

APPENDIX FF

Responses to Comments

GRATON RANCHERIA CASINO/HOTEL PROJECT DRAFT EIS COMMENTS AND RESPONSES

1.0 INTRODUCTION

During the comment period for the Graton Rancheria Casino/Hotel Project Draft Environmental Impact Statement (DEIS), the National Indian Gaming Commission (NIGC) received approximately 349 comment letters and public hearing statements. A substantial number of these comments did not provide substantive comments on the DEIS. Although the National Environmental Policy Act (NEPA) only requires that substantive comments be attached to a Final EIS (40 C.F.R. § 1503.4(b)), all comment letters have been included in Appendices AA – EE. Each comment was assessed and considered both individually and collectively. Substantive comments are summarized below by issue area. Responses to each summarized comment are also included below.

2.0 COMMENTS AND GENERAL RESPONSES

2.1 NEPA PROCEDURAL ISSUES

2.1.1 EXTENSION OF THE COMMENT PERIOD

Summary of Comments: The NIGC received numerous requests for an extension of the comment period, among those submitted: Congresswoman Lynn Woolsey (G-12 & G-19), Assemblymember Jared Huffman (G-1, G-10, G-17), the City of Petaluma (G-5 and S-20), the City of Cotati (G-13), the City of Sebastopol (G-8), the City of Sonoma (G-9), and the Sonoma County Transportation Authority (G-21) requested an extension of the comment period from the original 66 days to six months. Congresswoman Woolsey (G-19) requested that, "...there be an extension granted to local governments, public agencies, and the general public – everyone who wishes to comment on this lengthy and complex DEIS." Other individual commenters (I-112, I-150, I-179, I-174, S-3, S-57, S-72, and S-110) requested a six-month extension of the comment period. Commenter S-3 attributed his request to the DEIS being, "...based on outdated information," and that the CD version of the DEIS cannot be opened due to, "...software problems." Steve Klausner (I-174) requested the extension to allow more time for cooperative opportunities between the Tribe and local officials. Klausner (S-107) requested an extension of the comment period by two months. The Sonoma County Board of Supervisors (G-6 and S-14), and the City of Santa Rosa (G-7), requested a 180-day extension, while others, including Terry Marshall (I-48), Lloyd Iversen (I-168 and S-91), and Cliff Emmons (S-59) requested an extension of three years. Many commenters, including the City of Cloverdale (G-11), the Sonoma County Board of Supervisors (G-6 and S-10), the City of Santa Rosa (G-7), and local residents (I-148) expressed that the comment period was inadequate due to: the size

of the document, the complexity of the issues discussed, the absence of the project from local media, “inefficiencies” in the online version of the DEIS, the requirement of local governments to have staff refocus their attention to the DEIS, and several pronouncements that more time would be needed to review the document. The City of Santa Rosa (G-22) stated that, if the comment period were extended, they would be able to compile more concerns. Marilee Montgomery (I-104) submitted a letter requesting an extension of the comment period, due to disability. The commenter requested that an extension of the comment period be granted to any Sonoma County disabled person. Eunice Edgington (I-100) submitted a comment letter asking that the comment period be extended until August 31, 2007. Other individual letters were received requesting the extension of the comment period for an unspecified amount of time (I-136). Chip Worthington of Stop the Casino 101 (B-29) stated, “Refusing to extend a comment period simply validates (his) point that ‘community detriment’ is apparently irrelevant to the NIGC and FIGR.” Moreover, Congresswoman Woolsey (G-19) stated, “The NIGC should not be in the position of deciding who is deserving of getting the extra time needed to thoroughly examine this project and who is not.” Therefore, she requested the following information: What criteria will be used to exclude people from extensions? Will local governments get preference over residents? How will people prove they need extra time?

Loretta Smith (I-166) supported the request made by Congresswoman Lynn Woolsey for a six-month extension of the comment period; additionally she was concerned that the extension request was ignored.

On May 9, 2007, the NIGC approved the extension of the public comment period until June 4, 2007, whereupon the comment period totaled 87 days. A press release regarding the comment period extension was published on May 11, 2007, and the Federal Register notice for the comment period extension was published on May 16, 2007. One commenter prefaced her letter with a statement of appreciation for the extended comment period (I-159). After May 11th, additional comments were received requesting a reconsideration of the six month extension of the comment period.

The Federated Indians of Graton Rancheria (FIGR or Tribe) (G-20), submitted a letter in which they stated that they would not oppose an extension of the comment period, even though they don’t think that such an extension is necessary for the following reasons: 1) the length of the document is consistent with the number of alternatives, and the extent to which they are analyzed, 2) local cities requesting an extension can obtain guidance from Sonoma County, a cooperating agency for the preparation of the DEIS, and 3) the 66-day comment period provided by the NIGC is three weeks longer than the minimum 45 days required by 40 C.F.R. § 1506.10. The Tribe also noted that they will support the NIGC’s decision despite increased financial burden to the Tribe that will result from further delays.

Several commenters, including I-106, I-121, I-122, I-110, I-109, S-102, S-111, and S-113 asked for the comment period extension requests to be denied. Penland (I-110) expressed concerns regarding increased financial burden on the Graton Tribe that she feels would result if a 60-day extension were granted.

Response: In response to requests from the public, the comment period – already lengthier than required by law – was extended, although not for as long of a period as some of the commenters would have wished. The Council on Environmental Quality (CEQ) Regulations (40 C.F.R. §1506.10(c)) require that agencies provide at least 45 days for comments on a DEIS, subject to the provisions of 40 C.F.R. § 1506.10(d), which gives the lead agency the ability to extend the comment period. It also gives the U.S. Environmental Protection Agency (USEPA) the ability to reduce the length of a comment period if the lead agency gives a compelling reason of national policy to do so or the ability to lengthen a comment period after consultation with the lead agency upon a showing by another federal agency of a compelling reason of national policy to do so (an extension of no more than 30 days may be granted without the concurrence of the lead agency). Finally, 40 C.F.R. 1506.10(d) states that, “Failure to file timely comments shall not be a sufficient reason for extending a period.” The NIGC NEPA Procedures Manual provides that the NIGC will allow at least 60 days for public review.

The public comment period for the DEIS was announced in the Federal Register with a Notice of Availability (NOA) by both the NIGC and the USEPA on March 9, 2007. The public comment period was also announced by a NOA published in both the Marin Independent Journal and The Press Democrat of Santa Rosa on the following dates: March 9, 10, 11, 18, 25, 2007 and April 1, 2007. Finally, the NOA announcing the commencement of the public comment period was available on-line at <http://www.gratoneis.com> starting February 28, 2007.

The original public comment period was from March 9, 2007 to May 14, 2007 (note that a copy of the DEIS was distributed to those interested agencies and individuals on the DEIS mailing list on February 27, 2007). This amounts to a 66-day public comment period, although effectively many interested parties received as many as 75 days (assuming March 1, 2007 delivery of the DEISs mailed on February 27, 2007). The 66-day public comment period is 21 days longer than the 45-day comment period required by the CEQ Regulations and 7 days longer than the NIGC NEPA Procedures Manual requirement.

Regarding the comment that a software problem with the CD version of the DEIS resulted in the need for a comment period extension, note that the CD was designed to be run with both HTML (Hyper Text Markup Language) and Adobe PDF (Portable Document Format) files. The HTML files were designed with the most currently accepted “web standards” compliant code. These standards allow for full functionality on either PC or Mac and all web browser types. All document files were

exported to Adobe Acrobat 7.0 with backward compatibility for older versions to avoid technical issues. The current Adobe Acrobat 8.0 free reader is backward compatible and can be downloaded from the Adobe web site, for which a link is provided at <http://www.gratoneis.com>. All requests for additional CDs or a hard copy of the DEIS were granted and processed immediately upon receiving the request.

After many commenters requested that the public comment period be extended, the NIGC announced with a press release dated May 11, 2007 that the comment period would be extended by 21 days until June 4, 2007, extending the total comment period to 87 days, 42 days longer than the 45-day comment period required by the CEQ Regulations and 28 days longer than the comment period required by the NIGC NEPA Procedures Manual. The press release announcing the comment period extension was published on-line at <http://www.gratoneis.com> starting May 14, 2007. The Notice of comment period extension was also published in the Federal Register on May 16, 2007 and in both the Marin Independent Journal and The Press Democrat on May 16, 2007. The comment period extension almost doubles the comment period required by the CEQ Regulations. Thus, no further extension of the public comment period is required.

2.1.2 SCOPING PROCESS

Summary of Comments: A comment was received from Marilee Montgomery (B-1 and I-1) regarding SC Sonoma LLC's (Station Casinos, Inc.) plans to develop a retail shopping center, which according to the commenter, was not included in the initial scoping hearing materials. Montgomery requested that the NIGC address the proposed shopping center in a new scoping hearing. Montgomery stated that the number and scope of cooperating agencies is inadequate and that the alternative site analysis has been trivialized. Montgomery urged the NIGC to include approximately 31 additional local and state agencies and to "replace the alternate sites on and adjacent to the property under study, which all flooded on December 31, 2007, with bona fide alternative sites in Sonoma and Marin County. .

Montgomery (B-33) also stated that the DEIS has failed to answer many comments that she had submitted during the scoping hearing comment period. The commenter requested that, "...my Scoping Comments of October, 2005 be thoroughly reviewed, and in any instance where my Comments were ignored or not answered fully, then I demand that my Comments be given a full and adequate response in the DEIS.

Chip Worthington of Stop the Casino 101 (B-29) stated that NEPA calls for agencies to seek comments on a Draft EIS and respond to those comments in the Final EIS. According to the commenter, "Response to public comments gathered at public hearings during October and

November of 2005 should have reflected in the Draft, but the draft is silent as to all public comments.”

Lloyd Iversen (I-168) inquired why the Casino Project has not contacted him personally, as he is a property owner adjacent to the project, and asked how the casino could “mitigate this past negligence.” The commenter also stated that “there has been a lack of proper notification and educational advertising,” suggested that the casino project should have used media other than The Press Democrat to disseminate information, and questioned how the casino could mitigate these issues. The commenter questioned whether information for the EIS has been gathered completely, whether socioeconomic needs have been addressed thoroughly, and whether the neighbors of the project have been properly notified. According to the commenter, it may have been “discriminatory in nature for the Casino Project to sparingly send out notices, letters, make phone calls, or visit door to door, the relevant neighbors of this Casino Project, while at the same time conducting a lengthy and in depth communication process with the City of Rohnert Park,” and also communicating effectively with developers and agencies. The commenter expressed his view that community members have been the victims of disenfranchisement, concealment of important documents, systematic exclusion, conscious discrimination, stereotyping, intimidation, vandalism and a “communication blackout.” According to the commenter, if he and his neighbors “lived in Fountain Grove, Rincon Valley, or Mill Valley California, (they) would have been given at least a phone call.” The commenter suggested that a list of neighbors of the project be formed and that they be contacted by the “Casino Project, NIGC, and other relevant agencies” via mail, fax, or phone; and be provided a “full disclosure of all meeting notes, agendas, plans, name contact lists, vocalized opinions and comments of officials, and other documents,” including “the hundreds of letters, E-mails, phone calls, meetings, and faxes that have been made between the Casino Project, the City of Rohnert Park, developers, and agencies, over a lengthy period of time.” The commenter stated that he felt disadvantaged by only being notified 24 hours in advance of the scoping meeting, and being limited to three minutes to speak at the meeting. The commenter suggested that the scoping comments submitted by the O.W.L. Foundation and by Pamela A. Miller be considered, as well as any documents suggested for review therein.

Loretta Smith (I-166), commented that the scoping comments she submitted were not fully addressed in the DEIS. According to the commenter, the DEIS does not address the impacts to, property values, school districts specifically education, and housing, children of gamblers, and day care plans for the casinos including security measures to ensure children are safe, and not left in cars. Moreover, “I am concerned that my questions were ignored and that your report failed to adequately consider the consequences, or address these potentially serious impacts.” The commenter requested a letter explaining why her comments were ignored. She continued, “I am entitled to due process specifically provided citizens through NEPA, and I want you to explain to me why my concerns have been dismissed by you.” Furthermore, the commenter requested at a minimum three more scoping

hearings, occurring in the morning, afternoon, and later evening with additional time for the public to comment.

The Concerned Citizens of Rohnert Park (B-22) state that the DEIS states that it has incorporated the issues and concerns summarized within the scoping reports. The commenter states that this is inaccurate because Section 3.2.6 of the Scoping Report identified the issues of legal entitlement to and restoration of lands. The commenter states the DEIS should be revised to include a discussion and analysis of whether the Proposed Project constitutes restored lands.

Response: SC Sonoma LLC purchased land that included the Wilfred Site as well as land east of the Wilfred Site after the first scoping comment period but prior to the second scoping comment period. The inclusion of a new alternative that provided for development on the Wilfred Site was the primary reason for formally providing a second scoping comment period. The intentions of SC Sonoma LLC to seek the development of this land for commercial purposes or to sell the land to a developer to seek the development of the land for commercial purposes are not clear now, nor were they clear during the second scoping comment period. Whether clear or not, however, plans for commercial development east of the Wilfred Site were properly excluded from the scoping hearing materials because they are not part of the Proposed Project. Development of the land east of the Wilfred Site would not occur on Tribal trust land, nor would the proceeds from development of or sale of the land east of the Wilfred Site be provided to the Federated Indians of Graton Rancheria, nor has the Proposed Project been designed to support development east of the Wilfred Site (the proposed on-site wastewater treatment plant, for example, has been designed to serve the Proposed Project alone). Thus, development of the land east of the Wilfred Site has correctly not been included as part of the Proposed Project and has not been described as such in any of the NEPA materials, including the scoping materials.

It is assumed that the land east of the Wilfred Site would be developed for commercial purposes, however, because attempts at obtaining approvals for a previously proposed commercial development on this land were well underway at the time of the land's purchase by SC Sonoma LLC and the land has been proposed for commercial development by the City of Rohnert Park's Northwest Specific Plan. Thus, it is at least reasonably foreseeable that the land east of the Wilfred Site will be developed for commercial purposes in the future. It is therefore properly considered as a cumulative baseline condition in the DEIS (in particular, see DEIS **Section 4.12.2**).

Neither is an additional scoping hearing required. The CEQ Regulations (40 C.F.R. 1501.7) provide that the lead agency may "hold an early scoping meeting or meetings which may be integrated with any other early planning meeting the agency has." However, neither the CEQ Regulations nor the NIGC NEPA Procedures Manual require that a scoping hearing be conducted at all. Nonetheless, for the DEIS the NIGC has conducted two public scoping hearings, the first of which was held at the

Luther Burbank Center for the Arts (now known as the Wells Fargo Center for the Arts) in Santa Rosa. The second scoping hearing was held at the Spreckels Performing Arts Center in Rohnert Park, partially on the suggestion by members of the public that the hearing be held in the City of Rohnert Park, which is closer to the alternative sites than the City of Santa Rosa. Therefore, because the NIGC has held scoping hearings even though they are not required to do so and because a scoping hearing was already held at the Wells Fargo Center for the Arts, a second scoping hearing at the Wells Fargo Center for the Arts is not required.

Note that NEPA does not require that responses be afforded to scoping comments. Nonetheless, the NIGC exceeded the requirements of NEPA by publishing Scoping Reports that included the scoping comments received, provided a summary of scoping comments by issue area, and provided a preliminary EIS scope in relation to the comment summaries. The CEQ NEPA Regulations require that the NIGC respond to comments on the DEIS during the preparation of a FEIS. 40 C.F.R.1503.4. Thus, **Appendix FF** includes comment summaries, as well as, the responses to the substantive comments as required. Note that the public hearings referenced by Commenter B-29 were scoping hearings to gather comments on the scope of the EIS. The DEIS identified the public comments gathered at these hearings in **Section 1.5** and in the Scoping Report in **Appendix B**.

The CEQ Regulations (40 C.F.R. § 1506.6(a)) require that agencies “make diligent efforts to involve the public in preparing and implementing their NEPA procedures.” The regulations state further that these efforts may include various public notice mechanisms, including notice to the State Clearinghouse, publication of the notice in local newspapers of general circulation, and notice through other media, all of which were implemented by the NIGC over the course of the NEPA process. 40 C.F.R. § 1506.6(b)(3). The NEPA regulations do not require the notification of adjacent property owners. As evidence of adequate public notice, the NIGC has received over 1,250 public comments since the start of the NEPA process.

In order to ensure impartiality and promote public trust, both hearings during the DEIS comment period were presided over by the Honorable Harry Low, Retired Presiding Justice of the California Court of Appeal. The three-minute oral comment limit was afforded to ensure all of the individuals present at the scoping hearing who wanted to submit an oral comment would be allowed to do so. The NIGC also accepted comments by mail.

The scope of the DEIS was carefully determined based on the scoping comments received, independent research undertaken by the NIGC and its consultants, and ultimately by the requirements of NEPA. Note that DEIS **Section 1.5** states that, “*To the extent required by NEPA, this EIS has incorporated the issues and concerns summarized within the scoping reports (emphasis added).*” NEPA does not require that the scope of the DEIS be consistent with that recommended in all scoping comments, only that the lead agency invite the participation of interested persons. 40 C.F.R. §

1501.7. The NIGC invited and considered public scoping comments in the Notice of Intent (NOI) and supplemental NOI (see DEIS **Appendix A**). Note that DEIS comments received regarding socioeconomic issues are addressed in Section 2.9, below.

2.1.3 GRATON EIS WEBSITE

Summary of Comments: A comment received from Dennis Kelley (I-93), stated that the DEIS website (<http://www.gratoneis.com>) contains password protected files, despite it being a public document. The commenter requested that the files be open to the public and that the DEIS be provided as one file, instead of smaller files, for those who wish to have the document in its entirety. Another commenter, Edward Emmons (I-148), noted that several of the charts and subdocuments within the online DEIS document would not display properly on his (conventional) web browser, and that many of the links within the document are inactive.

Response: All files on <http://www.gratoneis.com> have been open to the public since the beginning of the DEIS comment period. It is possible that the commenter visited the site prior to the beginning of the comment period, when there were some password protected areas of the site.

Creating one file for the DEIS would result in an extremely large file size. The DEIS has been provided as smaller files in an attempt to ease the navigation of the DEIS and to allow those with less powerful computers to quickly and easily review the document.

The master document files are converted to Adobe Acrobat files and password protected to keep the files from being tampered with. The password protected files still have full capability of viewing, printing, and searching within each file as long as the viewer is using the most current version of the Adobe Acrobat reader. A link is provided on the CD and website for the viewer to download the most current version of the Adobe Acrobat reader.

2.1.4 REQUESTS FOR AN ADDITIONAL PUBLIC HEARING

Summary of Requests: The Sonoma County Board of Supervisors (G-6 and S-10), requested an additional public hearing that would occur near the end of the extended comment period they proposed. Which, according to the Board of Supervisors, would allow for more focused comments on the DEIS rather than comments requesting an extension of the comment period.

The Sonoma County Teen Eagles (B-21) appealed for another public comment hearing in Sonoma County, stating that “a 3,000 page document requires a larger amount of time for comments than has currently been appropriated.”

However, the FIGR (G-20) expressed in a comment letter that an additional public hearing is not necessary, and stated that an additional public hearing would not allow for more substantial comments from the public.

Response: The NIGC NEPA Procedures Manual recommends that public meetings be held whenever required by another statutory authority and whenever otherwise appropriate. The CEQ Regulations do not require either a public hearing or public meeting, but rather require such hearings or meetings to take place “whenever appropriate or in accordance with statutory requirements applicable to the agency” (40 C.F.R. § 1506.6). In this case, the NIGC feels that it was appropriate to hold two public hearings on the DEIS, which exceeds the requirements in the NIGC NEPA Procedures Manual and the CEQ Regulations. The NIGC also provided a public workshop prior to both public hearings, in order to provide information to interested members of the public. Both public hearings were well-attended, but at no time during either hearing was the facility close to full capacity. Furthermore, everyone that expressed interest in making a public comment was given the opportunity to do so at both hearings. Finally, the workshops and hearings were held on April 4th and 5th, 2007, near the center of the original public comment period, thereby allowing members of the public sufficient time to review the DEIS prior to the workshops/hearings and sufficient time to formulate comments after the workshops/hearings.

2.1.5 COOPERATING AGENCIES

Summary of Comments: The USEPA (G-29) commented that on page 1-21 of the DEIS it states that the NIGC solicited Cooperating Agency status from the USEPA. However, according to the commenter, this is incorrect and should be amended in the FEIS.

Chip Worthington of Stop the Casino 101 (B-29) stated that “the relationship between the NIGC and the Tribal applicant presents an inherent conflict of interest in terms of providing a fair and unbiased report.” According to the commenter, FIGR should have been its own lead applicant. The commenter stated that NEPA requires that the agency completing the process be neutral, and that the NIGC is not neutral regarding gaming.

Response: The NIGC invited the USEPA to be a cooperating agency in a letter dated April 15, 2004. A copy of this letter is available upon request.

Only a federal agency can be a lead federal agency under NEPA. Thus, the Tribe could not perform this role in the NEPA process. The relationship between the NIGC and the Tribe is one of agency reviewer and applicant. This does not “present an inherent conflict of interest” on the part of the NIGC.

2.1.6 REQUEST FOR REVIEW OF THE FINAL EIS AND FINAL CONFORMITY DETERMINATION PRIOR TO PUBLIC REVIEW PERIOD

Summary of Comments: John Herrick of the California Native Plant Society (CNPS), Milo Baker Chapter (B-13), requested that the Milo Baker Chapter, have an opportunity to review Alternative H prior to the issuance of the Record of Decision (ROD) on the Final EIS and Final Conformity Determination.

Response: The FEIS, including an expanded analysis of Alternative H and a Final Conformity Determination, will be made available to the public at least 30 days prior to the issuance of a ROD.

2.1.7 NEED FOR RECIRCULATION OF THE DEIS

Summary of Comments: Congresswoman Lynn Woolsey (G-30) stated that the DEIS needs to be re-written and recirculated, because “it fails to meet the statutory requirement that it examine thoroughly the full impacts of the Proposed Project, list a full range of alternatives to the project, and provide serious mitigation measures to significant impacts.”

Sonoma County (G-34) commented that the DEIS must be extensively revised and recirculated to accurately reflect the scope of the project, and to fully disclose, analyze, and mitigate all potential impacts. According to the commenter, “The document fails to meet National Environmental Policy Act (NEPA) requirements regarding the analysis of connected actions, the evaluation of potentially significant environmental impacts, the mitigation and monitoring of those impacts, and the full fair disclosure of all reasonable alternatives.” Furthermore, the commenter stated that, “The DEIS fails to properly understand and convey the unprecedented nature of this project, and its true impact on the community and the environment. Its content demonstrates, at most, a cursory understanding of the circumstances found in the County.”

Moreover, the commenter stated that the DEIS is segmented which, “...violates NEPA’s requirement that an agency evaluate an entire course of action ‘at the earliest possible time’ (40 C.F.R. § 1502.4(a), 1502.2(f); NIGC NEPA Guidance Manual 1.2).”

Response: With respect to recirculation, the applicable regulations require that a DEIS only be recirculated if the “draft statement is so inadequate as to preclude meaningful analysis.” 40 C.F.R. § 1502.9(a). Also see Response to Comment 2.4.3. That clearly is not the case here, where the agency charged by Congress with evaluating other agencies’ environmental impact statements (Clean Air Act, Section 309, 42 U.S.C. § 7609), the USEPA, in its comments on this DEIS (Letter G-29), concluded: “We commend NIGC and the Tribe for the thoroughness of study, a good range of alternatives, avoidance of wetlands, and substantial mitigation measures.”

It is the very purpose of a draft statement to elicit agency and public comment such that the final document may be improved based on others' scrutiny and input. We believe the Final EIS does exactly that. But to recirculate a draft statement rather than improving it in a final statement -- absent that degree of inadequacy which precludes meaningful analysis -- would carry the potential of endlessly repeating the draft process. The very wealth of thoughtful comment on this draft shows that meaningful analysis was not only possible, but in fact took place. We trust that the FEIS itself, as well as these detailed responses to comments, fully reflects the ongoing analysis that has been stimulated by the comments.

We disagree that the full impacts of the Proposed Project have not been thoroughly examined. The scope of impact analysis in the DEIS is well beyond the issue areas identified for gaming related NEPA documents in the NIGC NEPA Procedures Manual. Regarding the range of alternatives contained in the DEIS, please see Response to Comment 2.4.4. Regarding general adequacy of mitigation measures, please see Response to Comment 2.16.3. Regarding the analysis of connected actions, please see Response to Comment 2.1.8.

With respect to the County's statement that the entire course of action be evaluated 'at the earliest possible time,' the County cites 40 C.F.R. § 1502.4(a) and § 1502.2(f). Neither section supports the quoted assertion. That said, §1501.2(d)(3) does require the Federal agency to commence the NEPA process at the earliest possible time, one of the reasons being "to avoid delays later in the process, . . ." 40 C.F.R. § 1501.2. Section 1502.5 then specifies what is required with respect to NEPA's timing. The agency is to commence its EIS "as close as possible to the time the agency . . . is presented with a proposal . . ." This is precisely what happened here. Upon notification of the Tribe's application for approval of a management agreement, the NIGC commenced the NEPA process. The DEIS fully evaluates the proposed action (the approval of a management contract) and the consequences of undertaking this action (the development of a casino). The Proposed Project and alternatives are described in DEIS **Section 2**. A complete analysis of the impacts of the Proposed Project and alternatives is contained in DEIS **Section 4**.

2.1.8 CONNECTED ACTIONS

Summary of Comments: Sonoma County (G-34) commented that the DEIS must, "...analyze, mitigate, and monitor the effects of implementing the improvements with the rest of the Proposed Project." Moreover, the commenter stated that the DEIS, "...may not simply note that these project elements are necessary and will be built, while leaving proper environmental analysis to some future time and other parties."

Individual commenter I-166, stated that, "As a condition for [Congresswoman] Lynn Woolsey (*sic*) helping FIGR regain tribal status, the tribe promised her that they would not pursue a casino venture," the commenter asked, "What assurances will the tribe make that they will not renege on the promises

they make now in answer to our concerns? What recourse will the tribe provide if they do go back on their promises?”

Response: As NEPA requires, this DEIS analyzed the whole of the Federal action now under consideration. All elements that have potential environmental impacts and are necessary for the construction and the operation of the Proposed Project have been included and analyzed in the DEIS. It also analyzed those aspects of the mitigation which are proposed and are susceptible to analysis. As explained in the Response on the subject of Mitigation Enforcement (2.16.3), certain aspects of the mitigation involve properties – most often roads or highways – that belong to other units of government. While NIGC may require the Tribe to offer funding for mitigation (as discussed in **Section 5** of the DEIS, dealing with Mitigation Measures), the Tribe is without authority actually to do work on another agency’s road. That is the responsibility of the owning agency should that agency choose to accept it. While desirable, none of the improvements discussed in the traffic mitigation section is necessary to the operation of the casino.

Any prior conversations or verbal agreements made between the Tribe and Congresswoman Lynn Woolsey are irrelevant to the analysis of the proposed action that is the subject of the EIS. Regarding enforceability of mitigation, please see Response to Comment 2.16.3.

2.1.9 DEIS NOTICE

Summary of Comments: Commenter S-71 stated that the City of Sebastopol was not notified of the issuance of the DEIS. According to the commenter, NEPA requires local jurisdictions that may be affected by the proposed development be notified. Commenter S-70 expressed the belief that she was “blind-sided” by the preparation of the DEIS and that she was not allowed to vote on the issue because she resides in Santa Rosa.

Response: Please see Responses to Comments 2.1.1 and 2.1.2 regarding public notice of the availability of the DEIS. In addition, the DEIS was sent to Linda Kelley, Sebastopol Mayor Pro Tem during the public distribution.

2.1.10 GENERAL NEPA REQUIREMENTS

Summary of Comments: Amy Boyd of Cotati (I-161) speculated that a different private or public project of a magnitude equivalent to the proposed casino would not be able to comply with NEPA regulations, and questioned whether the Proposed Project is truly fulfilling NEPA requirements.

Commenter S-85 recommended that the DEIS include a section for reparations.

Response: NEPA requires that an EIS be prepared for “major Federal actions significantly affecting the quality of the human environment...” 42 U.S.C. § 4332. The NIGC has fully complied with this

requirement. A different project that requires a major Federal action prior to implementation (thus triggering NEPA) would need to comply with the same requirement should it also significantly affect the quality of the human environment. Note that the USEPA, in their comment letter on the DEIS (Letter G-29) has given the DEIS a “Category 2” rating, stating that the DEIS is adequate except that more analysis is needed for Alternative H. Consistent with the USEPA’s recommendation, this information has been included in the FEIS. Note that the USEPA also commended the NIGC “for thoroughness of study, a good range of alternatives, avoidance of wetlands, and substantial mitigation measures.”

Regarding the comment raised by Commenter S-85, please see Responses to Comments 2.1.2 and 2.1.7 for responses on the appropriate scope of analysis contained in the DEIS.

2.2 NON-NEPA ISSUES

2.2.1 EXPRESSIONS OF OPINION

Summary of Comments: Many of the comments received were expressions of opinion either for (G-15, B-14) or against the project. Although it appears that a majority of the comments received are against the proposed Wilfred site development or the approval of the management contract, large numbers of comments were received both for and against these actions. A sampling of these comments are summarized below.

Hank Lautrup (I-2) stated that the access area was too small, and that given the chance to vote, the people of Rohnert Park would vote against the casino project. Commenters I-154 and S-20 stated that citizens of Petaluma and Rohnert Park had voted against the Proposed Project in Rohnert Park, in addition, the commenters stated that there is inadequate infrastructure for its development. Jenay McIntyre (I-158) voiced an opinion that there are already too many casinos in California, specifically, along Highway 101 in the project vicinity, and offers that the majority of local residents oppose the proposed casino. Chris and Silvey Cameron (I-101) and Pamela Miller (I-167), and Kathy Pooler (I-41) stated that the “proposed location” for the project is inappropriate. Betty G. LeDonne (I-102) stated that she wants “financial abundance for the Graton tribe – but not through a casino.” Caroline Nielsen (I-116) stated in a comment letter her perceptions that money from Las Vegas gambling interests have influenced Sonoma County’s decision to not provide the residents an opportunity to vote on the proposed development. Another commenter (I-159) expressed sentiments that the Rohnert Park City Council was deceptive in approving the casino proposal without consulting the citizens of Rohnert Park. Unspecified concerns regarding the “lack of County supervision” are noted in a comment card from local residents Robert and Jo Caulk (I-125). Additional comments (I-149) expressed regret over the “blatantly inaccurate and outdated information” used by the NIGC, and the “vile distortions and dishonesty” that the commenter perceives are used in efforts to set up casinos. Other commenters state their opinions that Rohnert Park and/or Sonoma County are not appropriate

areas for a casino (I-143, I-156, I-157, I-158, I-159, I-160, I-162). Linda Long (I-177) notes her preference to “Place the casino at site **F** located well away from communities and children.” Judith Nader (I-140) prefers the casino not be built in Rohnert Park, citing reasons stated in a May 5, 2007 article in the Christian Science Monitor, entitled “The Gambling Scam on America’s Poor.”

The Ironworkers Local Union 377 (G-26) submitted a letter in order to “express and acknowledge full support of the Graton Hotel and Casino Resort in Rohnert Park, California.” Emila Aguilar (I-103), Mary Abbott (I-142), and Nicholas M. Kreck (I-106) expressed support for the project.

Another commenter, Roberta Walker (I-146) stated that as reported by The Press Democrat in an article published on April 2, 2007, only 38% of the tribe, 408 individuals out of 1,076, actually live in Sonoma County and are “on the verge of trashing the way of life that our 40,000 Rohnert Park residents have worked hard for.”

The Citizens Against Roblar Rock Quarry (CARRQ) group (B-23) stated, “We do not need this casino in Sonoma County, nor it is wanted. The negative affects from casinos outweigh any possible positive contributions to our community.” The commenter stated that the proposed alternatives have not demonstrated benefits to Sonoma County, and continued with, “...the negative affects from casinos would conflict with our community plan, our well being, our life style and our needs.”

Elizabeth Perry (I-141) objected to the proposed development, “I would happily contribute to the tribe in any way I could if it were for a project more beneficial to them, their community, my community, all of us who consider Sonoma County our home.”

Another commenter (I-138) stated the following objections to the proposed development, “This project is giving nothing to the community other than crowds, smog, traffic jams, water loss, increased crime, litter and the prospect of urban blight, to name a few... A casino does not belong in or near our community. One of this magnitude would ruin Rohnert Park, the surrounding area and the reasons we like to live here.” According to the commenter, “Casinos are supposed to be several miles away from any city. The commenter continued, “The only one that fits that parameter is the Lakeville site.”

Pamela Miller (I-167) notes that the proposed casino project has generally been met with opposition by local community members, and notes “The very nature of this development does not lend itself to the ‘planned family community’ of Rohnert Park, nor does it blend with the residential ‘community separator’ land where my neighborhood is located.”

Marilee Montgomery of Stop the Casino 101 Coalition (B-32) submitted the following comment regarding the lack of support for the proposed development based on increased membership to the

Stop the Casino 101 Coalition. “There is no support for this project in Sonoma County. In fact, based on the increase of visits to our web site and the number of signing up to our group each week, we feel that the opposition to the project continues to grow, and is growing almost daily.”

Paul M. Larson (I-170), expressed his opposition to the “massive scale of the project.”

Paul M. Callinan (I-165) noted that the Tribe (or Station Casinos) purchased the land prior to receiving the necessary approvals for the proposed development, and he feels that the casino will be developed despite community opposition. Callinan viewed a newspaper report that stated that the son of Senator Barbara Boxer was involved with the project, further increasing his concern. Callinan commented on the matter of “the Tribe (or Stations Casino) already doling out money to the City of Rohnert Park and others, seemingly in an attempt to buy goodwill and to buy-off legitimate opposition to the proposed development.” He further stated, “Surely the 1000-1500 member tribe doesn’t have the funds to do so, so it must be Station Casinos trying to buy its way into the community and also to make Rohnert Park, the Reno or Las Vegas of Northern California.”

The Roblar Area Property Owners Association (B-27), expressed opposition to “the idea of additional gaming in Sonoma County. According to the commenter, the casino would be “out of place and out of character.”

Larry and Kathy Madsen (I-175) noted that; “In the 21 years we have lived there we have not been able to add on to or build anything to improve the value or increase the living area due to the area being low and unable to perk.” The commenters stated that they are happy with the rural nature of their neighborhood, and are glad that restrictions have been in place to reduce growth. Yet, the commenters stated that, “However, the tribe and the city of Rohnert Park seem to believe that it will be ok to build a casino and large hotel on an area that has been protected as a wetland, an environmental greenbelt/urban separator and has forbidden any of the existing neighbors to do any kind of building on their own homes over the years.”

Dr. and Mrs. Renato del Rosario (I-164) noted strong opposition in their comment letter, “The environmental adulteration of Sonoma County by such massive development would bring irrevocable change from which it cannot recover. At a time where the national theme is to ‘save the planet,’ the further construction of such projects are simply non-compatible with preserving our environment.”

Paul Stutrud (I-150) stated that his opposition to the proposed development is because of, “...the lack of adherence by the ‘casino people’ to the California Government Codes, the state constitution, the tax and revenue codes, the Public Resource Code, the Water Code and various laws and policies that we have developed in over one hundred years of legislation.” Moreover, the commenter stated that, “The proposal ignores a number of serious and ongoing problems we have suffered with for years.

Flooding, a declining water table and serious traffic impacts have been before the Sonoma County Board of Supervisors, the Sonoma County Water Agency and the Citizens Advisory Committee for the Sonoma County General Plan and the Planning Commission for the County of Sonoma in a process that has taken the last couple of years.” Furthermore, the commenter stated that, “We do not have the water, sewage treating capacity and infrastructure to handle a gambling casino.”

Chip Worthington of the Stop the Casino 101 Coalition (B-28), stated that there is “no community support for the casino proposed for the Rohnert Park, CA area.” In separate comment (B-29), the same commenter stated, “Paper poundage in terms of five three-ring binders containing over 1,500 pages each, does not a valid argument make.”

