

ATTACHMENT 3

SUPPLEMENTAL RESPONSES TO FINAL EIS COMMENTS

1.0 INTRODUCTION

This attachment to the U.S. Department of Interior's (DOI's) Record of Decision (ROD) for the Secretarial Determination and Trust Acquisition (Proposed Action) for the Ho-Chunk Nation (Nation) Beloit Fee-to-Trust and Casino Project contains supplemental responses to comments that were received during and after the 30-day review period on the Final Environmental Impact Statement (Final EIS) following the publication of the Notice of Availability (NOA) in the *Federal Register* on May 31, 2019 [78 Fed. Reg. 15040 (2013)]. A total of 29 letters were received during this review period and were considered by the DOI during the decision making process for the Proposed Action. The commenters for these 29 letters are indexed in **Table 1** and copies of the comment letters are provided in **Exhibit 1** of this document. General issues within the letters are summarized and responded to within **Section 2.0** of this Attachment and specific responses to each of the 29 comment letters are provided in **Section 3.0** of this Attachment.

TABLE 1
INDEX OF COMMENT LETTERS ON FINAL EIS

Comment Letter No.	NAME	AGENCY/ORGANIZATION
1	Kenneth A. Westlake, Deputy Director, Office of Multimedia Programs	U.S. Environmental Protection Agency, Region 5
2	Thomas P. McNamara, Mayor	City of Rockford, Illinois
3	Thomas P. McNamara, Mayor	City of Rockford, Illinois
4	Joseph L. Olson	Hispanic Chamber of Commerce of Wisconsin
5	Dick Dale	
6	Lorri Pickens	Citizens Against Expanded Gambling
7	Randall K. Rothenbuehler	
8	Vicki Seichter	
9	Gina M. Galvan	
10	Barbara A Prengel	
11	DJ Prengel	
12	Trisha Fearnside	
13	Donald B. Hilbig	
14	Laverna Hilbig	
15	Tracy Joy	
16	Matthew Fearnside	
17	Steve Howland	

Comment Letter No.	NAME	AGENCY/ORGANIZATION
18	Raymond D. Jewell	
19	Charlatte M. Flecher	
20	Kathy Hoover	
21	Bud Molander	
22	Zachary Molander	
23	Mark Joy	
24	David W. Fieldler	
25	John Galvin	
26	Beverly Koerble	
27	Tammy Stalcup	
28	Thomas N. Koerble	
29	Beth Molander	

2.0 GENERAL RESPONSES TO COMMENTS ON THE FINAL EIS

2.1 NON-NEPA MATTERS

2.1.1 Expressions of Opinion and Non-Substantive Comments

Summary of Comments: Some of the comments were expressions of opinion either for or against the Preferred Alternative. Other comments included personal anecdotes. Additional comments did not raise any substantive environmental issue.

Response: When responding to comments, federal agencies must follow the requirements in the President’s Council on Environmental Quality (CEQ) NEPA regulations, 40 C.F.R. Part 1500. The CEQ regulations generally recommend that comments be addressed if they are: 1) substantive and relate to inadequacies or inaccuracies in the analysis or methodologies used; 2) identify new impacts or recommend reasonable new alternatives or mitigation measures; 3) involve substantive disagreements on interpretations of significance and scientific or technical conclusions. Pursuant to 40 C.F.R. §§ 1500.1 and 1500.4, the goal of NEPA is to improve decision-making by providing decision makers and the public with pertinent and accessible information on potential project impacts on the environment. Responses are not required for comments that do not raise a substantive environmental issue, such as comments merely expressing an opinion or personal anecdote. However, such comments have been included within the administrative record and thus were considered by the DOI.

2.1.2 Compliance with Gaming Regulations and Legislation (Matters Beyond the Scope of the EIS)

Summary of Comments:

A number of comments described Section 20 of the Indian Gaming Regulatory Act (IGRA), and questioned whether the fee-to-trust application of the Ho-Chunk Nation (“Nation”) complies with Section 20. Some comments state that the BIA’s approach to off-reservation applications pursuant to Section 20 is in conflict with the intent of Congress when the legislation was created.

Response: As discussed in Final EIS Volume II, Section 1.1, the Nation is seeking the transfer of approximately 33 acres in the City of Beloit, Wisconsin into federal trust status for the subsequent development of the trust parcel and adjacent land owned by the Nation totaling 73.5 acres with a variety of uses including a casino, hotel, retail, water park, parking, and other supporting facilities (Proposed Project). Indian Gaming Regulatory Act (IGRA) sets the criteria under which gaming activities can occur on Indian lands. Under Section 20 of IGRA, 25 U.S.C. § 2719(b) (1) (A), off-reservation gaming must be expressly authorized by the Secretary of the Interior. Section 20 states that gaming shall not be conducted “on lands acquired by the Secretary in trust for the benefit of an Indian tribe after October 17, 1988,” unless certain limited conditions are met. 25 U.S.C.A. § 2719(a). Under the exceptions to § 2719(a), gaming on newly acquired trust lands may be conducted, pursuant to a “two-part determination” when:

“[t]he Secretary, after consultation with the Indian tribe and appropriate State, and local officials ... determines that a gaming establishment on newly acquired lands would be in the best interest of the Indian Tribe and its members, and would not be detrimental to the surrounding community, but only if the Governor of the State in which the gaming activity is to be conducted concurs in the Secretary’s determination.”

As discussed in detail within Final EIS Volume II, Section 1.1, a Secretarial two-part determination may only be made after consultation with the Nation and appropriate state and local officials, including officials of other nearby tribes. This process is independent from the NEPA process. As stated within 40 CFR 1500.1(c), “the NEPA process is intended to help public officials make decisions that are based on understanding of *environmental consequences*, and take actions that protect, restore, and enhance the environment” (*emphasis added*). In order to fully analyze the potential physical environmental effects of the Proposed Action, the EIS must evaluate the Beloit site as being utilized for gaming in accordance with federal law.

Although the EIS will provide the Secretary information on the potential physical environmental effects of the proposed federal action which must be considered in its decision, further evidence to support or reject a “two-part determination” will be obtained through the mandatory consultation with the Nation and appropriate state and local officials in accordance with IGRA Section 20. The EIS is not the decision document which makes the Section 20 conclusion as to whether or not the project will be detrimental to the surrounding community or beneficial to the Nation. These determinations require consideration of a number of economic and social effects that are beyond the scope of NEPA. **General Response 2.1.1** above explains that responses are not required for comments that do not raise a substantive environmental issue. Accordingly, no responses are required for comments related to compliance with the provisions of IGRA.

2.2 IMPACTS TO ILLINOIS GOVERNMENTS, RESIDENTS AND BUSINESSES

Summary of Comments: A number of comments state that the proximity of the Beloit site to the Illinois border necessitates a more rigorous analysis of impacts to the City of Rockford and other Illinois governmental agencies, residents and businesses, especially with respect to socioeconomic effects. Other comments request that the EIS should include mitigation for effects to the City of Rockford. Some comments state that a Supplemental EIS is the appropriate mechanism to evaluate these effects.

Response: The Final EIS does include an analysis of impacts to local and tribal governments located within State of Illinois, although not to the level of detail that is requested by some of the comments. Regarding socioeconomic impacts in particular, Final EIS Volume II, Section 4.7 and EIS Appendix H state that the area of focus is Rock County, Wisconsin and Winnebago County, Illinois. The City of Rockford is located within Winnebago County. For purposes of evaluating socioeconomic impacts within the context of an EIS, individual effects are typically evaluated at the local (i.e., city), county or state levels, depending on the distances over which such effects propagate. For example, as described in Final EIS Volume II, Section 4.7, effects on jobs, wages and economic output and fiscal effects are analyzed at the county level for Rock County, Wisconsin and Winnebago County, Illinois on a combined basis. Because of the proximity of the Beloit site to the Rock and Winnebago county border, the Final EIS does not attempt to separate the effect to each county individually. Similarly, the Final EIS does not attempt to calculate the specific effects to jobs, wages, economic impacts and fiscal impacts for the City of Beloit, or for any other city. Although a city-by-city analysis can be performed, it would substantially increase the complexity of the EIS analysis and requires, among other things, assumptions regarding how individual socioeconomic effects vary with the distance from the project site, and the revenue and expense structures of individual cities. Because the EIS determined that socioeconomic effects were either positive or less than significant, city-level analyses would not change the outcome and thus are not warranted.

However, the Final EIS Volume II, EIS Section 4.7 and Appendix H did analyze certain socioeconomic impacts on both a county level and for the City of Beloit. Specifically, EIS Appendix H analyzed the effects of employment, housing, population, schools, police, fire and emergency medical response (EMS) at the City of Beloit level. These analyses were performed for the City of Beloit because the project site is located in the City of Beloit, and because the City would provide services to the project such as law enforcement, fire protection, EMS services, water, wastewater, and stormwater through the terms of the Intergovernmental Agreement entered into between the Nation, the City of Beloit and Rock County (IGA). In addition, impacts to these services tend to be highly local in nature and dissipate rapidly with distance from the project site. Consequently, performing analyses for surrounding communities, such as the City of Rockford, was not warranted. It should also be noted that, as described in Final EIS Volume II, Sections 4.7 and 4.10, these effects were almost all less than significant to local governments, including the City of Beloit. The one potential exception relates to law enforcement, fire protection and EMS services, as described in Final EIS Volume II, Section 4.10. These effects would be less than significant with the implementation of mitigation pursuant to the IGA. Because the City of Beloit would provide police, fire and EMS services to the project through the IGA, as it does with all development within its jurisdictional boundaries, such effects that would occur in communities beyond the City of Beloit, including the City of Rockford, would be less than significant.

