fact suffered declines in employment in 2010 and 2011 in the periods assessed in economic studies provided by the Kalispel Tribe.

Regarding the comment on whether the Blue Chip Casino example supports the Draft EIS assertion that the substitution effect will diminish in the first year after the introduction of the proposed Spokane Tribe casino: the data presented in Appendix G of the Draft EIS and **Appendix V** of the Final EIS clearly shows that impacts diminish after approximately one year. Moreover, the worst-case impact, Blue Chip,

is not comparable to the West Plains – Northern Quest scenario. Four Winds is a high-quality land-based casino resort competing against an inferior riverboat casino in a declining industrial area in Michigan City. Four Winds not only has a much lower gaming tax rate, giving it a marketing-spend advantage, but also a far superior site and physical structure. By contrast, Northern Quest is a high-quality facility which will be able to effectively compete with the proposed Spokane facility.

Response to Comment 23-25

Please refer to **General Response 3.5.1** regarding potential effects on the Kalispel Tribe and **Response to Comment 23-3** regarding the Financial Performance Analysis Report provided by the Kalispel Tribe.

Response to Comment 23-26

Please refer to **General Response 3.5.2** regarding non-gaming substitution effects and **General Response 3.5.1** regarding potential effects on the Kalispel Tribe.

As discussed in Section 4.7 of the Draft EIS, the *West Plains Retail Development Opportunities: Airway Heights, Washington Primary Market Assessment (Appendix U* of the Final EIS), which was conducted in 2009, not 1999 as suggested by the commenter, was conducted solely in order to analyze retail development opportunities for the project site. Based on its review of the regional dynamics of the market area, which included Spokane County, Fairchild AFB, the City of Spokane, and Kootenai County, Idaho, Civic Economics determined that the *primary* market area for retail development at the project site is comprised of portions of Spokane County west of the Spokane River and Highway 195. Because of the scope of the retail market study, the non-retail businesses suggested by the commenter were not within the scope of the study. However, the Economic Impact Growth Inducing Study included as Appendix J of the Draft EIS did provide revenue projections for the hotel and food and beverage components of the project alternatives.

As discussed in **General Response 3.5.2**, the conclusions made in Appendix J of the Draft EIS and summarized in Section 4.7 of the Draft EIS are supported by numerous other studies. Section 4.7 of the Final EIS has been revised to clarify these additional studies support the conclusion that it is not anticipated that significant quantifiable non-gaming substitution effects would occur.

Response to Comment 23-27

Please refer to **Response to Comment 23-3** regarding the Financial Performance Analysis Report provided by the Kalispel Tribe.

The purpose of the analysis was to objectively estimate the impact of the Proposed Project on existing casinos; therefore, the analysis drew a consistent market area with the proposed facility as the centroid. It is standard practice in the gaming industry to identify market areas radiating from a central point outwards to 100 miles (or 75 or 150 depending upon the market) and then to estimate the total number of gaming visits derived from the gaming-age residents within those areas. The Competitive Effects analysis within Appendix G of the Draft EIS does not claim that the proposed Spokane facility would

capture all the gaming visits within the defined market area. As part of the analysis, the gravity model was calibrated based on Census Block Groups, which is a finer gradation than zip codes, although in the mountain West even block groups can be very large.⁷ Variable participation rates are applied to primary, secondary, and tertiary markets depending upon proximity to a casino, resulting in an estimate of gaming visits generated within each block group. The gravity model then distributes these gaming visits from each block group to each casino in the market area, with distance being the primary determinate.

By contrast, the Financial Performance Analysis Report provided by the Kalispel Tribe inconsistently constrains the market area to the east and north because of competing casinos but extends the market to the west and south despite alternative casinos in those areas. For example, the report avoids Idaho for the most part because of competing casinos, but contradictorily includes Pasco, Washington—150 miles from Northern Quest Casino—even though there are much closer casino options at Legends and Wild Horse. The report then assigns 100% of gaming visits from Pasco to the Northern Quest Resort and Casino (NQRC).

The commenter claims that the Financial Performance Analysis Report is based on the actual locations of casino patrons; however, there is no map or table showing where Northern Quest Casino players come from or how much Northern Quest Casino penetrates a given area. Therefore, no adjustment to model input data based on this information is possible.

Contrary to the commenter's assertion, the gravity model does recognize that the northeast, east, and southeast regions in Idaho have limited potential for the proposed Spokane facility. The model distributes the vast majority—up to 90 percent depending on the market area—of visits from these block groups to closer facilities. A small percentage of casino patron visits are typically taken to more distant casinos. The Coulee Dam and Kootenai River casinos were included in the gravity model analysis. However, the impacts on these “outliers” were insignificant. The facilities are located a long distance away and there is little in the way of overlapping markets. Casino patrons from Coulee Dam or Bonner's Ferry were assumed to still predominantly visit their local casinos.

Response to Comment 23-28

Inputs into the gravity model were not calibrated to Chewelah and Two Rivers casinos exclusively. The model was estimated to account for a portion of gaming revenues for all casinos in the market area. Furthermore, the market areas for Chewelah and Two Rivers casinos are roughly of equal geographic territory to the primary Spokane area. A small, locals-only casino can have greater penetration within a 5-mile area than a large casino has within a 25-mile area, but within equal 25-mile areas a large casino will typically have greater penetration. Large casinos offer a greater variety of games and better food and beverage options. In particular, small, remote casinos typically do not have the critical mass of players to offer a full slate of table games.

⁷ Some of the market areas to have the appearance of extending beyond 100 miles even though the population within the block group falls within 100 miles, the rest being largely uninhabited territory. For example, the block group in the southeast corner of the Innovations Group market area extends from south of Kellogg, ID to the Montana border, but the eastern territory is the St. Joe National Forest.

In regards to the comment asserting that inputs to the market model are biased due to Two Rivers Casino's dependence on tourists, this contradicts the previous assertion that Two Rivers is a locals-only casino. Moreover, an estimate of tourist revenues for Two Rivers Casino was excluded from the gravity model analysis; therefore, there is no bias for higher win per patron. As shown in Appendix G of the Draft EIS, Two Rivers Casino has the second lowest win per visit (\$58) of all the gravity model market areas.

Regarding the Financial Performance Analysis Report's use of the Northern Quest Casino's player's club database, the study accounted *only* for Northern Quest Casino gaming visits and revenues, which is an entirely deficient methodology for conducting an impact analysis. The Competitive Effects Analysis in the Draft EIS estimated visits and revenues for the total market. The fact that the Draft EIS's baseline estimate for Northern Quest Casino in 2013 is lower than what Northern Quest Casino generated in FY 2011 completely undermines the assertion that the Competitive Effects Analysis utilized aggressive inputs and overestimated total market revenues.

Please refer to **Response to Comments 23-21** and **23-24** regarding the potential growth in the gaming market from the addition of a new casino.

Response to Comment 23-29

The scope of analysis for each issue area is dependent on the nature of the impact. For example the analysis of direct effects associated with geology and soils is inherently site specific while direct effects to air quality are analyzed on a more regional basis. As noted by the commenter, the Draft EIS acknowledges the City of Spokane where appropriate. As the comment does not identify any specific impacts to the City of Spokane, please refer to the following responses in which the analysis within the EIS was expanded: **Response to Comment 14-9** regarding potential traffic impacts within the jurisdiction of the City of Spokane and **General Response 3.7** regarding potential impacts to City of Spokane's water supply facilities.

Response to Comment 23-30

The comments in this section confuse references to cities and counties as municipalities rather than places. It is standard economic impact methodology to measure impacts at the county level, which frequently contain cities. The impact analysis within the Draft EIS included the entire geographic area of Spokane County, which includes the City of Spokane. Please refer to **General Response 3.5.2** regarding non-gaming substitution effects.

Response to Comment 23-31

As discussed in **Response to Comment 23-30**, the impact analysis measured impacts at the county level, which covers the entire geographic area of Spokane County, including the City of Spokane.

Please refer to **General Response 3.5.3** regarding Problem Gaming, Alcohol Abuse, and Child Services.

Response to Comment 23-32

Please refer to **Response to Comment 14-9**.

Response to Comment 23-33

As acknowledged by the commenter, the Tribe has entered into agreements with the City of Airway Heights and Spokane County regarding the delivery of public services to the project site. The project site is not located within or adjacent to the City of Spokane; therefore, the City of Spokane will only provide limited services to the Proposed Project. In the event that the City of Spokane does provide services to the Proposed Project it will be in accordance with the interlocal agreements mentioned by the commenter. Please refer to **General Response 3.7** regarding potential impacts to City of Spokane's water supply facilities and **Response to Comment 14-9** regarding potential traffic impacts within the jurisdiction of the City of Spokane.

Please refer to **General Response 3.8** regarding the agreements between the Spokane Tribe, City of Airway Heights, and Spokane County. As detailed therein, the ability of the respective parties to renegotiate the terms of the IGA and Memorandum of Agreement (MOA) does not weaken the agreements as an enforcement mechanism as all of the respective parties must agree to any amendments; thus ensuring that any one party cannot unfairly alter the agreement in their favor. If the City and Tribe are unable to reach agreement concerning the need to renegotiate pursuant to Section 8.0 of the MOA, such disagreement shall be subject to dispute resolution set forth in Section 4.0 of the MOA, which could include legally binding arbitration. The intended purpose of the renegotiation clause is to ensure that the Tribe receives the needed services set forth within the MOA and the City receives a reasonable fee that covers the costs incurred by the City to provide such services (Section 8.6.2 of the MOA), including any payments the City must make to the City of Spokane as a result of any unanticipated assistance project. Furthermore, as discussed in Section 5.2.9 of the Draft EIS, in accordance with Item C-1 Section XIV, Public Health and Safety, of the Tribal-State Compact for Class III Gaming (included within Appendix C of the Draft EIS), the Tribe shall continue to contribute to an existing fund for purposes of providing assistance to non-tribal service agencies.