The Executive Committee of the Southwest Area Business Association (S-88), stated that the Association undertook detailed research and came away “strongly support[ing]” the casino. The spokesman further commented that the project will “positively affect our area, creating jobs and home purchases and many other economic stimulus.” The project can be “the main driver in the redevelopment in an area that is under served, . . .” The spokesman stated that in fact, “[O]nly a project of this magnitude can bring southwest Santa Rosa in the mainstream of life in this century.”

A representative of the Carpenter’s Union (S-25) spoke of how his organization has “supported this project from the get-go.” He additionally commented that, “We are participants in the project labor agreement that would build the project all union, that it be staffed until it’s completed by all union members receiving healthcare and other benefits as well as a living wage.”

The Laguna de Santa Rosa Foundation (S-28) stated, “We share a vision of restoring and celebrating the Laguna as a community resource.” The Foundation has recognized “the important role of the Laguna in the Tribe’s long history and . . . we share common values concerning it.” The Foundation described itself as an independent organization and said they and the Tribe understood that each must say and do what is right for them. The Foundation (S-28) then expressed its preference for the Wilfred site and concluded that “the extent of thorough mitigation measures . . . go well beyond what many other potential developers of this site might have proposed, and can reasonably be expected to minimize impacts of the project in the Foundation’s area of concern.”

Several other witnesses testified to the impacts of a casino in their “own backyard.” Commenter Ari Firestone (S-99) testified that “I don’t mind the casinos, but I don’t want it in my backyard.” To which another witness (S-111) noted that “for those who say not in my backyard, well, your backyard is where my people used to hunt and gather.” This was echoed by Lynn Cominsky (S-74), who continued that the commenters should remember “that we are all living in what was once the tribe’s backyard.” “Our beautiful southern Sonoma County lands were historically the lands of these people,” she continued, “and they have every legal right to try to reclaim some of this land to support

their tribe members and to preserve their culture.” Commenter Anthony Piazza (S-50) agreed, “For 5,000 years these people have been the stewards of this entire area...The Indians took care of everything.” Theresa Wells of the Kashaya Pomo Tribe (S-100) stated, “I’m here to tell all of you my ancestors have lived here 10,000 years ago, and you are the intruders.”

The chairman of the Manchester Point Arena Band of Pomo Indians (S-75) pointed out that the people of Sonoma County “are now occupying what used to be our land.” “We welcome them,” he continued, “We didn’t drive them away. We didn’t hold hearings to see if we wanted them here. We held out our arms in an open way to welcome them here, and now it’s like we’re strangers in our own country.”

Response: The NIGC NEPA Procedures Manual requires that the requirements in the CEQ Regulations be followed when responding to comments and generally recommends 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.” The comments set forth in this Subsection 2.2.1 and the other Subsections of this Section 2.2 do not raise substantive NEPA issues. Nevertheless, a brief response is set forth below and in the other Subsections of this Section 2.2.

Comments set forth in this Section 2.2.1 that express opinions pro or con on action being analyzed under NEPA do not lend themselves to revisions in the technical analyses in the EIS, nor is that their purpose. They are really directed at the agency decision maker, intended to persuade him or her to support or oppose the action. As such they are noted for the NEPA record and the views expressed are passed on to the agency heads, here the NIGC Commissioners, for their consideration.

2.2.2 FEDERALLY RECOGNIZED STATUS OF THE TRIBE

Summary of Comments: Comments were received questioning whether the FIGR can be considered a tribe, and whether the federally recognized status of the Tribe is legitimate (I-97, I-155, I-162, I-100 and S-24).

Response: The comments do not raise substantive NEPA issues. Please see the Response to Comment 2.2.1. The Constitution provides Congress with plenary power over Indian affairs. In December 2000, Congress enacted the Graton Rancheria Restoration Act. (25 USC 1300n et. seq.) The Graton Rancheria Restoration Act provides that “Federal recognition is hereby restored to the Tribe”. (25 USC 1300n-2(a)). Therefore, Congress exercised its discretion and plenary power over Indian affairs and made the determination that the Tribe is an Indian Tribe and that it should be restored to federally-recognized status. The Graton Rancheria Restoration Act is a valid Act of Congress, has not been subject to judicial challenge and remains in full force and effect. The

Supreme Court has consistently treated tribal recognition decisions by Congress as entitled to a high standard of judicial deference.

Pursuant to the Federally Recognized Indian Tribe List Act of 1994 (Pub. L. 103-454; 108 Stat. 4791, 4792), the Secretary of the Interior is directed periodically to publish a list of federally-recognized tribes in the Federal Register. Since 2002, the Department of the Interior has listed The Federated Indians of Graton Rancheria, California as a federally recognized tribe in the Federal Register every time such lists have been issued. Therefore, the NIGC undertakes this federal action in the same manner as it would for any federally-recognized Tribe.

2.2.3 CALIFORNIA GAMING LAWS AND REGULATIONS

Summary of Comments: Judith Ann Nader (I-107) stated that when Californians voted to allow Indian tribes to operate casinos in California, it was expected that the casinos be built on existing reservations and not in metropolitan areas.

Response: The comments do not raise substantive NEPA issues. (Please see the Response to Comment 2.2.1.)

Proposition 5 proposed to add provisions to the state law offering a tribal-state gaming compact to “any federally recognized Indian tribe that is recognized by the Secretary of the Interior as having jurisdiction over Indian lands in California”. (Sec. 98004). The terms of the offered tribal-state gaming compact provided that “[t]he tribe may establish and operate gaming facilities in which the gaming activities authorized under this Gaming Compact may be conducted, provided that the facilities are located on Indian lands within California over which the Tribe has jurisdiction, and qualify under federal law as lands upon which gaming can lawfully be conducted.” (Section 4.2) The Summary of Proposition 5 prepared by the State Attorney General stated that

“A YES vote of this measure means: The State must enter into a specific agreement with Indian tribes who wish to conduct certain gambling activities on Indian lands in California. A NO vote of this measure means: The state would not be required to enter into the agreement specified in this measure. The state could still negotiate with individual Indian tribes on the extent of gambling allowed on Indian lands in California.

Proposition 1A proposed to amend the California Constitution by authorizing the Governor “to negotiate and conclude compacts, subject to ratification by the Legislature, for the operation of slot machines and for the conduct of lottery gaming and banking and percentage card games by federally recognized Indian tribes on Indian lands in California in accordance with federal law. Accordingly, slot machines, lottery games, and banking and percentage card games are hereby permitted to be conducted and operated on tribal lands subject to those compacts.” (California Constitution, Article IV, Section 19, (f))

Both Proposition 5 and Proposition 1A were approved by the voters of the State of California. Both Propositions contemplated that tribes would be able to conduct gaming on Indian lands within California over which the Tribe has jurisdiction, and which qualify under federal law as lands upon which gaming can lawfully be conducted. The Indian Gaming Regulatory Act defines the term “Indian lands” and establishes the additional requirements which Indian lands acquired after October 17, 1988, must satisfy in order for such Indian lands to qualify as eligible for gaming. Propositions 5 and 1A permitted Indian gaming on all Indian lands in California which are eligible for gaming, including lands which become Indian lands after the dates the Propositions were approved.

2.2.4 LABELING OF THE PROJECT

Summary of Comments: Eunice Edgington (I-100) inquired, “Why is a casino in Rohnert Park being considered a destination casino not an urban Casino?” The commenter stated that Rohnert Park was incorporated in 1963 and includes parks, schools, churches, Sonoma State University, homes, and businesses.

Response: The comments do not raise substantive NEPA issues. (Please see the Response to Comment 2.2.1.)

The DEIS does not refer to the proposed development as a “destination casino.” Moreover, there is no particular label other than casino/resort used in reference to the proposed development. Furthermore, there is no known legal definition for “urban casino.” Therefore, it cannot be determined whether the proposed development would qualify under the commenter’s definition of an “urban casino.” The location of the Wilfred Site and the Stony Point Site in relation to the City of Rohnert Park are clearly described in DEIS **Section 1.3.1**.

2.2.5 THE GRATON RANCHERIA RESTORATION ACT

Summary of Comments: Maurice Fredericks (B-34) commented that a Congressional oversight committee might question the Graton Rancheria Restoration Act, because according to the commenter, the Graton Tribe has never existed, and thus, “It appears that Congress was duped.” Thus, the commenter stated that the DEIS is inadequate due to the lack of discussion of the Graton Tribe not being a legitimate Tribe, and therefore the MOU with the City of Rohnert Park not being unenforceable.

Response: The comments do not raise substantive NEPA issues. Please see the Responses to Comments 2.2.1 and 2.2.2.

There is no Congressional oversight committee which has questioned the Graton Rancheria Restoration Act. As a federally-recognized Indian tribe, the Tribe is recognized by federal, state and

tribal courts as an independent governmental entity with the legal capacity to enter into binding and enforceable agreements, including the MOU with the City of Rohnert Park.

2.2.6 STATUS OF THE GRATON RANCHERIA AS A VILLAGE HOME

Summary of Comments: Marilee Montgomery (B-33) questioned one of the basic founding claims the Graton Rancheria has made toward its legitimacy as tribe. According to the commenter, the Tribe claims that, “The Graton Rancheria was designated as a ‘village home’ for the ‘for the collective benefit of the homeless Indians of Bodega, Tomales, Marshall, Sebastopol, and vicinities thereof.’” The commenter included a June 14, 1920 letter from Special Indian Agent John J. Terrell, in which he stated that he felt the 15.45 acre plot of land available for purchase should be set aside to act as a ‘village home’ for the Marshall, Bodega, and Tomales Bay Indians. According to the commenter, the term ‘village home’ was, “...never found before Terrell’s letter and is never again found in the archives after his letter.” Furthermore, the commenter noted that as of 1937, the 15.45 acres remained unoccupied. Therefore, the local Indian Agency Superintendent Walter McConihe requested permission to open up the property to any homeless California Indian (the letter was included as an attachment). According to the commenter, the Assistant Commissioner of Indian Affairs William Zimmerman Jr. replied with the following statement, “The records show that the deed conveying the property to the United States does not contain any limitation or provision as to what Indians should be settled thereon. The land was paid for out of an appropriation made by Congress for the purchase of lands for landless Indians of California. While the land was purchased primarily for the occupancy and use of the Marshall and Sebastopol Bands, there is no limitation or reason why other landless Indians may not be settled thereon.” Montgomery stated that the letter indicated there was, “...never any intention on the part of the government to establish with the purchase of the Graton Rancheria, a ‘village home’ for any specific Indians, and even the intent to house ‘Marshall and Sebastopol’ Indians was rescinded by Zimmerman’s decision.” In addition, the commenter added that the first resident of the Graton Rancheria was Andrew Sears from eastern Sonoma County; who moved onto the Graton Rancheria in 1937.

Montgomery (B-33) discussed the various records, which identified people who had occupied the Graton Rancheria from 1937-1952. Of those, John Frederick Evrill’s application for enrollment was included as an attachment. According to Montgomery, “Clearly, the residents and those few who (futilely) applied for residency at Graton Rancheria in 1952, were a mixed bag, and clearly, they were not limited to those Coast Miwok and Pomo Indians from Bodega, Tomales, Marshall, and Sebastopol.” Furthermore, “The record shows that at the very least, Pomo (Southern or otherwise), Coast Miwok, Shasta, and Round Valley Indians from various locales either lived on Graton at some time, or applied to live there in 1952.”

Response: The comments do not raise substantive NEPA issues. Please see Responses to Comments 2.2.1, 2.2.2, and 2.2.5. The NIGC will perform an Indian lands analysis as part of its review of the Management Contract.

The letter referenced by the commenter from John J. Terrell, Special Indian Agent, to the Commissioner Indian Affairs dated June 14, 1920, states that Mr. Terrell intended for the 15.45 acre parcel to be set aside for the “village home” of the Marshall, Bodega and Tomales Bay Indians. Subsequent correspondence in 1920 and 1921 among Commission of Indian Affairs officials states that the purchase of the 15.45 parcel is “for use and occupancy by the Marshall and Sebastopol Bands of homeless Indians”. The term “use and occupancy” is often used in correspondence of the period to refer to use for residential and other purposes.

The letter referenced by the commenter from William Zimmerman, Assistant Commissioner of Indian Affairs, to Roy Hash, Superintendent of the Sacramento Agency, dated July 6, 1937, reaffirms that the 15.45 Graton Rancheria parcel “was purchased primarily for the occupancy and use of the Marshall and Sebastopol Bands.”

The Tribe is descended primarily from Coast Miwok and Southern Pomo Indian groups.

2.2.7 LEGITIMACY OF THE FEDERATED INDIANS OF GRATON RANCHERIA AS A “DE FACTO TRIBE”

Summary of Comments: Marilee Montgomery (B-33) commented that the FIGR was not a “de facto tribe.” According to Montgomery, the Graton Rancheria was not a ‘village home’ and thus, no ‘de facto tribe’ was established, nor was any intended to be established. The commenter cited a memo from the Office of Tribal Services (OTS) in 1998 which stated that the restoration of the Tribe would have been supported by the OTS if documentation is produced which would tie the group to the Graton Rancheria, ““We have not seen any such evidence in regards to the Graton Rancheria and therefore cannot recommend support of this bill (H.R. 4434) at this time.” (The letter was included as an attachment.) Moreover, Montgomery stated that BIA Director Kevin Gover submitted to the House Resource Committee in May of 2000 the lack of support for the restoration of the Tribe from OTS. Chip Worthington of Stop the Casino 101 (B-29) claimed, “The federal recognition of the FIGR has been thoroughly researched and found flawed and wanting.”

Response: The comments do not raise substantive NEPA issues. (Please see the Response to Comment 2.2.1.) Please also see Responses to Comments 2.2.2 and 2.2.6.

At the time the memo referenced by the commenter was prepared by the Office of Tribal Services in 1998, the BIA was still in the process of compiling and analyzing information necessary to recommend the Tribe for restoration. Once the BIA had an opportunity to complete its review of the

Tribe's historic, ethnographic and genealogical records, the BIA supported Congressional legislation to restore the Tribe's federally recognized status.

2.2.8 CALIFORNIA RANCHERIA ACT OF 1958

Summary of Comments: Marilee Montgomery (B-33) stated that the Graton Rancheria trust land, was actually held in fee. According to the commenter, "There is absolutely no record of this property ever having been placed in trust at any time. There is no basis in fact for this claim made by FIGR." The commenter cited Dr. Stephen Beckham from the Lewis and Clark College as stating that "There appears to be widespread misunderstanding in California about rancherias. They were federal fee lands (not reservations) where homeless Indians (and others) lived without paying taxes ... It is possible to argue that 'restoration' of the rancherias was nothing more than restoring the non-tax status of the former federal fee lands."

Montgomery (B-33) also questioned the FIGR claim that the Rancheria was removed illegally from trust in 1958. According to the commenter, "Since the Graton Rancheria was never held in trust, it could not have been removed from trust, illegally or otherwise." Additionally the commenter noted that the Rancheria's residents, Frank Truvido, Fred Evrill, and Andrew Sears were in favor of the termination of the Rancheria, but Montgomery cited a letter from Truvido, which demonstrated his gratitude for the Rancheria Termination Act. "The men's ballots voting in favor of the Termination Act are in the record." The commenter further commented regarding the opportunity for the Graton Tribe to object to the Termination Act from 1958–1966. "During that eight year period, *no one* claiming to be either an individual resident of the Graton Rancheria or a tribal government of Graton Rancheria stepped forward..."

Montgomery (B-33) challenged the perceived claim that information for residents of the Graton Rancheria was obtained from, 'three old guys who couldn't even speak English.' The commenter noted that, "On August 21, 1952, a field interview was conducted by the Indian Agency's Field Agent..." and that the three men interviewed were Frank Truvido, Andrew Sears, and Fred Evrill. The commenter further stated that the information regarding the residents of the Graton Rancheria was obtained from these three men. She continued by noting their ability to speak English. According to the commenter, Special Indian Agent, John Terrell had stated that the Marshall Indians are, "...bright, energetic, speak good English, and far above average," and provided evidence of where the three men would have acquired good English speaking skills. Therefore, according to the commenter, "The logical conclusion, based on the record, is that Andrew Sears, Frank Truvido, and Fred Evrill spoke normal, conversational English."

Moreover, the commenter (B-33) also challenged the perceived FIGR claim that, "...the 'group's federal status as a recognized tribe was terminated in 1966 under the California Rancheria Act of 1958.'" The commenter continued by stating that there are no records indicating a tribe lived on the

Graton Rancheria from 1921-1966, and claimed that, “In fact, the FIGR submitted very few historical or archival documents on the Graton Rancheria to the federal government.” Furthermore, the commenter concluded that the claims made by FIGR regarding the Tribe’s existence on the Graton Rancheria are refuted when examined in the context of the historical record.

Response: The comments do not raise substantive NEPA issues. (Please see the Response to Comment 2.2.1.)

As is the case with all land held in trust for the benefit of an Indian tribe, fee title to the Graton Rancheria was held by the United States Government. Correspondence among officials of the Commission of Indian Affairs around the time the Graton Rancheria was purchased states that the Graton Rancheria was purchased “for the use and occupancy of the Marshall and Sebastopol Bands of homeless Indians.”

The reference to the notion that the Marshall Indians are “bright, energetic, speak good English, far above average” is contained in a letter from John J. Terrell, Special Indian Agent, to the Commissioner Indian Affairs dated June 14, 1920, and does not refer to conversations with Andrew Sears, Frank Truvido and Fred Evrill which occurred in the 1950s. However, there is evidence that Andrew Sears, Frank Truvido and Fred Evrill could speak conversational English.

2.2.9 THE PROPOSED DEVELOPMENT SUBJECT TO CEQA

Summary of Comments: Marilee Montgomery (B-33) stated that because the Wilfred site is owned in fee by SC Sonoma Management, the proposed development is also subject to the California Environmental Quality Act (CEQA), as well as, the Sonoma County General Plan 2020 Update and the Rohnert Park General Plan. The commenter is concerned that the proposed development is treated as if the Wilfred site were already in trust, and therefore not subject to CEQA. Additionally, Montgomery stated that because the proposed development may require or result in the expansion of existing facilities, the proposed development would be subject to CEQA.

Commenter S-71 requested that the Tribe comply with CEQA, because the commenter believed that the Tribe would be subject to CEQA.

Response: The comments do not raise substantive NEPA issues. Please see Response to Comment 2.2.1.

The DEIS does not state that the Wilfred Site or any other alternative site is already in trust or treat any of those sites as if they are already in trust (see DEIS **Section 1.3.1** for instance). There is no current state or local action being considered as part of the Proposed Project and necessary for the development of the project. Therefore, CEQA is not triggered.

Prior to the time any site is accepted into trust, the site is subject to local land use regulations. However, once a site is accepted by the Secretary of the Interior into trust for the benefit of the Tribe, the site would no longer be subject to local land use regulations, including the Sonoma County General Plan 2020 Update and the Rohnert Park General Plan.

2.2.10 DISCUSSION OF LEGAL ENTITLEMENT TO OFFER GAMING ON SITES IN EIS

Summary of Comments: The Concerned Citizens of Rohnert Park (B-22) commented that “the DEIS is deficient due to the lack of discussion on the issue of land status and the legal entitlement to offer gaming” by the Tribe. The Concerned Citizens stated that the DEIS should be revised to include an Indian Land Opinion from the NIGC or a full analysis of the restored lands issue, noting that the ability to conduct gaming on the land remains an outstanding issue. The Concerned Citizens refer to the DEIS’ Introduction section, which according to the commenter states that the Graton Rancheria Restoration Act of 2000 allows the Tribe to establish a reservation. The commenter stated that this restoration of the Tribe is not the same as restoration of lands, which is required before the Tribe may operate a gaming facility on the acquired land and that “the DEIS should be revised to make this distinction and explain that the project is not on land which has been restored to the Graton Rancheria Tribe.” The commenter further states that DEIS **Section 3.6** “does not support the designation of the Proposed Project as ‘restored lands’ and therefore gaming facilities cannot be permitted on the proposed site.” According to the commenter, the DEIS “should be revised to recognize the lack of history and cultural connection between the Graton Rancheria Tribe and the Proposed Project lands.” Furthermore, according to the commenter, “(t)he DEIS should be revised to include an analysis of the impacts and alternatives . . . if the lands are determined not to be restored.” Artichoke Joe’s (B-25) similarly comments that the NIGC should evaluate whether the site is Indian land and states that “(t)he Graton Indians lack jurisdiction over the subject site under Constitutional, statutory and common law, and therefore the proposed site is not Indian land under NIGC jurisdiction.”

The Concerned Citizens of Rohnert Park (B-22) comment that the DEIS incorrectly asserts that “the consequence of approving the management contract ‘would be the transfer of the land into trust by the BIA . . . and the development of one of the five casino-hotel resort development alternatives.’” According to the commenter, this assertion is incorrect because before a gaming facility can be allowed, the NIGC must make an Indian Land Opinion.

The Concerned Citizens of Rohnert Park (B-22) further comment that since the Tribe is not the owner of the Wilfred or Lakeville sites, 25 U.S.C. 2710(b)(2)(A) is violated, which, according to the commenter, requires that the Tribe have the sole proprietary interest and responsibility for the conduct of gaming activity.

Commenter S-34 stated, “As part of my comments, I would like to remind Graton and representatives from the NIGC that even Graton’s special statutory privilege for taking land into trust does not guarantee that it will have a casino on the Rohnert Park site or any other site.” The commenter also stated that the Governor is not obligated to approve the development of the casino.

Response: The comments do not raise substantive NEPA issues. (Please see Response to Comment 2.2.1). Please also see Response to Comment 2.3.3.

Regarding the consequences of approving the management contract, the commenter is correct that the transfer of the land into trust by the Department of Interior (DOI) would not result from approval of the management contract. The Final EIS has been revised to remove this assertion. However, the development of the proposed casino-hotel resort is a reasonably foreseeable and direct consequence of the approval of the management contract. Thus, the DEIS properly analyzes the effects of the proposed action and the development alternative associated with the proposed action.

The Tribe is not the current owner of the sites identified in the DEIS. However, upon acceptance of a site into trust by the Secretary for the benefit of the Tribe, the United States will own the fee title to the land and the Tribe will hold a beneficial interest in the land. The fact that the United States will have title to the land will not violate the sole proprietary interest provision of IGRA set forth at 25 USC § 2710(b)(2)(A). The Tribe submitted a fee-to-trust application to the Secretary of the Interior to take the Wilfred Site into trust, with the DOI issuing a Notice of Final Agency Determination To Take Land into Trust on May 7, 2008 to accept the Wilfred Site into trust by the United States for the Tribe’s benefit.

2.2.11 CONNECTION OF TRIBE TO PROPOSED DEVELOPMENT SITE

Summary of Comments: Marilee Montgomery (B-33) commented that the FIGR might not have the right to acquire the proposed alternative sites for development because of the lack of information connecting the tribe to the proposed development area. According to the commenter, the area was the aboriginal territory of the Konhomtara, the Bitakomatra, and the Kataictemi. The Concerned Citizens of Rohnert Park (B-22) similarly commented that the DEIS should be revised to reflect and analyze their assertion that the Tribe has no “significant connection” to the Wilfred site. The Concerned Citizens claim that the site was chosen based upon the proximity of the land to a major highway and a city in order to establish a casino in a well-developed, urbanized area. The Concerned Citizens claim that this area has been under state jurisdiction since September 9, 1850 when Marin and Sonoma Counties were created, prior to the appropriation of money for the purchase of lands for Indians.

Response: The comments do not raise substantive NEPA issues. (Please see the Response to Comment 2.2.1.) Please also see the Responses to Comments 2.2.6 and 2.2.10.

Pursuant to the Graton Rancheria Restoration Act, the Secretary is required, upon application by the Tribe, to accept into trust for the benefit of the Tribe any real property located in Marin or Sonoma County, California, provided that there are no adverse legal claims to the property. (25 U.S.C. 1300n-3) The Secretary's mandatory obligation to accept lands within Marin or Sonoma Counties into trust for the benefit of the Tribe is without regard to whether the Tribe has "significant connections" to the property to be accepted into trust.

The Wilfred Site is within or near the aboriginal territory of the Southern Pomo Konhomtara, Bitakomatra and Kataictemi Indian groups, as well as various Coast Miwok Indian groups.

The alternative sites identified in the EIS have been under state jurisdiction since the establishment of the State and prior to the California Homeless Indian Acts which appropriated money for the purchase of land for California Indians. However, the State of California is not required to cede jurisdiction in order for the United States to accept land into trust for the benefit of the Tribe.

2.2.12 INFLUENCE OF CASINO PROFITS

Summary of Comments: Commenters I-166 and S-40 questioned the effects of Tribal profits from the proposed casino on Sonoma County including the Cities of Rohnert Park, Cotati, Sebastopol, and Santa Rosa. Commenter I-166 asked, "What protections will FIGR provide to assure citizens that their constitutional right to a representative government will not be negatively impacted." Moreover, the commenter stated that, "...the long term net effect of this project is a constructed reservation and established tribal government with the capability of politically overwhelming adjacent communities and Sonoma County governments." The commenter perceived that, "Executive orders that establish preferential treatment in federal agencies will be available to FIGR and those preferences can soon over power local land use and local control of government."

According to the commenter, "A tribe on the Skull Valley Goshute reservation is considering a lease to store nuclear waste on the reservation, some 40,000 canisters of nuclear waste would be brought to the reservation and stay there for up to 40 years." The commenter wanted to know what assurances the Tribe would give to community members that Sonoma County residents would, "...have a voice and recourse about any endeavor which might affect Sonoma County citizens."

Response: The comments do not raise substantive NEPA issues. (Please see the Response to Comment 2.2.1.)

The proposed federal action of approval of the management contract does not alter the Constitutional rights of any citizens of Sonoma County or its constituent Cities to representative government. There are approximately 1,100 Tribal citizens, not all of whom live in Sonoma County. In 2000, the City of

Rohnert Park had a population of approximately 42,000 citizens and the County of Sonoma had a population of approximately 460,000 citizens.

Any lands which the Secretary of the Interior accepts into trust for the benefit of the Tribe and which become part of the Tribes reservation would be subject to the jurisdiction of the Tribe and would not be subject to land use regulations of local governments. The Tribe has entered into Memoranda of Understanding with the City of Rohnert Park and Sonoma County which relate to potential impacts of the proposed development on the surrounding community.

2.2.13 INDIAN GAMING REGULATORY ACT (IGRA) PROHIBITION ON GAMING AFTER 1988

Summary of Comments: The Concerned Citizens of Rohnert Park (B-22) state that IGRA prohibits gaming on lands acquired after October 17, 1988 except under specific circumstances. According to the Concerned Citizens, the Graton Rancheria Tribe “is unable to satisfy or has failed to date to satisfy any of these exceptions and is therefore prohibited from gaming on any land acquired after 1988. The DEIS should be revised to include consideration of this prohibition on gaming.” The commenter notes that the restoration of the Tribe is not the same as the restoration of lands which is required before the Tribe may operate a gaming facility (25 U.S.C. 2719). According to the commenter, the DEIS should be revised to make this distinction and explain that the project is not on restored land.

Response: The comments do not raise substantive NEPA issues. (Please see the Response to Comment 2.2.1.) Please also see the Response to Comments 2.2.6 and 2.2.10.

2.2.14 SCHWARZENEGGER MAY 2005 PROCLAMATION

Summary of Comments: The Concerned Citizens of Rohnert Park (B-22) comment that the DEIS is deficient because it does not address the May 2005 Proclamation by Governor Schwarzenegger on tribal gaming. According to the commenter, “(t)he DEIS should be revised to include a summary and analysis of how the Proposed Project can be compliant with this Proclamation.”

Response: The comments do not raise substantive NEPA issues. (Please see the Response to Comment 2.2.1.) However, we discuss below why the Governor’s proclamation does not apply to this project.

On May 18, 2005, Governor Schwarzenegger issued a Proclamation which declared his administration’s policy on certain tribal gaming issues. The Proclamation, which is not legally binding, stated that the Governor’s policy was to “oppose proposals for the federal acquisition of lands within any urbanized area where the lands sought to be acquired in trust are to be used to conduct or facilitate gaming activities”. [Paragraph 1] ... For purpose of this Proclamation, ‘urbanized area’ means the definition of that term as defined in Public Resources Code section 21071,

subdivision (a). A list of the cities meeting this definition as of the date of this Proclamation is attached hereto. [Paragraph 6] The City of Rohnert Park was not included in the list of cities attached to the Proclamation. The term “urbanized area” as defined in California Public Resources Code section 21071, subdivision (a) includes any incorporated city which, when combined with the population of contiguous incorporated cities, is at least 100,000. There are no cities which are contiguous to the City of Rohnert Park. In 2000, the City of Rohnert Park had a population of approximately 42,000 citizens and the population has not doubled since 2000. Therefore, the City of Rohnert Park does not meet the criteria set forth in California Public Resources Code section 21071, subdivision (a) to constitute an “urbanized area.”

Furthermore, the Graton Rancheria Restoration Act mandated that the Secretary take land into trust in Marin or Sonoma Counties, therefore, the provisions in the Governor’s Proclamation setting forth his conditions for a gubernatorial concurrence with a Secretarial two-part determination are not applicable to the Tribe.

2.2.15 NIGC POWER TO APPROVE A MANAGEMENT CONTRACT

Summary of Comments: According to Artichoke Joe’s (B-25), the NIGC would not have jurisdiction to take the action requested (approval of a management contract) even if the land is taken into trust, unless the State ceded jurisdiction over the land (and, according to the commenter, the State has given no indication it would cede jurisdiction). According to the commenter, unless the State cedes jurisdiction over the land, the Tribe has no jurisdiction over it and IGRA would not allow gaming there. The commenter states that whether the NIGC has the power to take the requested action “is a threshold issue which must be resolved.” The commenter cites a court decision that, according to the commenter, demonstrates that failure of NIGC to determine jurisdiction as a threshold inquiry has previously resulted in judicial nullification of agency action. Thus, “the EIS is improper and should not move forward” until the threshold jurisdictional determination has been made.

Response: The comments do not raise substantive NEPA issues. (Please see the Responses to Comments 2.2.1 and 2.2.11.) The NIGC will perform an Indian lands analysis as part of its review of the Management Contract.

Since none of the alternative sites identified in the EIS are currently held in trust for the benefit of the Tribe, the Tribe does not have jurisdiction over those sites at the present time.

The NIGC commenced the current NEPA process with publication of the Notice of Intent to Prepare an EIS and of Scoping Meeting in the Federal Register in February 2004, or about 6 months after receipt of the Tribe’s request to approve its management contract. This timing is consistent with NEPA. The CEQ NEPA Regulations (40 CFR 1501.2) requires that Federal agencies commence the

NEPA process at the earliest possible time, one of the reasons being “to avoid delays later in the process, . . .” Section 1502.5 specifies that the agency—here the NIGC – is to commence its EIS “as close as possible to the time the agency . . . is presented with a proposal . . .” Based on these NEPA directives, the NIGC was complying with federal law in beginning to prepare the EIS in February 2004 rather than waiting until after making all findings necessary for management contract approvals under IGRA before commencing the NEPA process.

However, the Graton Rancheria Restoration Act provides that “Any real property taken into trust for the benefit of the Tribe pursuant to this [Act] shall be part of the Tribe’s reservation.” (25 U.S.C. 1300n-3(c)) The Indian Gaming Regulatory Act provides that the term “Indian lands” includes “all lands within the limits of any reservation”. (25 U.S.C. 2703(4)(A)) Therefore, once the Secretary accepts land into trust for the benefit of the Tribe pursuant to the Graton Rancheria Restoration Act, such lands will be part of the Tribe’s reservation and will constitute Indian lands within the meaning of the Indian Gaming Regulatory Act.

18 U.S.C. 1151(a) provides that “Indian country” includes “all lands within the limits of any Indian reservation.” Tribes are presumed to possess tribal jurisdiction within “Indian country” and over their own reservations. The Supreme Court has stated that Indian tribes are “invested with the right to self-government and jurisdiction over the persons and property within the limits of the territory they occupy, except so far as that jurisdiction has been restrained and abridged by treaty or act of Congress.” Merrion v. Jicarilla Apache Tribe, 455 U.S. 130, 140 (1982); see also United States v. Wheeler, 435 U.S. 313, 323 (1978). (There are no applicable treaties or statutes that would limit the Tribe’s jurisdiction.)

2.2.16 ABUSE OF IGRA

Summary of Comments: According to Artichoke Joe’s (B-25), tribes have begun to push the limits of IGRA to establish casinos on new lands that were never under Indian jurisdiction. According to the commenter, “(t)he failure of the NIGC to determine jurisdiction appears to be an attempt to allow this abuse of IGRA to continue.”

Response: The comments do not raise substantive NEPA issues. Please see Responses to Comments 2.2.1, 2.2.5, 2.2.15, and 2.4.2.

2.2.17 FEE-TO-TRUST POLICY

Summary of Comments: Chip Worthington of Stop the Casino 101 (B-29) discussed the U.S. Supreme Court ruling of *City of Sherrill v. Oneida Indian Nations*, and expressed concern that neither NIGC nor BIA have revised their policies for taking land into trust based on this case. According to the commenter, the Supreme Court ruled that “well settled communities have a justifiable expectation

to not be parceled into separate tribal patches,” and the casino project is “clearly a separate tribal ‘patch’ inserting itself into a well-settled urban community.”

Response: The comments do not raise substantive NEPA issues. (Please see the Response to Comment 2.2.1.)

The NIGC does not accept land into trust and therefore does not have land in trust policies. The City of Sherrill case did not involve land which had been accepted into trust by the Secretary of the Interior.

Each of the alternative sites identified in the EIS are composed of contiguous parcels of land. Therefore, if the Secretary were to accept into trust any of the sites identified in the EIS, the Tribe’s reservation would constitute a single contiguous parcel, rather than multiple parcels resulting in a checkerboard reservation.

2.3 PURPOSE AND NEED

2.3.1 USE OF CASINO PROFITS

Summary of Comments: Commenter S-10 inquired about where the casino profits would be distributed.

Response: IGRA’s allowable uses of gaming revenue and the Tribe’s proposed uses of gaming revenue are described in DEIS **Section 1.4**.

2.3.2 TRIBE’S NEED FOR THE PROPOSED DEVELOPMENT

Summary of Comments: Marilee Montgomery (B-33) stated that, “The Federated Indians of Graton Rancheria (FIGR) have received, to date, in excess of \$1.5 million from the State Revenue Sharing Trust Fund established for non-gaming tribes.” Montgomery, and commenter I-62 believed that the Tribe has not proved its need for the proposed development.

Sonoma County (G-34) commented that the objectives outlined in the DEIS addressing the need for the proposed development, “...do not dictate a particular kind of revenue source, nor the size or intensity of that use.” According to the commenter, “...the NIGC should instead examine all reasonable alternatives that would meet the Tribe’s objectives, including non-gaming and reduced gaming alternatives that might be less lucrative.”

Commenter S-35 expressed concerns regarding the Tribe’s need for the proposed development, and stated there should be an alternative way for the Tribe to make money.

Commenter S-51 cited the Tribe's need for the proposed development.

Response: One commenter (B-33) is questioning the need of the tribe since it has accepted money from a state program. Under IGRA, gaming proceeds are to be used to “promote tribal...self-sufficiency...” The definition of self-sufficiency is for the tribe to support itself and not rely on federal or state programs for funding. Therefore, the Tribe has demonstrated a need for the proposed development.

In addition, the Purpose and Need (as expressed in the DEIS **Section 1.4**) includes but goes beyond an economic augmentation of the Tribe's finances as suggested by the commenters. The increased revenue would strengthen Tribal government, fund a variety of social, housing, governmental, administrative, educational, and health and welfare services. It would additionally provide capital for other revenue-generating activities and would support charitable contributions and fund local government programs. In short, it would allow the Tribe to establish economic self-sufficiency.

With respect to the second paragraph of Comment 2.3.2, the County notes that the objectives of the DEIS are not specific to gaming. Indeed, while the DEIS explained why gaming best met the Purpose and Need, the DEIS examined a range of alternatives which included both a Reduced Intensity alternative (Alt. D) and an alternative not including gaming but rather a Business Park (Alt. E) as well as a No Action alternative (Alt. G). See DEIS **Section 2**.