It should also be noted that the effects of problem and pathological gambling were also evaluated on a county level basis, and such effects were found to be less than significant (Final EIS Volume II, Section 4.7). Final EIS Volume II, Section 5.2.6 also describes measures that the Nation will implement to address problem gambling.

The EIS did evaluate substitution or competitive effects to gaming establishments within Illinois and Wisconsin. This is because gaming substitution effects typically occur over a larger geographic area. Final EIS Volume II, Section 4.7 and Appendix H evaluated these effects in specific markets extending to driving distances of approximately 120 minutes from the Beloit site. As described in EIS Section 4.7, the largest substitution effect to a currently operating gaming venue is projected to occur at the Potawatomi Bingo Casino (PBC) in Milwaukee. As to whether the level of substitution or competitive effect to gaming venues were aggregated on a state level, this information was included in both Final EIS Volume II, Appendix H and Appendix P. Specifically, the Appendix H gaming market maps and the table titled “Gravity Model Forecast Alternative A” list the anticipated number of year-1 gaming visits for the Proposed Project. Although the figures are not aggregated by state of origin, it can be seen that approximately half patrons are residents of Illinois. Final EIS Volume II, Appendix P provides a more precise estimate, and states that approximately 47 percent of gaming patrons are Wisconsin residents. Thus, the remaining approximately 53 percent are Illinois residents. Because much of the substitution effects analysis in the Final EIS is concerned with estimating effects to individual gaming venues, tribes and other businesses, the state level data is not as prominent.

Substitution or competitive effects to retail and hotel establishments are analyzed at the local level, because patrons at these businesses do not typically travel far to patronize a competitor. Nevertheless, impacts to these nongaming businesses would be less than significant at the local level (i.e., City of Beloit) and thus are by definition less than significant for more distant businesses, such as those located within the City of Rockford. Please see **General Response 2.6** for more information on competitive effects to local businesses.

As to the broader question of how extensively the EIS evaluated socioeconomic effects to Illinois and its residents and governments, Illinois impacts form an integral part of the analyses included in Final EIS Volume II, Sections 4.7, 4.10 and Appendix H. Consequently, Final EIS Volume II, Sections 4.7, 4.10, and Appendix H, all address socioeconomic impacts to Illinois governments and residents. Because all such effects (with the exception of police, fire and EMS) are either positive, inconsequential or less than significant in the absence of mitigation, no mitigation is required for any city or county, including the City of Rockford. And because police, fire and EMS services would be provided by the City of Beloit through the IGA, and because such effects are highly localized around the Beloit project site, such effects would be less than significant in communities beyond the City of Beloit and Rock County.

2.3 PASSAGE OF ILLINOIS SENATE BILL 690 AND THE PASSAGE OF TIME

Summary of Comments: A number of commenters state that the passage of Illinois Senate Bill 690 (Illinois SB 690) sufficiently alters the gaming landscape as to require the preparation of a Supplemental EIS that would estimate the Proposed Project’s “impacts” to a new casino that would be built in the future in the City of Rockford. Other comments state that the socioeconomic analyses contained in EIS

Appendix H are outdated because they do not consider impacts in light of the passage of Illinois SB 690. Additional comments state that the passage of time subsequent to the preparation of certain EIS analyses renders them stale.

Response: There are several reasons that a Supplemental EIS is not warranted to evaluate changes in the existing environment that may occur as a result of the passage of Illinois SB 690. Inclusion of Illinois SB 690 in the EIS analyses implies a change in the environmental “baseline” for which the project alternative would be compared to. Specifically, these comments presuppose that a future gaming venue in the City of Rockford would necessitate a new environmental “baseline” that project related effects would be compared against for purposes of estimating environmental impacts. Typically the environmental “baseline” analyzed under NEPA is the existing or reasonably foreseeable condition. In the case of Illinois SB 690, the passage of this legislation did not occur until June 28, 2019, which was thirty days after the publication of the Final EIS. Prior to its passage, any effects of potential Illinois legislation were hypothetical and speculative, and thus not reasonably foreseeable. The text of Illinois SB 690 Section 7(e-5)(4) is that the Illinois Gaming Board “may issue one owners license authorizing the conduct of riverboat gambling in the City of Rockford.”¹ The Illinois Gaming Board may issue additional gaming licenses under Illinois SB 690. Thus even at this time, the details related to location, timing and scope of a new gaming venue in the City of Rockford are unknown and speculative.

Furthermore, even if the specific circumstances regarding gaming in the City of Rockford were reasonably foreseeable, it is unlikely that competitive or fiscal effects would result in significant environmental impacts under NEPA. Specifically, there have been a number of legal actions that have clarified what constitutes an impact under NEPA. One such decision is the *Metropolitan Edison Co. v. People Against Nuclear Energy (PANE)* case². In its decision, the U.S. Supreme Court held that unless an effect to the nonphysical environment is closely tied to changes in the physical environment, such effects are not addressed in NEPA. The Court stated:

“To paraphrase the statutory language in light of the facts of this case, where an agency action significantly affects the quality of the human environment, the agency must evaluate the "environmental impact" and any unavoidable adverse environmental effects of its proposal. The theme of 102 is sounded by the adjective "environmental": NEPA does not require the agency to assess every impact or effect of its proposed action, but only the impact or effect on the environment. If we were to seize the word "environmental" out of its context and give it the broadest possible definition, the words "adverse environmental effects" might embrace virtually any consequence of a governmental action that someone thought "adverse." But we think the context of the statute shows that Congress was talking about the physical environment - the world around us, so to speak.”²

The Court also cited an example of a socioeconomic effect that would not be addressed by NEPA:

¹ Source: LegiScan LLC, accessed online July 30, 2019 at <https://legiscan.com/IL/text/SB0690/id/2044260/Illinois-2019-SB0690-Chaptered.html>

² Source: U.S. Supreme Court, 1983, accessed online September 4, 2019 at <https://caselaw.findlaw.com/us-supreme-court/460/766.html>

“For example, if the Department of Health and Human Services were to implement extremely stringent requirements for hospitals and nursing homes receiving federal funds, many perfectly adequate hospitals and homes might be forced out of existence. The remaining facilities might be so limited or so expensive that many ill people would be unable to afford medical care and would suffer severe health damage. Nonetheless, NEPA would not require the Department to prepare an EIS evaluating that health damage because it would not be proximately related to a change in the physical environment.”²

The Court also provided guidance to distinguish between those types of effects that are covered under NEPA and types that are not covered:

“Our understanding of the congressional concerns that led to the enactment of NEPA suggests that the terms "environmental effect" and "environmental impact" in 102 be read to include a requirement of a reasonably close causal relationship between a change in the physical environment and the effect at issue. This requirement is like the familiar doctrine of proximate cause from tort law.”

The implication of the PANE decision is that only those effects linked to a primary impact to the physical environment are addressed by NEPA. Consequently, the PANE decision suggests that only direct socioeconomic effects are addressed by NEPA.

Finally, as a practical matter, new gaming venues are typically being proposed and constructed on an almost continuous basis within the market area of many proposed gaming projects, including the Proposed Project. Preparation of revised analyses to evaluate effects caused by changes in the competitive environment, or simply caused by the passage of time, would be a constantly changing process, and would delay the Proposed Project for no viable reason. Furthermore, preparation of subsequent analyses can merely perpetuate a continual cycle of document revisions, followed by new commenter assertions that fresher data, or a more recent baseline, is still required. Such repetitious exercises are not generally beneficial or required. As stated by the U.S. Court of Appeals for the District of Columbia Circuit:

“However desirable it may be for agencies to use the most current and comprehensive data available when making decisions, the FAA has expressed its professional judgment that the later data would not alter its conclusions in the EIS or the approval of Alternative C, and it is reasonably concerned that an unyielding avalanche of information might overwhelm an agency’s ability to reach a final decision. [Citation omitted] The method that the FAA chose, creating its models with the best information available when it began its analysis and then checking the assumptions of those models as new information became available, was a reasonable means of balancing those competing considerations, particularly given the many months required to conduct full modeling with new data.”.....“Again, these judgments regarding the development of the baseline against which alternatives would be assessed are the sorts of expert analytical judgments to which courts typically defer.”³

³ Source: Village of Bensenville v. FAA, 457 F.3d 52, 71-72 (D.C. Cir. 2006). Available at Legal.com and accessed July 30, 2019 at <https://www.leagle.com/decision/2006509457f3d521504>

Regarding the text of page 2 of EIS Appendix H that states that the analyses contained in Appendix H are based on certain assumptions regarding the state of the gaming market, such statement is accurate. As described above, many analyses, if updated to include the most recent information, would produce different results. However, the relevant issue is whether such results would differ materially from results of earlier analyses, and if the preparation of such updated analyses are warranted under the circumstances. As described above, the answers to both questions in the context of the Proposed Project are “no.”

For reasons described above, it is not appropriate to update the environmental “baseline”, which is defined in the EIS as existing conditions. Thus, neither a Supplemental EIS nor some other form of supplemental EIS documents are necessary or warranted.