Response to Comment 23-34

Comment noted. Refer to **General Response 3.6.1** regarding compatibility with the Fairchild AFB and the evidence considered during evaluation of the Proposed Project.

The commenter indicates that the summary of AICUZ recommendations in Section 3.9.2 of the EIS is inaccurate as it does not specifically state the residential development is potentially incompatible with Fairchild if built within the 65 Ldn zone, and that commercial, industrial, public and residential is potentially incompatible with Fairchild if built in the 70+ Ldn zone. The EIS in fact notes that the AICUZ recommends that residential land uses should be located in areas below 65 Ldn, and noise level reduction measures should be incorporated into the design of buildings located within the 70-80 Ldn zone. The Draft EIS properly summarizes the relevant discussion within the AICUZ study as it relates to evaluation of the Proposed Project. The Proposed Project does not propose any residential development, and is not located in the 70+ Ldn zone even under the maximum noise level future mission scenario. The

EIS does not understate potential impacts to Fairchild AFB. Further discussion of consistency with AICUZ recommendations is provided in Section 4.9, Table 4.9-1 of the EIS.

Response to Comment 23-35

Page 5-5 of the JLUS provides a definition of the term “sensitive uses” as used within the compatibility strategies of the JLUS. The definition is informational and does not include and findings with regards to the compatibility of these uses within Fairchild AFB, other than they should be excluded from “certain locations near airfields”. The analysis of consistency of the Proposed Project within the compatibility strategies in the JLUS in Section 4.9, Table 4.9-1 of the EIS takes into account the definition of the term “sensitive uses”. Refer to **Response to Comment 14-4** regarding a discussion of consistency with Strategy 36 and the definition of sensitive land uses on page 5-5 of the JLUS. As noted in the EIS, the “substantial noise impact areas – prohibited uses” listed on page 3.9-13 of the EIS are directly and accurately transcribed from the City of Airway Heights Airport Overlay Zone (Section 17.15.100 of the City’s Municipal Code).

Response to Comment 23-36

Comment noted. The commenter correctly identifies information provided in Section 4.8 of the Draft EIS. However, the commenter fails to recognize mitigation measures provided in Section 5.2.7 of the Draft EIS, which would reduce potential effects to less-than-significant. Refer to the **Response to Comment 5-2** concerning effects to the US-2/Fairchild AFB intersection.

Response to Comment 23-37

The Tribe has no jurisdiction in the City of Airway Heights, County of Spokane, or the City of Spokane; therefore, the Tribe cannot directly implement and does not have control over the timing of any off-reservation mitigation or improvements. While the Tribe has provided reasonable mitigation and fair share or 100 percent contribution to funding of mitigation for adverse traffic effects at off reservation intersections, it cannot provide actual implementation plans or timelines for implementation as the appropriate jurisdiction must provide the timing and planning. It should be noted that the TIA, provided as Appendix D of the Draft EIS, was completed in accordance with Chapter 320, Traffic Analysis, of the WSDOT Design Manual M 22-01.05 (January 2009). Future regional transportation projects, including the 21st/18th Avenue corridor intended to alleviate traffic congestion along US-2, were discussed with WSDOT, the City of Airway Heights, and Spokane County during the development of the TIA. Modeling and analysis work completed by SRTC indicated that the 21st/18th corridor would have beneficial impacts on the US-2 corridor by offloading a significant amount of through traffic (Appendix D to the Draft EIS, Addendum 1 to the TIA). Because not all feasible traffic mitigation identified in Section 5.2.7 of the EIS has been programmed and funded, mitigation requires revisions to the TIA during each phase of development to provide flexibility to adjust mitigation requirements in the future should an alternative mechanism for reducing traffic from cumulative growth in the region be identified by the jurisdictional agencies. Any adjustments to the mitigation plan must be reviewed and approved by WSDOT and the City of Airway Heights. Any modifications to the mitigation plan for work within County owned right-of-ways shall be subject to Spokane County approval. This adaptive management

approach to mitigation was developed during cooperating agency consultation. Refer to **Response to Comment 5-5**. Section 4.8 and Section 4.15 of the Final EIS have been clarified to indicate that there may be short-term adverse effects to traffic operations as the timing of implementation of the proposed mitigation measures is uncertain.

Response to Comment 23-38

As shown Section 4.8 and Section 4.15 of the EIS, implementation of the Proposed Project would not result in increased traffic delay at any of the study intersections after implementation of mitigation; therefore, with the implementation of mitigation, project related traffic would not impact the operational mobility of Fairchild AFB. As discussed in detail in **General Response 3.6.1**, the BIA has consulted with Fairchild AFB, and all corresponding concerns have been addressed within the EIS. In addition, the Proposed Project is consistent with all applicable strategies within the JLUS.

Response to Comment 23-39

Comment noted, refer to **Response to Comment 23-36**, regarding analysis of traffic impacts.

Response to Comment 23-40

Refer to the **Response to Comment 5-2** concerning effects to the US-2/Fairchild AFB intersection and **Response to Comment 23-38** regarding access to Fairchild AFB. The commenter states that implementation of traffic mitigation measures next to the Fairchild AFB is inconsistent with the JLUS Strategy 25. The JLUS Strategy 25 is not applicable to traffic improvements. Strategy 25 provides that the surrounding jurisdiction incorporate compatible planning concepts into CIPs and an infrastructure master plan. Strategy 26, however, addresses traffic improvements in the vicinity of the Fairchild AFB and it states that surrounding jurisdictions should ensure adequate transportation infrastructure. Therefore, the improvements proposed in Section 5.2.7 of the Draft EIS for the project alternatives are consistent with Strategy 26 of the JLUS. Land use considerations of the implementation of the project alternatives, including compatibility with the final JLUS, are addressed in **General Response 3.6.1** and Section 4.9 of the Final EIS.

Response to Comment 23-41

Refer to **General Response 3.6.1** and Responses 23-34 and 23-35 above. The JLUS lists development on tribal lands as a factor that should be considered when evaluating whether or not a project is compatible with Fairchild AFB. The statement in the EIS that the JLUS does not define specific concerns associated with the development of tribal land is accurate. The JLUS does however provide compatibility strategies which should be used in land use planning and are applicable to the Proposed Project. Table 3-1 of the JLUS presents a summary of the factors that were considered in the JLUS based on potential for impacts to compatibility of either Fairchild AFB or a local jurisdiction. Development of the project site was identified as a critical compatibility factor for consideration, not a critical threat based on non-compatibility” as stated in the comment. It should be noted that the location of the project site as identified within Table 3-1 of the JLUS was identified as green, or “least critical”. Section 4.9 includes a detailed discussion of compatibility of development of the project site (tribal lands) with Fairchild AFB

based on compliance with the compatibility strategies identified in the Final JLUS. As noted therein and in **General Response 3.6.1**, the project does not pose a threat of encroachment to Fairchild AFB.

Response to Comment 23-42

Section 3.9 of the Final EIS has been revised to clarify that the majority of the City of Airway Heights, including the existing Northern Quest Casino and Hotel, is located within *either* MIA 3 or MIA 4.

Response to Comment 23-43

The noise impact analysis provided in Section 4.11 of the Draft EIS does not identify any significant noise impacts after implementation of mitigation provided in Section 5.3.10 of the Draft EIS. Table 3.11-6 in Section 3.11 of the Draft EIS was provided by Fairchild AFB and provides the number of aircraft flying over the project site. While 2007 AICUZ states that 203 flights occur at Fairchild AFB per day, only a portion of these flights pass over the project site. Table 3.11-6 of the EIS, which contains information provided by the Fairchild AFB, identifies that fighter aircraft fly over the project site at an average rate of 0.3 times per day, not seven times per day as noted by the commenter. Section 3.11 of the Draft EIS accurately depicts the use of airspace above the project site and the corresponding analysis within Section 4.11 accurately assesses the potential adverse impacts associated with the project alternatives. Refer to **General Response 3.6.1** regarding compatibility with Fairchild AFB operations.

Response to Comment 23-44

The noise monitoring levels in Appendix N of the Draft EIS referenced by the commenter are existing noise levels and, therefore, do not constitute a project-related impact. Section 4.11 of the Draft EIS uses these existing noise level readings to determine the impacts to the ambient noise environment from project generated noise. Use of the existing noise levels provides a baseline noise level by which project noise impacts are determined. Relevant information concerning the frequency and intensity of noise events is accurately described in Sections 3.11 and Section 4.11 of the EIS. It should be noted that, as shown on Figure 3.11-1 of the EIS, noise monitoring sites A and B were not located within or adjacent to the project site and were measured for the purposes of assessing impacts to sensitive receptors as a result of increased noise resulting from the Proposed Project during a 15 minute interval occurring at peak traffic hour. Because Ldn represents an average noise level, it is best measured using 24 hour measurements. As shown in Appendix N of the Draft EIS, the 24 hour measurements taken within the project site at noise monitoring sites 1 and 2 (see Figure 3.11-1 of the EIS) showed an Ldn of 51.4 and 55.1 at the project boundaries nearest the location of the proposed hotel.