IGRA was enacted to “provide a statutory basis for the operation of gaming by Indian tribes as a means of *promoting tribal economic development, self-sufficiency, and strong tribal governments.*” 25 U.S.C. 2702 (1) (emphasis added). IGRA reflects the modern view in federal Indian law and policy which emphasizes respect for, and promotion of, tribal self-determination and economic self-sufficiency as critical for the long-term survival and well-being of Indians and their tribes. In exercising jurisdiction over their reservation lands, tribes may choose the appropriate vehicle for greater economic self-sufficiency so that the tribe and its members can become less dependent on federal or other outside funding and revenue sources.

Following its restoration, the Tribe soon recognized the inadequacy of funding available for tribal government operations and programs necessary to improve the health and welfare of its membership. While the Tribe obtained a limited number of federal grants and up to \$1.1 million annually from the revenue sharing trust fund pursuant to the California tribal-state gaming compacts, additional funding was needed to reverse the generations of discrimination and neglect experienced by many of the Tribe's more than 1100 tribal members. Thus, the Tribe explored a variety of economic development plans in order to become more self-sufficient and less dependent on government assistance. Among the business development plans explored were organic grape growing, cheesemaking, and organic food processing opportunities. However, these enterprises were very difficult, if not impossible, to

launch and build due to the Tribe's lack of collateral or funding (see DEIS **Section 2.9.1**). In contrast, tribal government gaming is able to attract the investment capital necessary for the Tribe to reestablish its reservation and engage in a form of sustainable economic development.

2.3.3 THE GRATON RANCHERIA RESTORATION ACT

Summary of Comments: The Concerned Citizens of Rohnert Park (B-22) commented that the DEIS statement in the Purpose and Need section that the DEIS would effectuate the directive embodied in the Graton Rancheria Restoration Act is incorrect because this Act specifically limits the real property eligible for trust status to Indian owned fee land. According to the commenter the land is not currently held by the Tribe and therefore is not eligible to be taken into trust. The commenter states that the DEIS "should be revised to acknowledge that the approval of the management contract will not require the Secretary to take the land into trust."

The Concerned Citizens (B-22) also refer to a letter by the Governor of California that "opines that the Restoration Act, at 25 U.S.C. 1300n-3(a)-(b), is not eligible for trust acquisition." The commenter states that the DEIS should be revised to "take into account the effect of the Governor's letter."

Response: As discussed in the Response to Comment 2.2.10, the NIGC will not approve the management contract until the lands on which the gaming activity will occur are determined to be Indian lands as defined under IGRA. Although those lands are currently owned by SC Sonoma Development, LLC, they will be transferred either directly or through the Tribe to the United States for the benefit of the Tribe pursuant to the Tribe's development agreement with SC Sonoma Development, LLC. Neither the Graton Rancheria Restoration Act nor 25 USC 465 requires the Tribe to hold title to the land at the time the Tribe makes its fee-to-trust request to the Secretary of the Interior. 25 USC 1300n-3(a).

The Tribe's Restoration Act does not limit the land that is eligible for trust status to Indian-owned fee lands. Neither does the Restoration Act nor any other law require that the land must be owned by a tribal member associated with the old Graton Rancheria before it can be transferred to the U.S. in trust for the Tribe (please see **Attachment 1** correspondence from the Tribe to the Office of the Governor and the NIGC regarding the Request for Restored Lands Determination). Such an interpretation confuses the trust acquisition provision for the Tribe under Section 1405(a) of the Restoration Act with a separate provision, Section 1405(b), concerning lands associated with the old Graton Rancheria. The latter merely provides a mechanism whereby lands that were distributed to individual members when the original reservation was terminated to be returned into trust status by those Indians who were the distributees or their dependents, heirs or successors in interest. The transfer of title to the federal government may be effectuated directly from the owner of the property, whomever that may be, to the United States. Such a position is supported by a plain reading of the

Restoration Act, the legislative history of other similar federal restoration statutes, and federal court decisions.

Regarding eligibility for trust acquisition in general, please see Responses to Comments 2.2.6, 2.2.8, 2.2.10, 2.2.11, 2.2.15, and 2.2.17. The NIGC will perform an Indian lands analysis as part of its review of the Management Contract.

2.3.4 THE INDIAN GAMING REGULATORY ACT (IGRA)

Summary of Comments: According to the Concerned Citizens of Rohnert Park (B-22), the Purpose and Need section of the DEIS states that the gaming facility would be compliant with the authorization embodied in IGRA. The commenter states that this is incorrect because under IGRA gaming can only occur on federally recognized restored land through an Indian Land Opinion. According to the commenter, this land cannot be restored for the following reasons:

- a) The lack of historical facts and documents cannot and do not support the conclusion that the land should be designated as restored to either the Graton Rancheria Tribe or the Federated Coastal Miwoks;
- b) A 1959 distribution plan already restored lands to the members and descendants of the Graton Rancheria Tribe;
- c) The plain meaning of restored is to take back or be put in a former position. Since the Graton Rancheria Tribe has never before been in possession of the lands subject to NEPA review, those lands cannot be restored; and,
- d) This land does not have any relation to the Graton Rancheria Tribe and, therefore, cannot be considered restored Indian lands.

Response: Please see Responses to Comments 2.2.6, 2.2.10, and 2.2.11.

2.4 ALTERNATIVES

2.4.1 ACCURACY OF THE DESCRIPTION OF ALTERNATIVE SITES

Summary of Comments: The Stop the Casino 101 Coalition (B-2) questioned the accuracy of the description of the Wilfred site in the Supplemental Scoping Report. According to the comment letter: 1) There is no mobile home on the east, it is to the south; 2) There is no business park to the east, it is to the south; 3) The east consists primarily of residences, and some agricultural land, 25 acres of which is part of the project; and, 4) There are homes directly across Labath Avenue to the east, and houses on Dowdell Lane to the east of the 25 acre parcel mentioned above.

Lynn Conde (B-10 and S-22) commented on a perceived inaccuracy in, **Figure 1-3** the Wilfred Site Aerial Map, which according to the commenter, her neighborhood is not shown on the Figure.

The City of Rohnert Park (G-4), stated that on page 4.7-28 of the DEIS, the area defining “the vicinity” should be indicated and the justification for this conclusion should be provided.

A commenter (I-85) questioned whether the Wilfred site is on the north or south side of Wilfred Avenue, whether the Wilfred site is east or west of Labath Street, and, whether the Wilfred site occupies both sides of Wilfred Avenue.

Response: The U.S. EPA submitted the following comment regarding their approval of the analysis of alternatives presented in the EIS, “We commend NIGC and the Tribe for thoroughness of study, a good range of alternatives, avoidance of wetlands, and substantial mitigation measures.” In response to the comment (B-2), the Wilfred Site is discussed in DEIS **Section 1.3**. The description was revised to better present the existing surrounding land uses for the Wilfred Site.

As shown in DEIS **Figure 1-3**, an aerial map of the Wilfred site, the proposed development is to the north of the Rancho Verde Mobile Home Park, however; the Wilfred site in its entirety runs to the south, with its eastern boundary adjacent to the mobile home park. Therefore, the mobile home park described as being to the east of the Wilfred site is correct in reference to the entire Wilfred site location. The business park is also discussed in **Section 1.3** of the DEIS. As explained above, the entire Wilfred site extends from the northernmost edge meeting Wilfred Avenue at Labath Avenue, to the southernmost edge meeting Stony Point Road. The business park is directly adjacent to the eastern edge of the Wilfred site boundary. Therefore, the location of the business park described in **Section 1.3** in the DEIS is correct.

In response to letter B-10, **Figure 1-3** has been reviewed, and the figure does not show existing land use surrounding the Wilfred site east of U.S. Route 101 (US-101). The commenter resides to the east of US-101, which is why her neighborhood was not represented in the figure.

In response to Letter G-4, page 4.7-28 states that, “No minority or low-income communities were identified in **Section 3.7.4** *in the vicinity* of the Wilfred and Stony Point sites (emphasis added).” The area defining “the vicinity” is shown in DEIS **Section 3.7.4**. As noted in **Section 3.7.4**, CEQ and USEPA guidance were utilized in determining the area for analysis of environmental justice impacts.

In response to Letter I-85, the Wilfred site is located on the south side of Wilfred Avenue, to the west of Labath Avenue, and the site is located only to the south of Wilfred Avenue.

2.4.2 SUITABILITY OF ALTERNATIVES

Summary of Comments: Marilee Montgomery (I-1) questioned the suitability of the Wilfred site for a casino given: 1) The location of residences in the surrounding area; 2) It is a Community Separator;

3) It being home to several endangered species; 4) Vernal wetlands are present; and 5) The proposed Wilfred Site development is too large for the existing access to the site. Montgomery requested that in the FEIS, additional local and state agencies are included as cooperating agencies, that additional alternative sites be considered, and to remove the Wilfred site and adjacent alternatives from the analysis due to the perceived issues described above.

The Stop the Casino 101 Coalition (B-3) recommended that the FEIS be suspended for lack of an environmentally sound and appropriate site, and that the Tribe select an alternative project site other than those identified in the Scoping Hearing in October 19, 2005 that are on or adjacent to the Wilfred site.

Another commenter (I-147) stated why the Proposed Project should not be developed on the Wilfred site. First, that Rohnert Park is a relatively new community, so there is almost no local industry. The commenter also stated that the tax base is comprised almost entirely of single family housing units and apartments, and the infrastructure can only support this housing. The commenter stated that, "...if the effect of this casino on this community follows that of virtually every other casino on their surrounding communities, the negative impacts of this casino will affect this community for the foreseeable future, with no redress to offset the negative impacts..." Additionally, the commenter inquired if the Tribe would waive their sovereign status to allow the surrounding community to attempt to remedy impacts. The commenter also asked how those who wish to seek redress would be compensated.

Another commenter (B-33) stated that, "The Project site is 15.3 actual miles from the old Graton Rancheria... The Project is considered by the Bureau of Indian Affairs Trust Services to be an 'off-reservation' casino, and may not meet current and/or future BIA requirements."

Fred and Peggy Soares (I-169), stated that, "it is obvious that alternative sites (presented to Stations Casinos) are far more practical." According to the commenter, "The casino project is unsuitable for this area."

Sonoma County (G-34) commented that the DEIS failed to explain that, "...its preferred local access to the Wilfred site, Wilfred Avenue, would remain a County road unless and until it is annexed by the City of Rohnert Park, consistent with the City's general plan." According to the commenter, until annexation occurs, Wilfred Avenue would be the least appropriate access road from level of service (LOS), safety, and growth inducement standpoint.

Chip Worthington of Stop the Casino 101 (B-29) claimed that "the 'preferred site' is preferred only by FIGR and Stations Casino," and stated, "There is not a single Alternative site, whose scope, configuration or location are adjacent to and acceptable to any community in Sonoma County."

Lloyd Iversen (I-168) asked, “Are there any other alternatives to be considered that the public could be educated, and made well aware about? How many alternatives are there and how are they described? What other possible sites are there, that was not recently presented at the recent scooping (*sic*) meeting?”

Loretta Smith (I-166) asked, “Why has the applicant not situated this business venture adjacent to the single ‘Indian land’ acre that qualified the FIGR as a federally recognized tribe and was their original reservation land?”

Commenter S-10 stated that due to traffic impacts, an alternative site to the Wilfred site should be chosen for development. The Laguna de Santa Rosa Foundation (S-28) stated that from an environmental standpoint the Wilfred site was the best alternative, and that the Wastewater Treatment Option 1 is recommended by the Foundation.

Commenter S-33 urged, “...anyone who opposes this project to demand from the Board of Supervisors a county-wide referendum on this location.”

Commenter S-42 outlined the Tribe’s efforts to reduce environmental impacts by exploring alternatives. Regarding the Wilfred site, the commenter noted the contributions the tribe has made to the Sonoma Land Trust for the acquisition of land to be slated for open space, and the acreage that is proposed for development. Similarly, commenter S-74 expressed the belief that, “True, there are some neighbors in the Wilfred area that will be directly adjacent to the project, but after searching many other sites in Sonoma County, the Wilfred site was judged to have the least impact on the surrounding environment.”

Local resident Pamela Miller (I-167) points out that the FIGR and Station Casinos have been offered “several viable alternative properties for sale” that would be more appropriate alternative locations for the proposed casino projects because of fewer environmental and social concerns.

Response: The Wilfred Site must be seen in the context of the history behind its becoming the proposed site (see DEIS **Section 2.0**). Following passage of the Graton Rancheria Restoration Act and the Tribe’s decision to pursue gaming as a means to economic self-sufficiency, an extensive search took place within Sonoma and Marin Counties to identify a property that was environmentally and economically suitable for large-scale commercial development. (*See: 25 USC 1300n-3(a)* (specifying that the land taken into trust shall be in Marin or Sonoma County)). The Tribe initially identified a site in southern Sonoma County that included the Lakeville site. After community, political, and environmental concerns were revealed, the Tribe identified approximately 48 other

potential sites throughout its aboriginal territory. After much deliberation the Tribe narrowed its range of sites to 9 and eventually down to the Stony Point Site, the Tribe's proposed alternative site.

The history behind the focus on the Wilfred Site has been a history of the Tribe's adapting because of environmental concerns and doing so at considerable expense. After the search for sites (described above) which were consistent with the Congressional mandate (Graton Rancheria Restoration Act, 25 USC 1300n, *et seq.*), the Tribe had settled on the Lakeville site. After holding town hall style meetings to involve and listen to the public and after many discussions with environmental organizations whose members believed that site would interfere with the preservation and restoration of baylands along the northern edge of San Pablo Bay, the Tribe instead turned to the Stony Point site as its proposed alternative site. Pursuant to NEPA, the NIGC published in the Federal Register a Notice of Intent (NOI) to prepare an EIS on the Stony Point site, going on to hold a scoping hearing. 69 Fed.Reg. 7022 (Feb. 12, 2004); **Appendix A** to DEIS. The agency thereafter in August 2004 issued a Scoping Report on the results of the hearing and other measures taken to involve the public and other agencies in NEPA's scoping process. While in many ways the site appeared to be an appropriate one (close to a freeway and extensive commercial development; not in a remote, pristine area), those concerned with environmental protection, particularly the U.S. Army Corps of Engineers, which Congress has charged with wetland preservation and entrusted with permit jurisdiction over such wetlands (Clean Water Act Section 404, 33 USC 1344), urged that the Tribe seek another location with fewer wetlands impacts. Again the Tribe and its investor sought, found, and purchased yet another parcel of land, the Wilfred Site, which had all the advantages of the Stony Point site, but with markedly fewer environmental impacts (i.e., 2.08 acres of wetlands affected as opposed to 27.16 acres at Stony Point). The proposed site shifted to this site (the Wilfred Site) adjacent to and on the east side of the Stony Point Site, and a Supplemental Notice of Intent focusing on the Wilfred Site was published in the Federal Register and a supplemental public scoping hearing was held. 70 Fed.Reg. 56,933 (Sep. 29, 2005). The shift was proposed to "avoid environmental constraints discovered on the original site, particularly to avoid wetlands identified on the original [Stony Point] site." *Id.*

This search for alternatives resulting in finding alternatives with ever-diminishing environmental impacts, is a result of NEPA at work – it is a NEPA success story. As the USEPA has commented on this DEIS (G-29), "We commend NIGC and the Tribe for thoroughness of study, a good range of alternatives, avoidance of wetlands, and substantial mitigation measures."

The Wilfred Site is one alternative site of three contained within the DEIS. The NIGC has properly considered three alternative sites in the DEIS as part of the range of reasonable alternatives required by the CEQ Regulations (40 CFR 1502.14) and the NIGC NEPA Procedures Manual. Moreover, the DEIS also discussed a reduced intensity alternative. The Wilfred Site was chosen as one of the alternative sites because it is the location of the Tribe's Proposed Project, it is owned by SC Sonoma

LLC, with ownership to be transferred to the Tribe should the land be taken into Trust by the BIA, and it appeared to be environmentally less sensitive than the previous locations of the Tribe's Proposed Project, the Stony Point site and the Lakeville site.

The DEIS fully complies with NEPA's requirements with respect to the consideration of alternatives. As CEQ has said, what is important is that a reasonable number of alternatives be evaluated, covering the range of potential alternatives. *See*: 40 CFR 1505.1(e); CEQ, Forty Most Asked Questions Concerning CEQ's NEPA Regulations, Q1 (46 Fed.Reg. 18026, 18027 (Mar. 23, 1981)). As CEQ explained, "[T]he emphasis in determining the scope of alternatives should be on what is 'reasonable.'" CEQ, Memorandum to Agencies Containing Guidance on Agency Implementation of NEPA Regulations (48 Fed.Reg. 34263, 34267 (Jul. 28, 1983)). Other factors developed during the scoping process, including comments received from the public and other government agencies, "should certainly be incorporated into the decision of which alternatives to seriously evaluate in the EIS." *Id.* In the Supreme Court's words, the duty to examine alternatives must be "bounded by some notion of feasibility." *Vermont Yankee Nuclear Power Corp. v. NRDC*, 435 U.S. 519, 551 (1977). Moreover, as CEQ has advised, "There is . . . no need to disregard the applicant's purposes and needs . . . in the development of alternatives." CEQ, Guidance, *supra*,. at 34267.

With respect to the comment concerning cooperating agencies, local and state agencies have been included as cooperating agencies, including Sonoma County and the State Department of Transportation (Caltrans). No agency that requested cooperating agency status was denied such status by the NIGC.

Regarding the Tribe waiving its sovereign status, it is not expected to do so generally. However, local jurisdictions usually request such a limited waiver before entering into agreements with tribes. Such a waiver is contained in the MOU with Rohnert Park, for instance (see DEIS **Appendix E**).

Off-reservation concern

Because the Tribe does not have an existing reservation and is landless, it is inaccurate to characterize the Proposed Project as an "off-reservation" casino. Instead, the acquisition of the project lands into trust by the Secretary of the Interior pursuant to the Graton Rancheria Restoration Act would constitute "lands which are taken into trust as part of the restoration of lands for an Indian tribe that is restored to Federal recognition." 25 U.S.C. §2719(b)(1)(B)(iii).

In restoring the Tribe's federally recognized status, Congress provided the Tribe the right to acquire lands for its reservation anywhere in Marin or Sonoma counties. Nevertheless, consistent with the Tribe's desire for its project to serve as a model tribal development, the Tribe worked closely with Sonoma County and local communities to identify an appropriate location for its reservation and

proposed resort. The Tribe, at extraordinary cost, has changed locations twice to avoid impacts on wetlands and open space.

The Tribe reviewed dozens of alternative locations in consultation with local officials before settling on the present site near Rohnert Park's commercial district west of Highway 101. The Preferred Alternative, the Wilfred Site, offers good traffic access and circulation, thereby avoiding the traffic issues that would occur had the Tribe selected a location closer to Graton and Sebastapol as suggested by a commenter. Moreover, the Tribe's proposed development on the Wilfred Site replaces a large scale commercial/residential development that was being planned for the same site. The City of Rohnert Park's Northwest Specific Plan Southern Area clearly addresses the intention to develop the Wilfred Site and its surrounding area and identifies the land use purposes as high density residential; commercial such as retail, auto sales, shopping malls and "big box" stores; industrial including light manufacturing, assembly and storage; and a neighborhood scale park development. Thus the Tribe's resort will displace other business development rather than impeding on planned open space. See also Response to Comment 2.4.4.

Regarding availability of alternative properties and restoration of lands under IGRA, please also see Responses to comments 2.2.10 and 2.2.15.

Wilfred Avenue

The description of Wilfred Avenue in Section 3.8.1 has been revised to clarify that Wilfred Avenue would remain a County road until annexed, in part, by the City of Rohnert Park. Access to the Wilfred Site would occur from both Wilfred Avenue and Business Park Drive. No other access is available to the development area on the Wilfred Site due to Williamson Act development restrictions on the southern portion of the site abutting Rohnert Park Expressway.

Regarding the questions raised by Letter I-168, the only alternatives analyzed are those contained in DEIS **Section 2.0**. The number of alternatives and the description of alternatives is also contained in DEIS **Section 2.0**. The DEIS analyzes a range of reasonable alternative sites (see above and Response to Comment 2.4.4).

The Tribe does not recall any properties offered for development other than those brought to the attention of the NIGC during the EIS scoping and those discussed in the DEIS.

2.4.3 NEED FOR RECIRCULATION OF THE DEIS INCLUDING THE FULL ANALYSIS OF ALTERNATIVE H

Summary of Comments: Sonoma County (G-34) stated that, "Alternative H offers the best opportunity to reduce land use, agricultural, and visual impacts. Its absence precludes a meaningful comparison of project alternatives." The commenter stated that the DEIS must be revised to include

this alternative, and recirculated. Moreover, the commenter stated that without recirculating the DEIS with an analysis of Alternative H, "...would not allow non-NIGC reviewers and the public a proper opportunity to evaluate its comparative merits.

A comment from the City of Cotati (G-13) and the City of Rohnert Park (G-4), stated that the lack of information for Alternative H in the DEIS, requires a revised DEIS to be recirculated with Alternative H fully developed and completed. Thus, initiating a new comment period for the revised DEIS.

Response: 40 C.F.R. 1502.9(a) requires recirculation of a draft statement only when "it is so inadequate as to preclude meaningful analysis, . . ." Then 40 C.F.R. 1505.1(c) requires that the alternatives considered by the decisionmaker be "encompassed by the range of alternatives" discussed in the EIS. As the CEQ Forty Most Asked Questions Concerning CEQ's NEPA Regulations (40 Questions), elaborates, "Where 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." 46 Fed.Reg. 18026, 18027 (Mar. 23, 1981). Alternative H is clearly within the range of alternatives discussed in the EIS and the decisionmaker would be justified in selecting such an alternative even if it were not discussed in FEIS. Alternative H is within the range between Alternative A, the larger development on the same site, and Alternative G, the "no action" alternative. It is also created by taking the present Alternative D which represents a lesser development than Alternative C on the same site (Stony Point) and removing it to the adjoining Alternative A (Wilfred site) such that the two lesser development alternatives (D and H) bear the same relationship to the two greater development alternatives (A and C).

In short, the decisionmaker would be fully justified in selecting an alternative comparable to Alternative H even without its appearing in the FEIS, since it is encompassed within the range of alternatives considered in the DEIS, but the NIGC has decided to go further and set out this alternative in the FEIS, giving notice of its intention to do so in the DEIS. Note that this is the course of action that USEPA has recommended in their comment letter (G-29). Of course, agencies or the public are able to review the FEIS during the 30 day minimum period between the filing of that document and the earliest time at which the agency may make its decision. 40 CFR 1503.1(b), 1506.10(b)(2).

2.4.4 RANGE OF ALTERNATIVES

Summary of Comments: Annette Elder-Evins (G-3), recommended that the Tribe establish a state of the art bottling facility as a subsidiary business and to consider using reverse osmosis to treat wastewater. The same commenter in a separate comment (G-27) also requested that the Tribe consider developing an on-site brine cannery and produce toiletry products, including bath salts as a part of the Tribe's economic development strategy.

The City of Rohnert Park (G-4) suggested childcare facilities in the casino be explored to meet the needs of casino workers. The City of Rohnert Park (G-4), noted that if Alternative E were constructed on the Wilfred site, City services would be available because the project would be within the City's sphere of influence (SOI) and urban growth boundary as designated by the City's General Plan. The commenter requested a revised analysis using the Wilfred site be included in the FEIS.

John Herrick (B-13) of the Milo Baker Chapter of the California Native Plant Society, suggests Alternative A or G, because of the proposed location within the City of Rohnert Park designated urban growth boundary.

Cassandra Lista (I-149) stated that if the Proposed Project were only for a casino, rather than the hotel, restaurants, and stores that are currently included under Alternative A, the development would demand far less water, therefore, she may not oppose the project.

Lloyd Iversen (I-168) stated that, according to Jake Mackenzie of the Rohnert Park City Council, there are over 50 alternative sites available for further consideration.

The Concerned Citizens of Rohnert Park (B-22) comment that the DEIS is deficient for its lack of discussion of an alternative for locating the Proposed Project on the "original restored lands of the Graton Rancheria Tribe, in Graton, California." According to the commenter, "(t)he DEIS should be amended to include this as a project alternative."

Response: Please see Response to Comment 2.4.2.

Please see Response to Comment 2.2.1 regarding expressions of opinion regarding the selection of a particular alternative. Note that there the reduced intensity alternative, the business park alternative, and the no action alternative all demand less water than Alternative A.

Availability of alternative properties

As discussed in **Section 2** of the DEIS and in Response to Comment 2.4.2, the Tribe has worked cooperatively with Sonoma County and considered nearly 50 sites in Marin and Sonoma Counties before identifying the site near Rohnert Park. At the County's request, the Tribe attempted to focus its analysis on-sites on which development would be consistent with the Sonoma County General Plan. The General Plan primarily envisions development within the incorporated areas along the Highway 101 corridor. Many of the other sites considered along or near the Highway 101 corridor, however, were too small to provide enough land for environmental mitigation, or had other problems, including limited traffic access, wetlands and/or floodplain issues, or were designated as open space and not subject to development pursuant to local land use plans. While it is certainly possible that there could be over 50 properties for sale in Marin and Sonoma Counties as suggested by a

commenter, it is likely that few if any would be considered appropriate for development by the counties of Marin or Sonoma from a land use planning perspective, notwithstanding other political and environmental issues that could occur on a potential development site.

Original Graton Rancheria as an alternative

Nothing in NEPA or the Graton Rancheria Restoration Act requires consideration of the former Graton Rancheria as a project alternative. The Tribe worked cooperatively with the County to identify an appropriate site on which to reestablish its reservation consistent with its Restoration Act and to develop its proposed resort. Lands within or around the former Graton Rancheria were not considered appropriate for such purposes. Only one acre of the original 15.45 acre Graton Rancheria remains in Indian ownership. This single acre is held privately in fee and used for residential purposes. The Graton Rancheria is located in an area of rugged beauty including streams and redwood groves. The former Rancheria can only be reached by small, two-lane roads designated as scenic in the Sonoma County General Plan, and commercial development of the land there would be wholly inconsistent with that Plan.

Note also that the USEPA (G-29) has commended the NIGC “for thoroughness of study” and for “a good range of alternatives...”

2.4.5 GREEN BUILDING FEATURES

Summary of Comments: The City of Rohnert Park (G-4) suggested that the project’s inclusion of green building and energy efficiency measures be elaborated on page 2-8.

According to the City of Petaluma (G-14), air quality and other related impacts may be reduced further through a commitment from the Tribe to construct the hotel-casino and related facilities that meet LEED Green Building standards.

The City of Cotati (G-31) stated, with regard to **Figure 2-8, Section 2.2.5**, “The project’s inclusion of green building and energy efficiency measures should be described in detail at this location.” The commenter also suggests that a photovoltaic system be analyzed as a potential mitigation measure for both air quality and energy consumption issues, and that solar heating of the swimming pool(s) could also mitigate for energy consumption.

Commenter S-41 outlined that the Tribe would use environmentally preferable construction materials.

Response: In response to the City’s comment (G-4), there is no discussion of green building or energy efficiency on page 2-8 of the DEIS. However, under **Section 2.2.10** the Tribe has agreed in the MOU with the City to, “To the extent determined commercially reasonable, the Tribe agreed to

implement recycling, implement green waste diversion (reusing instead of disposing of green waste where possible), and design buildings using green building techniques.”

In response to the City of Petaluma’s comments (G-14), it is agreed that air quality and other related impacts might be reduced if the Tribe constructed the proposed development to meet LEED standards. Mitigation for the proposed alternatives is included in **Section 5.0**. Specifically, air quality mitigation is included in **Section 5.2.3**. A LEED Accredited Professional has recently reviewed the proposed project and recommended mitigation in the FEIS and has determined that the project would qualify for enough credits to achieve LEED certification without further modification. Actual LEED certification, however, may not be possible due to the proposed allowance of smoking inside the casino and hotel, which is contrary to one of the prerequisites for LEED certification.

The City of Cotati’s comment (G-31) regarding the inclusion of green building measures in **Section 2.0** is noted. **Figure 2-8** is the site plan for Alternative B, the Northwest Stony Point site alternative; therefore, the project’s inclusion of green building measures would not be presented in this figure. The specific project components that may be considered green building measures can be found as mitigation in **Section 5.0**. In addition, the City’s suggestion regarding the use of photovoltaic systems has been noted. Mitigation in **Section 5.2.8** would reduce energy consumption for the proposed alternatives.

2.4.6 ALTERNATIVES ELIMINATED FROM CONSIDERATION

Summary of Comments: The City of Rohnert Park (G-4) submitted the following comment on the Cotati Alternative (a non-gaming alternative that was eliminated from consideration), in which the commenter noted that the DEIS states that the site is located outside of the urban growth boundary of the City of Cotati. According to the commenter, if this reasoning was used to eliminate potential alternative sites, than the Stony Point site could also be considered inappropriate as it is also outside of the urban growth boundary.

Response: As noted in DEIS **Section 2.9**, the Cotati Alternative’s location outside of the urban growth boundary was only one of many reasons for eliminating the alternative from further consideration.

2.4.7 TREATMENT OF TRIBAL-STATE COMPACT IN ALTERNATIVES SECTION

Summary of Comments: The City of Rohnert Park (G-4) suggested that on page 2-3 the third bullet point should include sewage and air quality as additional standards that the Tribal government would adopt and comply with.

Response: The third bullet includes air quality, water quality, and safe drinking water standards. These bullets are not meant to be mitigation recommendations based on the analysis of impacts (see

DEIS **Section 5.0**), but minimum expected compact requirements (a compact is required prior to conducting Class III gaming), as stated on page 2-3. The NIGC is not involved in compact negotiations, given that such negotiations take place between the Tribe and the State.

2.4.8 COMPARISON OF ALTERNATIVES

Summary of Comments: Sonoma County (G-34) commented that the DEIS incorrectly concludes that the impacts to land use and agriculture would be similar among all of the alternatives. According to the commenter, “The soils, water availability, current agricultural production, surrounding land uses, distance to residences, and the nature and extent of the project itself are different at each location.” Therefore, the commenter stated that the DEIS should be revised to provide a comparison using the criteria stated above.

Response: In response to the County’s comment, the impacts of the alternatives are analyzed throughout the DEIS, and are discussed in **Section 4.8**, Resource Use Patterns. While the impacts of the proposed alternatives may be similar, the significance and mitigation for those impacts may differ. Nonetheless, the language in the Executive Summary has been revised to better describe the individual land use and agricultural impacts of each proposed alternative.

2.4.9 NEED FOR ALTERNATIVE H TO BE ANALYZED IN THE FEIS

Summary of Comments: The City of Cotati (G-31) and the USEPA (G-29) requested that Alternative H be described in detail, along with impacts and mitigation measures, in the FEIS.

Response: Alternative H has been described in detail in the FEIS.

2.4.10 PROJECT DESCRIPTION

Summary of Comments: The City of Cotati (G-31) stated, with regard to **Figure 2-1**, “Additional structure parking should be considered to better allow use of surface areas (e.g. landscaping, storm water detention).”

The USACE (G-32) stated that the NIGC has agreed to include in the EIS a project description referencing roadway improvements.

Response: Please see Responses to Comments 2.5.26 and 2.7.3.

In response to comments by the USACE, the project description has been revised to reference roadway improvements.

2.4.11 ESTIMATED DURATION OF CONSTRUCTION ACTIVITIES

Summary of Comments: Sonoma County (G-34) stated the following:

- An opening date of 2008 for the casino is not realistic;
- The construction schedule referred to on page 49 of **Appendix O** stated the casino would take 27 months to construct; and,
- In the air quality section of the DEIS the construction period is identified as 12 months.

Therefore, according to the commenter, the DEIS should identify the correct duration and adjust analyses as necessary. The commenter also noted that this might apply to sections other than Traffic.

Furthermore, the commenter noted that the DEIS should be revised to disclose Rohnert Park's expected schedule for improvements to Wilfred Avenue. The commenter included the Stony Point Road reconstruction as an example of potential costs, which totaled approximately \$5 million per mile in 2006. According to the commenter, given environmental constraints, and the ROW acquisition process, the earliest timeframe for construction to be completed would be three years.

Response: The NEPA process began in 2004. Certainly in 2004 and until very recently, 2008 was a reasonable assumption for the opening of the Proposed Project. Given that this NEPA process has taken longer than most, in part due to the Tribe's willingness to seriously consider and even purchasing alternatives sites with lesser environmental impacts, it no longer appears that the opening date for the Proposed Project would be 2008. The construction schedules have been revised in the FEIS (27 – 20 months depending on the alternative). Note that consistent construction schedule estimates have been added to FEIS Section 2.

Nonetheless, in the preparation of NEPA documents the sheer passage of time from the start of the process until its completion often means that the information used as the basis for analysis or the year that appeared to be the most appropriate baseline is in fact superseded by time. But to go back and do the analysis again would merely invite a repetition of the same sequence -- delay followed by assertion that the process should start once again with fresher data or a more recent baseline. The courts have declined to require such repetitious exercises. As long as the agency made a sensible choice of data or baseline at the outset and is able to state that later changes in data or in the choice of baseline would not have altered the bottom line of the EIS, the courts have deferred to the agencies' discretion. 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 [agency] 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 [agency] 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.”

Village of Bensenville v. FAA, 372 U.S.App.D.C. 406, 457 F.3d 52, 71-72 (D.C. Cir. 2006).

Note that, even should the opening of the development be delayed until 2009 or 2010, changes in analysis of impacts would differ only slightly (note that the traffic analysis does not assume Wilfred widening would occur before project opening – a statement to that effect in the traffic study was erroneous and has been removed). As noted in DEIS **Section 4.8**, background traffic growth is projected at roughly two percent per year and trip generation rates would remain unchanged. Also, the cumulative analysis would remain well in the future and remain unchanged.

2.4.12 NEED FOR A REDUCED GAMING ALTERNATIVE

Summary of Comments: Sonoma County (G-34) commented that, an additional alternative, Alternative I, with a reduced number of slot machines and other proposed casino gaming would be a preferred reduced intensity alternative. According to the commenter, the DEIS does not contain a reduced gaming alternative, despite it being the main driver for environmental impacts through, traffic, socioeconomic, fiscal, and other impacts.

Response: The reduced intensity casino alternative in the DEIS (Alternative D) is a true “reduced gaming alternative.” As shown in the DEIS **Section 2**, the total square footage of the casino/hotel resort is reduced from 762,300 to 413,400, including a 30,000 square foot reduction in the casino component. This substantial reduction in size results in reduced impacts, as shown in the DEIS. For example, total PM peak hour vehicle trips for the reduced intensity alternative are reduced by approximately 31 percent from 2,287 (for Alternative B) to 1,580 (for Alternative D) (see DEIS **Section 4.8**). Please note the analysis of a reduced intensity alternative in the EIS is based upon a facility that is reduced in size and intensity, not a reduced number of slot machines or gaming tables.

While it is accurate to state that Alternative H is based upon a reduction in square footage rather than the number of slot machines, we disagree that the number of slot machines should be analyzed as the primary driver for most visitation and resulting impacts. Use of square footage is an accurate and common methodology for determining trip generation (visitation) for tribal casino projects.

The number of slot machines is not the sole determinant of visitation. Other attractants including restaurants, entertainment, and other forms of gaming such as table games also attract visitors. Indeed, restaurants may well attract more visitors per square foot than do slot machines. Overall,

however, square footage provides a better measure of probable visitation than does the number of slot machines.

While slot machines are not the sole determinant of visitation, they are the primary driver of revenues for most tribal gaming projects. This is due to the profitability of a slot machine, which requires very little labor expense or ongoing maintenance, compared to table games and other revenue producing areas of a hotel/casino, such as restaurants, hotel rooms, etc. Just because slot machines are the primary driver of revenues for a tribal gaming project, however, does not mean that they will be the primary determinant of visitation.

In this case the propriety of using square footage rather than the number of slot machines is reinforced by the facts. We can plan and therefore know the square footage involved, but, at this stage, we do not know the number of slot machines that will be operated at the proposed project. That number will be the subject of negotiations between the Governor of California and the Tribe in connection with a compact to be submitted to the Legislature and the Tribal Council for approval prior to submission to the Secretary of the Interior for final approval. 25 U.S.C. § 2710(d)(3)(B). At this stage we simply do not know what the number of slot machines will be.