2.4 PROBLEM GAMBLING AND CRIME

Summary of Comments: A number of commenters raised concerns that operation of the Preferred Alternative could result in increased rates of local problem or pathological gambling. Some comments state that the probability of becoming a problem gambler nearly doubles if the home is within 10 miles of a casino. Other comments raised the issues of societal costs of problem gambling and its relation to crime, family relationships, and financial issues.

Response: Impacts related to problem gambling, crime and related issues were thoroughly analyzed in the Final EIS Volume II, Section 4.7. Please see this section for the analyses performed and conclusions rendered. Comments on the Draft EIS regarding problem gambling and related societal costs were responded to in the Final EIS Volume I, Responses to Comments I3-1, I7-1, and I10-1. Although there are no casinos already within 10 miles of Beloit, the Final EIS mentions three casinos within the 120-minute market area of Beloit, including the Madison casino that is approximately 50 minutes away. There are already four easily accessible gaming facilities with slot machines within seven miles of Beloit, in Illinois. The City of Rockford Illinois may also approve the construction and operation of a new casino. Video Gaming Terminals have been operational in Illinois since 2013 (Final EIS Volume II, Appendix H).

As outlined in Final EIS Volume II, Section 5.2.6, incidence of problem gambling and related issues would be mitigated by the Nation’s implementation of programs and policies for the assessment, identification, and assistance of compulsive gamblers. The Nation would also make annual payments to the State of Wisconsin, Rock County, and local governments to fund social programs, including problem gambling services.

EIS Section 4.7.1 was also updated to include a review of studies that analyzed the relationship between the operation of casinos and crime rates in specific markets. Please see Final EIS Volume II Section 4.7.1. for this information. As described therein, casinos do not increase crime any more than other large scale developments.

Please see **Exhibit 2** for additional information regarding problem gambling, crime and related issues.

2.5 ALTERNATIVES ANALYZED IN THE EIS

Summary of Comments: A number of comments were received concerning the range of alternatives addressed in the EIS.

Response: As stated in 40 CFR 1502.13, an EIS “shall briefly specify the underlying purpose and need to which an agency is responding in proposing the alternatives including the proposed action.” The underlying purpose and need for the Proposed Action is stated within Final EIS Volume II, Section 1.2. The purpose of the Proposed Action is to facilitate tribal self-sufficiency, self-determination, and economic development. This thus satisfies both the DOI’s land acquisition policy as articulated in the DOI’s trust land regulations at 25 C.F.R. Part 151, and the principle goal of IGRA as articulated in 25 U.S.C. § 2701.

As described in Final EIS Volume II, Section 1.3, the Nation is the only Native Wisconsin Indian Tribe that does not have a formally established reservation. Instead the Nation owns/controls numerous properties that are dispersed throughout Wisconsin, Illinois, and Minnesota, 4,256 acres of which are held in trust. Although the Ho-Chunk Nation’s membership is concentrated in Wisconsin, members reside throughout the U.S. This fractionalized collection of land holdings is the result of a long history of land loss sustained by the Ho-Chunk people. The Nation’s history has contributed to the Nation’s dispersed service area and diverse needs which have resulted in complications and obstacles that cannot be effectively addressed through conventional tribal government programs and services based on membership demography that is categorized as either “on” or “off” reservation. Those complications and obstacles, in turn, increase the costs and the difficulty of providing government services and programs. The Nation currently needs an expanded land base and greater amounts of revenue to provide government services to its fractioned membership, and to provide capital for other important programs described in Final EIS Volume II, Section 1.3.

The Nation, as the applicant, has preferences as to the means of providing an adequate revenue source. When a proposed action is triggered by an application from a tribal applicant, it is appropriate for the lead agency to give substantial weight to the goals and objectives of that applicant. In this instance the lead agency is the BIA and the applicant is the Ho-Chunk Nation. It would not be consistent with the government-to-government relationship, or the basic fiduciary responsibilities of the federal government, for the BIA to ignore the purposes of the tribal government and substitute purposes that it feels are more appropriate.

The BIA has selected alternatives in a manner that promotes informed public participation and informed decision-making. Several critical factors were considered in determining which alternatives should be subjected to detailed analysis and review. First, alternatives that do not accomplish the purpose of an action are by definition not reasonable and should not be studied in detail. Secondly, alternatives that would not significantly differ in impacts from other alternatives, or that would not avoid or minimize the adverse environmental impacts of the Proposed Action, were not considered in depth.

The Draft EIS and Final EIS present a reasonable range of alternatives: (1) transferring approximately 33 acres in the City of Beloit, Wisconsin into federal trust status for the Nation, and the subsequent development of the trust parcel and adjacent land owned by the Nation totaling 73.5 acres with a variety

of uses including a casino, hotel, retail, parking, and other supporting facilities (“Alternative A” or the “Proposed Project”), (2) a reduced intensity gaming alternative on the Beloit (Alternative B), (3) a non-gaming alternative, including retail development, parking, and other supporting facilities (Alternative C), and the No Action/ No Development alternative (Alternative D). As noted within *NEPA’s Forty Most Asked Questions*, contained in Appendix 17 of the BIA NEPA Handbook, “When there are potentially a very large number of alternatives, only a reasonable number of examples, covering the full spectrum of alternatives, must be analyzed and compared in the EIS.” “What constitutes a reasonable range of alternatives depends on the nature of the proposal and the facts in each case.” “Reasonable alternatives include those that are practical or feasible from the technical and economic standpoint and using common sense, rather than simply desirable from the standpoint of the applicant.” While the potential income from the non-gaming development, Alternative C, 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 (see definition above) and that the inclusion of that alternative significantly expanded the range of alternatives considered.

The EIS also includes a number of project sites that were considered, but which were subject to various feasibility issues and thus were not included in the range of alternatives that were analyzed in depth. Specifically, Final EIS Volume II, Section 2.4 briefly describes alternatives that were eliminated from further study, and the reasons for their elimination. This section is summarized from an independent analysis of potentially suitable off-site alternatives presented in the Ho-Chunk Nation Beloit Fee-to-Trust and Casino Project Alternatives Evaluation Report (AES, 2016). Alternative sites located in the vicinity of the Nation’s existing casinos were eliminated, as these alternatives would draw customers from the market of the Nation’s existing casinos, and therefore would not likely generate a net increase in the Nation’s tribal government revenues. Consequently, these alternatives were eliminated because they are not consistent with the purpose and need of the Proposed Action to facilitate tribal self-sufficiency, self-determination, and economic development. Alternatives at other sites within Wisconsin were also eliminated after the passage of local referendums, or because of suitability and feasibility issues associated with the specific sites.

Also, as described above, the Final EIS did include one nongaming alternative (Alternative C). Because the environmental impacts of nongaming alternatives can be relatively similar to each other for projects of the same scope, the EIS did not analyze more than one nongaming alternative. As described in Final EIS Volume II, Section 4.7., the socioeconomic benefits to the Nation from the nongaming alternative would be substantially less than those under the Proposed Project.

2.6 ECONOMIC IMPACTS ON THE ECONOMY AND JOBS, INCLUDING EFFECTS ON LOCAL BUSINESSES

Summary of Comments: A number of commenters expressed concerns regarding the socioeconomic impact that operation of the Preferred Alternative would have, including effects on local businesses and economic growth. Some comments state that gaming revenue is inherently counterproductive and represents economic loss, because money spent on gaming could have been used for more productive purposes.

Response: Final EIS Volume II, Section 4.7 describes the positive socioeconomic effects that would result from the Proposed Project, including the creation of new jobs and increased economic activity. Specifically, the Proposed Project is estimated to generate \$489.2 million in net annual economic output and create approximately 3,422 new jobs, including 1,985 direct jobs at the Proposed Project itself, as well as 1,437 indirect and induced employment positions. Total new tax revenues are estimated at approximately \$50.8 million per year.

Commenter statements that “net win” or casino revenue is synonymous with economic loss are based on a premise that is incorrect for most persons. Gaming is a form of entertainment for the vast majority of casino patrons. Consequently, gaming contributes to their welfare and enjoyment just as does any other form of entertainment. Thus, dollars spent by gaming patrons contribute to economic activity just as does spending on other forms of leisure and entertainment. Please see **General Response 2.4** regarding problem gambling, crime and related issues.

Impacts to local businesses were evaluated in the Final EIS Volume II, Section 4.7.1. As concluded in this section, there would be no significant non-gaming substitution effects as a result of operation of Alternative A or B. In fact, casinos can have a positive impact on local businesses. Appendix H of the Final EIS lists three potential reasons these businesses may benefit:

1. Casino visitors stopping at local retail outlets and restaurants.
2. Long-distance patrons staying at area hotels; even in markets with casino hotels, non-casino hotels enjoy boosts in occupancy.
3. Casino expenditures on local goods and services put more money into the local economy.

Additionally, as stated in the Final EIS Volume II, Section 4.7.1, the Nation would make annual payments to the State, Rock County, and local governments per the tribal state compact and local agreements to provide support for public services and community benefits, including problem gambling services, throughout the region. The tribal state compact states that a portion of the Nation’s impact payments shall be provided to essential positive public programs. The Nation agrees to make a payment to the City of Beloit each quarter of operation equivalent to two percent of the Net Win at the proposed gaming facility. Such payments would mitigate socioeconomic impacts of the Proposed Project.