Response to Comment 23-45

The commenter states that noise generated from aircraft flying 500 feet above ground level can create noise levels in excess of 112 decibels at 145 feet above ground level, causing vibration in existing structures and human health effects. Section 3.11.3 of the Final EIS has been revised to clarify that noise levels of this magnitude do not produce vibrations that would considerably affect structures or result in health effects. However, windows have a potential to rattle during noise events of this magnitude and patrons staying at the hotel may occasionally experience small vibrations. According to the findings of

the Federal Aviation Administration's Noise Abatement Policy, vibration from aircraft passing over the site would not be harmful to humans or damaging to the hotel structure. The commenter also states that single noise events from a UN-IN Helicopter can be 94.4 decibels and can cause annoyance and hearing loss if there is prolonged exposure to this noise level. Patrons and employees of Alternative 1 would not be subject to prolonged exposure to single event noise from helicopters flying over the project. Section 4.11 of the Draft EIS provides an analysis of project-related impacts due to vibration from aircraft and the construction and operation of the Proposed Project. As concluded therein, impacts from vibration were found not to be significant. Refer to the expanded discussion in Section 3.11.3 of the Final EIS regarding potential noise and vibration impacts from aircraft.

Response to Comment 23-46

Refer to **General Response 3.6.1**. The mitigation included within the Final EIS has been developed in cooperation with the U.S. Air Force and Fairchild AFB as a cooperating agency for the EIS and is consistent with the intent of the recommendations of the JLUS and AICUZ polices. While the Tribe cannot commit the City to amending its building codes, it can commit to meeting certain design standards within the project site. The mitigation measures recommended in Section 5.0 and specifically Section 5.2.8 are sufficient to avoid all identified potential compatibility issues between the proposed development and Fairchild AFB.

In April 2012, the FAA reviewed the aeronautical study in light of current operations and found that no significant aeronautical changes have occurred which would alter the determination issued for the proposed project. An updated discussion of the FAA's "Determination of No Hazard to Air Navigation", dated November 3, 2010, and extension notice, dated April 17, 2012, is provided in Section 3.9 and 4.9 of the Final EIS. The FAA determination and extension will expire on October 17, 2013, 36 months after the original notice was issued.

Refer to **General Response 3.8** regarding mitigation enforceability.

Response to Comment 23-47

As the commenter noted, during the cooperating agency review of the Administrative Draft EIS, the U.S. Air Force made a comment regarding JLUS Strategy 55, which suggests the adoption of a dark skies ordinance over the JLUS study area. This issue was addressed prior to the public release of the Draft EIS. The control of light and glare at the project site is addressed in Table 3.9-1 of the EIS under Strategy 54, Develop or Update Light and Glare Controls. Adoption of a dark sky ordinance is not necessary for the project to be consistent with local land uses including Fairchild AFB. Although the Tribe does not intend to adopt a dark skies ordinance, mitigation measures in Section 5.2.12 of the Final EIS have been clarified to specify that lighting on the project site will be installed consistent with the Unified Facilities Criteria (UFC) 3-530-01, Interior, Exterior Lighting, and Controls. Section 4.13 of the Final EIS has been revised to clarify that compliance with these criteria is consistent with the recommendations within the

International Dark-Sky Association's Model Lighting Ordinance⁸, which is cited by the Municipal Research and Services Center of Washington in its guidance on Light Nuisances- Ambient Light, Light Pollution, Glare⁹. Refer to **General Response 3.6.1** regarding compliance with the JLUS.

Response to Comment 23-48

Refer to **General Response 3.6.2**. The analysis and conclusions within the EIS concerning compatibility with Fairchild AFB operations are adequate and thoroughly supported by evidence in the record, including the results of consultation with Fairchild AFB and the U.S. Air Force, as well as consistency with the Fairchild JLUS and AICUZ prepared by the Department of Defense.

Response to Comment 23-49

Comment noted. Please refer to **General Response 3.5.1** regarding potential effects on the Kalispel Tribe. The Environmental Justice section (Section 4.7) has been revised to include a discussion of impacts to the Kalispel Tribe. Please refer to **General Response 3.5.4** regarding impacts to the Spokane Tribe.

Response to Comment 23-50

Please refer to **General Response 3.3** regarding the purpose and need statement and **General Response 3.4** regarding the project alternatives.

Response to Comment 23-51

Please refer to **General Response 3.4** regarding the project alternatives. As concluded therein, while the potential income from the non-gaming development, Alternative 3, would be inherently less likely to fully meet the purpose and need, the BIA determined that a non-gaming alternative would be a reasonable alternative and that presentation of that alternative significantly expanded the range of alternatives considered.

Response to Comment 23-52

Sections 2.3.1 and 2.3.2 of the Final EIS have been clarified to state that Alternatives 1 and 2 may also include BIA's approval of lease agreements between the Tribe and commercial developers for the purpose of allowing non-tribal commercial venues on trust land.

Response to Comment 23-53

Table 2-3 of the Draft EIS notes that the dates associated with each phase is the *estimated* year of operation. The anticipated start date for the proposed project alternatives was estimated at the time of the

⁸ International Dark-Sky Association (IDA), 2011. Joint IDA-EIS Model Lighting Ordinance (MLO). Approved June 14, 2011. Available online at http://www.darksky.org/index.php?option=com_content&view=article&id=622. Accessed in July 2012.

⁹ <http://www.mrsc.org/subjects/legal/nuisances/nu-light.aspx#ords>

notice of intent (August 2009). Please refer to **Response to Comment 23-6** regarding the time period of the socioeconomic analysis.

Response to Comment 23-54

Please refer to **General Response 3.4** regarding the elimination of alternatives to expand the Tribe's existing casinos.

Response to Comment 23-55

The reports identified by the commenter do not contain information that would aid in the understanding of environmental impacts related to the Proposed Project and alternatives and thus inclusion within appendices is not warranted under NEPA. Documents contained within the administrative record, including documents cited within the Draft EIS that are not readily available for public inspection can be obtained through a Freedom of Information Act (FOIA) request. The BIA has no record of any FOIA requests for documents cited within the Draft EIS.

Response to Comment 23-56

Given the worsened economic conditions and increased competitive environment, the results of any update to the feasibility studies would be less than the original revenue projections. Therefore, the revenue projections provided in the EIS are conservative.

In regards to the assertion that the economic viability of either a Two Rivers or Chewelah expansion cannot be compared to each other or to Alternatives 1 and 2 analyzed in the Draft EIS because the studies do not evaluate the same time period: with the worsened economy and increased competitive environment, updated revenue projections for Chewelah and Two Rivers would be lower than the original, even factoring in presumed normative growth for a later time period to match Alternatives 1 and 2. As discussed in **Appendix V** of the Final EIS, median income has declined in Washington by 7.9 percent in real terms since the Chewelah study was performed in 2007.

Please refer to **General Response 3.5.4** regarding impacts to the Spokane Tribe.

Response to Comment 23-57

Please refer to **General Response 3.5.4** regarding impacts to the Spokane Tribe. As to point (a), the only machines available in 2007 were ticket-only machines; cash machines were not installed in Washington until beginning in April 2008. Moreover, there is at best only a marginal difference between these machines. Tribal gaming revenues in Washington increased by 6.8 percent in 2008, and not all, if any, of that increase can be attributed to cash machines, given the even greater increase in machine and table supply. According to Alan Meister's Indian Gaming Industry Report, "there was a 13 percent increase in the number of gaming machines and a 12 percent increase in the number of table games in 2008."¹⁰ The Spokane Tribe's compact did not permit cash machines until an amendment signed in September 2008,

¹⁰ Alan Meister, "Casino City's Indian Gaming Industry Report," 2009-10 ed., page 46.

after which the Tribe had already purchased ticket-only machines. The marginal difference in market potential would not have justified further capital investment in new technology.

As to point (b), there are two responses. First, Multimedia Games is a well-known and well-established manufacturer that provided machines to numerous tribes across Washington. Second, Chewelah at 430 machines is not comparable to Northern Quest Casino and Coeur d'Alene, each at approximately 2,000 machines. The implication that Chewelah has a market potential comparable to either of these facilities is not valid.

Response to Comment 23-58

Please see **General Response 3.5.4**. The nationwide recession did not begin until December 2007, so it had no impact on Chewelah's 4.7 percent decline in FY 2007 (through September 2007). As for FY 2008, it should be noted that the recession did not hit Washington as early as it did nationwide. In fact, employment in Washington continued to grow until March 2008, halfway through Chewelah's fiscal year 2008. If the recession was the factor in Chewelah's decline in FY 2008, revenues would have fallen more than the previous year; instead they fell by only 1.6 percent. The implicit claim that Chewelah has good market potential because it supposedly bucked the negative effects of the recession is not credible.

Response to Comment 23-59

Please refer to **General Response 3.4** regarding the alternatives eliminated from consideration.

Response to Comment 23-60

It is unclear how the commenter determined that project traffic would have a 'factor of five' increase in existing traffic. For example, as shown in Table 4.8-2 of the Draft EIS, implementation of Alternative 1 would result in the generation of 2,717 new trips that would be distributed along the study roadway network and Figure 4 of the TIA (Appendix D of the Draft EIS) identifies the existing traffic volumes along the study roadway network. By comparing the existing trips along SR-2 alone (15,187 trips), implementation of Alternative 1 would increase total traffic volumes by a factor of 0.18 percent, and not near the 500 percent increase presented by the commenter.

The traffic study scope and analysis procedures and assumptions were completed according to WSDOT standards and criteria and were deemed acceptable by the reviewing agencies with jurisdictional oversight over the project study area. Where significant adverse effects were identified, mitigation and a fair share or 100 percent contribution is provided. The conclusion of the TIA is based on best available traffic information and methodologies and, therefore, is not flawed, incomplete, or based on erroneous assumptions. The analyses and conclusions within the TIA and addenda are sufficient to make a fully informed decision on the Proposed Action in light of traffic-related impacts of the project alternatives.