The DEIS traffic study (**Appendix O**) relied on other tribal casino traffic studies, trip counts from tribal casinos, and a San Diego County study on the impacts of tribal casino projects in the county. Note that the San Diego County study's trip generation assumptions were based on tribal casino environmental documents, other available studies, review of project descriptions, coordination with traffic consultants, and discussions with some Tribal representatives. The study bases trips on square footage and notes that "one casino's trip generation rate may not apply to every casino, as the types of casinos vary. Some may be 'high end' and include several accessory uses to encourage customers to stay longer. Others may serve a customer base with more frequent turnover ... The actual trip rate for each proposed casino will vary dependent upon its size and composition of uses."

Therefore, given the various factors governing trip rate, it makes more sense to base the trip rate on overall square footage. In the EIS traffic study a variety of casino trip rates are considered, including recent trip counts from the Thunder Valley Casino, near Sacramento, California. The various rates are plotted on a regression curve showing that trip rates are lower for larger gaming facilities (and more basically that trips can be accurately predicted based on square footage). According to the traffic study (DEIS **Appendix O**), the regression analysis "showed a R^2 of 0.83 which indicates a strong fit to the data." Finally, as detailed in the traffic study, a larger trip rate was utilized for the proposed project than was suggested by strictly applying the regression curve in an attempt to err on the side of overestimating rather than underestimating impacts.

Therefore, it is appropriate to rely on square footage in estimating trip generation and in creating a reduced intensity alternative. Furthermore, the trip rate chosen for the analysis is conservative in that it will tend to overestimate the actual number of trips that would be generated by the proposed project.

2.4.13 ALTERNATIVE SITES NOT CONSIDERED

Summary of Comments: Loretta Smith (I-166) asked why the following sites were not selected for consideration:

- The original proposed site on Highway 37;
- Skaggs Island, a former military base that already has the infrastructure in place and would not require such environmental destruction;
- 160 acres at the former drive in theater site at the county line between Marin and Sonoma near San Antonio Creek, according to the commenter, it is directly on US 101 and has no residences near it;
- Mecham Road, a landfill site slated to be closed soon and be turned into a regional park. According to the commenter, this site has many acres nestled in hills that would make it unobtrusive to the surrounding areas;
- Hamilton Air Force Base (located off of US 101), a former military site with existing infrastructure; and
- 400 acres by Sonoma County Airport.

Response: Regarding the scope of alternatives considered in the DEIS and the availability/selection of alternative sites, please see Responses to Comments 2.4.2 and 2.4.4. In addition, note that the original proposed site on Highway 37 was considered, and as the commenter notes, was the original proposed site for development. The development of a portion of this site is analyzed in detail in the DEIS as Alternative F. Also, the **FEIS Sections 2.1** and **2.9.2** have been revised to include reasons for eliminating from further consideration many of the specific and identifiable alternative gaming sites suggested by commenters during the scoping comment periods (including most of the sites noted by commenter I-166).

2.4.14 ROHNERT PARK MEMORANDUM OF UNDERSTANDING (MOU) VALIDITY

Summary of Comments: Maurice Fredericks (B-34) commented that the MOU between the Tribe and Rohnert Park was agreed upon under false information. The commenter referred to a Non Binding Preliminary Term Sheet, in stating that the acquisition of land by the United States in trust for the Tribe, which came to be known as the Graton Rancheria, was not purchased and held in trust, but the ownership remained in fee title.

According to the commenter, “The land commonly known as the ‘Graton Rancheria’ was acquired for the avowed purpose of providing land that could be allotted to individual homeless Indians and Indian

families.” Of those that accepted allotments on the land, one person was known to have been associated with a tribe in Humboldt County. The commenter continued, “There is no evidence of there ever being a social order of even a primitive nature on this so called ‘Rancheria.’” Thus, the commenter stated that the MOU was negotiated on a, “. . .mutual mistake of fact and is not enforceable (California Civil Code §1577),” moreover, the commenter stated that if the mistake was not mutual, then the MOU was initiated fraudulently.

Response: The validity of the MOU between the Tribe and City of Rohnert Park does not depend on how title to the original Graton Rancheria was held by the United States. As previously explained in the Response to Comment 2.3.3, nowhere is it required that original tribal lands be held in trust title by the United States in order for a trust relationship to have existed at the time the Rancheria was established. Whether the title to the Graton Rancheria was held in fee title by the United States or in trust is irrelevant for purposes of whether the original Rancheria was an Indian reservation or whether the Tribe was federally recognized. Indeed, Congress would not have needed to enact the Rancheria Act to terminate tribes in California if rancherias were simply privately-owned fee lands. The exact manner in which title to the Graton Rancheria was held by the United States is not material for purposes of the MOU.

The government to government relationship upon which the MOU between the Tribe and City is premised is firmly based upon Congressional, executive, and judicial findings, as established and supported by the historic record, statutory history, and federal law. See Recitals under the City MOU, **Appendix E** of the DEIS. Exercising its plenary powers over Indian affairs under the U.S. Constitution, Congress restored the Tribe’s federally recognized status. The Responses to Comments 2.2.2, 2.2.5, 2.2.6, 2.2.7, 2.2.8, and 2.2.11 also address the underlying concerns raised by the commenter here.

2.5 WATER RESOURCES

2.5.1 AVAILABILITY OF WATER FOR DEVELOPMENT

Summary of Comments: According to comments received, including comments from the Stop the Casino 101 Coalition (B-3, B-6, and B-10), the O.W.L. Foundation (B-4, B-5, and B-26), and the Sonoma County Land Rights Coalition (B-11), there is inadequate water at the Wilfred or Stony Point sites to support the project. Individual commenters I-152, I-154, I-156, I-160 and S-22 also noted that the local aquifers are already strained, and a casino anywhere in the Rohnert Park/Petaluma vicinity would be a “tremendous drain on our water supply.” The O.W. L. Foundation (B-26) further noted that obtaining increased water supplies from the Sonoma County Water Agency (SCWA) or the City of Rohnert Park would not be feasible.

Assembly Member Jared Huffman (G-10) perceived that the proposed casino could have negative effects upon the water supply and delivery system. He further noted that future compensation options might not be adequate.

Lynn Cominsky (B-14) noted that according to *The Press Democrat* (April 4, 2007), the City of Rohnert Park had planned to build approximately 5,000 new homes. According to Cominsky, these homes would in fact require more water and sewer capacity than the proposed casino development. Therefore, the proposed development would not consume as much water as the previous development planned on the Wilfred and Stony Point sites.

In general, several commenters (B-29, S-29, S-65, S-69, I-107, I-125, I-136, I-138, I-143, I-145, I-146, and I-149) are concerned that since there is an already existing water problem and not enough water to supply the current population, there will be further water issues that will arise. In addition, Michael and Faye Martin (I-145) are concerned about the ongoing County meetings in which to control water use by installing meters on all wells. Another commenter (I-138) also requested information on studies that have been completed which show the availability of water for all of Sonoma County's residents.

Commenter (I-138), expressed concerns regarding the availability for water on the Wilfred site, the commenter specifically questioned the size of the casino based on the lack of information regarding the availability of water.

Congresswoman Lynn Woolsey (G-30) stated that the project would exacerbate existing water supply problems in Sonoma County. The commenter cited a notification by SCWA that, according to the commenter, established that there is not enough water to supply existing customers. According to the commenter, SCWA "has embarked on a Water Project that is filled with uncertainties regarding funding, regulatory compliance, and political support."

Another commenter (I-147) expressed that the proposed development would have a significant water demand. According to the commenter, "...[due to] the curtailment of diverted water from the Eel River to the Russian River in the summer, the current water supply may be insufficient to even supply present demand."

Lisa Bagwell (I-179) attended the public hearings on April 4 and 5, and voiced concerns regarding the availability of water in Sonoma County, as well as throughout the state. Bagwell is specifically concerned about the impacts to private wells in Rohnert Park if the Proposed Project were to be developed.

The City of Cotati (G-31) stated, regarding the last paragraph on page 3.9-4 of the DEIS, “The Eleventh Amended Agreement for Water Supply was replaced in 2006 by the Restructured Agreement.”

Commenters S-1 and S-2 believed that the proposed development should be subject to SB 610.

Lloyd Iversen (I-168) stated that water in the area is currently being used in excess of supplies; requested a description of the possible depletion of water inventories over time; requested a “thorough and meticulous” groundwater study; and questioned how the casino project would “mitigate the reduction of ground water... in the already over-drafted ground water basin.” The commenter also discussed emergency well management and water usage in drought conditions, questioning whether the casino would be a “substantial water user in the well field of the emergency wells in the area,” and what the impact of the casino’s water usage during a drought would be. The commenter mentioned compression of the ground water table resulting from depletion of ground water, and questioned what the casino project’s contribution to this would be. Furthermore, Iverson (S-91), regarding data collected for a new water study, inquired as to why the EIS didn’t, “point out that the new data would be essential in accurately predicting hydrological effects of casino groundwater pumping?”

In a letter from Dawna Gallagher (I-144) she stated that 15 years ago Rohnert Park started on its way to being in massive overdraft of its existing wells. At that time, the City Manager asked Petaluma and the North Marin Water District for extra water. Now, her concern is that there is no water to support a casino, with the county being in a state of regulatory drought. She agrees with the comment letter in the DEIS from Stephen Donley, Rohnert Park City Manager, Ron Bandorff and the City Council.

Response: Based on information contained within the groundwater study prepared for the DEIS by WorleyParsons Komex (**Appendix G** of the DEIS), the proposed groundwater wells should be capable of supplying an adequate water supply for the Proposed Project. The project falls well within the range of well yields of municipal water supply wells in the region. Further, the approximately 325 acre-feet per year that would be pumped to supply the Proposed Project would represent only about 0.8 to 1 percent of current groundwater demand and 1.0 to 1.7 percent of future groundwater demand in the Santa Rosa Valley Groundwater Basin, and approximately 4.5 percent of current and future groundwater demand in the southern portion of the Santa Rosa Plain groundwater sub-basin (upper Laguna de Santa Rosa watershed) (see **Sections 3 and 4** and **Appendix G** of the DEIS).

Note that obtaining water supplies from SCWA or the City of Rohnert Park is not assumed to occur under any of the development alternatives. Since the Project would construct its own groundwater wells and own distribution system on-site, the water supply and delivery system of others is not

affected by the project. Similarly, the comments regarding the infeasibility or unreliability of obtaining water supplies from SCWA or the City of Rohnert Park, and the potential insufficiency of water supplies when water diversions from the Eel River are curtailed during the summer do not apply to the project, given that it would rely on groundwater for water supply.

As noted in **Section 3** of the DEIS, previous pumping rates of approximately 4700 acre-feet per year by the City of Rohnert Park were associated with lowering of groundwater levels below the City. In order to mitigate this decline in groundwater levels, court action required the City of Rohnert Park to reduce its groundwater pumping to approximately 2500 acre-feet per year. Since 2004, the City has further reduced its groundwater pumping to less than 1,000 acre-feet per year. For purposes of comparison, project-related pumping of approximately 325 acre-feet per year would be equivalent to only about 7 percent of the City's 4700 acre-feet per year pumping rate that was associated with a decline in groundwater levels and subsequent court action, and even when added to current City pumping would result in cumulative pumping levels well below the City's reduced pumping rate of 2,500 acre-feet per year.

The California Department of Water Resources (DWR), in its most recently updated description of the Santa Rosa Plain sub-basin in 2004, indicates that "[t]he Santa Rosa Plain ground water basin as a whole is about in balance, with increased ground water levels in the northeast contrasting with decreased ground water levels in the south." Furthermore, it is important to note that neither the DWR, nor any other public agency, has commented on whether or not the basin is in overdraft (DEIS **Section 3.3.2; Appendix G Section 6.5.2**). The cost of undertaking the work necessary to resolve that issue would be exorbitant within the meaning of 40 CFR § 1502.22 and beyond the capacity of the NIGC or the Tribe to undertake. However, the project's contribution to the local and regional groundwater demand, and any overdraft (if it exists, which is unlikely as discussed below) would be minor. The available scientific data is set forth in the EIS and in these responses. Evaluation of well hydrographs near the City of Rohnert Park shows they are consistent with DWR's example of a "historical overdraft" condition, with an initial decline in water levels followed by a leveling off that reflects a decrease in water demand and/or an increase in recharge. It is significant to note that this leveling off is not related to climatic conditions (i.e., it is not affected by above or below normal precipitation). Recently, groundwater levels have begun to recover at the same time that groundwater use by the City or Rohnert Park has decreased (**Section 5.4.2 of Appendix G to the DEIS, Appendix Y of the DEIS**).

Basin-wide groundwater pumping is expected to remain relatively stable over the next several decades, and in the upper Laguna de Santa Rosa watershed (the southern Santa Rosa Plain sub-basin), groundwater demand is expected to stay below historical levels that were associated with regional groundwater level declines in the 1980's. Under these conditions, it is not likely that the project will contribute to a further decline in regional groundwater levels; however, the project could slow the

recovery of groundwater levels in proportion to the amount of increase in pumping represented by the project (which is a relatively modest percentage). As described in **Section 4.3** of the DEIS, the project is not expected to affect the adequacy of the groundwater supply in the area to supply current and projected needs.

Compensation options for potentially affected groundwater users are identified in **Section 5** of the DEIS, and would include reimbursement for the cost of well deepening, replacement, or rehabilitation in order to restore reduced capacity associated with interference drawdown resulting from the Proposed Project. The Tribe would also provide reimbursement for lowering of pumps in groundwater wells, and for increased pumping costs resulting from interference drawdown caused by the Proposed Project. Therefore, these mitigation measures would provide a means to ensure that affected well owners would be adequately compensated.

The reference to building approximately 5,000 new homes is not defined and thus cannot be confirmed.

It is true that mandatory water conservation measures have been implemented by SCWA during 2007 in response to dry year conditions. However, the relative merits of their water projects are outside of the purview of this EIS. As noted above, the project would not connect to municipal water supply systems, thus municipal water supply would not be directly affected by the project.

The potential for conservation of groundwater through installation of water meters on groundwater wells within the County would be subject to County review and is outside the scope of this EIS.

In regards to comments G-30 and I-138, the availability of the water supply to meet current demand is an issue for the water wholesaler and water retailer. This project is not responsible for new water supplies to meet current demands. The political, regulatory, and funding-related viability of water projects proposed or under execution by SCWA are outside the purview of this project and this EIS. The availability of water for the project is discussed in previous responses.

As stated above, the project is not likely to result in regional declines in groundwater levels or to affect the adequacy of the groundwater supply in the area, and recent data are consistent with recovering groundwater levels and not with a current overdraft condition. Furthermore, the availability of municipal water for Sonoma County's residents would not be affected by the Project. Therefore, information requested in comment I-138 on additional studies, and the performance of additional studies described in comment I-168 is not applicable and outside the scope of this EIS.

Potential interference drawdown impacts to nearby wells are discussed in DEIS **Section 4, Section 6.3** of **Appendix G** of the DEIS and DEIS **Section 2.5.3**. Several mitigation measures, including

appropriate compensation to affected well-owners, would specifically address potential impacts to private well owners near Rohnert Park (see DEIS **Section 5**).

The City of Cotati's comment regarding page 3.9-4 of the DEIS is noted, and the FEIS has been updated to reflect this comment.

SB610 is a state law, and is not applicable to projects on Tribal lands.

The analysis of groundwater levels near the site discussed in **Sections 3.3, 4.3, and 4.12** of the DEIS presented in detail in the Groundwater Study (**Appendix G**) indicates that the primary influence on groundwater level trends in the area has been municipal groundwater pumping rather than short or long term climatic trends. Well hydrographs near the City of Rohnert Park are consistent with DWR's example of a "historical overdraft" condition, with an initial decline in water levels followed by a leveling off that reflects a decrease in water demand and/or an increase in recharge. Groundwater levels remained relatively stable for over a decade and have begun to recover in recent years, while at the same time groundwater pumping by the City of Rohnert Park has decreased. Projected future groundwater use by municipal groundwater pumpers in the area is discussed in detail Section 4.1 of **Appendix G**; these projections include groundwater use during drought periods and are expected to be the primary influence on future water level trends. In the site vicinity, (the southern Santa Rosa Plain groundwater sub-basin), groundwater demand is expected to stay below historical levels that were associated with regional groundwater level declines in the 1980's (DEIS **Sections 3.3.2 and 4.12; Appendix G, Section 6.5.2**).

Reliance on groundwater may be expected to temporarily increase when access to surface water becomes more restricted, resulting in lower pumping season (spring and fall) groundwater levels than during non-drought periods. However, the City of Rohnert Park has adopted a Water Supply Resolution that caps groundwater pumping at a rate of 2,577 acre-feet per year, assuring that well pumping will remain below historical levels even during a drought. Thus, seasonal water level effects are expected to be less than they were historically during the 1980s and 1990s. To the extent that wells near the casino are cumulatively affected by seasonal variations in water levels and groundwater pumping for the project, a mitigation program will be implemented as discussed further in the DEIS **Section 5.2.2**.

2.5.2 FLOODING

Summary of Comments: Concerns were raised by the California Native Plant Society, Milo Baker Chapter (B-13), Stop the Casino 101 Coalition (B-1, B-3), Chip Worthington (S-84), commenter S-106, and the O.W.L. Foundation (B-4, B-5) regarding flooding on the Wilfred and Stony Point sites during periods of heavy rainfall. Commenter Jenay McIntyre (I-158) noted that the increase in paved surfaces due to the proposed development will increase runoff, resulting in local flooding.

Commenter I-166 asked how the Tribe would prevent the proposed development from impacts from displaced floodwaters. Several commenters, including, I-108, I-44, I-18, and I-166 worry that the importation of fill would increase flooding surrounding the proposed development site. Lisa McElroy (I-138) expressed concerns that the required fill for Alternative A would create increased flooding to the surrounding areas. “The rains in ’05 completely flooded the other proposed sites along with Wilfred Avenue, and the surrounding area. It will be worse if land fill is brought in.” The commenter asked about proposed mitigation for impacts from flooding, and specifically what the flood footprint is currently, and what it is projected to be if the Proposed Project is developed. Pamela Miller (I-167 and S-30) provided photographs of Wilfred Avenue and adjacent land and streets taken during the floods of December, 2005, and posed the following questions regarding flood mitigation measures:

- How will you prevent the exacerbation of the local flooding?
- How will you prevent property damage as a result of the displaced flood water from your elevated building pad?
- How will you prevent septic system failure do [sic] to increased flooding resulting from displaced water from your elevated building pad?
- How will you prevent health issues associated with ‘effluent surfacing’ from septic systems displaced under flood water?
- How will you prevent the contamination of local well water supplies?
- How will you prevent dangerous traffic situations resulting from (flooded) road closures?
- How will you prevent the loss of livestock [due to flooding]?
- How will you compensate livestock owners for the emergency relocation of livestock due to increased flooding?
- Who will compensate local homeowners for property damage, loss of use, and added health issues due to increased flooding?
- Who will compensate local homeowners for loss of property values [due to flooding]?
- How will you prevent the destruction of natural habitat [due to flooding]?

The City of Rohnert Park (G-4), suggested that the project should avoid all development within the 100-year floodplain and minimize any filling or development within the 500-year floodplain. According to the commenter, the current flood information from the Federal Emergency Management Agency (FEMA) is known to be less than conservative, because, according to the commenter, flooding occurs above the 100-year floodplain elevation at intervals of less than 100 years. The commenter continued, by stating that any filling of the 500-year floodplain should be offset with an equivalent volume of excavation near the project site to replace the lost flood storage. According to the commenter, the proposed discharge of stormwater into Labath Creek should be avoided, due to flooding that occurs downstream, along Labath Creek. The commenter recommended that stormwater be sent to the Bellevue-Wilfred Flood Control Channel. In addition, the commenters G-4

and S-3 noted that the flooding that occurred on the Wilfred site on December 31, 2005 seemed to show that the FEMA 100-year flood boundary was inaccurate. Moreover, commenter S-3 perceived the December flood as an indication that the proposed casino site is within an urban floodplain. Therefore, the commenter stated that the FEIS must address the risk of ecological impairment and flooding caused by urbanization including the affects of current and future development on the watershed.

Commenters G-4 and G-31 stated that the 500-year flood boundary seemed to accurately indicate the true extent of the 100-year floodplain. Thus, the commenter requested that flood storage to replace the loss of the 500-year floodplain should be included in the FEIS. However, commenter S-3 stated that the 500-year floodplain boundaries seemed to be exceeded by the flooding on December 31, 2005, additionally, that FEMA is in the process of modernizing the floodplain data, but has not yet done so for Sonoma County. Furthermore, the commenter stated that, "Missing from the EIS are the engineering calculations that would show how this fill would affect drainage on nearby properties, including residential homes and a mobile home park." According to commenter (G-31), "Flood storage to replace loss of the 500-year floodplain should be included in the project."

Marilee Montgomery (B-33), stated that the Wilfred and Stony Point sites actually lie within a 500-year floodplain, instead of lying outside of the 100-year floodplain as indicated in the DEIS. She is concerned about the accuracy of the FEMA flood maps, stating that they have not been updated for Rohnert Park since 1991. "FEMA has not yet re-drawn the floodplain (sic) maps in this area, and any inclusion of any outdated FEMA maps in the DEIS is reckless, and it is premature to include flood map information at this time." The commenter recommended that the DEIS be suspended until FEMA has updated their floodplain information for Rohnert Park. Furthermore, the commenter stated that at a minimum FEMA flood maps need to be updated regularly because, "Increased sedimentation, changes in rainfall patterns and intensity associated with global climate change, and a net increase in impervious surface area will continue to alter the pattern and severity of flooding." Montgomery expressed concerns regarding development and the increased rates of runoff, increasing flood events.

Montgomery (B-33) and Seeley (I-84), expressed concerns about December 2005 flooding on the Wilfred site, according to the commenter (B-33); the entire Wilfred and Stony Point sites were under several feet of water. She stated that the flooding indicated that the sites are in an urban floodplain, which has the potential to cause flooding upstream of the Laguna de Santa Rosa. In addition, the commenter stated that she had previously submitted photographs and a video of the flooded Wilfred and Stony Point sites and requested that this information was included in the DEIS as emergency supplemental information which she stated is not included in the DEIS. She also stated that, "The increased magnitude and frequency of high flows have several major adverse effects on the community located near the water course, on the floodplain, and on the ecology of the urban stream.

This is the mechanism that caused the 12/31/2005 flood, and the casino Project will have a serious impact on the flood situation in both Rohnert Park and the area proposed for the project.” Moreover, the commenter stated that the flood storage plan is in conflict with the Laguna de Santa Rosa Foundation Restoration Management Plan. In addition, she specifically asked what would be the cumulative impact of this area as a floodplain to surrounding communities and property near the proposed development. In addition, she expressed concerns regarding the impacts from the importation of fill specifically increased flooding. “The reasonable result of the fill plan and other development of the Project site is that flooding will increase. This flooding can be expected both on and around the Project site, as well as, upstream, including Rohnert Park and Santa Rosa, and downstream towards Sebastopol, including the area of the Llano Road Sewage Treatment Plant.” Montgomery also stated that, modifying flood control channels may cause flooding downstream, and may potentially cause increased risks from flooding to the City of Sebastopol, and possibly to the Russian River. Montgomery concluded that the FEIS should address all of the issues regarding impacts to flooding,

Montgomery (B-33), stated that the DEIS did not address impacts to the floodplain from global climate change.

Congresswoman Lynn Woolsey, submitted a comment letter (G-30) stating that the DEIS minimizes the flooding impacts of the project. According to the commenter, the USACE has concluded that waterways on the Santa Rosa Plain engineered for 100-year storm events are inadequately designed. According to the commenter, localized flooding is common in the project area, and fill can alter drainage patterns. According to the commenter, the Wilfred site is within a “Flood Prone Urban Area,” designated by the County of Sonoma. The commenter stated, “Missing from the EIS are the engineering calculations that would show how this fill would affect drainage on nearby properties, including residential homes and a mobile home park.”

The City of Cotati (G-31) stated that the proposed facilities would be located within the 100-year floodplain, that flooding often occurs above the 100-year floodplain, and that the project should avoid any filling or development within the 100-year floodplain and should minimize any fill or development within the 500-year floodplain. According to the commenter, “Any filling of the 500-year floodplain should be offset with an equivalent volume of excavation near the project site to replace the lost flood storage.”

Fred and Peggy Soares (I-169) included photographic documentation of a “not unusual winter rain.” The commenter expressed concerns and questions regarding the impacts of runoff, if the casino site is built up two feet higher than nearby residences. According to the commenter, five inches of rain fell in 24 hours in December 2005, the result of which being that “water rushing in from Rohnert Park’s four creeks had nowhere to go but across the flatlands at the casino site.”

Commenter I-164 perceived that the plans for mitigating potential flooding by creating an enormous landfill are unrealistic, and the in-fill would not bring any benefit for the preservation of wildlife in the area.

Sonoma County (G-34) commented that the, “DEIS fails to account for flood risk as a result of site alterations and increased runoff, and appears unaware of how management practices on the local drainage system affect the system’s ability to transport runoff.” In addition, the DEIS should address the following information regarding flood control protection and capacity:

- SCWA performs flood control activities on many natural creek waterways and constructed flood control channels.
- Since 1991, SCWA has modified stream maintenance practices due to changing environmental regulations including the federal Endangered Species Act (ESA).
- ESA protected species within SCWA’s flood control areas include, but are not limited to, three salmonid species (coho, Chinook, and steelhead).
- Some of SCWA’s channels have been designated critical habitat by NOAA Fisheries and/or the U.S. Fish and Wildlife Service (USFWS).
- Current maintenance practices are limited primarily to vegetation control along channel bottoms and periodic sediment removal. The result of these changed maintenance practices for both natural waterways and constructed channels is a large-scale regeneration of riparian habitat in these areas.
- Consequently, the drainage’s original capacity has diminished, and the potential for flooding has increased.
- A hydraulic capacity assessment conducted by SCWA suggested that capacity in constructed channels has decreased.
- SCWA is working with the National Marine Fisheries Service and other regulatory agencies to develop a stream maintenance program that would maximize the habitat and flood protection values of the channels maintained by SCWA.

According to the commenter, based on the information above, the proposed development should account for increased flood risk. “The DEIS should include a hydraulic capacity assessment that addresses the risks of flooding due to diminished channel capacity in channels that affect, or are affected by, the proposed project, including proposed fill on the project site, and an analysis of the impact of the project on flood risks.”

Furthermore, the commenter stated that the DEIS did not adequately describe the SCWA drainage system within the Proposed Project area, and it does not describe the existing Flood Protection Zones that encompass the proposed development sites. According to the commenter, “The Wilfred site is

located within the Zone 1A Laguna de Santa Rosa – Mark West Creek flood protection zone.” Additionally, the commenter stated that the Tribe should become a member of the Zone 1A Drainage area.

The County (G-34) also stated that the site is within the “Flood Prone Urban Area” as defined in Chapter 7-13 of the County Code (building regulations). According to the commenter, “This is an area where localized flooding is common due to relatively flat topography and slow stormwater percolation into the soil.” Moreover, “In this area, even small amounts of fill can dramatically alter drainage patterns and cause flooding of nearby properties.” The commenter also stated that the amount of fill that would be imported to the project site may be subject to County regulations that would require engineering calculations to demonstrate that such fill would not adversely affect drainage on nearby properties.” Therefore, the commenter stated that these calculations should be provided in a revised and recirculated DEIS.

Lloyd Iversen (I-168) stated, “The recently adopted Laguna de Santa Rosa Restoration Management Plan calls for no fill within the 100-year floodplain in which the proposed site is located,” and asked how the fill will be mitigated. The commenter expressed concern regarding the potential for fill within the floodplain to cause “backing up of the natural course of surface water,” which could lead to septic system failure and septic effluent surfacing, degrading the aquifer. The commenter inquired about the greatest discharge rate that the casino could generate, and whether it might coincide with a major flood event; and asked, “What are all the specific facts of all the studies that could relate to flooding at this proposed site for the Casino Project.” The commenter also inquired about runoff generated by impervious surfaces, and whether the casino project would cause an increase of water loading of drainage channels, which could cause flooding.

According to the commenter, “The 100-year floodplain is poorly understood, and takes decades to study.” The commenter suggested that “at least several flood cycles be studied prior to any Casino Project decision-making relative to this site.” The commenter stated, “The 100-year floodplain... plays a crucial role in the health and survival of the entire ecological structure,” and specifically mentioned the “symbiotic relationship between risonuculi found on native plant root matter.”

Commenter S-10 commented that, “...there’s a flood control channel on the north side of the business park that is not shown. And the plans appear to be building a flood detention basin and that would cut off that flood control channel, so, that flood detention basin has got to accommodate that somehow.” In addition, the commenter noted, “The other thing is the flood control documents appear to use the current manual from the Sonoma County Water Agency, that manual is about to be replaced.”

Response: It is important to note, that as detailed in the Grading and Drainage report, the casino/hotel resort developments proposed under Alternatives A and H are completely outside of the FEMA mapped 100 year floodplain.

As stated in **Appendix C** of the FEIS, Alternatives A and H have been revised to include two detention basins (as is proposed in the DEIS for Alternatives B-E). The first detention basin would be located on the northeastern corner of the site near the development area and would be sized to limit the post project runoff due to the new impervious areas to the pre-project peak runoff levels.

The second detention basin is located in the southern portion of the site in an area bounded by the Bellevue-Wilfred Channel on the West, Hinebaugh Creek on the East and Rohnert Park Expressway on the South. This basin is sized to more than offset the encroachment in the Zone X non-regulated floodplain by the proposed fill.

The other key component of the plan is the continuation of an overland drainage release that will direct existing overland drainage that flows onto the site from surrounding areas toward the planned on-site detention basin.

The photos that were provided, as referenced by commenter B-33, have been reviewed. In our opinion, based upon review of the photos and the site conditions, the flooding occurred as the FEMA Floodplain Maps anticipated. The flooding within the Alternative A footprint was all shallow flooding that was approximately an average of 1' deep. Additional flooding that would potentially result from implementation of the Proposed Project would be mitigated, as discussed above, by the proposed detention basins and overland drainage release.

Additionally, as discussed in **Appendix C** of the DEIS, Alternative B, the Northwest Stony Point site would have 113.5 Ac-Ft of storage. Alternate C, the Northeast Stony Point site would have 356.0 Ac-Ft of storage.

As stated in **Appendix C** of the DEIS, unlike the Stony Point site, the area proposed for development of the casino/hotel resort on the Wilfred site is not located within a 100-year floodplain. Nonetheless, an on-site storm drainage detention system will fully address the increase in runoff created by new impervious surfaces. The Wilfred Site is proposed to be raised above the Zone X floodplain level to protect the building from flooding and to enable the site to drain to the proposed on-site detention basin. This fill in the Zone X floodplain, although not in the 100-year floodplain, will indirectly impact the nearby 100-year floodplain. To mitigate this impact, the southern detention basin has been added to the project. The southern basin will create more acre-feet of storage than the Zone X encroachment; thereby, providing a net positive impact to the watershed.

As stated in **Appendix C** of the DEIS, the Stony Point Site is partially located within the 100 year floodplain. Mitigation measures consisting of fill to raise the casino above the floodplain and creation of a storm drainage detention/storage system will fully address the increase in runoff created by the impervious surfaces and the encroachment of fill into the floodplain.

Flood maps provided by FEMA were determined to be the most complete and current source of information regarding the predicted extent of 100-year flooding within the project area. FEMA flood maps represent the best available source of data for the analysis presented in the DEIS. While a more recent update to the FEMA maps would have been helpful to the analysis presented in the DEIS, it is outside the scope of this project to require FEMA to update their maps more frequently.

In response to comment numbers I-167 and S-30, the project would not utilize a septic system under Options B or C, but rather would construct a new wastewater treatment plant and effluent disposal facilities. The wastewater treatment plant and effluent storage ponds would be constructed in a manner that would berm or elevate the site to bring it out of the 100-year floodplain. Effluent would be disposed of on spray fields and possibly through surface water disposal. Thus, there would be no effluent surfacing from septic systems as the commenter indicates. During periods when effluent could not be disposed of to one of the available disposal methods, it would be stored on-site in the storage pond that is bermed to protect it from the 100-year flood.

Additionally, because the Proposed Project would include stormwater and floodwater detention basins that would fully mitigate potential flood impacts, no flooding related impacts would occur. The City of Rohnert Park and Sonoma County would continue to be responsible for traffic control on public roadways in the event of a flood.

The creation of additional impervious surfaces has been taken into account by the detention basins. The detention basins are not immediately adjacent to any wells or septic systems. In addition, they are detention ponds, not retention ponds. As such, they will drain the water until the peak of the storm passes and then drain into the existing drainage ways. There will not be long-term storage of storm runoff or major percolation into the soil.

Note that although Zone X500 is commonly referred to as the 500-year floodplain (as in DEIS **Figure 3.3-2**), as explained in DEIS **Section 3.3.1**, this designation is fully defined as follows: “Areas of 500-year flood; areas of 100-year flood with average depths less than 1 foot or with drainage areas less than 1 square mile; and areas protected by levees from 100-year flood.” Thus, it is not unreasonable for a Zone X to become inundated to a depth of 1 foot as defined above during a flood event more common than a 500 year event, such as occurring during the December 31, 2005 flood event. The site experienced flooding in direct agreement with the FEMA Zone X designation.

In response to Montgomery (B-33) as stated above, the recent flooding confirms the accuracy of the existing FEMA mapping. Furthermore, the December 21, 2005 flooding occurred as projected for a site within a Zone X designation.

In response to comment G-30, **Appendix C** of the DEIS includes a grading and drainage study wherein engineering calculations of the potential extent of the floodplain under the Proposed Project were included. These calculations were utilized as a basis for the grading and drainage study, and in development of the mitigation measures provided in **Section 5** of the DEIS.

In response to comment I-169, the proposed overland drainage release and detention ponds would mitigate the potential impacts of runoff and displacement of floodwaters to a less than significant level.

In response to comment I-164, the mitigation for storm runoff includes several components. Filling to raise the building site is only one. As discussed above, overland drainage releases and engineered detention basins would reduce the potential impacts described to less than significant levels.

In response to comment I-168, Alternative A does not propose any fill within a regulated 100-year floodplain. The project as proposed continues an overland drainage release that will allow storm runoff from the North side of Wilfred Avenue to continue to drain southerly toward the Bellevue-Wilfred Channel. The maximum 100-year storm water to leave the developed site is approximately 46 cfs. Therefore, and as discussed above, these potential impacts would be mitigated to less than significant levels via incorporation of the drainage and flooding mitigation measures provided in **Section 5.2.2** of the FEIS.

This flow has been detained through an on-site detention pond that limits its impact on a “major flood event.” The EIS contains the “specific facts” and calculations to support the proposed mitigations. The 100-year floodplain has been studied and mapped by competent FEMA engineers that have taken into account that specific rainfall patterns and history of this watershed.

In response to Comment S-10, the flood channel the commenter refers to is Labath Creek. The proposed on-site detention basin is placed adjacent to and immediately North of this channel. The detention pond will actually drain into the channel that the commenter discussed. The study utilized several different sources of currently published data to develop the analysis, as detailed in **Appendix C** of the DEIS.

2.5.3 IMPACTS TO NEIGHBORING WELLS

Summary of Comments: Comments received from the Stop the Casino 101 Coalition (B-3, B-6), the O.W.L. Foundation (B-4, B-5, and B-26), the Sonoma County Land Rights Coalition (B-11), and

local residents (I-66, I-83, I-138, I-141, I-157, I-158, S-62, and S-69) expressed concerns about the project possibly adversely affecting area wells. Kirsten Barquist (I-155) also noted that depletion of the aquifer which supplies her family's domestic and agricultural well water would devalue their property; this commenter and others (I-148) expressed doubt that the Tribe would adequately compensate the casino's neighbors in the event of groundwater depletion. Amy Boyd (I-161) asked what legal recourse would be available to well owners who experience groundwater disruptions as a result of the project, especially those well owners whose wells are not shown on the DEIS figures of the alternatives' areas of influence. Similarly commenter S-70 asked what her recourses would be if her private well were to become dry. Emmons (I-148) also stated that the analysis provided for existing wells within a 2-mile radius of the Wilfred site is inadequate, shifting the burden onto local well owners to prove that their wells existed before the casino. The commenter goes on to note that no mitigation is proposed for the increased cost to taxpayers to fund Sonoma County's oversight of the well mitigation program. Lista (I-149) noted that because of Indians' sovereignty over water rights, other local residents whose water supplies are affected will have no recourse but to drill deeper wells or buy water from an outside source, both expensive options that many residents, especially retirees, could not easily afford. One commenter (I-141) was concerned that the proposed mitigation for impacts to neighboring wells would not be feasible, "I wonder how this can be 'mitigated' when our own water agency and county supervisors can't even figure out what to do about the water shortage." Kenneth Yonts (I-135) commented on the drastic difference in well depth between local residents (100 feet) and the proposed development (600 feet). He perceived that the development of two 600 feet deep wells would deplete the local groundwater supply.