3.0 RESPONSES TO SPECIFIC COMMENTS ON THE FINAL EIS

Each of the bracketed comments within the 29 comment letters contained in **Exhibit 1** of this document are responded to below. If a response to a specific comment or issue has been provided within the ROD, the appropriate section of the ROD is referenced. Additionally, once an issue has been addressed in a response to a comment, subsequent responses to similar comments reference the initial response.

COMMENT LETTER 1: KENNETH A. WESTLAKE, U.S. ENVIRONMENTAL PROTECTION AGENCY, JUNE 19, 2019

Response to Comment 1-1

Comment noted. In accordance with the comment, a copy of the published Record of Decision (ROD) is being forwarded to the EPA.

COMMENT LETTER 2: THOMAS P. MCNAMARA, MAYOR, CITY OF ROCKFORD, JUNE 19, 2019

Response to Comment 2-1

Please see **Response to Comments 2-2** through **2-17** below for responses to specific comments.

Response to Comment 2-2

The commenter is correct that the City of Rockford has been invited to participate in the Section 20 consultation process pursuant to 25 C.F.R. Section 292, and is also correct that the BIA consultation letter identifies six areas or categories pursuant to 25 C.F.R. Section 292.20(b). The reason that the consultation letter identifies six areas 25 C.F.R. Section 292.20(b) is because that portion of the statute references these six specific categories. As described in **General Response 2.1.2**, IGRA Section 20 does require Secretarial consultation with the Nation and appropriate state and local officials as part of the two-part determination process. However, the IGRA Section 20 process is distinct from NEPA, and beyond the scope of this EIS. Please see **General Response 2.1.2** regarding gaming regulations and legislative matters that are beyond the scope of the EIS. Nevertheless, it should be noted that unlike the circumstances in the case of *California Wilderness v. U.S. Department of Energy*,⁴ the City of Rockford has both a consultative opportunity pursuant to 25 C.F.R. Section 292.20(b), and can also comment on the NEPA document.

The subject of which governmental agencies participated in the consultative process pursuant to NEPA is separate from the IGRA Section 20 consultative process. Specifically, certain governmental agencies were invited to participate as cooperating agencies as part of the EIS process, during November 2012 and January 2013. The City of Rockford was not among those invited because the project site is not located within the city, and thus Rockford currently has no jurisdictional authority over land uses on the property, nor does it provide the site with municipal services. In some cases, agencies are added to the NEPA consultative process after the initial invitations are extended, provided that the agencies meet the criteria and also request to act in the capacity of cooperating agencies. However, the City of Rockford did not request to be added to the list of cooperating agencies during the NEPA process. For these reasons, the City of Rockford was not designated as a cooperating agency. Adding the City of Rockford to the list of EIS cooperating agencies at the current stage in the process would not be constructive, as the Record of Decision (ROD) represents the culmination of the NEPA process.

It is acknowledged that the ability to comment is not a substitute for the consultative process, as described in the *California Wilderness v. U.S. Department of Energy* ruling. However, the comment process does

⁴ Ruling accessed online July 27, 2019 at <http://cdn.ca9.uscourts.gov/datastore/opinions/2011/02/01/08-71074.pdf>.

provide interested parties with the ability to participate in and affect the NEPA process. A Notice of Intent to prepare the EIS was published in the Rockford Register Star from November 25 through November 26 2012, and comments on the scope of the EIS were accepted until December 26, 2012. After the Draft EIS was published, the Notice of Availability was published in the Rockford Register Star on November 9, 2018, and the comment period closed December 24, 2018. No comments from the City of Rockford were received during the scoping process or on the Draft EIS. The City of Rockford did comment on the Final EIS, and its comments and the BIA responses are included herein.

Regarding the commenter's statement that Congress intended to prohibit gaming on newly-acquired land, except in rare circumstances, please see **General Response 2.1.2** regarding gaming regulations and legislative matters that are beyond the scope of the EIS, including IGRA Section 20. **General Response 2.1.2** also explains that Section 20 of IGRA specifically addresses circumstances in which off-reservation gaming is permitted. As described in **General Response 2.1.2**, the language of the statute sets for the criteria under which off-reservation gaming is permitted.

Regarding the comment that the Secretary should consult with the governor of Illinois (and not just the Wisconsin State governor as required by IGRA Section 20) please see **General Response 2.1.2** regarding gaming regulations and legislative matters that are beyond the scope of the EIS. Affected local governments within a 25 miles radius, including those in the state of Illinois, have been consulted in accordance with IGRA Section 20.

Response to Comment 2-3

Please see **General Response 2.3** regarding why it is not appropriate to change the environmental "baseline" in the EIS to assume the construction and operation of a new gaming venue in Rockford, Illinois.

Response to Comment 2-4

Comments regarding the requirements of Illinois SB 690 and the City of Rockford's criteria and process for assessing gaming applicants are acknowledged.

Response to Comment 2-5

Please see **General Response 2.5** regarding the range of alternatives analyzed in the EIS.

Response to Comment 2-6

Please see **General Response 2.2** regarding how the EIS has appropriately analyzed impacts that may occur to Illinois residents, businesses and governments, including any required mitigation. Please see **General Response 2.3** regarding why it is not appropriate to change the environmental "baseline" in the EIS to assume the construction and operation of a new gaming venue in Rockford, Illinois.

Response to Comment 2-7

Please see **General Response 2.1.2** regarding gaming regulations and legislative matters that are beyond the scope of the EIS. Please see **General Response 2.5** regarding the range of alternatives evaluated within the EIS.

Response to Comment 2-8

Please see **General Response 2.5** regarding the range of alternatives evaluated within the EIS, including why the Proposed Action is the appropriate mechanism to address the Nation's purpose and need.

Response to Comment 2-9

As noted by the commenter, the Proposed Project would increase impervious surfaces on the site by approximately 54.6 acres (Final EIS Volume II, Section 4.3.1). However, as stated in Final EIS Volume II, Section 4.3.1, no flooding impacts are expected to occur because of the Proposed Project. The Turtle Creek Watershed, which contains the project area, is approximately 231 square miles or 147,840 acres (refer to Final EIS Volume II, Section 3.3.1). Thus, there would be less than 0.04 percent of the watershed area converted to impervious surfaces as a result the Proposed Project. Additionally, as described in Final EIS Volume II, Section 2.3.1 and Section 4.3.1, stormwater runoff would be directed into on-site stormwater control facilities and would be treated on site and percolate into groundwater. In addition, the City's regional stormwater detention facilities would be expanded to include an additional 1.5-acre detention pond to accommodate excess stormwater from the project site during a 100-year storm event in accordance with the IGA. Thus there would not be excess runoff added to Turtle Creek and Rock River. The proposed stormwater conveyance and storage system is described in the Final EIS, Volume II, Section 2.3.1 and Appendix D, and Best Management Practices that would be incorporated into project design regarding infiltration rates and the stormwater conveyance system are included in Final EIS Volume II, Section 5.2.2.

The commenter also expresses concern about soil erosion into surface waters. As described in Final EIS Volume II, Section 4.3.1, the Preferred Alternative would obtain coverage under the General Construction National Pollutant Discharge Elimination System (NPDES) permit and prepare a Stormwater Pollution Prevention Plan including provisions for erosion prevention and sediment control and control of other potential pollutants.

Response to Comment 2-10

As described in Final EIS Volume II, Section 4.8.2, the traffic impact analysis study (Final EIS Volume II, Appendix I) found that with implementation of Proposed Project there would be no significant declines in level of service (LOS) at intersections off of Interstate-39/90. In addition, there would be congestion mitigation measures implemented for nearby intersections such as STH-81/Milwaukee Road and Crandston Road, which were projected to operate at an unacceptable LOS after the construction of the Proposed Project. These mitigation measures are described in Final EIS Volume II, Section 5.0. After the implementation of mitigation, the Proposed Project would not contribute towards significant cumulative effects on traffic and circulation.

Response to Comment 2-11

Please see **General Response 2.2** regarding how the EIS has appropriately analyzed impacts that may occur to Illinois residents, businesses and governments, including any required mitigation. Please see **General Response 2.3** regarding why it is not appropriate to change the environmental “baseline” in the EIS to assume the construction and operation of a new gaming venue in Rockford, Illinois.

Response to Comment 2-12

Please see **General Response 2.2** regarding how the EIS has appropriately analyzed impacts that may occur to Illinois residents, businesses and governments, including any required mitigation. Please see **General Response 2.3** regarding why it is not appropriate to change the environmental “baseline” in the EIS to assume the construction and operation of a new gaming venue in Rockford, Illinois.

Response to Comment 2-13

Economic output from any new commercial development, including gaming venues, typically increases once such facilities commence operations. After this initial ramp-up period, most gaming venues do not typically contribute to substantial “increases” or “growth” in economic output, unless they experience unusually high growth. Consequently, the commenter’s statement that after some period, casino “long-term growth disappeared” is generally correct for many or most gaming establishments. However, gaming revenue at a casino typically does not decline substantially following the first full year of operations. Rather, revenues typically stabilize, increase slightly year-over-year, or experience a transitional and modest decline after the novelty of the new venue has receded.

Response to Comment 2-14

The commenter is correct that gaming is a competitive business, and that the operations of the Proposed Project would result in competitive or substitution effects to existing gaming venues. Competitive or substitution effects are fully evaluated in Final EIS Volume II, EIS Section 4.7 and Appendix H. As stated in Section 4.7, such effects would be less than significant. Please see **General Response 2.3** for more information on competitive effects, and why it is not appropriate to change the environmental “baseline” in the EIS to assume the construction and operation of a new gaming venue in Rockford, Illinois.