Response to Comment 23-61

The need to study the Hayford Road/Sprague Road intersection was considered; however, the potential for adverse impacts from the implementation of the project alternatives was determined to be minimal

given the projected low volume of project-generated trips that would pass through the intersection and current and anticipated future traffic conditions at this intersection. While some patron traffic between the Northern Quest Casino and the selected project alternative is expected, that traffic is expected to travel between the two facilities along a route defined by 6th Avenue, Russell Street, and Sprague Avenue in the City of Airway Heights. Since Northern Quest's main site entrances and parking lots are accessed from Sprague Avenue, the shared vehicle trips are not expected to pass through the Hayford Road/Sprague Road intersection. However, an analysis of the Hayford Road/Sprague Road intersection is provided in the TIA Addendum 2 in **Appendix R** of the Final EIS. This analysis shows that with the implementation of project related traffic, the Hayford Road/Sprague Road intersection would operate at an acceptable LOS C and no mitigation is required. The realignment of Sprague Road would not affect traffic volumes and therefore has no bearing on the conclusions of the traffic impact analysis.

Table 3.8-2 of the EIS (page 3.8-4 of the Draft EIS) lists existing PM peak hour conditions, and thus did not include future intersections included within the study area scope. The list of study intersections in Section 3.8 of the Final EIS has been clarified to note that Craig Road/6th Avenue is a future intersection.

Response to Comment 23-62

It is unclear why the commenter believes that if traffic counts are more than one year old they are considered outdated. Standard traffic engineering practice provides that if traffic counts are more than three years old they are outdated. It should be noted with the recent economic downturn, it has been observed that overall traffic levels have not increased and in some cases traffic has been significantly reduced. This is supported by automatic traffic data recorded at various regional locations¹¹. Project assumptions and count data utilized in the TIA and Addenda were deemed acceptable by the City of Airway Heights and WSDOT.

Response to Comment 23-63

The commenter does not clearly state why the trip distribution for the Proposed Project is not reasonable. The trip distribution used in the TIA was developed and finalized in cooperation with the City of Airway Heights and WSDOT. The trip distribution for a given project is for project-related traffic not existing or future traffic. Refer to **Response to Comment 23-61** with regards to trips between the Northern Quest Casino and the proposed Spokane Casino. An approved traffic study has not been completed for the Legacy Landing project nor has the provision of public services to the project been approved by the City of Airway Heights. Per City of Airway Heights standards for preparation of traffic impact studies, only reasonably foreseeable approved and funded projects are accounted for in pipeline project traffic projections. Speculative developments are not included. Furthermore, should the Legacy Landing project move forward in the future, the cumulative impacts will be addressed through the preparation of an updated TIA in accordance with mitigation recommended in the EIS. It should be noted that additional traffic from a future expansion of the Northern Quest Hotel was added to the assumed traffic volumes for the cumulative scenario (Appendix D of the Draft EIS). The future traffic projections provide for a conservative analysis of cumulative effects resulting from the Proposed Project.

¹¹ DEA, 2012b. Email from David Evans and Associates including Responses to Comments Received on the Draft EIS. Dated June 21, 2012.

Response to Comment 23-64

At the time the TIA and Addendum 1 were developed, neither the City of Spokane nor the Kalispel Tribe had jurisdiction within the traffic study area; therefore, no consultation was warranted and the assessment of background traffic and baseline conditions within the TIA, Addendum 1, and the Draft EIS meets the guidelines for TIA analysis outlined in Chapter 320, Traffic Analysis, of the WSDOT Design Manual M 22-01.05 (January 2009). As discussed in the **Response to Comment 23-63**, the Legacy Landing project was not considered a reasonably foreseeable project and therefore is not qualified to be considered as a pipeline project. Refer to **Response to Comment 5-8** regarding the inclusion of the Arrowleaf Apartment project. The future traffic projections are conservative and the amount of traffic generated by the Travel Plaza would not create a notable increase in background traffic given that gas station (Travel Plaza) traffic is primarily passer-by traffic or traffic destined for or leaving Northern Quest Casino, and not necessarily net new traffic added to the roadway network¹². It should be noted that per the Kalispel Tribe's comments, four additional intersection along US-2 were analyzed, three of which are located within the City of Spokane's jurisdiction (refer to **Appendix R** of the Final EIS).

Response to Comment 23-65

Trip reduction/internalization (shared trips) rates were determined using calculations based on the Institute of Transportation Engineers (ITE) procedures, which are documented in the Trip Generation Handbook. This is a standard practice for a TIA and widely accepted among traffic engineers. For clarification, information has been added to Section 4.8 with regards to trip reductions. The trip generation methodology, including applied reductions, was developed in consultation with WSDOT.

Response to Comment 23-66

Refer to **Response to Comment 23-37** with regards to funding, timing, and jurisdiction of proposed mitigation provided in Section 5.2.7 of the Draft EIS. In accordance with NEPA, all relevant and reasonable mitigation measures with the potential to improve identified adverse impacts are required to be identified, even if the implementation of the mitigation measures is outside the jurisdiction of the BIA. In accordance with guidance by the Council on Environmental Quality, this will "serve to alert agencies or officials who can implement these extra measures, and will encourage them to do so [46 Federal Register 18026 (1981)]." It is up to the appropriate jurisdiction to implement the mitigation with the Tribe's fair share contribution. To clarify that there may be a time delay before the implementation of traffic mitigation requiring jurisdictional agency implementation, the Final EIS has been revised to reflect that these delays would be considered short-term significant effects.

Response to Comment 23-67

Comment noted, the commenter correctly characterizes the LOS for the intersection of US-2 at Hayford Road. However, the commenter fails to accurately characterize the LOS that would result after mitigation

¹² DEA, 2012b. Email from David Evans and Associates including Responses to Comments Received on the Draft EIS. Dated June 21, 2012.

measures are implemented. With the implementation of mitigation at US-2 at Hayford Road the intersection would operate at an LOS D during phases I, II, and III of Alternative 1. Under the jurisdictional agency significance criteria summarized in the TIA (Appendix D of the Draft EIS), LOS D at US-2 and Hayford Road is considered acceptable; therefore, with implementation of mitigation the project alternatives would result in a less-than-significant effect to this intersection. Signal optimization of the US-2/Hayford Road intersection is not included as a mitigation measure within the Section 5.2.7 of the EIS. Additional mitigation for other study intersections along the US-2 corridor has been reviewed and confirmed to be acceptable by WSDOT through cooperating agency consultation.

Response to Comment 23-68

The minor approach on Lundstrom is anticipated to operate at an unacceptable LOS in future scenarios; however, the volume of traffic experiencing this delay (minor approach, Lundstrom turning movements on to US-2) are relatively low traffic volumes. This is anticipated to ultimately occur with or without the proposed project due to the growth in the mainline traffic on US-2. If and when this occurs, it is anticipated that traffic on the minor approach of Lundstrom will re-route to the future signalized intersection or roundabout at Craig Road at US-2 or the signalized intersection at Lawson/US-2; thereby, resulting in a less than significant effect to traffic at US-2 at Lundstrom Road intersection¹³.

Response to Comment 23-69

Multi-lane roundabouts are proposed on Craig Road and US-2 and at the project site entrances along US-2. Roundabout analysis output data is included in the appendices of the TIA and clearly indicates the number of lanes and the schematic geometry and layout of the roundabouts (refer to TIA Addendum 1 appendix, Appendix D of the Draft EIS). Section 5.2.7 of the Final EIS has been revised to indicate that the roundabouts would have multiple lanes.

Response to Comment 23-70

Refer to Response to **Comment 23-37** regarding the 21st/18th Avenue corridor. It should be noted that the 21st Avenue/18th Avenue project is in planning stages by the multiple agencies that have jurisdiction. The intended purpose of this project is to provide an alternative east/west route relieving traffic on US-2 and will be designed accordingly to accommodate that anticipated change or shift in traffic. The Tribe will contribute its fair share to the project based on the anticipated amount of project traffic that will use the facility.

Response to Comment 23-71

Comment noted. It is unclear why the commenter feels that signage provides little deterrent to actual traffic. Additionally, Mitigation Measure 5.2.7C (2) of the EIS requires that the access intersections do not align with 12th street, further deterring traffic from using this as an alternative route to the project site. While the traffic model does not predict a significant increase in traffic on 12th Ave, and thus it was not

¹³ DEA, 2012b. Email from David Evans and Associates including Responses to Comments Received on the Draft EIS. Dated June 21, 2012

included within the study area, the mitigation within the EIS was included at the recommendation of the City of Airway Heights.

Response to Comment 23-72

Refer to **Responses to Comments 11-1** through **11-5** concerning the transit analysis provided in the Draft EIS and Final EIS. Because the mitigation is a recommendation of the TIA, it is enforceable through the conditions of the IGA between the Tribe, Spokane County, and the City of Airway Heights.

Response to Comment 23-73

Section 5.2.1 has been revised to clarify that dust suppression BMPs to control the production of fugitive dust and prevent wind erosion of bare and stockpiled soils will be specified in the SWPPP.

Response to Comment 23-74

The presence of mineral resources within the site has been investigated. There are no mines located within the site and no mining has been reported on the project site itself. Mineral resources found in the vicinity of the project site are limited to non-metallic industrial materials, primarily well-drained sand and gravel located in the middle to eastern regions of the site from previous excavation activities as discussed in the Grading and Drainage Analysis Report (Hahn Engineering, Inc., 2011b). Sand and gravel are widely available and not considered valuable mineral resources; therefore, no valuable mineral resources or notable geothermal resource areas have been identified within the project site.

Response to Comment 23-75

Please refer to **General Response 3.8** regarding mitigation enforceability. Additionally, Section 5.2.2 of the EIS contains BMPs that must be implemented by the Tribe to achieve reasonable conformance with the City's Public Works Standards and ensure the protection of water quality.