The City of Rohnert Park (G-4) stated the formula for calculating the annual payment for increased well pumping costs, for a 250 gpd well at a decline of 20 feet, and a cost of electricity of \$0.18 per kWh, where the well-owner would receive approximately \$.20 per year. The commenter stated that while this may be a technically accurate way to calculate impacts, it may not be well received by those impacted.

One commenter (I-138) expressed concerns regarding compensation for increased well pumping cost. The commenter stated that the Tribe should be liable for all of the costs due to increased pumping or drilling wells to deeper depths, instead of the compensation from the Tribe for changes to well output. The commenter also questioned the indication in the DEIS that the Tribe shall take into consideration the other nearby operators of high capacity wells when individual wells run dry. Specifically, the commenter expressed that this is a way for the Tribe to make the public prove well problems, and to avoid responsibility for those problems. In addition, the commenter stated that, "The proposals they have come up for dealing with loss of well water are NOT satisfactory. The compensation is not adequate and assuming water can be found elsewhere is very irresponsible on their part."

The commenter continued by stating concerns that the DEIS indicated that the Tribe may provide well owners with a connection to local private or public water. The concerns included, where the water would come from, and how long would it take to obtain a connection.

The USEPA (G-29) commended the proposed mitigation for impacts to regional groundwater from the proposed development, agreeing that a third party such as Sonoma County oversee the groundwater monitoring program. However, the commenter expressed that rendering wells unusable would be a hardship to neighboring well users, despite the proposed monetary compensation. According to the commenter, avoiding the impacts mentioned above is environmentally preferable and is strongly recommended, especially due to the possibility of the groundwater basin being in overdraft. The commenter noted that a joint Sonoma County Water Agency (SCWA) and US Geological Survey (USGS) study is underway that would address whether the basin is in overdraft, however, the results will not be available for some time. The USEPA recommended that Alternative H be selected for development because, according to the commenter, this alternative would require substantially less sustained groundwater pumping (150 gpm versus 200 gpm for Alternative A).

Holly Downing (I-176) felt that the EIS did not adequately address regional groundwater issues. She stated that she has experienced drawdown of the static water level of about 30 feet in her private well since 1987. She attributed this drawdown to an additional southern City of Sebastopol well and one additional county well located on Todd Road. According to the commenter, “There has been no increase in housing in my area since 1987.”

Chip Worthington of Stop the Casino 101 (B-29) stated that mitigation is proposed in the DEIS to repair or improve neighboring wells. The commenter asked, “What if the Tribe *won't* make such improvements or repairs?” and “How does the Tribe deplete water from adjacent wells and then “repair” them back to full water capacity – absent the availability of any water?”

Carrie Crandall (I-108) is concerned that if the proposed casino creates 1600 feet deep wells, that they will dry out her private well at her home, which would result in financial crisis for her and her neighbors.

M. Fredericks (I-28) stated that compensating for the loss of neighboring well water by “improving” resident wells would not prove to be a secure compensation. Fredericks could not find any additional sources for improved water supply.

Response: Potential impacts from pumping for the Proposed Project on wells located near the Wilfred and Stony Point sites are discussed in **Section 4.3** and **Appendix G** (Section 6.4) of the DEIS. As discussed in detail in **Appendix G** of the DEIS, records obtained from the California Department of Water Resources (DWR) indicate there are at least 193 shallower wells (less than 200

feet deep) and 61 deeper wells located within approximately 1.5 miles of the geographic center of the site. It is not known how many of these wells are still being actively used, or whether there are other wells for which records were not available. All of these wells are predicted to experience some drawdown impacts (interference drawdown) from the pumping of water supply wells for the Proposed Project. Other wells may exist in the area for which DWR does not have records.

As discussed in **Section 4.3** and in detail in **Appendix G** of the DEIS, the amount of interference drawdown from pumping the water supply wells for the project will decrease with increasing distance from the site, and is expected to be less for shallow than for deeper wells due to the hydraulic properties of the sediment layers underlying the area. Nevertheless, the evaluation in **Appendix G** and described below conservatively assumes the drawdown will be same, because data to quantify the difference are not yet available. In general though, based on the hydrogeology of the area, it is reasonable to assume that the deeper the interval from which a supply well draws water, the less will be the affect on a nearby shallow well. This should help to address some of the concerns by the commenters in I-108, I-135 and I-138. In addition, the depth of the wells proposed on-site is 600 feet, not 1600 feet as comment I-108 states.

Any amount of drawdown will result in some proportional decrease in well yield or efficiency, pumping cost, and pump life. In the absence of well-specific data regarding transmissivity, use, condition and efficiency of a nearby well, these impacts may be assumed to be generally proportional to the amount of interference drawdown and the remaining saturated thickness of the well after interference drawdown.

As discussed in **Section 4.3** of the DEIS, the most serious impact that could be experienced by a nearby groundwater user would be having their well go dry or rendered unusable because the remaining saturated thickness after drawdown is too small to support pumping at the required rate. Wells with the highest potential for this impact are expected to be primarily shallow domestic wells near the site that do not extend very far below the water table. For perspective, we have grouped the wells reported near the Site into several categories based upon the saturated thickness after interference drawdown. Shallow wells with a remaining saturated thickness of less than 20 feet after project-induced interference drawdown are considered at greatest risk for going dry or being rendered unusable by having insufficient available drawdown to support normal pumping. Eight such wells were identified. Wells with remaining saturated thicknesses between 20 and 40 feet may have a smaller but still potentially significant risk of experiencing these impacts. There are 31 such wells near the Site. Wells with remaining saturated thicknesses over 40 feet are at much lower risk of being dewatered or rendered unusable.

In some wells, if water levels fall to a point where the well is in danger of going dry or becoming unusable, the pump intakes can be lowered to extend the life of the well. Without more specific

information regarding well construction and pump depth, it is not possible to estimate for which wells lowering of the pump intakes may be possible or required. However, pump intakes for shallow or domestic wells are generally set near the well bottoms of the wells.

Interference drawdown will cause an incremental increase in the electrical cost to pump a unit volume of groundwater from a well. As pointed out in comment G-4 by the City of Rohnert Park, this cost increase is not expected to be significant for domestic wells because of the relatively low volume of groundwater pumped by a typical household. Increased electrical costs could range from several hundred to several thousand dollars for higher capacity agricultural, industrial or municipal wells near the Site. For the pumps modeled as part of the Groundwater Study (**Appendix G** of the DEIS), the increased costs for higher capacity pumping represented approximately a 2 to 5 percent increase in overall pumping costs.

As discussed in **Section 4.3** and detailed within **Appendix G** of the DEIS (Table 2), Rohnert Park wells 3, 7, 16, 23, 24 and 41 are located within approximately 1.1 miles of the proposed pumping well location on the Site. These wells are predicted to experience interference drawdown from project pumping ranging from approximately 4.7 to 17.8 feet. It should be noted that Rohnert Park well 24 (the well closest to the Site) and well 7 are reported to be out of service and on standby status (HydroScience, 2007). The project-related interference drawdown at the remaining wells is estimated to range from 4.7 to 9.1 feet. This is generally substantially less than the amount of interference drawdown that the City's wells experience from operating its own groundwater production well system, approximately 20 to 75 feet. Project-induced interference drawdown would result in some increase in electrical costs to operate City wells near the Site, with the cost dependant upon well-specific factors. Information regarding current pump intake depths was not provided by the City for the Groundwater Study (**Appendix G** of the DEIS); therefore, we are unable to determine whether the pump intakes of nearby wells may need to be lowered. These impacts may be further evaluated based on well-specific information obtained during the mitigation phase.

Several proposed measures would be implemented to mitigate impacts to well owners that experience a negative affect on their well due to the project. These mitigation measures are described in detail in **Section 5.2.2** of the DEIS and include cost reimbursement for eligible portions of well replacement, rehabilitation and/or electrical costs. Groundwater is a common and proven water supply in the area, and these mitigation measures require that drawdown impacts be effectively mitigated by either repairing, deepening or replacing the affected well. As an alternative, the tribe may elect to pay for the connection of an affected well owner to an alternative water supply. Such a connection would be provided at the Tribe's discretion based on the ready availability of the supply and ability to make the connection in a reasonable time frame (and if agreed upon by the proposed water supplier). Well owners are encouraged to participate in the mitigation program by submitting information regarding their wells to the Tribe and allowing their wells to be used during baseline water level monitoring.

Such action would eliminate any need to “prove” the prior existence of a well for which no record was available from the DWR. The mitigation program is proposed to be overseen by an impartial third party, such as Sonoma County. Costs for the mitigation program would be borne by the Tribe. It is important to note that in some instances the drawdown in a nearby well from groundwater pumping for the Project will be less than the seasonal fluctuations in the water table or drawdown from other pumping wells in the area. For this reason, compensation will be commensurate with the percentage of drawdown in a well that results from pumping for the Project. This determination will be made by the agency that administers the mitigation program, and will be based on data gathered from pump testing and groundwater monitoring.

The Tribe would contribute to the current study of the groundwater basin by SCWA and USGS that is underway, as discussed in mitigation measure S under **Section 5.2.2** of the FEIS. The comment about Alternative H being preferred by the USEPA is noted, and a comparative evaluation of the drawdown resulting from Alternative H is included in an updated version of the Groundwater Study in **Appendix G**. Note, however, that the average water supply demand for Alternative A is 165 gpm, not 200 gpm (as noted in DEIS **Section 2.2.8**). Additionally, mitigation measures under **Section 5.2.2** of the FEIS were updated to specify water conservation measures that would result in an estimated water savings of 12,800 gallons per day and to include contributions to a water conservation and conjunctive use program to supplement the City of Rohnert Park’s and SCWA’s existing water conservation and reclamation programs in order to offset groundwater pumping under the selected project Alternative.

The amount of drawdown experienced by the commenter in I-176 is consistent with the historical decline in groundwater levels in the area. As discussed above, groundwater levels have recently begun to recover in the area.

Regarding repair or improvement of affected groundwater wells, or compensation to well owners for the effects of interference drawdown, the Tribe would be required to adhere to the mitigation measures presented within **Section 5.0** of the DEIS (see Response to Comment 2.16.3 regarding enforcement of mitigation). As discussed in **Section 4.3** of the DEIS, these mitigation measures would ensure that impacts related to drawdown of wells neighboring the Proposed Project would be less than significant.

In response to comment I-28, the word “improve” refers to physical improvements that would be made to wells of affected residents, as discussed in **Section 5.2.2** of the DEIS. The prescribed mitigation would include modifications to affected wells, or drilling of new wells, in order to provide, if necessary, additional water supply to affected well users. Additionally, **mitigation measure R**, as revised in **Section 5.2.2** of the FEIS, would fully offset the groundwater pumping associated with the project alternatives, by implementing a conservation and conjunctive water use program.

2.5.4 IMPACTS TO REGIONAL GROUNDWATER

Summary of Comments: The O.W.L. Foundation (B-26 and S-46) described “numerous sound scientific studies that have shown [the Santa Rosa Plain] groundwater basin to be overdrafted, damaged, depleted, or otherwise suffering from a demonstrable imbalance resulting from more water being extracted than recharged,” and suggested that the DEIS had therefore not accurately depicted the potential impact of the project on groundwater resources. Individual commenter I-166, wanted to know how the Tribe would prevent the loss of groundwater recharge capability and the resulting reductions in groundwater supplies that would result from increased impermeable surfaces. Commenters B-26 and S-46 also described increased groundwater extraction as being infeasible because of basin overdraft. Moreover, the Stop the Casino 101 Coalition (B-3), expressed concerns regarding impacts to regional groundwater from the proposed development. Amy Boyd (I-161) asked whether a monitoring well would be installed near the Stony Point Site to provide specific data in the event of groundwater disruption. Another commenter (I-147) stated concerns regarding the availability of groundwater in the region and the possible impacts from the development of the casino. According to the commenter, “It has been ruled in the courts, the O.W.L. Foundation suits among others, that the entire Santa Rosa Plain is in serious overdraft, as defined by the water table dropping rapidly over the last 15 years. The proposed source of water for the casino will impact the entire Santa Rosa Plain, not just the area immediately surrounding the casino.” The commenter was concerned that the water demand from the casino would cause, “Further draw down of the water table will acerbate (*sic*) the existing serious overdraft condition.”

The Sierra Club, Sonoma Group (B-31) commented that the groundwater supply assessment has been found inaccurate by the courts, therefore, “The DEIS must point out that new water data is necessary to make accurate predictions of the effects of Casino groundwater pumping and the major impact the Project may have on groundwater levels.” The commenter referenced California legislation SB 610, noting that new projects are required to verify an adequate water supply for development, however, “even a background inventory of groundwater supplies for the Rohnert Park area hasn’t yet been made.” Additionally, the commenter was concerned that, “The impact of the large amount of water that the Casino Resort will need to pump from on-site wells cannot have been adequately addressed by the DEIS, since the important studies have not been done.”

Eunice Edgington (I-100) and Betty G. LeDonne (I-102) expressed concern that the project may cause wells in the region to dry up, and Pamela Woodard (I-153) stated that the current Sonoma County water supply is “taxed to the max.”

One commenter (I-138) concerned about the availability of water in Santa Rosa requested that a list be prepared of, “any and all high capacity users in the Santa Rosa Plain. Their usage per day should

also be documented.” The commenter expressed concerns that the high capacity users have been pumping for many years and thus should be identified.

Barbara Pollack (I-171) expressed concern about the quarter-million gallons of groundwater that the project will take daily from the local underground aquifer. She stated, “We are already on water watch here.” Del Rosario (I-164) stated that the sheer size of the project alone would impose stress on the local water supply.

Sonoma County (G-34) stated that, “As reflected in SCWA’s UWMP, a portion of the City’s future water demands is expected to be met by local supply and recycled water projects developed and implemented by the City. To the extent that local supply and recycled water projects result for increases in future demands caused by the Proposed Project, these water projects should be identified and any environmental impacts of developing and implementing the projects analyzed.” Therefore, the commenter stated that if any local supply project relies on groundwater, the analysis should include an evaluation of the project’s impacts on the long-term sustainability of any affected groundwater basin. Moreover, the commenter stated that the reliability of SCWA’s transmission system is currently limited to 92 million gallons per day, while summertime demand may exceed this capacity. Therefore, the commenter stated that the DEIS should discuss ways in which peak summertime demands from both the project specifically and in the City’s service area could be reduced.

Lloyd Iversen (I-168) asked, “Why has the local ground water system not been adequately studied or mapped yet?” and “With the subject area’s aquifer already in an extreme overdraft condition, would the addition of the two proposed 200-gallon per minute wells be in violation of SB 610?”

Response: Neither the DWR nor any other public agency has made a finding whether the local groundwater basin is or is not in overdraft (DEIS **Section 3.3.2; Appendix G**, Section 6.5.2). The cost of undertaking the work necessary to resolve that issue would be exorbitant within the meaning of 40 CFR § 1502.22 and beyond the capacity of the NIGC or the Tribe to undertake. However, the project’s contribution to the local and regional groundwater demand, and any overdraft (if it exists, which is unlikely as discussed below) would be minor. The available scientific data is set forth in the EIS and in these responses.

The DWR’s most recently updated description of the Santa Rosa Plain sub-basin in 2004 indicates that “[t]he Santa Rosa Plain ground water basin as a whole is about in balance, with increased ground water levels in the northeast contrasting with decreased ground water levels in the south.” Well hydrographs near the City of Rohnert Park are consistent with DWR’s example of a “historical overdraft” condition, with an initial decline in water levels followed by a leveling off that reflects a decrease in water demand and/or an increase in recharge. Data presented within the Groundwater

Study prepared in conjunction with DEIS (**Appendix G**) and summarized within **Sections 3.3, 4.3, and 4.12** of the DEIS indicate that, while prior reductions in groundwater levels have occurred, groundwater levels have remained relatively stable for over a decade and have begun to recover in recent years, while at the same time groundwater pumping by the City of Rohnert Park has decreased. It should be noted that in the court ruling to which one commenter (I-147) referred, the judge explicitly did *not* rule on the state of groundwater overdraft within the Santa Rosa Basin. The court's ruling is currently under appeal.

Basin-wide groundwater pumping is expected to remain relatively stable over the next several decades, and in the upper Laguna de Santa Rosa watershed (the southern Santa Rosa Plain), groundwater demand is expected to stay below historical levels that were associated with regional groundwater level declines in the 1980's (DEIS **Sections 3.3.2 and 4.12; Appendix G**, Section 6.5.2). Under these conditions, it is not likely that the project would contribute to a further decline in regional groundwater levels; however, the project could slow the recovery of groundwater levels in proportion to the amount of increase in pumping represented by the project, which is a relatively modest percentage.

California legislation SB610 would not apply to lands held in tribal trust. Although the City of Rohnert Park's water supply assessment is discussed in the Groundwater Study prepared for the DEIS (**Appendix G**), neither the DEIS nor the Groundwater Study rely on the Water Supply Assessment to characterize the hydrogeologic setting of the Project or its potential impacts. The Groundwater Study includes a review of all known significant hydrogeologic and other pertinent studies and planning documents prepared for the area, and includes a compilation of data from various public and agency sources to characterize hydrogeologic conditions, groundwater levels and trends, current and projected future groundwater use in the area and information regarding nearby wells. On this basis, cumulative and regional impacts were evaluated, and an analytical drawdown model was prepared to predict drawdown impacts on the aquifer and wells in the site vicinity. Also see Response to Comment 2.5.6 regarding the City of Rohnert Park's Water Supply Assessment.

Responses to comments regarding the potential impact of the project on nearby wells are discussed in Section 2.5.3 of this document. As discussed in **Section 4.3** of the DEIS and in detail in **Appendix G** of the DEIS, a few shallow wells located close to the site are at increased risk of going dry due to groundwater pumping from the project. Mitigation measures for this potential impact include owner reimbursement for applicable costs to repair, deepen or replace these wells. At a distance greater than 2 miles from the Project the aquifer would be anticipated to experience less than 3 feet of drawdown. At distances greater than 4 miles, the drawdown would be expected to be less than one foot (see Figure 19 in **Appendix G** of the DEIS). Therefore, regional dewatering of wells is unlikely.

The Groundwater Study includes an inventory of wells located within approximately 2 miles of the site center, including wells with relatively higher capacity (Tables 1 and 2 of **Appendix G** of the DEIS). In addition, Section 4 of the Groundwater Study includes a discussion of groundwater pumping by the Cities of Rohnert Park, Cotati, Sebastapol, Windsor (including Shiloh Estates and Sonoma County Airport) and Santa Rosa. In addition, groundwater pumping by SCWA, Penngrove Water Company and Sonoma State University are discussed. These are believed to be the major municipal groundwater pumpers in the Santa Rosa Valley Basin. Because the project would not be anticipated to have a significant effect on groundwater levels regionally (as discussed above and shown in Figure 19 of **Appendix G** of the DEIS), compilation of additional data on high-volume users of groundwater in the Santa Rosa Valley Basin is outside the scope of this EIS.

In response to comments I-171 and I-164, it should be noted that potential impacts to local water supply would be related to project water demand, and not necessarily the physical extent of the Proposed Project. Still, in order to alleviate concerns regarding local water supplies, mitigation measure R under **Section 5.2.2** of the FEIS was modified to include offsetting the water use of the proposed casino through funding of additional water conservation and/or conjunctive use programs with the City of Rohnert Park and/or SCWA. This mitigation measure would provide additional assurance that impacts to local water supply associated with the Proposed Project would be less than significant. It should be noted that substantial water conservation measures have been incorporated into the project to reduce potable water usage. These measures are detailed in Responses to Comment 2.5.14.

In response to the comments from Sonoma County, the project would not utilize potable water from the City of Rohnert Park distribution system. Thus, without the Tribe as a City water customer, there would be no impacts to the City's transmission system.

2.5.5 IMPACTS TO WATER RIGHTS

Summary of Comments: The O.W.L. Foundation (B-4, B-5, and B-26) suggested that allowing the project to go forward would create an unstable legal climate and would jeopardize the water rights of stakeholders in Sonoma County, including the Sonoma County Water Agency, due to the establishment of a federal water "super right" for the Tribe.

One commenter (I-138), expressed concerns about impacts to citizen's water rights, "As the 'reservation' is really a commercial venture, will the Federal Government step in and give the residents in the area priority for water usage over a casino?"

Another commenter (I-147) expressed that, "Once the tribe has achieved sovereignty, they will not allow their demand for water to be reduced, further worsening the supply situation for everyone else." The commenter continued, "Will the tribe waive their sovereign status to equitably resolve this issue?"

And if not, the outcome would be a grave impact on the entire surrounding community.” According to the commenter, this impact could not be mitigated.

Congresswoman Lynn Woolsey (G-30), stated, “If the tribe is granted federal ‘super-rights’ to water, all existing wells in the area are threatened.”

Response: Any federal water rights reserved to the Tribe once its new reservation is established are subject to the vested water rights of existing non-Indian users under California law. Thus, the rights reserved to the Tribe for the use of groundwater will be similar to those afforded a similarly situated non-Indian landowner. If a lawsuit is brought in state court to adjudicate the water rights of all the various owners who rely on the groundwater basin extending under the proposed 254-acre reservation, the United States, as the Tribe’s trustee of reservation resources, would almost certainly be joined in the lawsuit. Under the McCarran Amendment, 43 USC 666, Congress has expressly consented to the United States being joined “as [a] defendant in any suit (1) for the adjudication of rights to the use of water of a river system or other source, or (2) for the administration of such rights, where it appears that the United States is the owner.” This means that the federal government, as the trustee of the reservation, would participate in, and comply with, any future state court general water adjudication involving the respective water rights of the Tribe and other non-Indian stakeholders to the groundwater basin.

2.5.6 ROHNERT PARK WATER SUPPLY ASSESSMENT (WSA)

Summary of Comments: One of the comments submitted by the Stop the Casino 101 Coalition (B-3) concluded with the following statements:

- That the project is “fatally flawed”, and inconsistent with State water law and public policy, based on the Sonoma County Superior Court’s May 31, 2006 ruling on *O.W.L Foundation v. Rohnert Park*, which found that the City of Rohnert Park will need to conduct further studies to confirm groundwater availability (in an area that includes the Wilfred and Stony Point sites) to comply with California’s SB-610;
- The Wilfred site sits on top of a groundwater cone of depression mapped by the California Department of Water Resources; and,
- The risks associated with the on-site wells are unavoidable.

The O.W.L. Foundation (B-26 and S-46), Congresswoman Lynn Woolsey (G-30) and commenter S-59 noted that the Water Supply Assessment (WSA) had been ruled legally invalid. The O.W.L. Foundation (B-26 and S-46) concluded that, by relying upon the WSA as a basis of its analysis, the DEIS is “wholly inadequate” and inaccurately minimizes groundwater impacts. Woolsey (G-30) stated that the WSA, “contradicts several previous studies that conclude that the Santa Rosa Plain Groundwater Basin is overdrafted.” Edward Emmons (I-148) also notes that the groundwater

analysis presented in the DEIS is inherently flawed, since it is based on the 2005 WSA that was ruled inadequate by the Superior Court of Sonoma County. Emmons notes that any research based on an inaccurate set of assumptions about the existing conditions cannot accurately reflect the effects of future projects on the groundwater supply.

The City of Rohnert Park (G-4) requested that the FEIS note that the City has appealed a California Superior Court decision from May 31, 2006, which invalidated the WSA. Commenter S-3 stated that the Rohnert Park WSA which is relied on by the DEIS has been found invalid in trial court.

One commenter (I-138) stated the following, “The USGS and SCWA are doing a 5 year study of the Santa Rosa Valley groundwater basin. Wouldn’t it be in the best interest of all to wait until the findings are in? Let’s determine first if there is enough water to support us all.”

Susan Nurse (I-94) stated that the WSA was based off outdated information.

Lloyd Iversen (I-168) asked, “Specifically what were the problems with Rohnert Park’s water study that was ruled flawed in the courts, and what changes should be made to the study? ... Why didn’t the EIS point out that the new data now being collected in other studies would be essential in accurately predicting hydrological effects of Casino ground water pumping? ... Is the Casino Project relying in any way on the City of Rohnert Park Final Water Supply Assessment (WSA)?” The commenter expressed concerns regarding the timeline, scope, and “simplified view of the aquifer system” in the WSA, and asked if the Casino Project has considered other groundwater reports and accounts.

Response: Because the proposed developments would be located on land held by the Federal government in trust for the Tribe, the Tribe is not subject to the requirements of California SB-610. Nevertheless, the Superior Court Ruling on May 31, 2006 in *OWL Foundation v. Rohnert Park* was considered during preparation of the DEIS. Specifically, the court stated that the City of Rohnert Park’s Water Supply Assessment (WSA) should have considered the existing groundwater demand in the entire basin or sub-basin in which the City is located, and not just the upper Laguna de Santa Rosa watershed as was done in the City of Rohnert Park’s WSA. In addition, the court ruled that the WSA incorrectly used the DWR’s definition of “critical overdraft” rather than “overdraft” when discussing the adequacy of the water supply. For perspective, the court also specifically stated that its ruling was not concerning the sufficiency of the water supply but only the method used to support the sufficiency determination for the purposes of SB-610 (**Section 3.3** and **Appendix G** of the DEIS).

In November 2008, the Superior Court’s decision was overturned by the California Court of Appeals, which determined that the WSA was a valid document for the City of Rohnert Park to use in complying with SB-610. *O.W.L. Foundation v. City of Rohnert Park*, 168 Cal.App.4th 568 (2008). In

addition, neither the DEIS nor the Groundwater Study rely on the WSA in isolation to characterize the hydrogeologic setting of the Project or its potential impacts. The Groundwater Study includes a review of all known significant hydrogeologic and other pertinent studies and planning documents prepared for the area, and includes a compilation of data from various public and agency sources to characterize hydrogeologic conditions, groundwater levels and trends, current and projected future groundwater use in the area and information regarding nearby wells. On this basis, cumulative and regional impacts were evaluated, and an analytical drawdown model was prepared to predict drawdown impacts on the aquifer and wells in the site vicinity.

To provide an adequate perspective for evaluating the impacts that could occur from using groundwater to supply the proposed casino development, the analysis presented in the DEIS (**Section 3.3** and **Appendix G**) includes an evaluation of current and projected future municipal, industrial, agricultural and residential groundwater use in the entire Santa Rosa Valley Groundwater Basin, as well as the upper Laguna de Santa Rosa watershed (which comprises the southern portion of the Santa Rosa Plain groundwater sub-basin) and the City of Rohnert Park (**Appendix G**, Section 4). The project water demand was estimated to represent approximately 0.8 to 1 percent of current groundwater pumping and 1.0 to 1.7 percent of future groundwater pumping in the Santa Rosa Valley Groundwater Basin, and 4.5 percent of all current and projected future pumping in the upper Laguna de Santa Rosa watershed (**Sections 3.3, 4.3, 4.12, and Appendix G** of the DEIS).

As stated in **Section 3.3** and **Appendix G** of the DEIS, neither the California Department of Water Resources (DWR), nor any other public agency, has determined whether the basin is or is not in overdraft. The DWR's most recent description of the Santa Rosa Plain sub-basin indicates that "[t]he Santa Rosa Plain ground water basin as a whole is about in balance, with increased ground water levels in the northeast contrasting with decreased ground water levels in the south." Comparison of well hydrographs near the City of Rohnert Park are consistent with DWR's example of a "historical overdraft" condition, with an initial decline in water levels followed by a leveling off that reflects a decrease in water demand and/or an increase in recharge. Recent data show some recovery of groundwater levels at the same time that the City of Rohnert Park's groundwater pumping has decreased.

Data presented by DWR (1987) does indeed show a groundwater depression beneath the City of Rohnert Park related to groundwater pumping by the City (**Appendix G** of the DEIS). Groundwater levels reached their lowest point and stabilized in the late 1980's, approximately five or six years after the City's maximum historical pumping rates. The City's groundwater pumping rates were reduced beginning in the late 1990's, and were decreased further every year from 2000 through 2006 (**Appendix G**, Section 4.5.3). At the same time, groundwater levels have begun to recover. As indicated in **Section 4.3** and **Appendix G** of the DEIS, pumping of groundwater to supply the project will cause groundwater levels to be lowered near the Wilfred site. The amount of drawdown

is estimated to range from 23.0 feet at the site boundary to 1 foot at a distance of 17,000 feet from the proposed wells. Mitigation measures have been proposed that would decrease the anticipated amount of drawdown, especially in the shallow zone (**Section 5.2.2** of the DEIS). The project represents a relatively modest increase in regional groundwater pumping. In the upper Laguna de Santa Rosa watershed (the southern Santa Rosa Plain groundwater sub-basin), groundwater demand is expected to stay below historical levels that were associated with regional groundwater level declines in the 1980's (**Sections 4.3, 4.12, and Appendix G** of the DEIS). Groundwater levels in the southern Santa Rosa Plain have been relatively stable through the 1990s and recently have shown signs of rebounding (**Section 3.3 and Appendix G** of the DEIS). Under these conditions, it is not likely that the project would contribute to a further decline in regional groundwater levels; however, the project could slow the recovery of groundwater levels in proportion to the amount of increase in pumping represented by the project, which is a relatively modest percentage.

Additionally as discussed in the EIS and groundwater study, an ongoing joint SCWA/USGS investigation is currently assessing the state of groundwater levels within the major groundwater basins in the County, including the Santa Rosa Valley Groundwater basin (which encompasses both the City of Rohnert Park and the Stony Point and Wilfred Sites). It is anticipated that this investigation will provide additional data and recommendations regarding groundwater levels within the basin. Note that mitigation measure S under **Section 5.2.2** of the FEIS provides that the Tribe will contribute to this study, including by supplying additional funding to the study if additional funding is required.

2.5.7 IMPACTS TO GROUNDWATER QUALITY

Summary of Comments: The USEPA (G-29) stated that an alternative with reduced groundwater pumping could benefit groundwater quality. According to the commenter, it could lessen the risk of downward migration of shallow contamination to the deep aquifer from the leaking underground storage tanks located within 0.5 miles to the Wilfred site (page 4.10-8 of the DEIS).

Lloyd Iversen (I-168 and S-29) dedicated much of his comments to the topic of groundwater pollution. The commenter discussed the “discovery of the MTBE gas leaks at the Tessoro, Shell, and Chevron stations near proposed wells,” and requested that this issue be publicly advertised. The commenter suggested that the MTBE could pollute to a depth of 600 feet or deeper, affecting “virtually all of the surrounding wells in the area.” The commenter also questioned why the EIS does not reference the Ramlit Report – “a significant document relating to the water system and local geology.” According to the commenter, MTBE in the project area is in an alluvial fan deposit system, which may form an “efficient and unpredictable pollution transport system to all parts of the aquifer.” The commenter stated, “The alluvial fan deposit system needs to be mapped in detail and sufficiently studied.” According to the commenter, pollution from the Laguna in and near the project area could be transported to other water systems in the Russian River watershed. The commenter

suggested that hydrological pathways be placed on a geo-technical spreadsheet and mapping system, and that the relative timeline and distance of MTBE transport be evaluated. According to the commenter, sudden underground water flows could “exasperate MTBE and other types of ground water pollution,” potentially “dispersing MTBE in a federally recognized aquifer recharge zone.” The commenter requested a description of what citizens can do to protect their groundwater from the impacts of the casino project, and a list of chemicals present on the project site that could potentially be transported by MTBE in the groundwater.

The commenter also expressed concern regarding the potential for well seal failure, and the resulting groundwater pollution. The commenter also stated that construction typically utilizes lime and stabilizers for soil compaction, which “is invasive and destroys the eco system,” and could adversely affect aquifer recharge areas.

The commenter requested a spreadsheet detailing the materials that could potentially leak in the instance of broken pipes, cracked tanks, and damaged foundations that could result from unstable soils in the project area.

The commenter expressed concern that drilling of large wells could “intercept a PCB pollution plume.”

The commenter questioned whether well owners would be compensated “if the water table drop is accompanied by a certain worsening of water quality.”

The commenter requested that the following documents be reviewed: *The Ramlit Report*, prepared for the County of Sonoma; “All County of Sonoma health department records for percolation tests and ground water readings;” and all logs from Sonoma County well-drilling companies.

According to the commenter, groundwater at the project site has been affected by “improper destruction of water wells in the area,” as the City of Rohnert Park “bulldozed over” wells, which “were never properly abandoned in compliance with standards set forth by the Regional Water Quality Control Board.” According to the commenter, “These violations magnify the potential for the Casino Project to conduct pollutants.”

Individual commenter I-166 asked, “How will you prevent groundwater contamination from fill, asphalt and construction materials?”

One commenter (I-138) asked for studies that have been conducted to ensure the groundwater will be safe to drink.

Commenter S-62 expressed concerns regarding salt water intrusion into groundwater from Bodega Bay and Salinas.

Response: DEIS **Appendix Y** includes an evaluation of the potential impacts of groundwater pumping on contaminant migration from the most prominent identified leaking underground fuel tank (LUFT) sites near the site. In order to migrate, a contaminant pathway and hydraulic gradient are required. Based on the evaluation, pumping to supply the Proposed Project is unlikely to cause significant changes in the lateral gradient of the uppermost saturated zone in the vicinity of the LUFT sites, and additional lateral migration of shallow contamination, including MTBE, from these LUFT sites is unlikely to be induced. The project may cause increases in the vertical downward gradient and the associated downward migration of shallow contamination at the contaminant sites on the order of 12 percent (approximately 8 percent for Alternative H); however, in order to comply with State requirements, the parties responsible for the LUFT sites will need to implement Corrective Action Plans that address restoration of water quality objectives and control of plume migration. These Corrective Action Plans need to consider both current and future groundwater demand (SWRCB, 1996; California Water Code section 13000 *et seq.*), regardless of whether the Proposed Project uses groundwater as a water supply.

The pumping test planned during the mitigation phase (mitigation measures 5.2.2 Z, 5.2.9 T, and **Appendix Z**) will generate data that will be considered during well design to reduce the potential influence of pumping on shallow groundwater, and thereby contaminant transport, including MTBE. The pumping test will include taking water level measurements in wells that are screened in the Lower Intermediate Zone, Upper Intermediate Zone and uppermost portion of the saturated zone and will allow interpretation of pumping-induced gradients and groundwater movement, and refinement of the drawdown model for the Site in preparation for well design and the implementation of the off-site well mitigation program. This data will also allow closer evaluation of the potential for contaminant migration using a typical wellhead protection approach. The design of the well(s) will be adjusted so as to reduce drawdown effects and induced gradients in the Upper Intermediate Zone. Finally, the tribe will review investigation and cleanup efforts at nearby contamination-sites on an ongoing basis and provide comments to regulatory oversight agencies as appropriate.

As discussed in **Section 4.3** of the FEIS, the production wells installed for the project will be installed with proper sanitary seals under permits and inspection from the Sonoma County Health Department. Properly installed modern well seals generally are not subject to failure.

There are no known PCB plumes in the area, and unknown PCB plumes are not likely to exist because of a lack of known potential sources and the relative insolubility of PCB in groundwater.

Well construction logs within 1.5 miles of the center of the site and geophysical boring logs for the City of Rohnert Park wells were reviewed during performance of the Groundwater Study (DEIS **Appendix G**). Review of additional well logs and percolation test logs is not necessary for characterization of conditions near the site and is therefore beyond the scope of the EIS.

We acknowledge that the potential for improperly abandoned agricultural wells exists in any long term agricultural area and that such wells have sometimes been implicated in the vertical migration of contaminants. When such migration is involved, these wells usually play a relatively minor role.