Response to Comment 2-15

The commenter does not cite the specific National Association of Realtors study to which it refers. The commenter may be referring to a 2013 meta-analysis of eight independent studies performed by the National Association of Realtors (NAR). This NAR report concluded that casino development has a negative effect on surrounding property values.⁵ However, that overall conclusion conflicts with data present in five out of the eight studies included in the report’s meta-analysis, the most comparable to the project being a 2005 nationwide study on property values in proximity to Indian casinos that indicated a

⁵ Source: Study titled “Economic Impact of Casinos on Home Prices” accessed July 31, 2019 at <http://stoppredatorygambling.org/wp-content/uploads/2014/07/2013-Realtor-study-NAR-Casino-Research.pdf>

slight positive effect. Of the three studies that indicate a negative effect on property values in proximity to casinos, one involves a bedroom community of Las Vegas, arguably a unique region, and one was situated in Canada, a country with a different housing market than the United States. Analyzed collectively, the results of the NAR report, and the studies it cites, show an inconclusive link between casino development and property values.

Changes in property values can typically be affected by a number of factors, including the proximity of the casino to other properties in the vicinity, the mix of properties surrounding the casino, whether the casino stimulates additional development and whether or not the casino is located in an urban area. Although the Beloit project site is currently used for agriculture, it is zoned General Manufacturing. The areas in the surrounding vicinity are zoned a mixture of General Manufacturing, Public Land, and Two-Family Residential. Furthermore, the project site has been identified by the City of Beloit as an area of economic development. The Proposed Project's impacts to surrounding property values would probably be neutral to positive because a casino development would bring increased economic activity and because such a project may stimulate additional commercial development in the vicinity of the site.

Response to Comment 2-16

Please see Final EIS Volume I, Section 3.1 Response to Comment I10-2, where the issue of casino market saturation was addressed. Whether or not a particular gaming market is saturated depends on the specific circumstances and competitive landscape in each market. As shown in Final EIS Volume II, Appendix H, there are no gaming venues of a similar size within a 30-minute drive of the Proposed Project. There are two casinos within a 60-minute drive time (Ho-Chunk Madison and the Grand Victoria Casino in Elgin, Illinois). This density of casinos is not indicative of a saturated market.

The commenter's example of revenue trends of the Grand Victoria Casino is not a particularly relevant example of market saturation. The Grand Victoria Casino experienced a number of factors that contributed to its substantial decrease in gaming revenues from 2007 onwards. This include the 2008 State of Illinois casino smoking ban. Because a substantial number of casino patrons are smokers, this likely contributed to a decline in patronage. Second, the 2011 opening of the Rivers Casino in Des Plaines resulted in significant competitive or substitution effects to the Grand Victoria Casino, and likely contributed to a substantial decline in its gaming revenue⁶. Although this last condition could be interpreted as market saturation, this was a local effect to the area in and around the Grand Victoria Casino. It is not indicative of the market in the vicinity of the Proposed Project. Also, even though the Grand Victoria Casino did experience a substantial decline in gaming revenues during the past decade, it appears to remain a going concern. Finally, as described in Final EIS Volume II, Appendix H, the 2013 introduction of Video Gaming Terminals contributed to a one-time revenue decline at most Illinois casinos.

The commenter does not provide support or evidence for its statement that the gaming market cannot sustain two casinos, one in Rockford and one in Beloit. It is correct that having two gaming venues of similar size, one in Beloit and another in the City of Rockford, would create significant competitive or

⁶ Source: Northern Public Radio accessed September 4, 2019 at <https://www.northernpublicradio.org/post/casino-sale-could-mean-paycheck-gubernatorial-candidate>.

substitution effects between each of the two facilities. As a result, each facility would probably generate less in revenue than it would, in the absence of the other facility. This phenomenon occurs in many competitive markets. Specifically, the introduction of new competitors often decreases the amount of revenue collected by existing businesses. However, it may be the case that the first casino to open (say for example a casino in Beloit) would cause the development of a second nearby facility (say for example a casino in Rockford) to be smaller than it would otherwise have been, in the absence of competitive effects from the first casino to open.

The commenter also does not provide support for its statement that a casino in Rockford would benefit many more people than a casino in Beloit. The commenter may be referring to the fact that Illinois is a more populous state than Wisconsin, and consequently payments made by a casino to the Illinois state government would be allocated among a larger group of people than would be the case in Wisconsin. This would not be a persuasive line of reasoning, because such a rationale would always favor the construction of casinos in more populous states, to the detriment of less populous states.

The commenter's statement that the State of Illinois has invested a substantial amount of time and resources in analyzing where to locate new casinos in Illinois is acknowledged. The BIA, the Nation, the City of Beloit, Rock County and other jurisdictions have similarly expended considerable resources in evaluating the Proposed Project. The commenter does not provide support for its statement that the Proposed Project largely serves the Nation and its members. For reasons described in the Purpose and Need section (Final EIS Volume II, Section 1.2) and in the Background section (Final EIS Volume II, Section 1.3), it is correct that the Proposed Project would substantially benefit the Nation and its members. But it is also true that Wisconsin and Illinois residents, employees, businesses and local governments would substantially benefit from the construction and operation of the Proposed Project. Please see Final EIS Volume II, Section 4.7 and **General Response 2.6** for a description of these benefits, including the creation of jobs, wages, economic activity and government revenues. It may be the case that Illinois residents, employees, business and state and local governments would benefit more from the construction and operation of a casino in the City of Rockford that would operate in the absence of competition from the Proposed Project. But if so, Wisconsin residents, employees, business and state and local governments would likely benefit less. And similar to the Proposed Project, a casino in Rockford would be close to the Illinois/Wisconsin border, and thus would draw substantial patronage from Wisconsin. Thus, arguments that a development of a casino on the Illinois (i.e., City of Rockford) side of the border should occur to the exclusion of one on the Wisconsin side of the border (i.e., City of Beloit) do not seem justified based on the interests of people on both sides of the border.

Response to Comment 2-17

Please see **General Response 2.2** regarding how the EIS has appropriately analyzed impacts that may occur to Illinois residents, businesses and governments, including any required mitigation. Please also refer to **General Response 2.4** regarding problem gambling, crime and related issues. As described in **General Response 2.4** and **General Response 2.6**, payments to the State, County, and local governments would fund social programs, including programs to treat problem gambling. Consequently, impacts to Illinois treatment facilities would be off-set by increased spending towards problem gambling programs in Wisconsin. Furthermore, treatment centers are not the only forms of treatment for problem gambling.

The Nation would make annual payments to the State of Wisconsin, Rock County, and some local governments per the tribal state compact and local agreements to provide support for public services and community benefits, including problem gambling services, throughout the region. While it true that Illinois problem gambling programs may assist patrons visiting the Beloit casino, it is also true that any Wisconsin problem gambling programs established by funding through the IGA and Wisconsin tribal state compact may assist patrons visiting the VLT facilities or the new casino in Rockford Illinois.

COMMENT LETTER 3: THOMAS P. MCNAMARA, MAYOR, CITY OF ROCKFORD, JULY 1, 2019

Response to Comment 3-1

Please see **Response to Comments 2-2** through **2-17** above for responses to the City of Rockford's previous comments on the Preferred Alternative.

Response to Comment 3-2

Please see **Response to Comment 2-2** regarding the subject of cooperating agencies.

Response to Comment 3-3

The EIS was prepared under the direction of the BIA in accordance with NEPA, and presents an unbiased assessment of the environmental impacts of the Proposed Action.

The BIA followed procedures consistent with 40 CFR 1506.5 (c) when it engaged a qualified consulting firm to assist it in the preparation of the EIS and supporting documents. The BIA engages a wide range of consulting firms for a variety of purposes. AES is one of many firms periodically used by BIA. All work on the EIS was performed under BIA direction as required by 40 CFR 1506.5(c), and as required by the Three-Party Agreement executed between the BIA, AES and the Nation. The agreement provided that AES would work under the BIA's direction and the BIA would direct and control all work on the scoping report, EIS, technical studies, and other NEPA related documents. The agreement also confirms that AES has no financial interest in the outcome of the environmental analysis or the BIA's decision regarding the approvals for the Project. This arrangement is consistent with the BIA's practice of engaging consultants to assist with document preparation.

General comments regarding unsubstantiated and of disproved allegations of bias or quality by others on other projects are not relevant to the current EIS. Because the structure of EIS documents for which the BIA is the lead agency is determined by both the NEPA statute, as well as the BIA NEPA Guidebook, along with guidance from regulatory agencies, it is inevitable that many EIS documents are structured in a similar manner and address many of the same issues. Consequently, there will inevitably be elements of similarity. However, the content and specific analyses of each EIS are unique and are driven by the alternatives and specific environmental setting, environmental consequences, mitigation and other factors.