Response to Comment 23-76

As stated in Section 3.4 of the Draft EIS, the project site is not located within a NAAQS-designated maintenance area. In accordance with conformity regulations 40 CFR Part 58, the proximity of a NAAQS-designated maintenance or non-attainment area to the project site is not relevant to a conformity determination. Accordingly, an analysis of project criteria air pollutant emissions on the maintenance area is not warranted and the analysis within the Draft EIS adequately assesses potential air quality impacts of the project alternatives in accordance with Clean Air Act requirements for Federal actions.

A majority of the project-generated operational criteria air pollutant emissions are not emitted from sources on the project site. Approximately 95 percent of project-related operational emissions are from mobile sources and are emitted throughout the region (see trip distribution presented in Section 4.8.1 and **Appendix T** of the Final EIS). Therefore, high concentrations of criteria air pollutant emissions would not occur in any one localized area. Accordingly, sensitive receptors would not be subject to high

concentrations of localized criteria air pollutant emissions. Refer to **Response to Comment 7-3** regarding construction emissions and associated mitigation.

Response to Comment 23-77

Refer to **General Response 3.9** with regards to enforceability and adequacy of mitigation measures. Additional language has been added to the mitigation measure which requires the Tribe to spray exposed soil twice a day. It should be noted that watering exposed construction surfaces would reduce particulate matter emissions by more than 55 percent. Mitigation Measures 3 and 6 in Section 5.2.3 of the Draft EIS require that the Tribe promptly clean up spills of transported material and provide wheel washers to remove particulate matter that would otherwise be carried off site by vehicles. These mitigation measures would significantly reduce or eliminate dust on local roads used as haul routes during construction of the Proposed Project.

Response to Comment 23-78

Operation of construction equipment emits GHGs at a rate directly proportional to the amount of fuel combusted in each piece of construction equipment and within construction vehicles (refer to Tables 7a, 7b, and 7c provided in **Appendix T** of the Final EIS). Maintenance of construction equipment and vehicles reduces the fuel use of those vehicles; therefore, reducing GHG emissions. Limiting construction vehicle operational idling time also reduces the amount of fuel combusted by vehicles and, therefore, reducing GHG emissions. The reference to littering in mitigation measure 5.2.3 C. 5 has been removed. Additional mitigation measures have been added to Section 5.2.3 of the Final EIS that include energy use reduction, waste reduction, and reducing employee vehicle miles traveled which would further reduce project-related GHG emissions.

Response to Comment 23-79

Section 4.14 of the Draft EIS states that non-potable water produced by the City of Airway Heights Wastewater Treatment, Reclamation, and Recharge Facility (WTRRF) would be Class A treated water and suitable for use in landscaping and spray field irrigation. Class A treated water is approved by the EPA for non-food crop and would not affect wetland biology.

Response to Comment 23-80

Section 3.5.2 of the Final EIS (page 3.5-11) has been clarified to state that the U.S. Army Corps of Engineers (USACE) has determined the vernal wetlands within the project site are not jurisdictional waters of the U.S. As described in Section 2.0, the project alternatives would have no impact on the vernal pools, therefore, periodic vegetation surveys and monitoring would not be required. Section 2.3.1 of the Final EIS, under the heading of “Protected Wetland/Vernal Pool”, has been revised to indicate that the fence would be designed to allow wildlife passage into and out of the protected area.

Response to Comment 23-81

Please refer to Section 5.2.4 of the Final EIS. The text has been revised to specify that a preconstruction survey will be conducted prior to initiation of construction for each phase of development.

Response to Comment 23-82

As described in Section 3.6.4 of the Final EIS, the BIA sent consultation letters to potentially interested Native American Tribes in accordance with Section 106 of the National Historic Preservation Act (NHPA). Copies of the correspondence are included in **Appendix X** of the Final EIS. Consultation with affected Indian Tribes will be completed by the BIA in accordance with Section 106 of the NHPA prior to issuing a Record of Decision for the Proposed Project.

Response to Comment 23-83

As discussed in Section 3.9 of the Draft EIS, properties east of the project site along US-2 are within the jurisdiction of the City and are zoned General Commercial, which provides for commercial uses that are restricted to retail, downtown business, or shopping center types of uses, having no permanent outdoor sales or storage areas. Properties to the south are within the jurisdiction of the County and are zoned Regional Commercial and Light Industrial. Regional Commercial designates intensive commercial areas and allows regional shopping centers, some residences and multifamily developments, and small-scale industrial. Light Industrial is intended for industrial areas that strive to have minimal impacts to surrounding areas in regards to noise, odor, and aesthetics. Similar to the proposed project site these properties are located adjacent to residential uses. Therefore, as discussed in Section 4.9 of the Draft EIS, given that the commercial and light industrial nature of surrounding development along US-2 is compatible to adjacent residential uses, the Proposed Project would be consistent with nearby development.

Furthermore, Section 4.9 of the Draft EIS acknowledges that development of the Proposed Project has the potential to result in significant impacts to adjacent sensitive receptors (i.e. residential areas) including, but not limited to, air quality and noise effects from construction and operational activities; congestion on local roads from increased traffic; and alterations of the visual resources and aesthetics of the surrounding area. Section 4.9 of the Draft EIS goes on to state that implementation of mitigation measures identified in Section 5.0 would reduce potential adverse effects to less than significant levels. No additional discussion is warranted.

Response to Comment 23-84

As discussed in Addendum #1 of the TIA (Appendix D of the Draft EIS), the roundabout site access located at the westerly boundary of the project site as part of the “Two Roundabout Access scheme” (Attachment A of Addendum #1 of the TIA) could provide access to a future North-South road located along the westerly Spokane Tribe property line; this road would provide access to the area and sites west of the Spokane Tribe site as well as connectivity to a future extension of 6th Avenue. Mitigation Measure 5.2.7 (C) (1) and (2) has been clarified to refer to Attachment A of Addendum #1 of the TIA.

Response to Comment 23-85

Please refer to **General Response 3.6.1** regarding compatibility with Fairchild AFB operations. As stated therein, on February 29, 2012, the Tribal Council enacted Resolution 2012-146, which acknowledges that existing and future Fairchild AFB operations may pose inconveniences to property owners, including but not limited to air, traffic, noise, fumes, dust, and smoke, and confirms the Tribe's commitment to "accept such inconveniences or discomfort as normal and necessary aspect of operating a Class III gaming facility and resort near an Air Force Base that serves as a critical economic engine for the Region." This resolution has been included within the Final EIS as **Appendix W**. Please refer to **General Response 3.8** regarding mitigation enforceability and adequacy.

Response to Comment 23-86

Please refer to **General Response 3.6.1** regarding compatibility with Fairchild AFB operations. As stated therein, in April 2012, the FAA reviewed the aeronautical study in light of current operations and found that no significant aeronautical changes have occurred which would alter the determination dated November 3, 2010 issued for the Proposed Project. The FAA's "Determination of No Hazard to Air Navigation" extension notice, dated April 17, 2012, is provided in **Appendix S** of the Final EIS. The FAA determination and extension will expire on October 17, 2013, 36 months after the original notice was issued. In the event that construction of the hotel tower is not completed prior to the expiration of the determination, a new aeronautical study will be completed by FAA prior to construction.

Response to Comment 23-87

Please refer to **General Response 3.6.1** regarding compatibility with Fairchild AFB operations and **General Response 3.6.2** regarding consistency with local zoning codes. As discussed in **General Response 3.6.1**, the Proposed Project would not be a hazard to aircraft operations with the incorporation of mitigation measures in Section 5.0 of the EIS. These measures were developed in cooperation with the U.S. Air Force, and include measures to prevent the attraction of birds and wildlife to the project site. In regards to the potential for the wetland to attract birds and wildlife; this is an existing condition and, therefore, does not require mitigation under NEPA. In regards to the potential for the off-site sub-surface percolation systems to attract birds and wildlife, sub-surface percolations systems are designed so that the treated water percolates into the ground without ponding on the surface and, therefore, the sub-surface percolation system would not attract birds and wildlife. Furthermore, the recently constructed sub-surface percolation system and any future percolation systems constructed within the City's Airport Overlay Zone are required to comply with the restrictions set forth in the City's Airport Overlay Zone which prohibits any uses that could create a bird attractant that, in the opinion of the airport, could interfere with aircraft operations. Therefore, with mitigation the Proposed Project would not directly nor indirectly increase the number of bird attractants in the area. Sections 3.10 and 4.14.2 of the Final EIS have been clarified as appropriate.

Response to Comment 23-88

Sections 3.9 and 4.9 of the Final EIS have been revised to clarify that the determination by NRCS that the project site is not subject to FPPA is based on the definition of "farmland" in 7 CFR Part 658 – Farmland

Protection Policy Act, which states that “[f]armland’ does not include land already in or committed to urban development or water storage.” As previously discussed in Section 3.9.2 of the Draft EIS, the project site is located within the County’s designated Urban Growth Area (UGA) and the City’s Joint Planning Area (JPA). The consultation with the NRCS confirmed that the inclusion of the project site within the County’s UGA indicates that it has been set aside for urban development and therefore, is not subject to protection under the FPPA and does not require an FCIR be completed for the project alternatives.

Please refer to **General Response 3.2.2** Compliance with Gaming Regulations and Legislation (Matters Beyond the Scope of the EIS) regarding detrimental impacts. As part of the Tribe’s MOA and IGA (discussed in Section 4.9.1 of the EIS), the City of Airway Heights reviewed the Master Plan and did not have any comments regarding the discussion of land use impacts.

Response to Comment 23-89

Please refer to **General Response 3.8** regarding mitigation enforceability and adequacy.