If groundwater were to be used on-site as the potable water supply, it would be treated to ensure that the groundwater is safe to drink. Current indications are that some treatment for iron and manganese removal would be required, along with chlorine addition to maintain a chlorine residual. However, the on-site groundwater wells have not been drilled yet, and no water quality samples have been collected. Once the wells are drilled and samples collected, the groundwater treatment requirements will be incorporated into the project. Water used to supply the development would be tested regularly as required by the USEPA to assure the treatment is adequate to supply a safe water supply to the project.

Surface construction materials such as asphalt, concrete, clean structural fill and use of lime or soil stabilizers are not expected to impact the site's surface or groundwater quality. Construction will proceed in accordance with applicable local and state codes and requirements, and site foundations, pipes and other improvements will be designed and constructed in accordance with recommendations contained in the geotechnical report for the project, as is the standard practice and as required by DEIS **Section 5.0** and as expected to be required by the Tribal-State Compact for alternatives that include Class III gaming. These measures are designed to address potential damage to infrastructure as well as to prevent potential releases from piping systems and tanks, and are considered appropriate and acceptable to address the concerns raised by Mr. Iversen.

The Ramlit Report, referred to by Iversen (I-168), appears to be a 1982 report prepared for the North Coast Regional Water Quality Control Board on the potential for groundwater contamination from septic systems. Although this report is not cited directly in the DEIS, it is summarized and referenced in the Canon Manor West EIR, which has been reviewed and considered in DEIS **Section 3.3**, **Section 4.3**, and **Appendix G**.

2.5.8 IMPACTS TO SURFACE WATER QUALITY FROM WASTEWATER DISPOSAL

Summary of Comments: A comment received from the City of Rohnert Park (G-4) requested that the buffers for the irrigated pasture land on the east side of the Stony Point site presented in **Figure 2-18** be identified in the FEIS.

The City of Petaluma (G-14) stated that the FEIS should address restrictions placed on the discharge of treated wastewater into the Petaluma River by the California Regional Water Quality Control Board. According to the commenter, it is likely that the proposed development on the Lakeville site would be subject to similar restrictions.

Annette Elder-Evins (G-27) requested that water being discharged into the Laguna de Santa Rosa be comparable to drinking water standards.

The City of Santa Rosa (G-22) inquired whether the project's inflow volume should be considered differently because of higher BOD and TSS, and whether the Tribe would be required to monitor the discharge in accordance with the Clean Water Act if it treats its own wastewater.

The USEPA (G-29) responded to the statement made which indicated that endocrine wastes would be removed from treated wastewater in the Spring to the extent feasible, that, "It is unclear to what extent the Immersed Membrane Bioreactor (MBR) system will treat endocrine disrupters. Data demonstrating treatment performance of the MBR system for these constituents should be included if this statement is made." The commenter referenced the DEIS which, according to the commenter, stated that chlorine will be used as a primary disinfectant from the wastewater treatment plant. However, the commenter noted that Appendix V indicated that ultraviolet disinfection will be used, and continued by stating, "...that if chlorine is used to disinfect treated wastewater discharged to the Laguna de Santa Rosa, the NPDES permit may include effluent limitations for the control of chlorine byproducts (e.g., trihalomethanes (THM))." The commenter stated that similar wastewater treatment systems utilizing the membrane bioreactor system have used ultra violet (UV) disinfection for discharged wastewater to avoid the THM production and have eliminated the need for THM effluent limitations in NPDES permits. The EPA recommended that, "...the FEIS provide information regarding the performance of the MBR system regarding endocrine disruptor removal. Clarify the primary disinfectant that will be used for the WWTP. The commenter also recommended that mitigation measure J on page 5-4 of the DEIS be revised to clearly state, "the Tribe will only discharge to the Laguna de Santa Rosa during the period from October 1 through May 14 each year."

Sonoma County (G-34) commented that, the DEIS fails to describe anticipated impacts to surrounding surface water quality as a result of wastewater discharges under Alternative A. According to the commenter, "The DEIS should be revised to describe how the Proposed Project would monitor wastewater discharges, including the location of monitoring sites and frequency of sampling to assess impacts to surrounding surface water quality associated with the Proposed Project." Moreover, the commenter stated that the DEIS should be revised to describe how the Tribe would respond to the identified problems, and include a commitment to providing monitoring data to the County and SCWA in a timely fashion, and to maintain surface water quality.

Lloyd Iversen (I-168) inquired whether additional flow due to sewage discharge could increase sediment transport downstream. The commenter asked, “What rate of chemical loading to the water system, the Laguna, and the Russian River watershed might be expected from the Casino Project?”

Loretta Smith (I-166) stated that by increasing the area of impermeable surfaces would lead to increased flooding which would lead to residential septic systems being inundated by floodwaters that would cause effluent surfacing. According to the commenter, “This will result in more wells in the area becoming contaminated as sewage leaches into the floodwaters and flows across residential properties, roads and directly into the Laguna de Santa Rosa.” The commenter then asked, “How will you prevent contamination of wells or groundwater? How will you prevent septic failures from displaced floodwaters?”

Response: In response to the City of Rohnert Park’s comments regarding **Figure 2-18** of the DEIS, the 250 foot buffer between the identified wetland and the recycled water irrigation area is identified on the existing figure in the DEIS. **Figure 2-18** does not identify a buffer between irrigated pasture (sprayfields) and development to the east, although residential development would be separated by Hinebaugh Creek, which is shown on the figure.

The discussion about the restrictions on discharges to the Petaluma River is discussed in DEIS **Section 4.9.6** and **Appendix D**, which notes that effluent disposal requirements would be similar to Alternative A.

In regards to the comment from Annette Elder Evins (G-27), it is noted that existing and proposed regulations for potable water would prohibit the direct use of recycled water for drinking water in the manner the commenter suggests. In addition, creation of “drinking water quality” wastewater effluent would require additional treatment that is above and beyond the level typically employed at local wastewater treatment plants. Should an on-site wastewater treatment plant be developed, it would use an Immersed Membrane Bioreactor treatment process with UV Disinfection that would produce effluent meeting or exceeding all of the Title 22 and Clean Water Act permit standards employed by the State or USEPA.

In response to the comment from the City of Santa Rosa, if Option 1 is pursued (treatment of wastewater at the Laguna Subregional WWTP), it would be up to the partners who own and operate the Laguna Subregional WWTP to determine if this wastewater would be treated differently from those provided by the other partners. DEIS **Appendix D**, Table 2-2 states that the BOD and TSS concentrations of sewage from the Project is expected to range from 450 – 600 mg/L. It is not uncommon for certain industries to have higher than normal loadings. The Tribe would not be able to connect to the Laguna Subregional WWTP without concurrence from the owners/operators of the WWTP, which could be conditioned upon pretreatment. As stated in the DEIS, should the tribe treat

its wastewater on-site and discharge the wastewater to the Laguna de Santa Rosa, the discharge would have to be permitted by the USEPA and monitored consistent with the Clean Water Act. Note, however that the NIGC did not select the on-site surface water discharge or treatment at the Laguna de Santa Rosa WWTP as its Preferred Alternative (see FEIS **Section 2.11**).

In response to comment G-29, mitigation measure 5.2.4 L was updated to include monitoring for and, if detected at harmful levels, additional wastewater treatment in order to reduce endocrine disrupting and biostimulatory substances to levels that would not be harmful to threatened and endangered fish species.

The USEPA is correct in stating that UV Disinfection is the primary disinfectant to be used at the WWTP, as identified in DEIS **Appendix D** and clarified in FEIS **Section 4.3**. Chlorine will be added to recycled water used on-site in the recycled water distribution system. Since there is a small potential for water with traces of chlorine to be discharged to the Laguna, dechlorination facilities will be added to the surface water discharge treatment facilities, along with chlorine residual monitors to ensure no significant chlorine residual in the effluent. Mitigation has been added to FEIS **Section 5.2.2** to require such dechlorination. Discharge of treated wastewater in this manner is expected to comply with the projected requirements of the NPDES Permit (and the discharge could not take place without complying with the requirements of a NPDES permit). The use of UV disinfection instead of chlorine as the primary disinfectant minimizes the potential for THM formation. Mitigation measure J states that the Tribe will only discharge to the Laguna de Santa Rosa in accordance of the terms of their NPDES Permit. This permit is expected to prohibit discharges between May 15 and September 30 of every calendar year.

In response to comments from Sonoma County (G-34), the monitoring requirements for the discharge will be determined by the NPDES Permit. The NPDES Permit has not been obtained, but would be subject to the requirements of the USEPA. A mitigation measure has been added to **Section 5.2.2** of the FEIS, that recommends that the Tribe employ only highly qualified operators at the wastewater treatment plant. Such operators would be able to immediately respond to any issues that may arise, should any problems occur. All monitoring data self-reported by the Tribe for an on-site WWTP would be part of the public record, and could be obtained by any party via request to the USEPA.

In regards to the sediment transport question posed by Lloyd Iversen (I-168), the net additional flow of the surface water discharge is expected to approach a maximum of 1% of the flow in the Laguna during any allowable discharge period. The net effect of adding this small volume of flow to the Laguna is not expected to affect sediment transport. The concentration of chemicals and other water quality parameters discharged to the surface water would be subject to the limitations of the NPDES Permit.

In response to comments made by Loretta Smith, increases in impermeable surface areas would be mitigated to less than significant levels via implementation of mitigation measure H, as discussed in **Section 5.2.2** of the DEIS. Therefore, no significant increases in the extent of floodwater inundation would occur, and thus no significant impact to residential septic systems would be anticipated to occur. Please also see Response to Comment 2.5.2.

2.5.9 IMPACTS TO SURFACE WATER QUALITY FROM STORMWATER RUNOFF

Summary of Comments: The City of Rohnert Park (G-4) noted that the methods for stormwater drainage under Alternative H should be considered for Alternative A. The commenter also stated that additional levels on parking structures, to reduce runoff and allow for additional areas for on-site stormwater treatment, should be analyzed in the FEIS and if necessary, added as a mitigation measure where appropriate.

The North Coast Regional Water Quality Control Board (NCRWQCB) (G-24) commented that stormwater runoff related to the project would potentially affect surface water quality within the Laguna de Santa Rosa, which is currently an impaired water body in accordance with section 303(d) of the federal Clean Water Act for the following constituents: nitrogen, phosphorous, sediment, low temperature, low dissolved oxygen, and mercury. The NCRWQCB recommends that all stormwater runoff be fully treated utilizing recognized “best management practices” that will reduce or eliminate pollutants of concern. Pamela Miller (I-167) also expressed concerns about runoff, asking, “How will you prevent increased vehicle run off creating water pollution issues for our wells and environmentally sensitive waterways? (The Laguna de Santa Rosa).”

The USEPA (G-29) stated that, “...according to the designs presented in Appendix C- Site Grading and Storm Drainage, the control of post-development stormwater appears to rely on the construction of a detention basin to mitigate the volume of peak flow events and does not include devices to filter or infiltrate runoff.” According to the commenter, “A detention basin, designed to control the peak runoff capacity, may not have the ability to mitigate the increase in pollutants that will occur after development.”

The USEPA (G-29) recommended that, “...additional measures be implemented regarding fertilizer use because the Laguna is impaired for nutrients and dissolved oxygen.” The commenter continued, “While the DEIS states that fertilizers will be used with care, we recommend that the project include a landscape plan that commits to utilizing native plants which require less or no fertilizer, and avoids use of extensive lawn areas or uses native grasses only.”

Marilee Montgomery (B-33) expressed concerns regarding the impacts of stormwater on surface water quality in the Laguna de Santa Rosa, the Russian River, and the Pacific Ocean. While Smith (I-166) inquired how the Tribe would prevent non-point source pollution.

Response: The proposed development would implement BMPs to filter stormwater runoff for both construction and post-construction events (see **Section 5.2.2**). This would reduce potential impacts from stormwater runoff to a less than significant level.

Also, please see Responses to Comments 2.5.26 and 2.7.3.

2.5.10 WASTEWATER TREATMENT

Summary of Comments: Comments were submitted (G-3, G-27, and I-138) that stated concerns about the quality of treated water from the on-site wastewater treatment facility. Annette Elder-Evins (G-27 and S-104) requested that the Tribe upgrade the treatment of wastewater to drinking water standards. Another comment was received expressing unspecified concerns about wastewater processing (I-155).

The CNPS, Milo Baker Chapter (B-13), stated that development on the Wilfred site should utilize Wastewater Treatment Option 1, specifically utilizing existing water and wastewater utility services. According to the commenter, this would help to mitigate growth-inducing impacts, avoid potential hazards from tertiary treated water, and through collaboration with local utilities, resolving future resource challenges would be easier.

The City of Rohnert Park (G-4) noted that the interceptor line, mentioned on page 2-73 of the DEIS, has been completed and is not currently in construction, so according to the commenter the statement should be amended. The City stated that on page 4.9-3 of the FEIS the following statement, “From the pump station wastewater would flow through a new 30-inch force main, to an existing 24-inch force main, and finally to the Laguna WWTP,” should read “From the pump station wastewater would flow through an existing 30-inch force main or an existing 24-inch force main to the Laguna WWTP.” The commenter pointed out that the FEIS should indicate the basis for the assumption of the available capacity of this trunk sewer varies between 650 and 1,800 gpm. In addition, the commenter requested that the following statement receive more prominence earlier in the FEIS, “The second conveyance scenario would be to pump directly into the City’s sewer force main. Although possible, the City has indicated that this would not be permitted.”

The NCRWQCB (G-24) commented that the use of chlorine for wastewater disinfection can result in the formation of disinfection byproducts at levels that violate water quality objectives. The NCRWQCB requested that the FEIS include mitigation for this potential impact.

Eunice Edgington (I-100) stated, “the sewer component of the DEIS is based on outdated information.”

The USEPA (G-29) encouraged the use of off-site wastewater treatment, which the commenter stated, “According to **Figure 2-6**, it appears that additional wetlands can be avoided if off-site wastewater treatment can be utilized and there is no need for the on-site wastewater treatment plant.” The USEPA encouraged off-site wastewater and treatment since the City of Rohnert Park has expressed interest in providing wastewater treatment hook-ups for the Wilfred site.

One commenter (I-147) expressed concerns regarding the discharge of wastewater into the Laguna de Santa Rosa. According to the commenter, “The DEIS proposes that casino wastewater be discharged to the Laguna de Santa Rosa, which will add to the wastewater stream the entire county is dealing with ... The cost of this casino wastewater disposal system has been financed by the current users. There is no proposal in the DEIS to compensate those who have paid for this system...” The commenter questioned the outcome if the wastewater treatment plant reached capacity, and asked if the Tribe would be willing to compensate for additional capacity.

Steve Klausner (I-174) stated that wastewater treatment concerns could be mitigated by discharging into the Santa Rosa Regional Sewage Treatment Plant. Klausner stated, “This regional provider manages the sewage of Rohnert Park, Santa Rosa, and Sebastopol. Their state-of-the art water treatment facility is very near the proposed casino.” He also indicated that commercial wastewater, which would be generated by the planned development, could be treated at the wastewater treatment plant.

Marilee Montgomery (B-33) questioned what wastewater treatment monitoring requirements the Tribe would be subject to in relationship to demand from adjacent landowners, the City of Rohnert Park, and Sonoma County over the next 20 years.

Sonoma County (G-34) commented that, “SCWA staff recommends that the project commit to 100% reuse of recycled water via urban or agricultural reuse of treated wastewater from either connection to the Subregional System or through construction and operation of an on-site wastewater treatment facility.” Additionally, the commenter stated that the DEIS, “...fails to define significance criteria in regards to ‘operation of on-site wastewater treatment facilities would not significantly impact flooding.’” According to the commenter, the significance criteria throughout **Section 4.3** are ill-defined.

Lloyd Iversen (I-168) asked if the Casino project would have an on-site sewage disposal system, how the system would perform in flood conditions, and how the system would perform in drought conditions. The commenter also asked for a “complete description of the designed sewage disposal system.” According to the commenter, “many typical state of the art package treatment plants discharge 15,000-30,000 parts per billion unknown constituents.” The commenter asked how the treatment plant at the casino would prevent this type of discharge. The commenter also inquired

whether filtration methods at the treatment plant would be sufficient to control the spread of drug chemicals, which, according to the commenter, tend to appear in water “even after rigorous modern filtration methods are employed.”

Commenter S-10 commented that he didn’t believe that the Tribe would be able to tap into the Delano plant and water recycling line, as a back up plan.

Commenter S-105 outlined the efforts made to reduce environmental impacts from the discharge of wastewater and the on-site wastewater treatment plant.

Response: In California, creation of a drinking facility on Indian lands requires permitting by the Indian Health Services, the Department of Health Services (DHS), and other agencies. Their existing and proposed regulations for potable water prohibit the direct use of recycled water for drinking water in the manner the commenter suggests. Though the proposed MBR treatment plant produces very high quality effluent and is considered to be a state-of-the-art treatment process for tertiary wastewater treatment, the use of this effluent for drinking water is not considered to be feasible due to current governmental regulations and requirements.

The comment from the CNPS is noted, however growth inducing impacts are not expected should an on-site wastewater treatment plant be developed as an on-site plant would be sized solely to meet the needs of the proposed development on-site. Also see FEIS **Section 2.11**.

In response to the comments from the City of Rohnert Park, the EIS and water/wastewater study have been revised to reflect that the interceptor line mentioned on page 2-73 of the DEIS is completed. The reference on Page 4.9-3 has also been modified as stated. The basis for the trunk sewer capacity assumption was an email forwarded to HSE by Darrin Jenkins of the City of Rohnert Park on November 22, 2005; this communication has been added to **Section 4.9** and **Section 9** of the FEIS. A statement has been added to Section 2 of the Final EIS to the effect that while a connection directly to the City’s sewer force main is technically possible, it would not be permitted.

Regarding the use of chlorine for wastewater disinfection, please see Response to Comment 2.5.8.

The comment from Eunice Edgington (I-100) is noted, but it is unknown what components the commenter feels are outdated. The DEIS relied upon the most current available information for its analyses.

Regarding the preference for off-site treatment, we agree, but note that such an option is not viable at this time because an agreement has not been reached for off-site wastewater treatment. Please see FEIS **Section 2.11**.

The comment from I-147 raises two issues. If the project discharges wastewater to the Laguna, it would be subject to the terms of the NPDES Permit. That would entail the construction of an on-site WWTP for treatment, conveyance, and disposal. This construction would have no impacts on other wastewater treatment, conveyance, or disposal systems. If the project uses the Laguna Subregional WWTP for treatment, the Tribe would be required to pay for its fair share of the improvements required for that connection. Note that the NIGC has selected neither of these options but instead has chosen wastewater disposal Option 3 (sprayfield dispersal) as its Preferred Alternative (see FEIS **Section 2.11**).

The comments from Steve Klausner (I-174) are noted. Note that the level of on-site wastewater treatment proposed would be equal or greater to that provided at the regional WWTP.

In response to Marilee Montgomery's comment (B-33), the Tribe would be regulated by the USEPA pursuant to the Clean Water Act should an NPDES Permit be obtained. There would be no direct regulatory authority or oversight performed by adjacent landowners, the City of Rohnert Park, Sonoma County, or other entities.

The comment from Sonoma County (G-34) is noted. In response to this and similar comments, additional groundwater mitigation was incorporated into the FEIS. Specifically, mitigation measure R in **Section 5.2.2** of the FEIS provides for offsetting 100 percent of the groundwater that would be withdrawn by the Proposed Project. As discussed in the revised mitigation measure, groundwater use would be completely offset via implementation of a program to increase water conservation and conjunctive water use within the City of Rohnert Park and SCWA's respective service areas. The wastewater treatment plant would be designed to bring it out of the 100-year floodplain, either by filling the site, by constructing berms around the site, or other appropriate means. Additionally, wastewater discharge to the Laguna would be limited by the terms of the NPDES Permit. These are expected to be 1% of the streamflow, as stated in **Appendix D**. If water could not be discharged, it would be stored on-site in storage ponds. Note that the on-site stormwater detention basin has been designed to accept an additional 1.0 acre-feet of storage to account for treated wastewater that could be discharged during a storm event (see DEIS **Appendix C** and **Section 2.2.6**).

The comment from Lloyd Iversen (I-168) requests a complete description of the designed sewage disposal system. The sewage disposal system has not been designed, but it has been planned and is presented in DEIS **Appendix D** for each alternative. The reference to the state of the art package treatment plants discharging 15,000 – 30,000 ppb of constituents is unknown. Package treatment plants are typically not state-of-the-art. This plant will be a custom designed MBR treatment facility, designed for the needs of this project, and the requirements for discharge, as described in DEIS **Appendix D**. The presence or treatment of "drug chemicals" is currently being researched

throughout the U.S. and the world. There are no known treatment methods to completely remove all such constituents, though some treatment methods remove some, most, or all of various regulated constituents.

Comment S-10 refers to the Delano plant. No plant or water recycling pipeline from Delano are conceptualized to be part of this project. The Laguna Subregional Plant, the on-site plant, and water recycling facilities are described in DEIS **Appendix D**.

2.5.11 WASTEWATER DISPOSAL

Summary of Comments: The City of Rohnert Park (G-4) commented on page 4.12-18 of the DEIS, which referenced Santa Rosa's EIR Addendum, which indicated that the project would need to show that the wastewater discharge will be less than 1%. According to the commenter, this statement is not mentioned throughout the document. The commenter also mentioned that the third bullet point on page 2-14 of the DEIS suggests that sewage can be pumped directly into the sewer force main. According to the commenter, the City would not permit this, as mentioned in the DEIS on page 4.9-3. In addition, the commenter noted that the FEIS should explain how the use of the spray fields could affect the quality of water pumped from on-site wells, and that the location of the proposed wells should be indicated. Individual commenter I-158 also raised unspecified concerns about "the increase in sewage", while other commenters (I-33, I-58, I-107, I-125, and S-32) were concerned in general, about sewage disposal, because of the project.

The NCRWQCB (G-24) commented that discharge of treated wastewater effluent related to the project would potentially affect surface water quality within the Laguna de Santa Rosa, which is currently an impaired water body in accordance with section 303(d) of the federal Clean Water Act for the following constituents: nitrogen, phosphorous, sediment, low temperature, low dissolved oxygen, and mercury. The NCRWQCB "cannot support the introduction of a new discharge of impairing pollutants to this troubled watershed." Therefore, the NCRWQCB recommends that wastewater be collected and sent for treatment at the existing Laguna subregional wastewater treatment facility, as described in Option 1 of Alternative A of the DEIS.

The NCRWQCB (G-24) also questioned the DEIS's conclusion that if treatment and disposal of wastewater is contained on-site, there would be no discharge and therefore no impact to surface waters. The comment letter cites the biological section of the DEIS, which indicates many watercourses and wetlands on-site. Therefore, on-site discharge of wastewater may still affect on-site surface waters.

The NCRWQCB (G-24) provided a specific comment on page 4.3.3 of the DEIS. This section discusses discharge of wastewater within the Russian River watershed. The comment noted that the relevant point source discharge limitation prohibition for discharges in this watershed is described in

the Water Quality Control Plan for the North Coast Region. This plan prohibits point source discharges to the Russian River and its tributaries from May 15th through September 30th, and during periods when waste discharge flow is greater than one percent of the *receiving* stream's flow, not the Russian River's flow. The comment further notes that exceptions to this requirement can be granted under the conditions identified in the Water Quality Plan for the North Coast Region.

The NCRWQCB (G-24) strongly recommended that all discharges of wastewater and stormwater runoff be in full compliance with federal water quality objectives as well as the provisions of the Water Quality Plan for the North Coast Region (Water Quality Plan). Further, the Board suggested that some of the mitigation measures, located on page 5.4, do not accurately reflect prohibitions contained in the Water Quality Plan. The following specific changes were recommended:

- Change wording to reflect prohibition of discharges from May 15th through September 30th of each year and during all periods when the waste discharge is greater than one percent of the receiving stream's flow. Point source impoundments are prohibited to all surface impoundments and their tributaries.
- Land discharge should only occur in a manner that prohibits discharge to on-site surface waters, consistent with language in the Water Quality Plan. Any on-site discharges to waters of the US should comply with basin plan prohibitions.

The USEPA (G-29) stated that the DEIS correctly identified the Laguna de Santa Rosa as impaired for temperature, nitrogen, phosphorus, sedimentation, and dissolved oxygen. And also stated that Total Maximum Daily Loads (TMDLs) have been established for total nitrogen and ammonia. The commenter quoted the DEIS in the conclusion that discharging treated wastewater to the Laguna, "...could cause an incremental increase in the daily load of phosphates and nitrates, further impairing water quality in the waterway." The commenter noted that the on-site Wastewater Treatment Plant (WWTP) would treat for ammonia and nitrogen, it does not identify, according to the commenter, how phosphates would be addressed. The USEPA recommended that the FEIS address phosphate removal from wastewater and identify mitigation for phosphates discharge to the phosphorus-impaired Laguna de Santa Rosa.

Marilee Montgomery (B-33) stated that the discussion of wastewater disposal in the DEIS was based on outdated or incomplete information, because according to the commenter, within five years, wastewater discharge into the Laguna de Santa Rosa may no longer be allowed. In addition, the commenter noted that a May 2007 court ruling has allocated 1.5 million gallons per year of treated wastewater back into the Sonoma County sewage system. The commenter requested that this new information be included in the FEIS. Additionally, the commenter questioned where the solid effluent would be taken to if the proposed wastewater treatment cannot occur through existing infrastructure.

Sonoma County (G-34) commented that, “The DEIS should require that treated wastewater discharge comply with the Basin Plan regardless of whether discharge occurs on trust lands.” And that, “The Tribe should commit to operating in compliance with the Basin Plan for the North Coast in order to provide the greatest protection to waters within the North Coast Basin.”

Sonoma County also commented that, “The DEIS incorrectly concludes that adequate disposal capacity exists for the 100% reclamation proposal. Based on 260,000 gpd, the Proposed Project would annually generate approximately 94 MG (0.26 MGD* 364 days) of treated effluent. This equates to roughly 287 acre-ft of treated effluent.” Additionally, the commenter stated that, “The DEIS does not adequately address the impact to surrounding drainage systems with regard to additional infiltration to the system and reduced capacity of the existing drainage system as a result of wet season spraying.” The commenter stated that the DEIS should be revised to address this impact. Furthermore, the commenter stated that the DEIS does not adequately describe the use of spray fields for discharge of treated wastewater: “The DEIS does not identify whether the on-site spray fields are currently being irrigated at agronomic rates and how any potential changes to the application rates would affect the surrounding ephemeral streams and managed channels in the project vicinity.”

The County commented that for Alternative A, **Table 2-7** in the DEIS indicates a discharge to 111 acres of grassland and an additional 7 acres of landscaping irrigation. Where in Appendix B of **Appendix D**, Table 2, the commenter stated that, for Alternative A, it is assumed 118 acres of spray fields on page 1 and 95 acres for grassland and 118 acres of landscape irrigation with a total of 118 acres. Moreover, the commenter noted that Appendix B of **Appendix D**, Table 2, page 1 of Alternative A Seasonal Discharge indicated that 53 acres of sprayfields, while page 2 indicates 95 acres for grassland and 53 acres of landscape irrigation. The commenter stated that the DEIS should be revised to provide consistent irrigation areas for each alternative. Furthermore, “Table 2-8 appears to have a fundamental flaw. Under its own formula, $ID = (ET - P * e_p) * I_r / e_i$, the irrigation demand (ID) would be a negative number if the ET is less than $P * e$.” According to the commenter, “This is an intuitive conclusion; the irrigation demand should be negative when rainfall (P) is greater than the evapotranspiration (ET). Yet in Table 2-8, the ID column presents a positive ID when the ET is less than $P * e$, in April and May.”

The commenter also stated that, “Table 2-8 incorrectly calculates the ID for July as 8.71 inches. Under the DEIS’s own formula, the ID should equally 4.48 inches $((4.44 - 1.58 * 0.75) * 1.1 / 0.8 = 4.48$ inches), not the 8.71 reported. The only variable that was assumed was $e_i = 0.8$.” Furthermore, the commenter stated that the, “Best case scenario would be an $e_i = 0.6$, in which the ID would be 5.97 inches.” Therefore the commenter stated that the DEIS should be revised to verify its results, and present the actual calculations used to reach them.

For Table 2-8, in **Appendix D**, the County commented that, “The actual irrigation demand appears to be 25 inches, much less than the 37 inches presented in the DEIS. Using this revised irrigation demand with the land area of 111 acres results in a total irrigation volume demand of 230 acre-ft. Having a total irrigation volume demand (230 acre-ft) less than the total volume of effluent to be irrigated *287 acre-ft) decreases the probability of a 100% reclamation point.

The commenter also stated that irrigation demand in Table 2-8 is inconsistent with Table 2 in Appendix B of **Appendix D**. “Table 2-8 indicates a total irrigation demand of 37 inches, whereas Table 2 seems to indicate an irrigation demand of 29.53 inches.” The commenter continued, “Table 2 also presents an irrigation demand of 236 acre-ft. Again, a 100% reclamation system seems unlikely.” Moreover, the commenter noted that Table 2 is inconsistent with precipitation data presented in Table 2-8 column P, where the figures appear to be shifted by two months (this comment applied to all columns in Table 2-8).

While, the commenter also stated that Table 2-8 assumes an average precipitation year to determine the irrigation demand, the DEIS should be revised to use a 100-year rainfall year, to ensure that the reclamation plan would function in a worst-case scenario.

The commenter noted that in Appendix B of DEIS **Appendix D**, Table 2, Alternative A No Seasonal Discharge, page 2 appeared to have an error in the calculations. “This is reflected in the “#DIV/0!” notation in the calculations. This table could not be evaluated due to the error in the spreadsheet.” Furthermore, “Appendix B of Appendix D, Table 2, Alternative A Seasonal Discharge, page 1, indicates a –30.4 ac-ft landscaping disposal demand for September, whereas page 2 indicates an irrigation demand of 23.43 ac-ft for September.” And, “Appendix B of Appendix D, Table 2, Alternative A No Seasonal Discharge, page 2, utilizes an irrigation efficiency factor for Landscape Irrigation calculations but not for Grass calculations.” The commenter stated that the DEIS should be revised to explain the discrepancy. In addition, the DEIS should be revised to include the grass irrigation demand on page one, as part of the overall disposal, or explain why it has been separated.

Individual commenter I-88 expressed concerns about the disposal of wastewater, specifically, “...sewage treatment plant and the limited capacity to manage the additional sewage demands of such a large project.”

Lloyd Iversen (I-168) inquired about the monitoring of chemicals and asked if the wastewater treatment system will be designed to control chemicals in order to prevent water pollution.

Response: Annually, Alternative A would be expected to generate roughly 292 acre-ft of treated effluent. The water balance was prepared as a conservative estimate to ensure that the disposal capacity would be sufficient during the 100-year annual precipitation event. The sprayfield effluent

disposal system is not expected to have an impact on the surrounding drainage systems. Irrigation would only occur during periods of time when there is an agronomic demand and at a rate to ensure that there is no run-off to the surrounding drainage systems. No revisions to the DEIS are required for this item, since there is no impact to those systems based on this plan.

The areas proposed for use as sprayfields under the Proposed Project are not currently irrigated. For the Proposed Project, effluent would be applied at agronomic rates with the intention to ensure that no additional runoff enters any surrounding streams or managed channels.

Table 2 of Appendix B of DEIS **Appendix D** contains several different ET calculations for crops with various crop coefficients (k values). The only ET calculation relevant to this analysis was the landscape irrigation at the bottom of the table. This utilized the most conservative crop coefficients consistent with cool turf grasses. No irrigation demands were assumed when the ET rates were less than the 100-year precipitation rates for that month. During those periods, effluent would be stored in the seasonal storage ponds or used within the project for uses such as toilet and urinal flushing, cooling tower makeup, et al.

The basis for a 25-inch irrigation demand presented by Sonoma County is unclear. Based on the available evapotranspiration and precipitation information, the irrigation demand during the 100-year annual precipitation event was calculated to be 31.7 inches as indicated in the report. Over the identified 118 acres, this would equal an annual demand of 312 acre-ft. With seasonal storage, effluent generated on-site can be disposed of on-site within one calendar year through the use of seasonal storage and the spray fields. As constructed, all of the alternatives have adequate on-site disposal capacity to dispose of all of the effluent generated by proposed developments on-site. No revisions to the DEIS are required to modify the water balance results to change the planned monthly irrigation demands. As noted on page 16 of **Appendix D** of the DEIS, the reference to 37 inches in **Table 2-8** refers to typical irrigation demands for turf grasses in the region; it is not specific to the proposed Alternatives.

Additionally, several of the columns in **Table 2-8** were incorrectly displayed according to water year rather than calendar year resulting in apparent inconsistencies. This has been corrected and an updated **Table 2-8** has been attached as an addendum to the current Water and Wastewater Feasibility Study (**Appendix D** of the FEIS). This presentation error had no effect on the water balance calculation.

As stated in the sizing criteria, all irrigation demand values used in the water balance were based on the expected demand during the 100-year annual precipitation event. Table 2-8 was separately intended to show “Typical Irrigation Demands for Regional Turf Grasses.” These typical demands are higher than the 100-year values used in the water balance.

The “DIV/0” notations referenced by the commenter refer to a portion of the water balance not relevant to this analysis as discussed above. The only portion of Table 2 of Appendix B of DEIS **Appendix D** that is relevant is the section entitled “Landscape Irrigation.” The September landscaping disposal demand of -30.4 AF is incorrect. This cell incorrectly replicates the irrigation demand predicted for August. Correcting this error increases the estimate of the required area by roughly 5%. However, this minor increase is more than outweighed by the extremely conservative nature of these calculations. Roughly 20% of the effluent (~60 AF) is intended for re-use within the casino for various purposes including toilet and urinal flushing, cooling tower make-up and other approved uses. This 20% reduction was not considered in the 100-year water balance presented in DEIS **Appendix D**. Agronomic demands can also be readily increased by the planting of more water intensive plants. These plants would have a higher crop coefficient allowing for greater disposal. Cool turf grasses were chosen as one of the more conservative values. The 100-year water balance presented in DEIS **Appendix D** was prepared as a conservative estimate of the maximum area that could be required for planning purposes.

Note that DEIS **Table 2-7** is not related to wastewater disposal. It is assumed that the commenter is referring to DEIS **Figure 2-7**. **Figure 2-7** is consistent with **Appendix D**.

The terms of the Project’s effluent discharge to the Laguna would be governed by the NPDES permit issued by the USEPA. Though the terms of this permit are unknown, since it has not been issued or finalized, it is expected that the rate of effluent discharge to the Laguna will be limited to 1% of the flow at the streamflow monitoring station located on the Laguna at Stony Point Road. Additionally, effluent discharge is expected to be prohibited during periods when surface water discharges are prohibited in the Basin Plan (May 15 – September 30). The DEIS is based on this effluent discharge rate limitation. Table 2-9 of Appendix B contains historic streamflow rates at the streamflow monitoring station and discharge rate limitations based on 1% of that flow. Appendix B was designed to encounter two possible scenarios – surface water discharge within the aforementioned constraints, and no surface water discharge.

The comments from the NCRWQCB (G-24) are noted regarding selection of a treatment option. Regarding the preference for off-site treatment, we agree, but note that such an option is not viable at this time because an agreement has not been reached for off-site wastewater treatment. Please see **FEIS Section 2.11**.

On-site wetlands would be protected from on-site irrigation by limiting irrigation within 50 feet of mapped wetlands. These areas and setbacks are shown in the various figures in **Section 2.0** as well as **Appendix D** of the DEIS.

The rate limitations on the discharge of wastewater to a surface water will be based on the requirements imposed by the USEPA. It is expected that those requirements will be similar to the Basin Plan and other local NPDES Permits. There are local NPDES permits which are based on the nearest feasible streamflow location, and it is expected that this will follow suit, since there are no streamflow gauges on the Bellevue-Wilfred Channel. Nowhere in the DEIS were streamflows in the Russian River speculated to be the basis for discharge to the Bellevue-Wilfred Channel. No exceptions to the Basin Plan were proposed in **Appendix D** or the DEIS, though the NPDES Permit has not yet been developed.

The contents of the NPDES Permit issued by the USEPA will be determined by the USEPA (comments from NCRWQCB (G-24) and Sonoma County (G-34)). The recommendations from these two parties are noted.