The commenter's statement that AES has never concluded that a project will have detrimental effects is inaccurate in numerous respects. First, AES is a contractor to the BIA. The BIA is the decision maker,

not AES. Second, a NEPA EIS is not the document that the BIA uses for rendering decisions. As described in the BIA NEPA Guidebook:

“The NEPA process is intended to facilitate public participation and disclosure in the Federal planning process, and also help Federal government officials “make decisions that are based on understanding of environmental consequences, and take actions that protect, restore, and enhance the environment” (40 CFR 1500.1(c)).”⁷

Thus, an EIS does not render an opinion regarding whether a particular project should or should not be approved. Third, the Beloit Fee-to-Trust and Casino Project EIS does in fact identify detrimental environmental effects. Mitigation is proposed to address these effects.

Response to Comment 3-4

Please see **General Response 2.3** regarding why the passage of time is not, in the absence of other factors, a valid rationale to cause the preparation of new analyses. Also, the Beloit Market and Impact Assessment included as Appendix H of the EIS is dated June 2018, and thus was prepared relatively recently. See Final EIS Volume II, Appendix H.

Response to Comment 3-5

Commenter notes the benefits of the Illinois Gambling Act. Please see **General Response 2.1.1** regarding non-substantive comments.

Response to Comment 3-6

Please see **General Response 2.3** regarding why it is not appropriate to change the environmental “baseline” in the EIS to assume the construction and operation of a new gaming venue in Rockford, Illinois. Additionally, please refer to **Response to Comment 2-16** regarding market saturation.

Response to Comment 3-7

The purpose and need statement within the Final EIS Volume II, Section 1.2 states the purpose of the Proposed Action and the need for the DOI to act on the Nation’s application. Additionally, the Nation’s need for the Proposed Action is described in the Final EIS Volume II, Section 1.3, which takes into account the existing trust lands and previous economic development. The EIS is intended to identify if a proposed project would result in detrimental effects to the surrounding community; the need to avoid detriment to the surrounding community is not the reason the DOI is acting on the Nation’s application. Additionally, alternatives were chosen to minimize adverse environmental impacts of the Proposed Action, so it is not necessary to include this in the purpose and need statement.

As noted by the commenter, alternatives outside of the Janesville-Rockford metropolitan area were considered but eliminated from further analysis. Please see **General Response 2.5** for further

⁷ Source: Section 2.1 of BIA NEPA Guidebook dated 2012. Accessed online August 2, 2019 at https://www.bia.gov/sites/bia.gov/files/assets/public/raca/handbook/pdf/59_IAM_3-H_v1.1_508_OIMT.pdf

information regarding the range of alternatives analyzed in the EIS. Furthermore, the City of Rockford could have commented during the scoping period when alternatives were in the selection process. No specific alternatives were suggested during scoping. Please see **Response to Comment 2-2** regarding the consultation process. Also see **General Response 2.2** regarding Rockford-specific impacts.

In the commenter's footnote 17, the commenter requests that the purpose and need statement include consolidation of the Nation's land base because a scattered land base is one of the Nation's challenges. However, as stated in FEIS Volume II, Section 1.3, and **General Response 2.5**, the scattered nature of the Nation's lands is a consequence of the Nation's history with respect to land ownership and land loss. Because of its history, including the geographic dispersion of lands, the Nation's members are spread over a large geographic area. As a result, the Nation is focused on economic development to benefit its members in and around where they currently reside, which includes the states of Wisconsin, Minnesota and Wisconsin.

The purpose and need statement does not indicate that the Nation simply "desires" additional revenues. Background information regarding the Nation's need for economic development is located in Final EIS Volume II, Section 1.3.

The commenter mischaracterizes the nature of per capita payments to members. As described in 25 U.S.C. Section 2710(b)(3), per capita payments can be made to tribal members provided that certain conditions are met, including a plan to allocate revenues in accordance with the U.S.C. Section 2710(b)(2)(B) text listed by the commenter. In other words, the statute does not state that payments are to be made first for tribal governmental needs, and only then used for per capita payments once tribal needs are fully met. Rather, per capita payments can be made simultaneously with other permitted uses of funds. Per capita payments are a common practice among tribes where basic tribal governmental needs are at least being partially met. Second, the goals of self-sufficiency, self-determination, and economic development are not mutually exclusive with per capita payments. Rather, per capita payments represent a mechanism whereby tribal members can employ their own independent means of achieving their goals, such as housing. Tribal governments need not exercise a monopoly with respect to how to use tribal funds. For these reasons, a tribe does not have to be self-sufficient before making per capita payments. The Nation still needs improved healthcare, housing, education facilities, and employment opportunities as indicated in Final EIS Volume II, Section 1.2 and 1.3 and the Nation's Unmet Needs Report⁸.

Some elements of the comment are beyond the scope of NEPA. Please see **General Response 2.1.2** regarding gaming regulations and legislative matters that are beyond the scope of the EIS.

Response to Comment 3-8

Please see **General Response 2.2** regarding Rockford-specific impacts.

⁸ Source: *The Unmet Needs of the Ho-Chunk Nation: The Extensive Challenges of Scattered Lands*, Ho-Chunk Nation, dated August 7, 2018.

Response to Comment 3-9

Commenter expresses concern about traffic impacts and indicates that the City of Rockford should have been included in the traffic analysis. Please see above **Response to Comment 2-8** regarding congestion impacts near Interstate 39/90. The study intersections chosen for the traffic impact analysis are all within an approximately 1.75 mile radius of the project site. No intersections were studied in the City of Rockford as it is roughly 12 miles from the project site.

Response to Comment 3-10

Please see **Response to Comment 2-17** regarding mitigation for problem gambling.

Response to Comment 3-11

Please see **Response to Comment 2-9** regarding potential impacts as a result of impervious surfaces.

COMMENT LETTER 4: JOSEPH L. OLSON, HISPANIC CHAMBER OF COMMERCE OF WISCONSIN, JULY 1, 2019

Response to Comment 4-1

The commenter's reference to its January 27, 2019 letter regarding a contract dispute between the Nation and the Hispanic Chamber of Commerce of Wisconsin (HCCW) is acknowledged. Please see the Final EIR, Volume I, Section 3.0, Response to Comment O3-1 regarding the HCCW's comment on the Draft EIS. The commenter's statement regarding the accuracy of salary estimates described in Final EIS Volume II, Appendix H is incorrect for two reasons. First, Final EIS Volume II, Appendix H estimates "labor income", a category that not only includes gross wages, but also includes payroll taxes, benefits and tips for table game dealers and wait staff (**Exhibit 2**). Second, the \$48,000 compensation figure is an aggregate measure, and as such represents an average for all casino employees, including management (**Exhibit 2**). An aggregate measure is not intended to represent the earnings of each employee. The compensation that would accrue to individual employees would typically be less or more than \$48,000.

Response to Comment 4-2

The commenter's statements regarding its qualifications are acknowledged. Please refer to **General Response 2.1.1** regarding expressions of opinion.

Response to Comment 4-3

The 3,421 jobs referenced by the commenter is approximately equal to the total number of jobs projected to be created by Alternative A, including jobs that are created in the regional economy because of the operation of the project (i.e., indirect and induced jobs). The number of "direct" jobs that would occur at the Beloit site is estimated at 1,985 (**Exhibit 2** and Final EIS Volume II, Section 4.7.1, Table 4.7-5). Wages of the approximately 1,436 indirect and induced positions are not highly correlated with the wages of the direct positions. Consequently, average wages of indirect and induced jobs in a region are typically similar, regardless of whether the projects that stimulate them occur in gaming, manufacturing or a different industry.

Additionally, the commenter's assumption that each job seeker would forego a manufacturing job that pays about \$32 per hour for a lesser paying casino position is based on the assumption that individual job seekers are representative of the average or typical job seeker, which is not the case. Rather, job seekers would seek out employment opportunities that would be most beneficial to them as individuals (**Exhibit 2**). Related thereto, the commenter's statement that the region's manufacturing jobs pay "up to \$32 per hour" does not describe what the average hourly wage actually is. Consequently, figures for "average" casino wages and "manufacturing jobs that pay up to \$32 per hour" may not be comparable.

Finally, the commenter's statement that the Final EIS fails to recognize that some gaming employees could be retrained to work in manufacturing does not accurately characterize the focus of the Final EIS. The Final EIS does not make specific assumptions regarding which opportunities individual employees may seek, including training opportunities. Rather, the Final EIS evaluates the number of job opportunities available under Alternative A in the broader context of the number of unemployed, and unemployed persons in the labor force. Please also see Final EIS Volume I, Response to Comment 16-1 regarding underemployment.

Response to Comment 4-4

For the reasons stated in **Exhibit 2**, the commenter's \$1.05 billion revenue estimate is not accurate and is substantially overstated. The correct revenue projection is approximately one-quarter of the commenter's \$1.05 billion estimate.

As described in **Exhibit 2**, the commenter does not provide evidence to support its statement that most gaming customers are low-to-moderate income ("LMI"). As described in **Exhibit 2**, research by the American Gaming Association indicates that the income levels of casino gamers as a group are similar to the United States population as a whole. The LMI comment is also not particularly relevant because it is typical for particular groups to be more or less affluent than the nation as a whole. For example, persons who attend professional tennis matches may be more affluent than the average United States citizen. This does not imply that professional tennis is a more or less appropriate entertainment venue.

The commenter's statement that most of the Nation's investment portfolio is held in investment vehicles housed outside of the State of Wisconsin is not relevant. Most investment portfolios, including 401(k) assets owned by many citizens, are comprised of a diversified basket of investment securities that are issued by companies throughout the United States and the world. Furthermore, the commenter's statement that the geographically diversified portfolio causes most economic input from the Proposed Project to leave the region is inaccurate, because only a small portion of Proposed Project gaming revenue would ultimately be contributed to the investment portfolio. In addition, the output multiplier used in the Final EIS is 1.65, not the 2.0 figure described by the commenter.