As discussed in Section 3.10.2 of the Draft EIS, under the Washington Department of Ecology (WDOE) regulations, the construction of subsequent phases at the WTRRF is required to occur when the previous phase operates at or above 80 percent of its design capacity. As discussed in detail in the Water Demand and Wastewater Analysis Report (Appendix D of the Draft EIS), Phase 1 of Alternative 1 in conjunction with other growth anticipated in the City of Airway Heights would likely cause the existing treatment facility to operate at or above 80 percent of its design capacity, triggering the need to move forward with construction of the Phase II expansion of the WTRRF required by WDOE. Phase II of the WTRRF would have capacity to treat wastewater generated under full build out of Alternative 1. The discussion of the wastewater service in Section 4.10 of the Final EIS has been clarified regarding phasing of the WTRRF. Furthermore, the City is contractually bound by the IGA to use all reasonable efforts to increase sewer and wastewater treatment capacity so that the project site can be serviced, and the Tribe has committed to paying for such services as determined acceptable to the City.

Please refer to **General Response 3.7** regarding the existing and pending agreements between the City of Airway Heights and the City of Spokane.

Response to Comment 23-90

Please refer to **General Response 3.8** regarding mitigation enforceability and adequacy.

Response to Comment 23-91

Refer to **Responses to Comments 23-44, 23-45, and 23-46** regarding the analysis of noise generated by aircraft flyover and **General Response 3.6.1** regarding compatibility with Air Force Base operations. A description of noise sensitive receptors is provided in Section 3.11 of the EIS. This description acknowledges the residence located to the north of the project boundary. As stated therein, the nearest noise sensitive receptor to the project site is located 100 feet to the east of the project boundary, and the

next closest existing residential sensitive noise receptor is located along 6th Avenue approximately 400 feet to the north of development areas with the project site (while it is accurate that the northern residence is 200 feet from the project boundary, the nearest area of proposed development and accordingly construction noise is more than 400 feet). Sections 4.11 and 4.15 of the Draft EIS assess the noise level at the nearest sensitive noise receptors as close as approximately 100 feet from the boundary of the project site (refer to Section 3.11 of the Draft EIS). By assessing and mitigating impacts to a sensitive receptor 100 feet from the project boundary, impacts to a sensitive receptor 200 feet from the project boundary would also be mitigated due to the attenuating nature of sound as the distance from the source increases (refer to Section 3.11 of the Draft EIS). Mitigation Measures 5.2.10 (B), (C), and (D) would reduce noise levels from construction vehicles and stationary noise sources, such as diesel generators, by requiring appropriate muffler devices and requiring that all stationary noise sources be located as far away from sensitive noise receptors as possible. Therefore, noise sensitive receptors adjacent to the area during construction hours would not be significantly affected by construction noise. Per the commenter's request Mitigation Measure 5.2.10(A) has been revised to read: "construction using heavy equipment shall not be conducted between 9:00 p.m. and 7:00 a.m." Restricting construction noise to daytime hours prevents sleep disturbance. As shown in Section 4.11 of the Draft EIS there are no significant adverse noise effects; therefore, more stringent mitigation is not warranted.

Response to Comment 23-92

As discussed in Sections 3.12.1 and 4.12.1 of the Draft EIS, the U.S. Department of Labor Occupational Safety and Health Administration's (OSHA) regulations are codified in 29 CFR Parts 70-71, 2200-2205, 2400, and 1910 and include provisions that require facilities to document the potential risk associated with the storage, use, and handling of toxic and flammable substances. Therefore, OSHA regulations are required for the Proposed Project but are not considered mitigation measures.

Section 5.2.11 of the Final EIS has been revised to clarify that the Tribe is responsible for completing the inspections of containers storing hazardous materials and all maintenance, refueling, and storage areas. All inspection training and record keeping will be performed per OSHA standards.

Response to Comment 23-93

Section 4.13 of the EIS specifically discloses that construction of the Proposed Project and alternatives would result in significant alteration of existing rural views of the project site. Consistent with NEPA, feasible mitigation measures have been recommended in Section 5.2.12 of the Final EIS to reduce adverse impacts to sensitive receptors from specified viewpoints. The EIS states that mitigation would reduce, not eliminate, visual effects. Refer to **General Response 3.8** regarding mitigation enforceability.

Response to Comment 23-94

Downcast lighting is a required mitigation measure but is not a project component, which is why it is not illustrated in the architectural rendering of the proposed development shown in Figure 2-5 of the EIS. The architectural rendering is a general image developed to assist readers in conceptualizing the proposed visual changes to the project site. The Tribe will adhere to all mitigation measures listed in Section 5.0 of

the Final EIS including the use of downcast lighting. Additionally, downcast lighting is not expected to significantly alter the visual representation of the project site shown in Figure 2-5; therefore, a revised figure is not warranted.

The benefit of low-pressure sodium bulbs is energy efficiency, not reduced brightness; therefore, the use of these bulbs has been removed from the discussion of aesthetic impacts in Section 4.13 of the Final EIS. Aesthetics mitigation measure C in Section 5.2.12 of the Final EIS has been revised to clarify how timers will be used to reduce light impacts to surrounding areas.

Please refer to **Response to Comment 23-47** regarding compliance with the “dark skies” policies

Response to Comment 23-95

Improvements to project study intersections (refer to Section 3.8 of the EIS for project study intersections) would result in a benefit to traffic circulation. As shown in the TIA, no intersection in the study area would have, after implementation of the mitigation, a LOS or delay less than the “without mitigation” LOS or delay; therefore, implementation of mitigation (improvements) would be beneficial to traffic circulation. Section 4.14 provides for a traffic management plan which would be prepared in accordance with the jurisdictional agency requirements, thus avoiding potentially adverse temporary effects to traffic circulation from the construction of off-site traffic improvements. As shown in **Responses to Comment 23-37** and **Responses to Comments 23-60** through **23-72**, the underlying assumption of improved traffic circulation after the mitigation measures are implemented is not flawed; therefore, air impact conclusions are not flawed.

Response to Comment 23-96

Whether the proposed roadway improvements would require the relocation of utilities would be determined during the design phase of each improvement. However, the Draft EIS accounts for the possibility that these relocations would occur. Each improvement would be completed to the standards of the agencies with jurisdiction over the intersections (WSDOT, Spokane County, or City of Airway Heights). As described in Section 5.2.7 of the Draft EIS, all construction work within federal and state right-of-ways must be done in accordance with the current WSDOT Standard Specifications for Road, Bridge, and Municipal construction manual¹⁴. Section 1-7.17 of the 2012 construction manual establishes requirements to protect all private and public utilities. Additionally, item 1 of the General Notes for street construction within the City of Airway Heights Public Works Standards requires that all workmanship and materials be in accordance with the most current copy of the WSDOT Standard Specifications for Road, Bridge, and Municipal Construction. The discussion of indirect effects to public services from off-site traffic mitigation improvements in Section 4.14.1 of the Final EIS has been expanded to include a discussion of applicable City of Airway Heights and WSDOT requirements.

¹⁴ WSDOT, 2012. 2012 Standards Specifications for Road, Bridge, and Municipal Construction (M41-10). Available online at <http://www.wsdot.wa.gov/Publications/Manuals/M41-10.htm>. Accessed in July, 2012.

Response to Comment 23-97

Please refer to **Response to Comment 23-96** regarding indirect impacts to utilities and **General Response 3.8** regarding the sufficiency of the payments outlined within the IGA and MOA.

Response to Comment 23-98

Please refer to **Response to Comment 23-87** regarding the potential for the WTRRF's percolation system to attract birds and/or wildlife.

Response to Comment 23-99

As discussed in Section 1.5.2 of the Draft EIS, under Washington State land use law, the City cannot provide essential governmental services to an area beyond its limits unless such areas are eventually targeted for annexation. The City approved the annexation of the project site on April 16, 2012 (City of Airway Heights Ordinance C-770), and the annexation became effective on April 30, 2012. As shown in Figure 3.9-1 and described in Section 3.9 of the Draft EIS, the properties adjacent to the project site's western and southern boundaries are within the County's designated UGA and JPA with the City. UGAs within the County have been established in accordance with the State Growth Management Act (GMA) to assist in focusing urban growth in urban areas and to ensure that new construction has appropriate provisions for public services and facilities. The JPA's are lands located within the Spokane County UGA but outside of the existing city limits of the City of Airway Heights and are considered potential annexation areas of the City. Therefore, even without the Proposed Project, the City could legally extend its public services and facilities to the properties adjacent to the project site's western and southern boundaries. As discussed in Section 4.14.3 of the Draft EIS, development in Airway Heights or other cities within Spokane County would be subject to the constraints of its general plans, local ordinances, and other planning documents. New projects resulting from any induced effect would be subject to appropriate project-level environmental analysis.

Response to Comment 23-100

Cumulative effects resulting from the project alternatives were analyzed in accordance with NEPA and the BIA's NEPA Handbook and are described in Section 4.15 of the EIS. EPA guidance on the analysis of cumulative impacts provided in Appendix 8 to the BIA's NEPA Handbook states the following concerning the definition of "Geographic Boundaries and Time Period" for cumulative impacts:

To avoid extending data and analytical requirements beyond those relevant to decision making, a practical delineation of the spatial and temporal scales is needed. The selection of geographic boundaries and time period should be, whenever possible, based on the natural boundaries of resources of concern and the period of time that the proposed action's impacts will persist, even beyond the project life.

Therefore, in accordance with this guidance, past, present and reasonably foreseeable future actions and growth was considered in the cumulative impact analysis to the extent that the proposed action would collectively contribute towards cumulative effects resulting from these actions.