The incomplete or outdated information cited by Marilee Montgomery (B-33) was not determined. All existing versions of the NCRWQCB Basin Plan do not prohibit discharges to the Laguna. The information about the Sonoma County sewage system is not relevant to the Project, and is not required for inclusion in the FEIS. Biosolids generated by the WWTP will be dewatered on-site at the WWTP and hauled off-site for disposal at the Redwood Landfill, as discussed in **Section 4.9** of the DEIS.

The concern of Commenter I-88 is noted about the wastewater treatment plant. The planning of Appendix D states how wastewater would be treated and disposed of.

The chemicals in the wastewater referred to in the comment from Lloyd Iversen (I-168) would be regulated under the terms of the NPDES Permit. The plant process will be designed to be a tertiary treatment system, similar to what is described in DEIS **Appendix D**.

As discussed in Response to Comment 2.5.10, it was added to **Section 2** of the FEIS that although possible to pump sewage from the project to the City's sewer force main it would not be permitted.

Two proposed locations for the on-site wells have been identified in the water/wastewater plans included in **Appendix D** and **Section 2.0** of the FEIS. The wells for all of the Rohnert Park alternatives are at the same locations. The primary well is located to the north and west of Hinebaugh Creek, and west of City Well #24. The backup well is located to the north and west of the primary well, approximately 120 feet from the property line.

The wells and the spray fields would be designed to be consistent with the State's Title 22 separation requirements for areas irrigated with recycled water. These requirements limit recycled water use within 100 feet of any groundwater well. The spray fields will be designed to not irrigate within 100

feet of a groundwater well. The new wells will have a sanitary seal both above and below grade to prevent overland flow of recycled water to enter the well. A description of the Project's anticipated compliance with the State's Title 22 requirements is included in DEIS **Appendix D**.

If phosphate removal is required, or a phosphate effluent limitation is required as part of the NPDES permit, the wastewater treatment plant would be designed to comply with that requirement. The MBR process is well suited to provide for phosphorous removal to very low concentrations. Phosphorous removal is enhanced in MBR treatment plants when employing one or multiple of the following operational methods: 1) addition of a coagulant to the aeration basin, 2) a higher solids retention time in the MBR basins, 3) ensuring there is an ample carbon source for the microorganisms, and 4) utilization of a membrane, which virtually eliminates any particulate phosphorus in the effluent. The method(s) the Tribe will employ for Phosphorus removal will be determined during the wastewater treatment plant design phase, but those methods would be designed to comply with any NPDES permit effluent limitations. FEIS **Appendix D** has been revised to include a discussion of phosphorous removal.

2.5.12 IMPACTS TO OFF-SITE GROUNDWATER CONTAMINATION

Summary of Comments: Diane Nelson (I-113) expressed concerns regarding the impacts from the pumping of wells by the casino that would draw existing and unidentified plumes and possible contaminants from a potential unexploded ordinance, located near Wilfred Avenue and Redwood Drive or on the Wilfred site, into neighboring wells.

The Sierra Club, Sonoma Group (B-31) commented that, **Appendix Y** discusses MTBE gas leaks that were identified at three gas stations near the sites proposed for wells that would supply the proposed development. According to the commenter, "The DEIS does not adequately analyze the question of how pumping on the aquifer will affect the MTBE pollution plumes," specifically, whether increased pumping rates would draw the plumes into the groundwater supply. The commenter inquired if the proposed development would cause the plumes to be drawn into the Laguna de Santa Rosa, thus, being transported to surface waters.

The USEPA (G-29) stated that an alternative with reduced groundwater pumping could benefit groundwater quality. According to the commenter, it could lessen the risk of downward migration of shallow contamination to the deep aquifer from the leaking underground storage tanks located within 0.5 miles to the Wilfred site (page 4.10-8 of the DEIS).

Response: The DEIS analyzed the potential for the adjacent former Naval Auxiliary Air Station Outer Landing Field Cotati (NAAS OLFC) to have an adverse impact on development of the proposed casino and the alternative developments on the Wilfred and Stony Point Sites. Part of the information that was used for this analysis was the Records Research Report (RRR) prepared on

behalf of the U.S. Army Corps of Engineers (USACE). The purpose of the RRR is to support the Defense Environmental Restoration Program (DERP) for Formerly Used Defense Sites (FUDS) for the NAAS OLFC. The RRR found no records of fuels, solvents, and ordinance being stored on the NAAS OLFC. Additionally, no records were found that would indicate the possibility of gross contamination on the NAAS OLFC. As a result, no additional investigations were recommended by the USACE. Prior to the former NAAS OLFC being developed Phase I and Phase II Environmental Site Assessments were performed on various portions of the NAAS OLFC property. All of the previous Phase I and Phase II investigations are included in **Appendix S** of the DEIS. These previous investigations were reviewed during preparation of the DEIS and the conclusions were used to evaluate the existing environment. None of these investigations revealed evidence that a release of fuels occurred because of operations at the NAAS OLFC. As a result, the properties that were part of the NAAS OLFC were developed.

All reference and background information that was used in analyzing the existing environment is included in **Appendix S** and **Appendix T**. Additionally, potential hazardous materials impacts resulting from the construction and operation of the project facilities are included in **Section 4.10** of the DEIS.

There are no records that NAAS OLFC stored ordinance on the facility. As stated previously, the NAAS OLFC is not part of the Wilfred or Stony Point Sites; therefore, site development associated with the alternatives would not disturb previous NAAS OLFC property. Any left over explosives would have likely been discovered during site development work in the late 1970's and 1980's. The possibility that unexploded ordinance would be located on the adjacent NAAS OLFC is unlikely; additionally, the possibility that unexploded ordinance exists on the proposed casino site is more unlikely. Nonetheless mitigation measure M in the EIS (**Section 5.2.9**) deals with the discovery of contamination during construction.

Currently, all known leaking tanks from the nearby gas station-sites have been replaced and leak detection systems are in place that monitor the tanks for leaks in accordance with the latest governmental standards. The nearest well that was historically impacted by MTBE is located at 104 Wilfred Avenue, which is located between the proposed casino site and the gas stations. Water samples are collected from this well on a quarterly basis, beginning in 2002. The last samples were collected in January and February 2007. No gas constituents were detected in these groundwater samples or other samples collected since May 2005. The gas stations will continue to be monitored under the regulatory oversight of the RWQCB.

The presence of plumes in the area of the proposed casino is well documented through regulatory agencies and is being actively addressed by the responsible parties. NEPA requires the analysis of reasonably foreseeable effects. It does not require the consideration of remote, speculative, or worst

case effects. Thus, it does not require that the NIGC speculate on possible unidentified plumes after performing adequate research to locate existing plumes. The Regional Water Quality Control Board (RWQCB) has regulatory oversight of groundwater quality issues in the area of the casino site. The RWQCB case files were reviewed during preparation of the DEIS.

Discussion of LUFT sites and potential effects of LUFT sites on groundwater associated with the project alternatives is provided in the Response to Comment 2.5.7.

The pumping test planned during the mitigation phase (discussed in mitigation measure Y in **Section 5.2.2** of the DEIS) will generate data that will be considered during well design to reduce the potential influence of pumping on shallow groundwater, and thereby contaminant transport. In addition, the tribe will review investigation and cleanup efforts at nearby contamination-sites on an ongoing basis and provide comments to regulatory oversight agencies as appropriate.

2.5.13 ALTERNATIVE H

Summary of Comments: The USEPA (G-29) stated that Alternative H should be selected for development “because of potential overdraft concerns” as this alternative “would require substantially less sustained groundwater pumping (150 gpm versus 200 gpm for the Proposed Project).” The commenter also recommended that Alternative H include all mitigation measures recommended under Alternative A.

Response: The comment from the USEPA (G-29) regarding their preference for Alternative H is noted. For additional responses to the issue of the potential for overdraft, please refer to Responses to Comments 2.5.4 and 2.5.6, including a discussion of mitigation measures that has been added to the FEIS recommends that conservation and/or conjunctive use programs be supported to offset on-site groundwater usage. In summary, the hydrographs for wells in the site area are consistent with a basin with historical overdraft which has begun to recover in recent years, while at the same time groundwater pumping by the City of Rohnert Park has decreased. Basin-wide groundwater pumping is expected to remain relatively stable over the next several decades, and in the upper Laguna de Santa Rosa watershed (the southern Santa Rosa Plain groundwater sub-basin), groundwater demand is expected to stay below historical levels that were associated with historical regional groundwater level declines (DEIS **Sections 3.3.2** and **4.12; Appendix G** Section 6.5.2). Under these conditions, it is not likely that the project will contribute to a further decline in regional groundwater levels; however, the project could slow the recovery of groundwater levels in proportion to the amount of increase in pumping represented by the project, which is a relatively modest percentage for the region, and about 40 percent less for Alternative H.

2.5.14 ON-SITE WATER CONSERVATION

Summary of Comments: The City of Rohnert Park (G-4), suggested that the use of waterless urinals and xeriscape be considered as water conservation measures. Crystal Brody (I-89) submitted a comment in which she expressed concerns that the DEIS is insufficient in its study of water conservation practices for the proposed development. Brody suggested that the FEIS include a study of the benefits of: using low flow toilets, low flow sinks, and shower heads, as well as, limiting the number of laundry loads in the hotel. In addition, Brody asked for a study of the benefits of landscaping with drought resistant plants and the use of drip irrigation to conserve water.

One commenter (I-138) expressed concerns that the on-site water conservation measures regarding casino patrons would not be enforced. According to the commenter, “If a guest wants clean sheets daily, my guess is that they will be provided with whatever they want.”

The City of Cotati (G-31) stated, “The use of xeriscape to reduce irrigation water consumption should be included as a mitigation measure.”

Commenter I-63, listed the on-site water conservation measures the Tribe has outlined in the DEIS to reduce impacts to water resources.

Commenter I-166 requested information regarding the Tribe’s commitments to on-site water conservation efforts during times of drought, specifically, how long the reductions would occur, how much water would be conserved, and who would enforce the conservation measures.

In addition to the mitigation proposed in **Section 5.2.2**, Sonoma County (G-34) commented that the DEIS should be revised to consider:

Indoor measures:

- No single-pass water use;
- Water features should have recirculation systems;
- Air-cooled ice-makers;
- Conductivity meters on cooling towers;
- High Efficiency Toilets (1.28 gallons per flush or less);
- Showerheads at 2.0 gpm, faucets at 1.5 gpm, self –closing faucets in public bathrooms;
- Connectionless Steamers in restaurants/buffet;
- Re-circulating hot-water systems;
- 1.3 gpm pre-rinse spray nozzles;
- High temperature dishwashers; and,
- Low water use clothes washing machines

Outdoor measures:

- Swimming pool cover;
- Xeriscape landscape;
- Low to moderate water-use plants, that respond well to treated wastewater; and,
- SMART Controllers for drip irrigations, and rain sensor/shut-off devices.

Response: The extent and type of landscaping at the project has not been determined, but will be designed to use recycled water, thus constructing a xeriscape or a landscape with drought resistant plants is unnecessary as a water conservation measure since it would not result in any potable water conservation.

No known water conservation standards for new developments in Sonoma County have been adopted by any governmental agency. However, both mitigation measures have been revised in FEIS **Section 5.2.2**, as well as the water efficiency plan attached to **Appendix D** of the FEIS to recommend many water conservation measures, including:

- Check steam traps and ensure return of steam condensate to boiler for reuse
- Limit boiler blowdown and adjust for optimal water usage
- Low flow faucets and/or aerators
- Low flow showerhead and/or aerators
- Voluntary towel re-use by guests
- Pressure washers and brooms (water broom) instead of hoses for cleaning
- Garbage disposal on-demand
- Incorporate re-circulating cooling loop for water cooled refrigeration and ice machines wherever possible
- Water served to customers on request
- Using recycled water for irrigation (with irrigation controllers)

The FEIS and FEIS **Appendix D** have been updated to note that these water conservation measures would result in an additional water savings of approximately 12,800 gallons per day for the full size casino/hotel alternatives.

In response to the comment from I-138, the Tribe fully intends to implement these water conservation measures into this project and the water and wastewater systems will be designed assuming that conservation measures are in place. There is no duration for these measures – they would be incorporated into the project design, as discussed in mitigation measure U of **Section 5.2.2** of the DEIS. Note that we agree that should a hotel guest desire clean sheets daily for their room, clean sheets would be provided. As noted above, there would be voluntary towel reuse by hotel guests, which would result in water conservation.

In response to the specific measures identified by Sonoma County (G-34), other than those not specifically identified above: 1) it is not expected that the Tribe would operate the cooling tower with a single pass system; 2) the method for treatment and frequency of blowdown have not been determined, but a conductivity meter is a common method for managing cycles of concentration; 3) High pressure/Low volume spray rinse valves for pre-cleaning dishes and air-cooled ice makers were not expected to be feasible; 4) The type of laundry facilities and whether the pool will have a cover have not been determined.

In further response to the specific measures identified by Sonoma County (G-34):

Indoor measures:

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| <ul style="list-style-type: none"> ▪ No single-pass water use | <p>It is not expected that the Tribe would operate the cooling tower with a single pass system.</p> |
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| <ul style="list-style-type: none"> ▪ Water features should have recirculation systems | <p>No ornamental water features are currently planned. Any ornamental water features would be expected to be supplied with recycled water. Several outdoor pools are planned. The water source for all water bodies approved for human contact (i.e. swimming pools) would be potable water. These would be expected to re-circulate water to the extent possible and to minimize the number of drain and refill operations required.</p> |
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| <ul style="list-style-type: none"> ▪ Air-cooled ice-makers | <p>Air-cooled ice-makers were not expected to be feasible for the project based on previous experience. These units would be expected to result in some reduction of water demand but have considerably higher costs associated with them in terms of operation and maintenance. It is expected that a re-circulating cooling loop for water cooled refrigeration and ice machines would be installed wherever feasible.</p> |
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| <ul style="list-style-type: none"> ▪ Conductivity meters on cooling towers | <p>The method for treatment and frequency of blowdown for the cooling towers has not been determined, but a conductivity meter is a common method for managing cycles of concentration and would be expected to be a consideration in determining blowdown frequency.</p> |
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| <ul style="list-style-type: none"> ▪ High Efficiency Toilets (1.28 gpf or less) | <p>It is expected that the project will utilize recycled water for toilets and urinals. Installation of high efficiency toilets would not impact potable water demand.</p> |
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| <ul style="list-style-type: none"> ▪ Showerheads at 2.0 gpm, | <p>The showerhead and faucet fixtures have not yet been</p> |
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| faucets at 1.5 gpm, self – closing faucets in public bathrooms | selected. However, it is expected that low flow faucets with automatic shutoffs would be installed in all public restrooms. |
| ▪ Connectionless Steamers in restaurants/buffet | It is not expected that all restaurant operators would be required to utilize connectionless steamers. Rather, sub-metering of water usage by each facility is instead recommended to provide the incentive for each operator to conserve water in a flexible format. |
| ▪ Re-circulating hot-water systems | It has not been determined yet if a hot-water re-circulation system will be used. The potential water savings would need to be weighed against the potential increase in energy demands. |
| ▪ 1.3 gpm pre-rinse spray nozzles | It is not expected that all restaurant operators would be required to install pre-rinse spray nozzles. Rather, sub-metering of water usage by each facility is instead recommended to provide the incentive for each operator to conserve water in a flexible format. |
| ▪ High temperature dishwashers | It is recommended that all dishwashers be high efficiency models maximizing water conservation to the extent feasible. |
| ▪ Low water use clothes washing machines | Laundry is expected to be done off site. |

Outdoor measures:

- | | |
|---|---|
| ▪ Swimming pool cover | Whether the swimming pools will have a cover has not yet been determined. |
| ▪ Xeriscape landscape | All landscape is expected to be irrigated using recycled water. The type of landscape installed is not expected to have any impact on potable water demand. Landscape would instead need to be selected for suitability for irrigation by recycled water. |
| ▪ Low to moderate water-use plants, that respond well to treated wastewater | It is expected that plants and landscape that would respond well to recycled water would be used. |
| ▪ SMART Controllers for drip irrigations, and rain sensor/shut-off devices | It is expected that SMART controllers for landscape irrigation would be used. |

As described in the water efficiency plan attached to **Appendix D** of the FEIS, the project is expected to meet or exceed some of the strictest adopted water efficiency standards in the West.

2.5.15 SONOMA COUNTY WATER AGENCY (SCWA) ELEVENTH AMENDED AGREEMENT

Summary of Comments: The City of Rohnert Park (G-4) discussed the estimated water demand for the City. According to the commenter, the FEIS should state that the Eleventh Amended Agreement for Water Supply was replaced in 2006 by the Restructured Agreement (discussed on page 3.9-4 of the DEIS). The commenter pointed out that on page 3.9-5 of the DEIS, the City’s estimated water demand of 6,926 acre feet per year (AFY) included 450 AFY of recycled water. The commenter also noted that the date of the letter from Rohnert Park to the SCWA was March 2004, which should be mentioned in the FEIS.

Response: The history of the 11th amended agreement and its replacement by the Restructured Agreement is discussed in detail in DEIS **Appendix G. Section 3.9** of the FEIS was updated to include reference to the Restructured Agreement. Additionally, **Section 3.9** of the FEIS was also updated to reflect that 450 AFY of recycled water is included in the 6,926 AFY figure.

2.5.16 CITY OF ROHNERT PARK WATER RECYCLING PROGRAM

Summary of Comments: The City of Rohnert Park (G-4), pointed out that on page 3.9-5 of the DEIS, the section noted that the City, “...uses approximately 10 million gallons of recycled water per month in summer months,” however, it continues by stating that, “Recycled water offsets over 3 mgd of potable city water.” The commenter expressed that these statements seem to conflict each other and should be revised because, 10 million gallons per month is only 0.3 mgd.

Response: The recycled water usage numbers in DEIS **Section 3.9** have been corrected in the FEIS to state that the City’s recycled water use are 3 MGD during the peak months, and 450 AFY.

2.5.17 PETALUMA RIVER’S DESIGNATION AS AN IMPAIRED WATER BODY

Summary of Comments: The City of Petaluma (G-14) stated that the FEIS should address the status of the Petaluma River as an impaired water body under the Clean Water Act 303(d).

Response: The Petaluma River is currently listed as an impaired water body on the 303(d) list. **Appendix D** of the FEIS has been revised to note it as such.

2.5.18 WASTEWATER DISCHARGE INTO THE PETALUMA RIVER

Summary of Comments: The City of Petaluma (G-14) stated that the DEIS does not appear to include a discussion on how the proposed development on the Lakeville site would comply with the restrictions on wastewater discharge to the Petaluma River.

Response: Section 2.6.3.3 of DEIS **Appendix D** details the Petaluma River discharge prohibitions for the Lakeville site. In order to comply with these discharge prohibitions, on-site seasonal storage and on-site reuse facilities would be constructed to dispose of wastewater between June 1 and August 31. During the wet season (September 1 – May 31), discharge of effluent would be achieved through both the aforementioned facilities and a surface water discharge. The wastewater will also be treated in an on-site wastewater treatment plant to comply with the terms of the NPDES permit, as discussed in **Sections 2.0, 4.3, and 5.2.2** of the DEIS.

2.5.19 IMPACTS TO SURFACE FLOW FROM GROUNDWATER USAGE

Summary of Comments: The City of Santa Rosa (G-22) stated that the project proposes two wells which would pump a total of up to 200 gpm. According to the commenter, if this pumping were to affect groundwater flows to the Laguna, Laguna flows could decrease. The commenter requested that the EIS evaluate whether groundwater pumping for the project would affect the flows in the Laguna.

Lloyd Iversen (I-168) stated that individuals and committees involved in the General Plan update process “expressed a general consensus for not decreasing in-stream flows of waterways in Sonoma County and for the halt of activities that might reduce in-stream flows.”

Response: The available data suggest that project pumping is not likely to significantly influence the uppermost water table near Laguna de Santa Rosa, change the nature of surface water-groundwater interactions along the stream or reduce the amount of water flowing in the stream. Water levels in the two DWR monitoring wells located near Laguna de Santa Rosa (one Shallow Zone well screened from approximately 59 to 79 feet bgs and one Intermediate Zone well screened from 387 to 407 feet bgs) were approximately 60 to over 100 feet below ground surface when they were last measured in 2000 (DEIS **Appendix G** Section 5.4.2) and thus far below the Laguna de Santa Rosa and not indicative of a hydraulic connection between the zones from which groundwater will be pumped and surface water. Further, the hydrograph evaluation included in DEIS **Appendix Y** of the Intermediate Zone wells (wells completed between about 200 and 400 feet below ground surface (bgs)) Shallow Zone wells (completed in the interval less than about 200 feet bgs) and water table monitoring wells indicates that the influence of pumping in the Intermediate Zone attenuates at shallow depths and is not discernible at the water table in the wells studied. This is consistent with the presence of lower permeability materials in the shallow subsurface in the site vicinity (DEIS **Appendix G** Section 5.3), which have also been reported to present an impediment to the infiltration of surface water at the site ((DEIS **Sections 3.2 and 3.3; Appendix D**).

If unknown local lenses of higher permeability sediments are present in the shallow subsurface near the stream, project pumping could increase infiltration and reduce the discharge volume in the stream somewhat, but the presence of a permeable conduit to the pumping zone that would result in

significant flow reductions in the stream is not likely. Monitoring of shallow water table wells is planned during the pumping test that will be conducted during the mitigation phase of the project (**Appendix Y**). Mitigation measure Z of **Section 5.2.2** of the FEIS was updated to include a requirement that one of the shallow monitoring well locations will be selected to be close to Laguna de Santa Rosa to verify the above conclusions regarding surface water-groundwater interactions.

2.5.20 MITIGATION MEASURES FOR REGIONAL GROUNDWATER IMPACTS

Summary of Comments: The City of Petaluma (G-14) commented on **Section 5.2.2**, mitigation measure W. The commenter quoted the DEIS as stating measure W would, "...work with the Cities of Rohnert Park, Petaluma, and SCWA to find and deliver more surface water..." According to the commenter, the DEIS did not specify the source of the surface water. And stated that if it was planned to obtain water from the Russian River water system operated by the SCWA, it would potentially be problematic. The commenter stated that the SCWA and its water contractors have been working to ensure a safe, reliable, high quality source of water for Marin and Sonoma Counties. The commenter requested that the FEIS provide more information on this mitigation measure. Moreover, individual commenter I-166 asked what assurances would be made to require the Tribe to provide Sonoma County residents with access to adequate water supplies.

The USEPA (G-29) recommended that the FEIS and Record of Decision (ROD) commit to the use of reclaimed water for landscape watering and toilet flushing. In addition, the commenter noted that the Tribe would consider creating an off-site artificial recharge project as stated in **Section 5**, page 5 of the DEIS. The commenter recommended a commitment to this measure if the basin is determined to be in overdraft by the groundwater supply assessment being conducted by the Sonoma County Water Agency (SCWA) and the US Geological Survey (USGS).

Response: In response to the comment from the City of Petaluma (G-14), the specific sources of additional surface water were not defined in the DEIS. The possible sources range from developing new water supplies to conserving existing water supplies. It would be expected that opportunities to provide available water would be discussed with the SCWA. Should those water supplies be developed in coordination with the SCWA, the SCWA would be the wholesaler for those supplies, and they would ensure that there is a safe, reliable, high quality source of water for its service area. Mitigation measure R in **Section 5.2.2** of the FEIS was modified to include offset of the projected groundwater usage of the Proposed Project via support for a program that would substantially increase water conservation and conjunctive use within the service areas of the City of Rohnert Park and SCWA. NEPA does not require that the Tribe provide Sonoma County residents with access to adequate water supplies.

In response to the comment from the USEPA, all of the alternatives include the use of recycled (a.k.a. reclaimed) water for landscape irrigation, toilet flushing, and urinal flushing. Additionally, as

described in mitigation measure S of **Section 5.2.2** of the DEIS, the Tribe would participate in or provide financial support to the SCWA and USGS joint study that is presently underway. Additional regional groundwater reduction options have been added to this mitigation measure in the FEIS in response to this comment and at the suggestion of the SCWA.

2.5.21 CALIFORNIA WATER BOARD JURISDICTION

Summary of Comments: The NCRWQCB (G-24) noted that only Alternative F would be located outside the watershed of the Laguna de Santa Rosa, which is within the boundaries of the NCRWQCB, not the San Francisco Bay Regional Water Quality Control Board. Therefore, the NCRWQCB is the state agency that is responsible for the protection of quality of state waters within this jurisdiction.

Response: The DEIS was searched for references to the San Francisco Bay Water Quality Control Board. No references were identified. The FEIS correctly identifies the NCRWQCB as the agency that oversees the area in which the Proposed Project is located.

2.5.22 PERMITTING AUTHORITY

Summary of Comments: The NCRWQCB (G-24) commented that discharges occurring off Indian trust lands would be subject to permitting authority of the NCRWQCB, while discharges occurring on Indian trust lands would be subject to permitting authority of the USEPA and the USACE. Furthermore, then NCRWQCB anticipates taking an active role in the federal permitting process, and expects that NPDES permits issued by the USEPA would fully implement water quality objectives established by the NCRWQCB.

Response: Having the NCRWQCB take an active role with the USEPA in the permitting process is welcome, though the USEPA will be the permitting agency. This is because should there be an on-site WWTP, any surface water discharge would occur on Indian trust lands. Note that the NIGC has chosen wastewater disposal option 3 (sprayfield disposal) as its Preferred Alternative (see FEIS **Section 2.11**).

2.5.23 SURFACE WATER QUALITY IMPAIRMENTS

Summary of Comments: The NCRWQCB (G-24) commented on information presented on page 3.3.2 of the DEIS. This page discusses the waste reduction strategy developed by the NCRWQCB to reduce ammonia levels in the Laguna de Santa Rosa. Recently, the commenter described, the 303(d) list has been amended to include impairments due to excessive nitrogen and phosphorous, and NCRWQCB staff is presently developing a TMDL for the Laguna de Santa Rosa. Therefore, new discharges of nitrogen and phosphorous have the potential to contribute to further impairment of this watercourse.

Response: These comments from the NCRWQCB are noted. Any surface water discharge limitations would be detailed in the NPDES permit. Adherence to those discharge limitations, which would be required, would reduce any potentially significant impact to water quality in the Laguna de Santa Rosa to less than significant levels. **Section 3.3** of the FEIS was updated to include present development of a TMDL for phosphorous, which was not included in the DEIS. Reference to the indicated impairments for nitrogen are discussed in **Section 3.3** of the DEIS. Additionally, mitigation measures A, and D in **Section 5.2.2** of the FEIS would further reduce potential impacts to water quality from nitrogen and phosphorous. Note also that the NIGC has chosen wastewater disposal option 3 (sprayfield disposal) as its Preferred Alternative, citing the greater environmental impacts that would result from option 2 (surface water disposal) and the present non-availability of option 1 (local sewer connection) (see FEIS **Section 2.11**).

2.5.24 IMPACTS TO EXISTING REGIONAL WELLS

Summary of Comments: Eunice Edgington (I-100) is concerned that wells on the Wilfred site would cause a ripple effect through Rohnert Park, Sebastopol, and Santa Rosa, causing their wells to run dry.

Response: Regarding the potential impact of the project on nearby wells, please see Response to Comment 2.5.3. As discussed in **Section 4.3** of the DEIS and in detail in **Appendix G** of the DEIS, a few shallow wells located close to the site are at increased risk of going dry due to groundwater pumping from the project. Mitigation measures for this potential impact include owner reimbursement for applicable costs to repair, deepen or replace these wells (DEIS **Section 5.0**). At a distance greater than 2 miles from the project the aquifer would be anticipated to experience less than 3 feet of drawdown. At distances greater than 4 miles, the drawdown would be expected to be less than one foot (see Figure 19 in **Appendix G** of the DEIS). Therefore, regional dewatering of wells would not occur.

2.5.25 CLEAN WATER ACT, SECTION 401

Summary of Comments: The USEPA (G-29) stated that, “...the FEIS should state that the EPA will evaluate project impacts to water quality under Section 401 of the CWA and is the agency that will issue Water Quality Certification.”

Response: The DEIS notes that this is the case in **Section 1.6**.

2.5.26 PARKING LOT DESIGN

Summary of Comments: The USEPA (G-29) stated the importance of considering changes to parking lot designs that would address stormwater runoff and surface water pollution. The commenter noted, “One common design change is reducing the excessively high parking ratios commonly used in commercial areas.” According to the commenter, “The preferred alternative will

include 6,102 parking spaces: 4,102 in surface parking lots, and 2,000 in a parking structure. It is not clear how the parking lot for the project was sized. Parking ratios are generally expressed as spaces per 1,000 ft² gross floor area (GFA) not including storage or utility spaces.” The commenter stated that it appeared that the parking ratio used is over 8 spaces per 1,000 ft² GFA, and that parking lots with improved site design parking ratios for retail spaces have been recommended at 4-4.5 spaces per 1,000 ft² GFA. Therefore, the USEPA recommended that parking lot design for the proposed alternatives be modified to conform with “green parking” guidelines, and provided a link to obtain more information. The commenter also stated that, “The FEIS should identify the parking ratio used to size the parking lot and indicate how this ratio is appropriate. We recommend the parking ratio be reviewed for conformance with local and national casino experience to see if lower ratios are warranted and feasible.” The USEPA commended the use of the minimized footprint of the parking structure, and encouraged the use of the structure for any alternative that is selected. The commenter also stated the following recommendations: 1) That at least 30% of the spaces have smaller dimensions for compact cars, and; 2) That spillover parking with pervious surfaces be included in the design, including: gravel, cobbles, wood mulch, brick, grass pavers, turf blocks, natural stone, pervious concrete, and porous asphalt.

Response: The number of parking spaces, size of parking spaces, and proportion of structure to surface parking was designed by the developer and their architect based on a variety of factors including their experience in operating casino/hotel developments, the lack of off-site parking, customer convenience, environmental considerations, and local zoning ordinances. The size of the spaces is consistent with the standard parking space per the Rohnert Park zoning ordinance. Compact spaces were considered but were not included given the developer’s experience with customer complaints and liability exposure resulting directly from compact spaces. The number of parking spaces was determined based on the developer’s experience in operating casino/hotel developments and based on the knowledge that off-site parking would not be available at any time. Structured parking was added in an attempt to minimize environmental impacts and maximize customer convenience while still leaving the front of the facility open to allow for an inviting design. A mitigation measure has been added to the FEIS, committing the Tribe to consider feasible changes to the parking lot design, in consultation with the USACE, to reduce wetland fill. The FEIS, **Section 5.2.2** has been revised to recommend that at least 15 percent of surface parking areas be constructed to utilize pervious surfaces.

2.5.27 IMPACTS TO RANCHO VERDE MOBILE HOME PARK FROM FLOODING

Summary of Comments: A comment received on the behalf of the Rancho Verde Mobile Home Park (B-24) expressed concerns regarding the potential effects of the proposed development on Rancho Verde. According the commenter, “Rancho Verde is currently subject to periodic flooding, and the Proposed Project will make flooding conditions worse. The DEIS understates the severity of existing flooding and cumulative impacts from surrounding projects, ignores the insufficiency of

existing drainage facilities, and proposes mitigation measures that will not adequately address all impacts caused by the Proposed Project individually and cumulatively.” The commenter requested that the FEIS include a full discussion of the conditions raised above and to impose appropriate and sufficient mitigation measures.

Response: The Rancho Verde Mobile Home Park is currently subject to flooding based upon its design and the current watershed. As stated in the EIS, the Alternative A project will provide on-site mitigation to limit the impact of the increased stormwater runoff. The construction of the southern Wilfred site stormwater detention basin should have a positive effect on the mobile home park by providing approximately 108.5 acre feet (AcFt) of surplus storage for Alternative A and 119.8 AcFt for Alternative H. This surplus storage will be available to accept stormwater overflow from the Bellevue-Wilfred Channel and Hinebaugh Creek and thereby reduces the current flooding levels in the mobile home park. Also, please see Response to Comment 2.5.33.

2.5.28 CUMULATIVE IMPACTS FROM STORMWATER RUNOFF

Summary of Comments: A comment received on the behalf of the Rancho Verde Mobile Home Park (B-24) stated that storm drain pipes beneath Business Park Drive discharge into Labath Creek, which in turn discharges at the apex of Hinebaugh Creek (at the northern point of Rancho Verde). According to the commenter, “Any stormwater discharge from these pipes would exacerbate the flooding problem at Rancho Verde.” The commenter continued by stating that the cumulative contributions to stormwater impacts would be significant, “The peak runoff from the Martin Avenue Industrial Complex,” which is the watershed area that surrounds development accessed along Labath Avenue and Martin Avenue, and the undeveloped area east of Labath Avenue, “during a 100-year storm event (129 cfs Winzler & Kelly) represents 5 percent of the flow capacity of Hinebaugh Creek at flood stage (using Winzler & Kelly’s estimate of 2,552 cfs; or 6 percent using the City’s estimate of corrected for siltation and vegetation growth 2,070 cfs).

The commenter continued by stating that, “Existing stormwater facilities cannot handle additional stormwater runoff.” And supported this statement by stating that the storm drain system servicing the Martin Avenue Industrial Complex cannot adequately convey the stormwater during periods of heavy flooding. Causing additional flooding at the industrial complex “...because the storm drain system is gravity operated, its system’s capacity is compromised when Hinebaugh Creek reaches its flood stage and thus is reduced during/after large rainfall events.”

Response: The proposed development’s impacts on Labath Creek has been mitigated though the design and construction of on-site stormwater detention basins. Furthermore, the Martin Avenue Industrial Complex is not a part of the Proposed Project. The City of Rohnert Park is performing drainage studies and developing plans to mitigate those problems independent of the gaming facility.

2.5.29 THE CITY OF ROHNERT PARK'S MARTIN AVENUE PUMP STATION

Summary of Comments: A comment received on the behalf of the Rancho Verde Mobile Home Park (B-24) stated that the DEIS failed to take into account the City's Martin Avenue Pump Station, which would add overall volume and flow, as well as, peak flow into Hinebaugh Creek. The commenter stated that the proposed Martin Avenue Pump would exacerbate cumulative impacts to flooding. According the commenter, "Connecting with the existing storm drain system, the permanent pump system is intended to drive with positive force, stormwater runoff from the industrial complex to Hinebaugh Creek when the stormwater drainage system is overwhelmed by local flooding." The commenter stated that this would have a significant adverse impact.

Response: The proposed development on the Wilfred site would not impact the Bellevue-Wilfred Channel due to proposed on-site mitigation. Therefore, the DEIS is correct in its analysis of the potential impacts from flooding.

2.5.30 IMPACTS TO FLOW CAPACITY AT HINEBAUGH CREEK

Summary of Comments: A comment received on the behalf of the Rancho Verde Mobile Home Park (B-24) stated that the DEIS failed to take into account the significant reduction in Hinebaugh Creek flow capacity as a result of sedimentation and vegetation growth. The commenter stated that, "According to the City, the design capacity of Hinebaugh Creek near Rancho Verde is about 3,000 cfs (pers. comm. Darren Jenkins, City Engineering Department, March 6, 2007). This estimate is generally in agreement with Winzler and Kelly's estimate of 2,552 cfs (Hinebaugh Creek at Petaluma road, upstream of Rancho Verde)." The commenter continued, "However, preliminary cross-sections through Hinebaugh Creek (prepared by Todd Engineers based on creek surveys at three locations near Ranch Verde in 2003) indicate that the cross-sectional area of the channel has been reduced by up to 31 percent due to sedimentation and vegetation growth." The commenter concluded that this condition reduces the City's estimate from 3,000 cfs to 2,070 cfs.

Response: The proposed development on the Wilfred site would not increase stormwater runoff beyond existing peak levels and thus, would not increase the potential for flooding. In addition, discussions with SCWA indicated that they are studying Hinebaugh Creek and developing a strategy to alleviate existing flooding problems.

2.5.31 STORMWATER DETENTION BASIN

Summary of Comments: The USEPA (G-29) commented that the mitigation measures identified in the Executive Summary identify a stormwater detention basin for Alternative G, but not for Alternative A. According to the commenter, this is inconsistent with chapter 4 of the DEIS.

Marilee Montgomery (B-33) expressed concerns about the stormwater detention basin, specifically that the storage capacity may not be enough to handle sudden increases in stormwater levels from

heavy rainfall. Regarding the Wilfred and Stony Point sites, the commenter stated that, “The entire trust acquisition-site is itself a ‘cachement’ area for the Watershed.”