The commenter also references an attachment to its comment letter that includes supporting calculations. The calculations appear to be for the purposes of estimating negative economic consequences. However, there is no commentary included. There are several issues with the analysis:

1. The analysis seems to be stating that "net win" or casino revenue is synonymous with economic loss. This is an incorrect assumption, for the reasons described in **General Response 2.6**. For

the vast majority of patrons, gaming is a form of entertainment that contributes to, rather than subtracting from, economic activity.

2. Second, for reasons described above and in **Exhibit 2**, the analysis is using an overstated “net win” assumption.
3. Third, the analysis does not appear to include the positive effects of jobs and economic output. See **General Response 2.6**.
4. Finally, the analysis includes a column entitled “Annual Low-Wage Gaming Jobs Placement Opportunity Cost”, which is not explained. The figures in this column appear to be based on an assumption that casino employees would receive wages lower than would otherwise be available to them, in the absence of their employment by the Proposed Project. For the reasons described in **Response to Comment 4-3**, this would not be a valid assumption.

Please see **Exhibit 2** for more information.

Response to Comment 4-5

The Innovation Group was engaged to perform socioeconomic analyses for inclusion in the EIS because of its qualifications to prepare objective, accurate and transparent reports. Please see **Exhibit 2** for further information.

Response to Comment 4-6

Please refer to **Response to Comment 4.3** regarding employment, unemployment and underemployment.

Response to Comment 4-7

Please refer to **General Response 2.1.1** regarding expressions of opinion. Also see **Exhibit 2** regarding why it is not necessary for a third-party to mandate that the Nation hire it to perform worker training. Regarding the commenter’s statements on return on investment (ROI), the Nation is capable of performing its own ROI analyses.

Response to Comment 4-8

Comment noted.

COMMENT LETTER 5: DICK DALE, JUNE 1, 2019

Response to Comment 5-1

Comment noted. Commenter expresses support for the Ho-Chunk Beloit Casino Project and concludes that Alternative A (i.e., the Proposed Project) has the greatest potential for economic development in the region.

**COMMENT LETTER 6: LORRI PICKENS, CITIZENS AGAINST EXPANDED GAMBLING,
JUNE 24, 2019**

Response to Comment 6-1

According to the CEQ regulation 40 CFR 1502.1, comments from the public must be requested for the Draft EIS but not for the Final EIS. The waiting period after the Final EIS required by 40 CFR 1506.10 is not a comment period. However, the BIA chose to accept comments during this time. In total, the public was allowed 75 days to comment on the EIS for the Ho-Chunk Nation Fee-to-Trust and Casino Project (45 days of review for the DEIS and 30 days of review of the FEIS). Further, cooperating agencies were provided additional opportunities to comment on administrative drafts prior to the public release of the Draft EIS and Final EIS. Public comments on both the Draft EIS and Final EIS were submitted and considered by the BIA. The BIA has determined that the opportunity for public comment on the Final EIS was sufficient to allow meaningful input and comments from the public and agencies for consideration of the BIA in making its decision on the Proposed Action. The public and agency input provided during the EIS process has allowed the BIA to make meaningful revisions to the Final EIS in response to comments.

Please see **General Response 2.1.2** regarding off-reservation gaming under IGRA Section 20.

COMMENT LETTER 7: RANDALL K. ROTHENBUEHLER

Response to Comment 7-1

Comment noted. Commenter expresses support for the Preferred Alternative and describes some of the benefits of the project such as economic development opportunities and providing a mini-vacation venue.

COMMENT LETTER 8: VICKI SEICHTER

Response to Comment 8-1

Commenter expresses opposition to a gaming facility. Please refer to **General Response 2.4** regarding problem gambling, crime and related issues.

COMMENT LETTER 9: GINA M. GALVAN

Response to Comment 9-1

Please refer to **General Response 2.1.1** regarding personal anecdotes.

Response to Comment 9-2

Please refer to **General Response 2.6** regarding socioeconomic effects from casino development. Please refer to **General Response 2.4** regarding problem gambling, crime and related issues.

COMMENT LETTER 10: BARBARA A. PRENGEL

Response to Comment 10-1

Commenter states that the Proposed Project is based on a 19 year old referendum. However, this referendum is not referenced within the Final EIS and is not within the scope of NEPA. Please see **General Response 2.1.2** regarding gaming regulations and legislative matters that are beyond the scope of the EIS. Please refer to the Final EIS Volume II, Sections 1.2 and 1.3 for the Purpose and Need and Background for the Proposed Project. Additionally, the IGA between the Nation, City of Beloit, and Rock County was executed in March 2012. Please see Final EIS Volume II, Section 1.6.2 for more information on the IGA.

Response to Comment 10-2

Commenter expresses opposition to the Preferred Alternative. Please refer to **General Response 2.1.1** regarding expressions of opinion.

COMMENT LETTER 11: DJ PRENGEL

Response to Comment 11-1

Please refer to **Response to Comment 2-16** regarding market saturation. Please refer to **General Response 2.6** regarding substitution effects on local businesses. Refer to **Response to Comment 2-13** regarding typical trends in casino revenues during the years subsequent to their opening.

COMMENT LETTER 12: TRISHA FEARNESIDE

Response to Comment 12-1

Please refer to **General Response 2.4** regarding problem gambling, crime and related issues.

COMMENT LETTER 13: DONALD HILBIG

Response to Comment 13-1

Impacts to public services, including law enforcement, from the Proposed Project were fully analyzed in the Final EIS Volume II, Section 4.10.1 and were determined to be less than significant. Please see **General Response 2.4** regarding problem gambling, crime and related issues.

Response to Comment 13-2

Please refer to **Response to Comment 2-16** regarding market saturation. Please see **Response to Comment 4-4** regarding impacts to low income residents.

Response to Comment 13-3

Please see **General Response 2.4** regarding problem gambling, crime and related issues. Additionally, commenter notes that “casinos only recirculate money” as opposed to generating economic growth. Final EIS Volume II, Section 4.7 describes the Proposed Project’s positive economic effects, including the

creation of new jobs and economic growth. Also see **General Response 2.6** that describes the Proposed Project's positive effects on jobs and economic output.

COMMENT LETTER 14: LAVERNA HILBIG

Response to Comment 14-1

Please refer to **General Response 2.4** regarding problem gambling, crime and related issues. Please see **Response to Comment 4-4** regarding impacts to low income residents.

Response to Comment 14-2

Commenter notes that the Preferred Alternative would increase traffic and the need for new roads. As shown in the Traffic Impact Analysis (Appendix I of the Draft EIS) and Final EIS Volume II, Sections 4.8, 4.14, and 4.15, the Preferred Alternative would not create any significant traffic impacts with implementation of mitigation measures in Section 5.2.7 of the Final EIS Volume II.

Response to Comment 14-3

Commenter expresses concern about local business substitution effects and casino market saturation. Please refer to **General Response 2.6** regarding substitution effects to local businesses. Please refer to **Response to Comment 2-16** regarding market saturation.

COMMENT LETTER 15: TRACY JOY

Response to Comment 15-1

Commenter expresses concern that problem gambling will lead to crime and broken families. Please refer to **General Response 2.4** regarding problem gambling, crime and related issues.

COMMENT LETTER 16: MATTHEW FEARNISIDE

Response to Comment 16-1

Comment noted. Commenter provides statistics about the prevalence of gambling addiction and debt in Wisconsin, including a statement that there are 333,000 gambling addicts in Wisconsin. While the commenter does not cite the source of the 333,000 persons, the source may be the Wisconsin Council on Problem Gambling. This entity's website states that "there are approximately 333,000 at-risk, problem or compulsive gamblers in the state of Wisconsin".⁹ According to the website, this number appears to be calculated based on the website statement that "Surveys performed by various state agencies throughout the country confirm that gamblers make up about five to seven percent of the population." Specifically, Final EIS Appendix H states that the population of Wisconsin was approximately 5,793,918 in the year 2017. 333,000 represents approximately 5.8 percent of the state population number. Consequently, the 333,000 estimate appears to include *all* gamblers, and not just problem gamblers.

⁹ Source: Wisconsin Council on Problem Gambling website, accessed August 9, 2019 at <http://wi-problemgamblers.org/about/history-of-gambling-in-wi>.

The commenter's statement that the "average debt of a person calling the Wisconsin Council Gambling hotline is an average of over \$76,000 in debt" may have been sourced from the Wisconsin Council on Problem Gambling Fact Sheet, which can be found on the website of the Wisconsin Council on Problem Gambling.¹⁰ This average debt reference on the Wisconsin Council on Problem Gambling website does not distinguish between types of debt, and thus the figure appears to be debt from all sources (i.e., mortgage debt, auto loans, credit cards, student debt, etc.). Neither the commenter nor the Wisconsin Council on Problem Gambling website explains how this figure compares to the average debt for all Wisconsin gaming patrons and all Wisconsin residents.

Please also refer to **General Response 2.4** regarding problem gambling, crime and related issues.

Response to Comment 16-2

As analyzed in Final EIS Volume II, Section 4.7.1, net impact to tax revenues would actually be positive due to annual payments to state and local governments and retail sales tax from the proposed retail facilities.