With the exception of air quality and traffic, the Proposed Project would not contribute towards environmental effects from future development in the City of Spokane. Increase traffic volumes in the City of Spokane and Spokane Metropolitan area were accounted for in the cumulative impact analysis by applying a conservative growth rate of 1.5 percent through the year 2032 in addition to the City and County pipeline projects described in Section 4.15.2 of the EIS, and thus were adequately accounted for within the cumulative impact analysis. Refer to **Response to Comment 23-63** concerning Legacy Landing. In developing attainment designations for criteria pollutants, the EPA considers the regions past, present and future emission levels from regional growth. As stated in Section 3.4 of the EIS, the project site and vicinity is in attainment for all criteria pollutants, therefore, air quality in the region is not cumulatively impacted. As discussed in **Responses to Comments 23-2 through 23-99**, the analysis of direct impacts within the EIS is not flawed; therefore, cumulative impact assessment was not based on false assumptions.

Response to Comment 23-101

Please refer to **Responses to Comments 23-1 through 23-100** regarding specific issues raised in the comment letter and **General Response 3.2.1** regarding expressions of opinion and non-substantive comments.

COMMENT LETTER 24 (LOG T006): CHAIRMAN GREG ABRAHAMSON, SPOKANE TRIBE OF INDIANS, MAY 16, 2012

Response to Comment 24-1

Comments noted. Please see **General Response 3.5.1** regarding potential adverse effects from the new Spokane West Plains Casino on the existing Kalispel Tribe Northern Quest Casino.

Response to Comment 24-2

Comments noted. Please refer to **General Response 3.6.1** regarding compatibility with Fairchild AFB operations and **General Response 3.6.2** regarding consistency with local zoning codes. The Tribe's clarification regarding the Tribe's agreement to comply with Airport Overlay Zone requirements was noted within **General Response 3.6.2**. The Tribe's resolution has been added as **Appendix W** to this Final EIS and has been incorporated into the discussion within Section 4.9 of the Final EIS. While Resolution 2012-146 may have met the recommendations contained in Section 5.2.8 of the Draft EIS, additional acknowledgements and commitments have been recommended in Section 5.2.8 of the Final EIS in response to public comment; therefore, a Tribal Ordinance would still be required in the event that an agreement cannot be negotiated between the Tribe and Fairchild AFB.

Response to Comment 24-3

The City passed an ordinance on April 16, 2012 approving the annexation of the project site (City of Airway Heights Ordinance No. C-770). The annexation of the project site into the City became effective

on April 30, 2012¹⁵. Sections 1.5, 2.2, 3.8, 3.9, and 4.9 of the Final EIS have been updated to reflect the annexation of the project site.

COMMENT LETTER 25 (LOG F1001): FORM LETTER 1

Response to Comment 25-1

Please refer to **General Response 3.6.1** regarding the Proposed Project's compatibility with Fairchild AFB operations. As described in detail in Section 4.9 of the EIS, the project is consistent with applicable policies of the Final Fairchild JLUS, dated September 2009, which was prepared by Spokane County in collaboration with Fairchild AFB, Spokane International Airport, local jurisdictions, and tribal governments.

COMMENT LETTER 26 (LOG I0045): RICHARD G. HADLEY, PRESIDENT AND CHIEF EXECUTIVE OFFICER, GREATER SPOKANE INCORPORATED, MARCH 26, 2012

Response to Comment 26-1

Please refer to **General Response 3.6.1** regarding the Proposed Projects compatibility with Fairchild AFB operations and **General Response 3.2.1** regarding expressions of opinion.

COMMENT LETTER 27 (LOG I0080): KEVIN PARKER, STATE OF WASHINGTON HOUSE OF REPRESENTATIVES, MARCH 26, 2012

Response to Comment 27-1

Please refer to **General Response 3.6.1** regarding the Proposed Projects compatibility with Fairchild AFB operations and **General Response 3.2.1** regarding expressions of opinion.

COMMENT LETTER 28 (LOG I-87): COFFMAN ENGINEERS, MARCH 30, 2012

Response to Comment 28-1

Comments noted. Please refer to **General Response 3.6.1** regarding compatibility with Fairchild AFB operations.

Response to Comment 28-2

Please see **General Response 3.6.1**, regarding compatibility with Fairchild AFB Operations. As described in detail in Section 4.9 of the EIS, the project is consistent with applicable policies of the Final Fairchild Joint Land Use Study (JLUS), dated September 2009.

Response to Comment 28-3

Please refer to **Response to Comment 23-9**.

¹⁵ Office of Financial Management, 2012. Annexation and Jurisdictional Boundary Line Adjustment Tracking. Available online at <http://www.ofm.wa.gov/pop/annex/cats/2012/default.asp>. Accessed in July 2012.

Response to Comment 28-4

Comment noted. Please refer to **General Response 3.6.1** regarding compatibility of the Proposed Project with Fairchild AFB operations and compliance with recommended JLUS strategies.

COMMENT LETTER 29 (LOG I-90): DOUGLAS H. STRAND, MARCH 6, 2012

Response to Comment 29-1

Please refer to **General Response 3.2.1** regarding expressions of opinion and non-substantive comments and **General Response 3.2.2** regarding compliance with gaming laws and legislation.

Response to Comment 29-2

Please refer to **Response to Comment 23-83** regarding compatibility with surrounding residential uses.

COMMENT LETTER 30 (LOG I0101): RICHARD AND ANNE MERTENS, MARCH 26, 2012

Response to Comment 30-1

Comments noted. Please refer to **General Response 3.4** regarding off-site alternatives.

Response to Comment 30-2

Comment noted. Please see **General Response 3.2.1** regarding expressions of opinions.

COMMENT LETTER 31 (LOG I117): DAVID SOWINSKI, APRIL 8, 2012

Response to Comment 31-1

Please refer to **General Response 3.7** regarding water supply.

Response to Comment 31-2

Please refer to **General Response 3.5.3** regarding local economic effects and **General Response 3.4** regarding alternatives.

Response to Comment 31-3

Please refer to **General Response 3.6.1** regarding compatibility with Fairchild AFB operations and **General Response 3.2.1** regarding expressions of opinion and non-substantive comments.

COMMENT LETTER 32 (LOG I0125): ANNA ARMSTRONG, KALISPEL TRIBAL MEMBER, APRIL 12, 2012

Response to Comment 32-1

Please refer to **General Response 3.5.1** regarding potential effects on the Kalispel Tribe and **General Response 3.5.4** regarding potential impacts on the Spokane Tribe.

COMMENT LETTER 33 (LOG I0129): JENNIFER JOHNSON, APRIL 16, 2012

Response to Comment 33-1

Please refer to **Response to Comment 23-9** regarding the net increase in jobs as a result of the Proposed Project, **General Response 3.5.1** regarding potential effects on the Kalispel Tribe, and **General Response 3.6.1** regarding the compatibility with air force base operations.

Response to Comment 33-2

Please refer to **General Response 3.2.2** regarding compliance with gaming regulations and legislation.

Response to Comment 33-3

Please see **General Response 3.5.4** regarding impacts to the Spokane Tribe and **General Response 3.4** regarding the elimination of the alternative to expand the Tribe's existing casinos.

COMMENT LETTER 34 (LOG I0130): OTTO STEVENS, APRIL 15, 2012

Response to Comment 34-1

Please refer to **General Response 3.5.3** regarding local economic effects.

COMMENT LETTER 35 (LOG I0134): KENNETH L. SMALL, APRIL 12, 2012

Response to Comment 35-1

As described within relevant sections of the Draft EIS, including Section 2.2, the project site was acquired in trust by the United States for the benefit of the Tribe on June 8, 2003. Since the publication of the Draft EIS, the project site was annexed by the City. Please refer to **Response to Comment 24-3** regarding the annexation. As described within Section 1.5.2 of the Draft EIS, in accordance with the Washington State law requirement to obtain U.S. consent prior to annexation of federal land, the BIA signed a federal agreement consenting to annexation of the project site into the City limits on March 2, 2011 (BIA, 2011). This agreement resulted in a boundary change that does not constitute a major federal action which could significantly affect the quality of the human environment, and therefore, does not trigger NEPA. Furthermore, the annexation was completed pursuant to the Revised Code of Washington, which states that annexation of territory by a city or town is exempted from compliance with State Environmental Policy Act (SEPA) (RCW 43.21C.222). The City does not have the jurisdiction to authorize Indian gaming. As described in detail within Section 1.1 of the Draft EIS, compliance with

NEPA is required prior to the Secretary making a “two-part determination,” under Section 20(b)(1)(A) that the site is eligible for gaming.

Response to Comment 35-2

The value for snow is not derived from the precipitation value. Precipitation is the amount of rainfall in the Spokane region. The language in the Section 3.4.2 of the Final EIS has been clarified as appropriate.

The air monitoring sites are the closest monitoring stations to the project site; therefore, these monitoring sites are the most applicable sites given the topography of the region. Section 3.4 states that the prevailing direction of the wind is from the southwest or west. Therefore, using data from monitoring stations in the east is appropriate because pollutants transported from the project site would be transported to the east by western winds. The pollutant baseline provided in Table 3.4-3 in Section 3.4, of the Draft EIS is relevant. Section 3.4 of the Draft EIS does not state that airplanes are a major source of hazardous air pollutants (HAPs); rather it states that mobile sources are the primary source of HAPs, including airplanes. The project site is within two miles of an international airport and an active Air Force base, it is reasonable to assume that airplanes are a source of HAPs in the region. The WDOE did not include airplane emissions in its emissions inventory; therefore, no data was available and airplanes were not directly identified in Table 3.4-2 in Section 3.4 of the Draft EIS. The EPA website at: <http://www.epa.gov/oms/m6.htm> states that MOVES has replaced MOBILE 6.2 for the estimation of mobile emissions for State Implementation Plans and Transportation Conformity Determinations. Evaluation of mobile emissions in this case is for general conformity purposes, not for a state implementation plans or a transportation conformity determination, and the EPA does not prohibit the use of MOBILE6.2; therefore, the use of MOBILE6.2 to estimate project-related emissions is reasonable.

Response to Comment 35-3

Please refer to **General Response 3.8** regarding mitigation enforceability.

Construction employment is temporary and ends shortly after construction is complete. Construction of the proposed Spokane Casino is expected to be completed in three phases and work is to be complete in 2019.

Response to Comment 35-4

As shown in **Appendix T** of the Final EIS, the model inputs were changed to reflect the correct ambient summer time temperature inputs for MOBILE6.2. Sections 4.4 and 4.15 of the Final EIS were updated using the revised MOBILE6.2 model results. As shown in Sections 4.4 and 4.15 of the Final EIS, project-related emissions estimated using the revised ambient summer time temperature inputs were less than those presented in the Draft EIS. The MOBILE6.2 model provides two input values for altitude, high and low, the high input is for project with an altitude of approximately 5,000 feet above mean sea level (famsl), and the low refers to project with an altitude of approximately 500 famsl. The higher input value was used to provide a more conservative analysis.

Please refer to **General Response 3.2.2** regarding compliance with gaming regulations and legislation.

COMMENT LETTER 36 (LOG I0140): DENNIS HESSION, APRIL 14, 2012

Response to Comment 36-1

Comments noted. Please see **General Response 3.2.1** regarding expressions of opinion, **General Response 3.2.2** regarding compliance with gaming regulations, **General Response 3.6.1** regarding compatibility with Air Force Base operations, and **General Response 3.5.3** regarding local economic effects.

COMMENT LETTER 37 (LOG I0145): JOHN ROSKELLEY, APRIL 13, 2012

Response to Comment 37-1

Please see **General Response 3.2.1** regarding expressions of opinion and **General Response 3.2.2** regarding compliance with gaming regulations.

COMMENT LETTER 38 (LOG I0152): M. GAGE STROMBERG III, APRIL 14, 2012

Response to Comment 38-1

Please refer to **General Response 3.2.2** regarding compliance with gaming regulations.

Response to Comment 38-2

Please refer to **General Response 3.5.3** regarding local economic effects and **General Response 3.2.2** regarding compliance with gaming regulations. Section 4.7 of the Draft EIS included an analysis of potential negative social effects that could occur with the addition of the proposed casino, including problem and pathological gambling and crime.

Response to Comment 38-3

Please refer to **General Response 3.6.1** regarding compatibility with Fairchild AFB operations and **General Response 3.2.2** regarding compliance with gaming regulations and legislation.

Response to Comment 38-4

Comment noted. Refer to **Responses to Comments 38-1** and **38-2** for discussion regarding the Spokane Tribe's request for an exception to IGRA. Refer to **Response to Comment 38-3** for discussion regarding impacts to the operation of the Fairchild AFB.

COMMENT LETTER 39 (LOG I0161): BILL JOHNS, MAY 14, 2012

Response to Comment 39-1

Please refer to **General Response 3.7** regarding water supplies. As described in Section 3.10 of the Final EIS, the City's domestic water supply is composed of both groundwater as well as surface water through

an agreement with the City of Spokane; therefore, the source of water treated at the WTRRF and disposed of using the percolation ponds or through irrigation includes groundwater pumped from the local basin and imported water from the City of Spokane. Section 4.15.3 of the Draft EIS discusses potential cumulative effects to groundwater supplies. Sections 4.3 and 4.12 of the Final EIS have been revised to clarify that some water would be lost through evaporation and evapotranspiration prior to percolating into the groundwater through wastewater disposal/ reuse methods at the WTRRF. The importation of surface water into the basin through the existing agreement with the City of Spokane, and the subsequent treatment and disposal of this water through percolation and irrigation into the groundwater further adds to the groundwater recharge and offsets water demands from cumulative growth within the City. Furthermore, as described in Section 3.10.1 of the Draft EIS, the City is currently preparing to initiate an aquifer storage and recovery (ASR) system to recharge the basalt aquifer from which the City obtains some of its water supply. The conclusion that the Proposed Project would not result in adverse effects to groundwater is reasonable, based on scientific fact, and fully supported by the evidence in the record. Please refer to **General Response 3.2.1** regarding expressions of opinion and non-substantive comments.

Response to Comment 39-2

Comments noted. Please see **General Response 3.2.1** regarding expressions of opinion, **General Response 3.2.2** regarding compliance with gaming regulations, **General Response 3.5.1** regarding potential effects on the Kalispel Tribe, and **General Response 3.5.4** regarding potential impacts on the Spokane Tribe. Additionally, Section 4.7 and Appendix G of the Draft EIS describe the estimated effect of the proposed casino on the Spokane Tribe, as well as the other tribes that operate casinos in the Greater Spokane area. In response to the statement that “the Tribe appears to be taking on a disproportionate share of losses compared to the contracted operator/manager”; the National Indian Gaming Commission reviews all management contracts between tribes and operators/managers prior to its approval, including the contracts for the Two Rivers Casino and Chewelah Casino, to ensure a fair distribution of profits and losses.

Response to Comment 39-3

Please refer to **General Response 3.5.3** regarding the potential of the proposed project to increase problem gambling and **General Response 3.8** regarding mitigation enforceability.

Response to Comment 39-4

As discussed in Section 4.10.1 of the Draft EIS, law enforcement services and prosecution, court, and jail services would be provided by the City of Airway Heights pursuant to Section 2.2 of the MOA between the Tribe and City (Appendix C of the Draft EIS). Similar to the discussion of fire protection within Section 4.10.1 of the Draft EIS, should any additional unforeseen law enforcement services be needed by the Tribe from law enforcement agencies, the Tribe shall provide fair-share assistance through the existing mechanism established within Section XIV, Public Health and Safety, of the Tribal-State Compact for Class III Gaming. The Section 4.10 of the Final EIS has been clarified to reflect this.

Response to Comment 39-5

As described in Section 4.10 of the Draft EIS, Inland Power and Light (Inland Power) has the capacity to serve Alternative 1 through either existing aboveground and/or underground power lines adjacent to the site or a new semi-dedicated line from its substation located on Craig Road approximately 500 feet north of the northeast corner of the project site (Appendix L of the Draft EIS). Once an alternative is chosen, Inland Power would work with the Tribe to identify the power facilities needed for each component of the development¹⁶. Section 4.10 of the Final EIS has been clarified to state that the Tribe would be responsible for payment of any fees charged by Inland Power for services/electricity provided to the site. As Inland Power will directly charge the Tribe for services rendered, there will be no effect on existing rate payers.

Response to Comment 39-6

Please refer to **General Response 3.5.1** regarding potential effects on the Kalispel Tribe and **Response to Comment 23-49** regarding the inclusion of the Kalispel Tribe within the Environmental Justice Section (Section 4.7) of the Final EIS

Response to Comment 39-7

As described in Section 2.2 of the Draft EIS, the project site was acquired in trust by the United States for the benefit of the Tribe on June 8, 2003. The trust status of the land is an existing condition, and therefore, is not a project component analyzed as part of the Proposed Action.

COMMENT LETTER 40 (LOG I0166): RICHARD G. HADLEY, PRESIDENT AND CHIEF EXECUTIVE OFFICER, GREATER SPOKANE INCORPORATED, MAY 14, 2012

Response to Comment 40-1

Comments noted. Please refer to **General Response 3.6.1** regarding compatibility with Fairchild AFB operations and **General Response 3.6.2** regarding consistency with local zoning codes. As described in Section 4.9 of the Final EIS, the location of the proposed casino and hotel is more than 4,400 feet (0.85 miles) north of the Department of Defense defined Accident Potential Zones (APZs), which designate areas that have a measurably higher potential for aircraft accidents; therefore, the proposed project would not locate people within an area that is considered to have a high accident potential. While the EIS discusses potential compatibility issues associated with hazards, it is not within the scope of this NEPA document to identify who the liable party would be in the event of an accident and/or natural catastrophe.

Response to Comment 40-2

With the implementation of the mitigation measures presented in Section 5.2.7 of the Draft EIS, the Proposed Project would not result in additional traffic delays beyond those currently experienced along the study roadway network. Mitigation includes the installation of a roundabout at Craig Road and US-2.

¹⁶ Damiano, R., 2011. Personal communication from Richard Damiano, Chief Engineer of Inland Power and Light Company on May 6, 2011. Included as Appendix L of the Draft EIS.

No signal light is proposed for this intersection. If Fairchild AFB needs to mobilize, implementation of the Proposed Project would not create traffic delays beyond the current traffic conditions (refer to Sections 4.8 and 4.15 of the Draft EIS) and therefore would not adversely impact such mobilization.

Response to Comment 40-3

Please refer to **General Response 3.6.1** regarding compatibility with air force base operations.

COMMENT LETTER 41 (LOG I0176): BARB SMITH, PRESIDENT OF THE BOARD OF DIRECTORS, GREATER NEWPORT AREA CHAMBER OF COMMERCE, MAY 14, 2012

Response to Comment 41-1

Comment noted. Please refer to **General Response 3.5.1** regarding potential effects on the Kalispel Tribe and indirect impacts on local communities and non-profit organizations.

COMMENT LETTER 42 (LOG A019): BOARD OF COUNTY COMMISSIONERS OF STEVENS COUNTY, APRIL 16, 2012

Response to Comment 42-1

Comments noted. Please refer to **General Response 3.2.1** regarding expressions of opinion and non-substantive comments.

COMMENT LETTER 43 (LOG T007): DIRECTOR CLYDE MCCOY, TRIBAL ENTERPRISE RIGHTS ORDINANCE DEPARTMENT, SPOKANE TRIBE OF INDIANS, APRIL 18, 2012

Response to Comment 43-1

Comment noted. Beneficial effects of the Proposed Action to the Spokane Tribe are described in Section 4.7 of the EIS.