Response to Comment 16-3

The commenter does not indicate the source of its statement that "having a casino within 10 miles of home creates a 90% increase in the odds of someone becoming a pathological or problem gambler," nor the source of its statement "nearly 65% of all problem gamblers have committed a crime as a result of their gambling problem." Please see **General Response 2.4** regarding problem gambling, crime and related issues.

Response to Comment 16-4

Please refer to Final EIS Section 4.7, **General Response 2.3** and **General Response 2.6** that address socioeconomic effects, including competitive effects to local businesses. As discussed therein, socioeconomic effects to local residents are largely positive, or less than significant in the case of competitive effects to local businesses and issues related to problem gambling and crime. Please also see **Response to Comment 2-15** for information about the effects of casinos on housing prices.

COMMENT LETTER 17: STEVE HOWLAND

Response to Comment 17-1

Please see Final EIS Volume II, Section 4.7 that describes the Proposed Project's positive economic effects, including the creation of new jobs and economic growth. Contrary to the commenter's statement, Final EIS Section 4.7 does not characterize the jobs created by the Proposed Project as low paying. In addition, please refer to **Response to Comment 4.1 and 4.3** regarding employment, unemployment and underemployment. Please see **General Response 2.4** regarding problem gambling, crime and related issues.

¹⁰ Source: Wisconsin Council on Problem Gambling website, accessed August 9, 2019 at <http://wi-problemgamblers.org/media/18823/PA%20Annual%20REPORT%20-%202018.pdf>.

Response to Comment 17-2

Please refer to **General Response 2.4** regarding problem gambling, crime and related issues. As described therein, Final EIS Volume II, Section 4.7 states that the increase in the incidence of problem gambling would be less than significant. Issues related to problem gambling would be further addressed through mitigation. Furthermore, fliers that provide information about the Wisconsin Council on Problem Gambling helpline and a self-exclusion program are available to all patrons of Ho-Chunk gaming facilities¹¹.

Response to Comment 17-3

The commenter is correct that many casino patrons would travel from what is described in Final EIS Volume II, Appendix H as the “Beloit” market area. However, it should be noted that this area is comprised of all areas that lie within a 30-minute drive time to the Proposed Project. Consequently, it is much larger than the city limits of the City of Beloit, and extends into Winnebago County Illinois. Please see **Response to Comment 4-4** regarding potential effects to low and moderate income gaming patrons.

Response to Comment 17-4

Please refer to **General Response 2.3** regarding the issue of the appropriate the environmental baseline.

Response to Comment 17-5

Please refer to **General Response 2.4** regarding problem gambling, crime and related issues. Mitigation including identification of problem gamblers is listed in Final EIS Volume II, Section 5.2.6.

Response to Comment 17-6

Please see Final EIS Volume I, Section 3, Response to Comments I10-2 and I10-3. As described in those earlier responses, the Proposed Project is economically feasible, and a dog track does not represent an appropriate comparable project.

COMMENT LETTER 18: RAYMOND D. JEWELL

Response to Comment 18-1

Please refer to **General Response 2.4** regarding problem gambling, crime and related issues. Please also refer to the Final EIS Volume II, Section 4.7.1 regarding these same issues. Please see **Response to Comment 16-1** through **16-4** regarding some commenter statistics that appear to have been sourced from the Wisconsin Council on Problem Gambling website. The commenter does not describe the source of its statements that violent crimes increased approximately 30 percent after the opening of a casino, or that certain types of arrests were 50 percent higher in counties with casinos. Because the sources are unknown, the validity of the sources could not be investigated. It should be noted that these commenter statements are inconsistent with the analyses included in Final EIS Volume II, Section 4.7.1.

¹¹ Personal communication with the Ho-Chunk Nation, August 27 2019

Please see Final EIS Volume II, Section 4.10.1, where impacts to public services, including law enforcement, from the Proposed Project were fully analyzed in the and were determined to be less than significant.

COMMENT LETTER 19: CHARLATTE M. FLECHER

Response to Comment 19-1

Neither the EIS, or any of its appendices, are 19 years old. The Draft EIS was published in 2018 and the Final EIS was published in 2019.

Response to Comment 19-2

A response to concerns about casino market saturation was provided in Final EIS Volume I, Section 3.1 Response to Comment I10-2 and in **Response to Comment 2-16**.

Response to Comment 19-3

As analyzed in Final EIS Volume II, Section 4.7.1, net impact to tax revenues would actually be positive due to annual payments to state and local governments and retail sales tax from the proposed retail facilities.

Response to Comment 19-4

Please refer to **General Response 2.4** regarding problem gambling, crime and related issues. A response to concerns about casino market saturation was provided in Final EIS Volume I, Section 3.1 Response to Comment I10-2 and in **Response to Comment 2-16**.

COMMENT LETTER 20: KATHY HOOVER

Response to Comment 20-1

Please refer to **General Response 2.4** regarding problem gambling, crime and related issues. Please see **Response to Comment 18-1** regarding some commenter statistics that appear to have been sourced from the Wisconsin Council on Problem Gambling website, including the reference to a 30 percent increase in crime.

Response to Comment 20-2

Refer to **General Response 2.1.1** regarding expressions of opinion. Please refer to **General Response 2.4** regarding problem gambling, crime and related issues.

Response to Comment 20-3

Please refer to **General Response 2.1.1** regarding expressions of opinion. Please refer to **General Response 2.4** regarding problem gambling, crime and related issues. Please see **General Response 2.6**

that explains that for the vast majority of patrons, gaming is a form of entertainment that contributes to, rather than subtracting from, economic activity.

COMMENT LETTER 21: BUD MOLANDER

Response to Comment 21-1

Please refer to **General Response 2.4** regarding problem gambling, crime and related issues.

Response to Comment 21-2

Please refer to **General Response 2.4** regarding problem gambling, crime and related issues.

Response to Comment 21-3

Please refer to **General Response 2.4** regarding problem gambling, crime and related issues. Please see **Response to Comment 4-4** regarding potential effects to low and moderate income gaming patrons. This response also describes that for the vast majority of patrons, gaming is a form of entertainment that contributes to, rather than subtracting from, economic activity.

COMMENT LETTER 22: ZACHARY MOLANDER

Response to Comment 22-1

Please refer to **General Response 2.11** regarding expressions of opinion and non-substantive comments.

Response to Comment 22-2

Please refer to **General Response 2.4** regarding problem gambling, crime and related issues.

COMMENT LETTER 23: MARK JOY

Response to Comment 23-1

Please refer to **General Response 2.4** regarding problem gambling, crime and related issues. Please see **General Response 2.6** that explains that for the vast majority of patrons, gaming is a form of entertainment that contributes to, rather than subtracting from, economic activity.

COMMENT LETTER 24: DAVID W. FIEDLER

Response to Comment 24-1

Comment noted. Please refer to **Response to Comment 10-1** regarding a referendum.

Response to Comment 24-2

Crime impacts were thoroughly analyzed in the Final EIS Volume II, Section 4.7.1 and were found to be less than significant. Please also refer to **General Response 2.4** regarding problem gambling, crime and related issues.

Response to Comment 24-3

The Proposed Project's socioeconomic effects, including economic output, were analyzed in Final EIS Volume II, Section 4.7. Also refer to **General Response 2.6** regarding impacts to local businesses.

COMMENT LETTER 25: JOHN GALVAN

Response to Comment 25-1

Comment noted. Please refer to **General Response 2.4** regarding problem gambling, crime and related issues.

COMMENT LETTER 26: BEVERLY KOERBLE

Response to Comment 26-1

Please refer to **General Response 2.4** regarding problem gambling, crime and related issues. Also see **General Response 2.6** regarding socioeconomic effects to the City of Beloit. Please see **Response to Comment 2-15** regarding the effects of casinos on home values.

COMMENT LETTER 27: TAMMY STALCUP

Response to Comment 27-1

The 2014 Atlantic article¹² referenced by the commenter raises the same issues stated by some other commenters, including market saturation, problem gambling and economic growth. Please see **Response to Comment 2-16** regarding market saturation. Please refer to **General Response 2.4** regarding problem gambling, crime and related issues. Please refer to **General Response 2.6** regarding impacts to local businesses. Also see **Response to Comment 2-13** that draws a distinction between economic growth and economic activity.

COMMENT LETTER 28: THOMAS N. KOERBLE

Response to Comment 28-1

Please refer to **General Response 2.4** regarding problem gambling, crime and related issues. Please see **General Response 2.6** regarding socioeconomic effects to the local community. Also see **Response to Comment 4-3** regarding jobs and wages.

Response to Comment 28-2

Please see Final EIS Volume II, Section 4.7.1, where the issue of crime was addressed. Also refer to **General Response 2.4** regarding problem gambling, crime and related issues.

¹² Source: The Atlantic, accessed August 12, 2019 at <https://theatlantic.com/business/archive/2014/08/a-good-way-to-wreck-a-local-economy-build-casinos/375691/>.

COMMENT LETTER 29: BETH MOLANDER

Response to Comment 29-1

Please refer to **General Response 2.6** regarding impacts to local businesses.

Response to Comment 29-2

Please refer to **General Response 2.4** regarding problem gambling, crime and related issues.

Response to Comment 29-3

Please refer to **General Response 2.1.1** regarding expressions of opinion and non-substantive comments.
Please see **General Response 2.6** regarding socioeconomic impacts.