Sonoma County (G-34) commented that the description of the basin is inadequate. According to the commenter, “The DEIS should be revised to provide detailed plans of the proposed detention basin, including storm frequency calculations and anticipated percent detention within the detention basin. This lack of information contributes to the inadequacy of the DEIS, necessitating the recirculation of the document.

Response: In response to the EPA’s comment, a stormwater detention basin for Alternative A is included within the drainage plan for Alternative A, which would be implemented if this alternative is selected. Therefore, and as discussed in the analysis of Alternative A on page 4.3-1 of the DEIS, a mitigation measure providing for a stormwater detention basin is not necessary, having already been included.

A detention basin does not appear to be included in the preliminary Northwest Specific Plan for development on the Wilfred Site, although pages 28 and 29 of the Northwest Specific Plan state “As part of the Specific plan preparation, engineering studies have been conducted by Civil Design Consultants, Inc. to determine potential means of retaining storm water on-site.” Thus, a detention basin was added as a mitigation measure for Alternative G, the No Action Alternative, to reflect the possibility that such development could go forward as planned without on-site detention.

In response to commenter B-33, the EIS presents detailed engineering studies in **Appendix C** that support the adequate size and capacity of the proposed detention basins. Moreover, the Wilfred site is located within two different FEMA mapped floodplains. The proposed development under Alternative A is located completely within a non-regulated floodplain.

As described in the drainage plan (DEIS **Appendix C**), the stormwater detention basin would be sized sufficient to accept projected increases in stormwater levels resulting from heavy rainfall. Therefore, in response to the comment by Marilee Montgomery, the drainage basin would be sized appropriately to contain stormwater flows.

The proposed stormwater detention basins for the Wilfred site development alternatives are described in detail in **Section 2.0** and are included in the Grading and Drainage study presented in **Appendix C**. The appendices contained within the Grading and Drainage report provide detailed calculations for the sizing of the detention basin and include site and grading plans which detail the physical location of the proposed development and areas planned for grading.

Please also see Response to Comment 2.4.3.

2.5.32 MITIGATION MEASURES ADDRESSING DOWNGRAIDENT FLOODING

Summary of Comments: A comment received on the behalf of Rancho Verde Mobile Home Park (B-24) stated that, “The currently proposed stormwater detention basin will address only peak stormwater flow rates, but not overall stormwater runoff volumes.” According to the commenter, “Although the basin may attenuate the increase in peak flow that would result from site development, the volume of stormwater runoff will undoubtedly increase and exacerbate flooding conditions downgradient (e.g. at Rancho Verde).”

Response: The combination of the on-site detention basins will allow for attenuating the flow from on-site and provide significant on-site storage to decrease the overall impact to the mobile home park. Please refer to **Appendix C** in the EIS.

2.5.33 STORMWATER MITIGATION MEASURES

Summary of Comments: A comment received on the behalf of the Rancho Verde Mobile Home Park (B-24) suggested the following additional mitigation measures, which the commenter felt are necessary and feasible to the proposed development:

- Lower the western levee bank of Hinebaugh Creek adjacent to Rancho Verde and direct high-flow water to the undeveloped portion of land located west of the Hinebaugh Creek (called “Southeast Drainage Area” in **Appendix C**, pg. 19 of the DEIS). This area could store 356 acre feet (AF) of water if wetland ponds were created;
- Construct a direct, high water overflow channel from Hinebaugh Creek to the Wilfred-Bellevue Channel. This alternative is similar in concept to the comment made by the City of Rohnert Park regarding page 2-8 (should be 2-9), **Section 2.2.6** of the DEIS (City of Rohnert Park Comments on DEIS for the Graton Rancheria and Casino, May 14th, 2007, pg. 2). The City’s comment recommends an alternative whereby stormwater runoff from the casino site discharges directly to the Wilfred-Bellevue Channel through a constructed channel. Todd Engineer’s alternative recommends that stormwater runoff discharge to Labath Creek and Hinebaugh Creek then be directed through a constructed channel to the Wilfred-Bellevue Channel near the northern apex of Hinebaugh Creek adjacent to RVMHP.
- Construct berms/walls around the perimeter of Rancho Verde and install pump station to prevent flow into Rancho Verde. The pump stations could be retrofitted to the existing storm drains in a manner similar to the City of Rohnert Park’s Martin Avenue Flood Abatement Project (City of Rohnert Park Project No. 2006-3); and
- Excavate/dredge accumulated silt and unplanned vegetation in Hinebaugh Creek near Rancho Verde. Preliminary cross-sectional surveys indicate that the flow capacity of Hinebaugh Creek has been reduced by as much as 31 percent.

The commenter stated that one or a combination of the four alternative mitigation measures listed above could be funded in whole, or in part (depending on the cost) by the Tribe's contributions to the City of Rohnert Park for stormwater management. According to the commenter the contributions include:

- Up to \$700,000 after the construction date to implement mitigation measures mutually agreed upon to address the pre-existing stormwater flooding problem at Rancho Verde and the Martin Avenue industrial complex; and
- \$50,000 annually to the City of Rohnert Park to be "used solely to address stormwater drainage matters."

Sonoma County (G-34) commented that the County has, "...conducted public outreach to the design community on the proper methods to address post construction hydrologic impacts," and has developed the "Guidelines for the Standard Urban Storm Water Mitigation Plan", which the commenter stated should be addressed in the DEIS, and used as guidance to assist in addressing post construction stormwater impacts.

Furthermore, the County stated that, "The DEIS should be revised to define the portion of the stormwater runoff that would be retained, and the criteria used to determine what storm events would be retained." According to the commenter, "The revised DEIS should also identify the 'primary stormwater flow control objective' as described in Mitigation Measure 5.2.2 BB."

Response: The Rohnert Park MOU (DEIS **Appendix E**) provides that the Tribe shall make contributions to the City after the commencement of construction activity up to a maximum of \$700,000 and at such times as shall enable the City to implement measures, to be mutually agreed upon by the City and the Tribe and completed prior to the Opening Date, to mitigate the preexisting storm water flooding problem at Rancho Verde and the Martin Avenue area and to mitigate any significant noise impacts at Rancho Verde identified in the NEPA review process. The Rohnert Park MOU also provides that, in order to mitigate potential impacts of the gaming facility on storm water drainage, the Tribe shall make an annual contribution of \$50,000 to the City, which contribution shall be used solely to address storm water drainage matters. We agree that these amounts could be used to fund EIS mitigation measures.

The commenter is asking for the creation of an additional stormwater detention basin. This has already been added to the project's development plans, and is described in detail in FEIS **Section 2.0** and **Appendix C**. The proposed detention basin would mitigate the flood storage displaced by the proposed project. To maximize the benefit to the mobile home park, the proposed detention basins could be designed to accept overflow from Hinebaugh Creek and would ultimately discharge the runoff into the Bellevue-Wilfred Channel. In order for the mobile home park measure to occur, a

separate project would need to be constructed off-site to direct overflow from Hinebaugh Creek to the proposed detention basin. The construction of this overflow structure from Hinebaugh Creek into the off-site detention basin could be funded with a portion of the \$700,000 contribution to the City from the Tribe, as suggested by the commenter.

Post-construction stormwater impacts are to be mitigated by utilizing on-site detention basins to reduce peak stormwater flows to pre-project levels for a 100-year flood event. Unlike what is suggested by the commenter, the EIS does not state that the proposed development on the Wilfred site would *retain* stormwater runoff. Instead, the EIS indicates it would *detain* stormwater runoff (see **Section 2.2.6 & 2.10.6**). In addition, numerous BMPs similar to the County's guidelines are proposed and required in the DEIS to manage stormwater quality.

2.5.34 IMPACTS TO THE LAGUNA DE SANTA ROSA

Summary of Comments: The Sierra Club, Sonoma Group (B-31) commented on the existing quality of water in the Laguna de Santa Rosa, as well as, potential decreased water quality to the Russian River resulting from the proposed development. "Sediment from fill and construction activities, treated wastewater, parking lot pollution, and landscaping chemicals will drain into the Laguna and from there into the Russian River." According the commenter Laguna de Santa Rosa Restoration Management Plan calls for, "...no fill within the 100-year floodplain in which the proposed Wilfred Ave. site is located, yet the plan for this site is that a large part of it will be filled to raise it above the floodplain." Moreover, the commenter stated that, "Artificial drainage systems will change the hydrology of the Rohnert Park sites, even in the areas that are meant to stay in a 'natural' state." The commenter stated that this would, "...surely degrade the on-site wetlands."

Lloyd Iversen (I-168) inquired about changes in the seasonal shrinking and swelling process of the Laguna; expressed concern regarding the potential for the casino project to pollute the Laguna and its sediments; inquired about the project's consistency with the Laguna de Santa Rosa Restoration Management Plan; and requested, "Please acknowledge the complexity and uniqueness of the Laguna hydrology and it's specific requirements." The commenter also expressed concern regarding natural temperature fluctuation patterns, how the temperature of the Laguna would be affected by the casino project (by discharge to the Laguna and by vegetation removal), and what the resulting impacts to animal and plant life cycles would be.

Response: The discharge of wastewater on Tribal lands to a tributary of the Laguna de Santa Rosa would result in more treated wastewater in the Laguna de Santa Rosa, as the Sierra Club, Sonoma Group (B-31) states. The supposition that this will change the hydrology of the Rohnert Park sites, degrade on-site wetlands, or have any other impact was not substantiated, and is not supported. Specifically, while the potential exists for impacts related to increased pollution, changes in hydrology (including changes in seasonal hydrologic patterns, as referenced by commenter I-168),

and increased erosion and sedimentation to occur within surface waters including the Laguna de Santa Rosa and the Russian River, these potential impacts would be mitigated to less than significant levels with implementation of the mitigation prescribed in **Section 5.2.2** of the DEIS. Specifically, mitigation measures associated with management of stormwater runoff, management of contaminated stormwater, recycled water irrigation, and potential discharge of treated wastewater into the Laguna de Santa Rosa would reduce these potential impacts to less than significant levels. Note that, as stated in the DEIS and detailed in DEIS **Appendix D**, the flow, quality, and temperature of effluent will be regulated by a NPDES permit issued by the USEPA as stated in Response to Comment 2.5.10. The NPDES permit is only expected to allow a discharge during the winter months, when flow in the Laguna is naturally high, and even then only a small additional flow is expected to be allowed by the permit (no more than 1% dilution of the receiving water).

Moreover, the proposed development on the Wilfred site does not contemplate placing fill within a mapped 100-year floodplain. All of the fill would be located within a FEMA non-regulated Zone X floodplain. Nonetheless, in response to this and other comments, the southern area flood storage detention area planned for Alternatives B, C, D, and E has been proposed for Alternatives A and H as well. For Alternatives B – E, this area compensates for the loss in 100-year floodplain storage that the development of the alternatives would create. For Alternatives A and H, which are not located in the 100-year floodplain, the additional flood storage would more than compensate for the development of these alternatives and will result in an overall benefit to the region during periods of flooding. Finally, as shown in DEIS Figure 2-11, these flood storage areas have been specifically designed with the input of biologists to complement existing wetlands on the southern portion of the Wilfred and Stony Point sites. Thus, after the creation of these series of connected ponding areas, a much greater and more diverse series of wetland areas will be present in addition to the wetlands currently located in these areas.

The development area of the Wilfred site was not intended to remain in its “natural” state as indicated by the City of Rohnert Park’s General Plan and the Northwest Specific Plan. The commenter stated that the Proposed Project would “surely degrade wetlands.” Any impacts to wetlands will be fully mitigated as required by a Clean Water Act Section 404 permit and by mitigation provided in **Section 5.0**.

Proposed development under Alternative A will not create an increase in pollutants due to stormwater to enter into the Laguna de Santa Rosa due to the implementation of BMPs for pre and post-construction activities. Stormwater runoff will be equal or lesser than pre-project conditions due to the use of a detention basin and will thus not create a temperature fluctuation in any receiving waters.

Lloyd Iversen (I-168) commented that the discharge has the potential to change the temperature in the Laguna. During periods of allowable discharge, it is expected that temperature limitations will be

included in the NPDES permit, along with appropriate upstream and downstream monitoring. The exact temperature limitations would be defined in the NPDES permit. The proposed development on the Wilfred and Stony Point sites does not include any vegetation removal in the Laguna de Santa Rosa. Lloyd Iversen (I-168) also wanted acknowledgement of the complexity and uniqueness of the Laguna. The DEIS recognizes that, and it is not expected that the NPDES permit would impact the Laguna's complexity or uniqueness. The reference to the seasonal shrinking and swelling process in the Laguna is unknown. The Laguna de Santa Rosa Restoration Management Plan states, among other items, the following in relation to wastewater discharges to the Laguna, "Direct discharges of wastewater to the Laguna should be phased out as soon as possible. In the interim, proposed limits on nutrient concentrations for receiving waters will help to limit the percent volume of discharge to a lower fraction of the Laguna flow." (<http://www.lagunadesantarosa.com/pdfs/Chapter07.pdf>). It is not expected that all discharges to the Laguna will be phased out in the near future. Should this Project receive an NPDES permit, it would result in a new seasonal discharge to a Laguna de Santa Rosa tributary, though with low nutrient concentrations. Regarding the potential for a surface water discharge and issuance of a NPDES permit, however, it should be noted that that the NIGC did not select the on-site surface water discharge option as its Preferred Alternative (see FEIS **Section 2.11**).

2.5.35 IMPACTS TO STREAM AND WETLAND PROTECTION EFFORTS

Summary of Comments: Marilee Montgomery (B-33) stated that, the DEIS does not discuss how the proposed development would affect California's policy of restoring creeks and wetlands to their natural state, and efforts being made under the Water Quality Control Plan for the North Coast Region.

Response: California State Water Resources Control Board Resolution 68-16 (certified October 28, 1968) states that "the California Legislature has declared that it is the policy of the State that the granting of permits and licenses for unappropriated water and the disposal of wastes into the waters of the State shall be so regulated as to achieve the highest water quality consistent with maximum benefit to the people of the State...." However, no permits or licenses are required from the State of California. The resolution does not apply to any of the development alternatives. Nevertheless, mitigation for impacts to wetlands and other waters of the U.S. is required by federal law. As discussed in Measure A on page 5-18 of the DEIS and Measure B on page 5-19 of the DEIS, authorization from the USACE and a water quality certification from the USEPA are required prior to impacts to wetlands or other waters of the U.S. Replacement, restoration, or preservation of wetlands at a ratio approved by USACE will be required.

2.5.36 COMPLIANCE WITH THE PRESIDENT'S WETLANDS INITIATIVE OF 2004

Summary of Comments: Marilee Montgomery (B-33) stated that the proposed development is not in compliance with the President's Wetlands Initiative of 2004, which according to the commenter, "...committed our government to move beyond the no net loss of wetlands to having an overall

increase of America's wetlands over the next five years." The commenter stated that this issue was included in a previous letter submitted in October of 2005, during the scoping comment period.

Response: The President's Wetlands Initiative of 2004 (Executive Order 13352) proposes increases in wetland acres through incentive, partnership, and conservation programs. The initiative does not propose a change from the no net loss policy in the federal regulatory program. Mitigation will be imposed by the USACE, which is expected to comply with the intent of the President's Initiative and prescribe mitigation ratios greater than 1:1).

2.5.37 IMPACTS TO THE RUSSIAN RIVER

Summary of Comments: Marilee Montgomery (B-33) inquired about potential impacts to the Russian River. She stated that the DEIS does not include a detailed discussion of the cumulative effect of the proposed development on the Russian River.

Lloyd Iversen (I-168) stated, "It is likely that an increase of sedimentary flow and nitrogen loading would impact the Russian River Water shed," and inquired as to what effects on the Russian River this increase would have. The commenter also stated, "Local gravel mines are over used already and are damaging the environment for the Russian River and its tributaries," and requested details regarding the impacts of increased gravel mining on the Russian River.

Response: As discussed in **Section 4.12.3** of the DEIS, Alternatives A – E will not result in significant impacts to the Laguna de Santa Rosa. Cumulative impacts to the Russian River will also be less than significant.

It is true that increased sedimentary flow emanating from the Proposed Project could result in potential impacts to downstream waters related to increased sedimentary flow and nitrogen loading, as noted in comment I-168. However, as discussed in **Section 4.0** of the DEIS, the mitigation measures detailed in **Section 5.2.2** of the DEIS would reduce these potential impacts to less than significant levels. Specifically, construction BMPs, implementation of the grading and drainage plan, and adherence to anticipated discharge requirements under NPDES permit, the latter if on-site treatment and surface water discharge of wastewater is selected, would reduce these potential impacts to water quality to less than significant levels. No further mitigation would be required.

2.5.38 IMPACTS FROM INCREASED URBANIZATION

Summary of Comments: Marilee Montgomery (B-33) stated the following concerns regarding the impacts of increased urbanization in Rohnert Park, indicating that with increased urbanization, the following impacts may result:

- *The frequency of flooding inside the floodplain, i.e., the Project site, increases.* According to the commenter, under natural conditions, a channel overtops about once every one and a half to two years, but as a result of urbanization, it can soon be overtopped several times each year.
- *Peak flows during storm events are increased.* She stated that, since surface flow moves faster, the time of concentration is decreased and attributed this to why parts of the City of Rohnert Park flooded for the first time in the city's history in December of 2005.
- *The magnitude and frequency of all runoff events of all sizes increases.* Montgomery stated that, this outcome is especially important for rainfall similar to what occurred in December of 2005. Before urbanization, these smaller rainfalls mostly infiltrated into soil and the flows in the stream were smaller and could be easily contained in the natural channels of the stream. After urbanization, the same intensity of rainfall could result in flooding.
- *Channels become unstable and more erosive because of increased medium floods.* Montgomery stated that this outcome has an adverse impact on wildlife habitats.
- *Imperviousness of the watershed impedes recharge of shallow groundwater aquifers.* Montgomery stated that this outcome would diminish base flow contributions, where some streams may be ephemeral or become dominated by effluent.
- *More flow move on the surface, and with a faster velocity.* This, Montgomery stated, would increase the impacts from surface runoff.

Montgomery expressed that the impacts discussed above were not adequately addressed in the DEIS. And stated that, "Any mitigation proposed... should include all planned development on the watershed, as this will directly affect the Project site, and it should use the accepted formula used to determine the effect of urbanization on the watershed and its subsequent effect..." Additionally, the commenter requested that worst-case scenarios like the December 2005 flooding, and/or the El Nino events of the 80's and 90's be included in the FEIS.

Response: Please see Responses to Comments 2.5.2, 2.5.30, 2.5.32, and 2.5.33. NEPA requires the analysis of reasonably foreseeable effects. It does not require the consideration of remote, speculative, or worst case effects. Nonetheless, the commenter's concerns regarding the effect of increased urbanization have been addressed and mitigated. The increase in peak flows; magnitude and frequency of events; unstable channels with erosive velocities have all been addressed with the construction of the stormwater detention basins (see DEIS **Sections 2.0** and **4.3**).

The increase in "imperviousness" will not have a measurable effect on groundwater recharge because the soil types and slopes within the area of hardscape development on the Wilfred site do not currently encourage groundwater recharge. In addition, the detention pond will allow for percolation thus reducing impacts to groundwater usage. The proposed development on the Wilfred site, would

not have a negative impact on the watershed. Moreover, future development on-site would need to address impacts in a similar fashion.

2.5.39 CONSTRUCTION RELATED IMPACTS

Summary of Comments: Marilee Montgomery (B-33) expressed concerns regarding impacts from increased sediment from construction activities. According to the commenter, “The proposed mitigation needs to go back to the drawing board, as construction could have a significant effect on sedimentation, degradation of wildlife habitat, and other associated problems”

Commenter I-63 stated that the best management practices (BMPs) that the Tribe has committed to comply with would reduce impacts to water quality, and furthermore demonstrate a responsible management of water resources.

Sonoma County (G-34) commented that the DEIS does not include mitigation measures to reduce impacts associated with using the existing drainage system to convey additional flows contributing to the drainage channels adjacent to the Wilfred site. And that the DEIS should be revised to identify these measures and provide a mechanism to ensure they are developed or enforced. Furthermore, the commenter stated that, “Mitigation Measure 5.2.2 C describes an agricultural ditch as an offset for construction impacts. The DEIS should be revised to identify the specific ditch referenced.”

Response: Mitigation measures proposed in the Erosion Control Plan, the Stormwater Pollution Prevention Plan (SWPPP) and associated BMPs eliminate construction related sediment from entering waterways. Moreover, mitigation is proposed to reduce or eliminate impacts to existing drainage systems and have been analyzed in the Storm Drainage Report (DEIS **Section 5.0** and **Appendix C**). Other measures proposed as part of the project, including the on-site detention basins, have been sized utilizing appropriate engineering design procedures. The general design of the facilities described in Section 2.0 would be enforced by the NIGC pursuant to the Record of Decision to the extent that changes to the facilities (such as eliminating the proposed detention basins) could significantly change the analysis of impacts in the EIS.

The on-site detention basins would continue to drain stormwater into an existing drainage ditch known as Labath Creek.

The comment by Commenter I-63 is noted.

2.5.40 EXPANDING LANDS FOR TREATMENT OF RUNOFF

Summary of Comments: The City of Cotati (G-31) stated, “The use of additional structure parking would allow additional lands for runoff treatment, which is preferred.” According to the commenter, this should be analyzed and added as a mitigation measure in the EIS.

Response: Please see Response to Comment 2.5.26 regarding the sizing of the parking structure and additional runoff treatment measures.

2.5.41 APPENDIX Y

Summary of Comments: Sonoma County (G-34) commented that the evaluation in DEIS **Appendix Y** shows that an induced vertical gradient on the proposed development sites is possible, which might threaten the proposed development's water supply. According to the commenter, "The induced vertical gradient could either elongate or detach from existing contaminant plumes and put the casino well(s) in danger of contamination. In addition, plume detachment/elongation could degrade remediation efforts or cause additional financial expenditures for plume definition at nearby contaminated sites undergoing remediation. Furthermore, the commenter stated that the DEIS needs to include mitigation to protect the proposed wells from this threat, and mitigation to be adopted in the event the induced vertical gradient from the proposed wells affects the contaminant plumes."

Response: Please see Responses to Comments 2.5.7 and 2.5.12.

2.5.42 PERMITTING REQUIREMENTS

Summary of Comments: Sonoma County (G-34) stated that the DEIS should be revised to indicate whether permits and mitigation measures would be required from the USACE and/or the NCRWQCB. The commenter also noted that, "The DEIS's proposed water quality monitoring on-site appear inadequate and likely would not sufficiently control impacts to the SCWA/City of Santa Rosa NPDES permits covering both the SCWA Bellevue-Wilfred and Hinebaugh Channels." Therefore, the commenter stated that the DEIS should be revised to require that the Proposed Project operate in compliance with the Basin Plan requirements.

Sonoma County commented that, regarding the "...NPDES permit, the DEIS does not define the anticipated 'flood event.'" According to the commenter, "The DEIS should be revised to define the event as a 10-year flood, a 100-year flood, or other event."

The County also commented that, "Mitigation Measure 5.2.2 J-L does not address the linkage between the Tribal NPDES and the SCWA/City of Santa Rosa/County of Sonoma NPDES permits, nor how to address the linkage between the two permits."

Response: The comment from Sonoma County (G-34) that a permit would be required from the NCRWQCB is incorrect. Any discharge of treated wastewater would be on-site, and subject to either a USEPA permit (with a surface water discharge), or no permit (with no surface water discharge), as discussed in **Sections 4.3** and **5.0** of the DEIS. It is not expected that an on-site surface water

discharge of treated wastewater would require a streambed alteration agreement with the USACE. The operation of the Tribe's wastewater disposal including monitoring and consideration of nearby discharges would be specified in the NPDES permit (should one be obtained), as discussed in **Sections 4.3** and **5.0** of the DEIS. Thus, no revisions to the DEIS are necessary.

Regarding the reference to a "flood event" in DEIS **Section 4.3** in regards to the wastewater discharge, a particular sized flood event is not included because the language is referring to discharge operation constraints associated with flooding, regardless of the severity of the flooding. These requirements would be specified in the NPDES permit, should one be obtained (note that the NIGC has not included an on-site surface water discharge in their preferred alternative).

Any NPDES permit issued to the Tribe for surface water discharge by the USEPA would contain a requirement for the Tribe to prepare a Surface Water Discharge Operations Plan. This plan would, among other things, detail the procedures for adjusting discharges in order to prevent receiving water violations, list emergency activities to undertake during a flood event, and develop a basis for determining discharge volumes and locations. It would also detail how the Tribe will comply with the flow and effluent limitations specified in the NPDES permit.

Sprayfields have been designed and would be operated to ensure no runoff to surface waters at any time and would be operated only when vegetation uptake is possible (see DEIS **Section 2.2.7**). During a flood event the sprayfields would be inundated with water preventing vegetation uptake of the sprayfield.

2.5.43 IMPACTS TO THE HINEBAUGH CHANNEL

Summary of Comments: Sonoma County (G-34) commented that the DEIS should address potential flow contributions to the Hinebaugh Channel or Labath conduit. According to the commenter, "The Hinebaugh Channel is located southeast of the Wilfred site and would likely be affected by the Proposed Project. The Labath conduit is the connection between the Wilfred site and Hinebaugh Channel." The commenter stated that the SCWA, who owns and maintains the Channel, is concerned about impacts from additional flow contributions.

Response: The impacts to Labath Creek and Hinebaugh Creek have been mitigated with the construction of the on and off-site detention basins. Moreover, the off-site detention basin will provide storage beyond that required by the project and will create a net positive impact to the entire watershed.

2.5.44 IMPACTS TO THE BELLEVUE-WILFRED CHANNEL

Summary of Comments: Sonoma County (G-34) commented that the Bellevue-Wilfred Channel is owned and operated by SCWA, and that the DEIS should explain, "...the legal basis for the

assumption that the Project has a right to cause increased artificial, unnatural wastewater flows to occur across the SCWA's downstream property without first obtaining SCWA's consent."

Moreover, the commenter stated that the DEIS, "erroneously states levels are constant year round." Therefore, the commenter continued, that, "If this affects storm or wastewater flow analyses, those should be corrected accordingly."

The County (G-34) also stated that, "Water quality baseline data for the Bellevue-Wilfred Channel at the Wilfred Site may not be a reliable indicator of the water quality conditions within the Laguna de Santa Rosa."

Furthermore, the County stated that, "The DEIS should discuss whether any 'Right of Way' or other agreements would be necessary to permit treated wastewater discharge to non-trust lands. Discharge of treated wastewater onto or through non-trust land would not be possible absent signed agreement with affected landowners." Additionally, the commenter stated that any discharge within SCWA property is subject to a revocable license, and this license is required for access or construction work within the SCWA Bellevue-Wilfred Channel. The commenter also stated that a revocable license would be required regarding mitigation on page 5-3 of the DEIS.

Response: The basis for the maximum wastewater flow, or rather, disposal rates to a surface water were not based on the levels in the Bellevue-Wilfred Channel, but rather on the USGS gauging station on the Laguna de Santa Rosa at Stony Point Road. There are no adjustments required to the wastewater flow analysis. The FEIS has been corrected to remove the reference to constant water flow in the Bellevue-Wilfred Channel.

The comments from Sonoma County (G-34) regarding water quality in the Bellevue-Wilfred Channel are noted. That is the nearest surface water downstream of the identified surface water discharge location, and appropriate to sample for collection of baseline data. It is not intended for this data to represent the surface water quality of any other surface water or the water quality at other locations downstream of this surface water.

No 'Right of Way' or other agreements are necessary to permit treated wastewater discharge to trust lands that then flow off of trust lands to lands owned by others. The point of discharge would be on Tribal lands only. No access or construction work would be performed in the Bellevue-Wilfred Channel as part of this project. No licenses or other authorization would be required to perform work on Tribal lands.

Under current California law, when a landowner develops their property and creates additional water flows, whether that be surface water or water that flows through an existing watercourse, the

upstream landowner may do so without having to first secure permission from adjacent land owners, especially where, as here, there is neither any threat nor actual injury. Even if there was a need to secure easements, which we do not think to be the case, such an issue is nevertheless not an environmental matter. The primary limitation and restriction imposed on an upstream landowner such as the Tribe is that any additional flows must be reasonable and that the Tribe take reasonable care to avoid injury to downstream owners, such as the County. Upper landowners are also permitted to use existing water channels to drain even artificial waters, such as treated wastewater (i.e. “reclaimed water”), as long as such use is reasonable and does not result in injury to others. Based on the DEIS, the Tribe will design any local water treatment holding and release facilities so as not to create any unreasonable burden on either the Bellevue-Wilfred Channel (“Channel”) or existing drainage conduits on-site.

A notable feature of the on-site agricultural land where tertiary treated wastewater, if any, would be stored is the existence of pre-existing watercourses, including drainage ditches. These longstanding watercourses, nearly identical to those found on other agricultural lands throughout the area, eventually channel excess water to culverts that drain the site, all of which have been in use for many years. The existing culverts run from the site, across the narrow strip of land bordering the Channel and owned by the County, and discharge into the Channel, which eventually drains into the Laguna.

The Tribe would neither create new watercourses nor divert existing ones. Any release of treated wastewater into existing watercourses should not be at levels that would cause injury and constitute a nuisance to other landowners. It appears premature for the Tribe to obtain an easement or permission from other landowners since there is neither actual nor any reasonable likelihood of flooding or other potential forms of nuisance or trespass arising out of the Tribe’s proposals. We are not aware of any applicable license or permit requirements for discharge from the site into the existing culverts draining to the Channel.

Under the alternatives in the DEIS calling for the discharge of treated wastewater into the Channel, the Tribe—the upstream owner--would discharge treated wastewater from tribal property through several large existing underground culverts into the Channel, causing no harm or injury to the County. Moreover, the only water to be released into the culverts will be in an amount (and of a quality) authorized under a NPDES permit. Based on the Alternatives discussed in the DEIS, the Tribe’s proposed use of existing watercourses appears reasonable and is not likely to result in violating any rights of downstream owners, including the County.

2.5.45 FLOOD ZONE DESIGNATION

Summary of Comments: Sonoma County (G-34) commented that, **Section 3.3.1** and **Figure 3.3-2** in the DEIS incorrectly suggest that the Wilfred site is outside of the 100-year floodplain. According to the commenter, “. . .approximately one third of the Wilfred Site is located in an Other Flood Areas

Zone X (shaded zone x). This designation is defined as ‘Areas of 500-year flood; areas of 100-year flood with average depths of less than 1 foot or with drainage areas less than one square mile; and areas protected by levees from 100-year flood.’” Moreover, the commenter stated that shaded zone x areas are within the 100-year floodplain, even though they may receive a depth of water less than 1 foot. “The County considers shaded zone x areas to be within the 100-year floodplain, and subject to Chapter 7B of the Sonoma County Code.” Therefore, the commenter stated that the DEIS must be revised to address floodplain management on the Wilfred site, rather than, “. . .incorrectly assume the site is outside of the 100-year floodplain.”

Response: The Wilfred site is located within a non-regulated Zone X floodplain. FEIS **Section 3.3.1** has been revised to clarify that although Zone X is referred to as the 500-year floodplain, shallow flooding could occur during a 100-year flood.

A review of Chapter 7B of the Sonoma County Code does not yield enforcement requirements within a Zone X.

Also please see Response to Comment 2.5.2.

2.5.46 HYDROLOGIC IMPACTS

Summary of Comments: Sonoma County (G-34) commented on the proposed development’s hydrologic impacts. According to the commenter, “The DEIS uses the SCS method . . . The County has not approved or accepted that method.” However, the commenter noted that the County-approved SCWA’s *Flood Control Design Criteria* (FCDC) should be used in the DEIS. Moreover the commenter stated that, the DEIS should be revised to disclose that the FCDC is being updated, and require the proposed development to use, “. . .the then-current FCDC.” The commenter also stated that the SCWA, “. . .anticipates that the FCDC will be updated in the Fall of 2007, and that the DEIS should be revised to require that drainage design for the proposed development comply with the FCDC. However, the commenter continued, “Compliance with FCDC does not provide assurance that flooding will not occur and would not, by itself, mitigate all flooding risks. Additionally, incremental increases in fill material within the 100-year floodplain would reduce the flood capacity and/or obstruct the flow of floodwaters of the creeks within the Proposed Project area watershed and may cause a significant cumulative increase in flood risk.” The commenter stated that incremental increased in runoff from increased impermeable surfaces might, “. . .similarly cause a significant cumulative increase in flood risk within the project area and in areas upstream and downstream from the project area.”

The commenter stated that the DEIS should be revised to specifically identify the following:

- Waterways affecting or affected by the Proposed Project;

- Runoff expected to be generated by development in the area; capacity of waterways affecting, or affected by, development in the project area (taking into account increased flows and diminished waterway capacity);
- The 100-year floodplain and any anticipated development or fill to be located in the floodplain; and,
- Cumulative impacts on flooding and exposure to flood hazards due to the project and other reasonable foreseeable projects.

According to the commenter, “Recent studies performed by SCWA and the USACE analyzed hydrologic conditions for the Central Sonoma Watershed Project and concluded that natural waterways and constructed channels within the watershed would experience flows during a 100-year storm event greater than anticipated by the original design for those facilities.” Moreover the commenter stated that, “...the area’s existing flood control facilities may provide a lower level of flood control protection than originally anticipated,” and that the “... DEIS should calculate the design capacity of waterways within the project area, or affected by the Project, and describe the portions of the project area subject to a 100-year flood, taking into account the lowered levels of flood protection due to increased flows and diminished channel capacity and the proposed importation of substantial amounts of fill for project construction.”

Lloyd Iversen (I-168) requested a description of possible changes to stream flows, patterns, or sediment fan deposits; requested that all underground or diffused streams on open swampland be tested for and identified; asked, “Why haven’t ground water transients or artesian pressure in the subject area been considered?”; and requested a description of local water systems and “how the Casino Project integrates with the unconfined versus the confined water table system.”

Response: The commenter (G-34) is suggesting that we use a document that is currently being revised. The SCS Method is a widely used and efficient method for determining the approximate amount of runoff from a rainfall event in a particular area. The initials "SCS" stand for U.S. Soil Conservation Service. The SCS Method used in this document is from the FEMA approved Pond Pack Software Program utilizing TR-55. This is a method utilized throughout the United States and Canada. It is our professional opinion that utilizing a generally accepted procedure is superior to utilizing an acknowledged out of date procedure.

The proposed development would mitigate its impacts with on-site stormwater detention basins; therefore, there would be no measurable impact to the off-site waterways. The on-site stormwater detention basins would have in excess 100 acre feet of additional storage capacity beyond the approximately 180 acre-feet required when developing in a Zone X floodplain. The proposed development would also provide approximately 50% more storage than required. The proposed development therefore will not contribute to a measurable negative cumulative impact. The

development of the excess storage in the southern detention basin will help alleviate any concern of a “lower level of flood control protection.” Supplying new detention areas in excess of the project’s impact will create a net positive cumulative impact to the entire watershed. In addition, it is reasonable to assume that all future projects will mitigate their impacts to storm runoff and that the excess storage created with this project will continue to be a positive cumulative impact that SCWA and the USACE did not take into account in their study.

In response to the County’s comment, the EIS includes the following figures in reference to the impact analysis of the alternatives:

- **Figure 3.3-2** shows the Wilfred and Stony Point sites in relation to the 100 and 500-year floodplain.
- **Figures 3.5-3, 3.5-4, and 3.5-7** represent the various seasonal pools and wetlands, drainage ditches and canals on-site, and waters of the U.S that may be affected by the proposed development.
- **Figure 4.12-1** shows future planned development projects near the Wilfred and Stony Point sites. For an analysis of the cumulative effects of planned development projects, see EIS **Section 4.12**.

Cumulative flooding impacts are referenced in **Section 4.12** of the DEIS.

As discussed in Response to Comment 2.5.19, based on the available data, significant interaction between pumping for the project and surface water flow is not likely. We are unsure what the commenter (I-168) is asking for when he requests a description of possible changes to sediment fan deposits or testing for all underground or diffused streams on open swampland. Evaluation of such features does not appear to be relevant to the evaluation of impacts from pumping groundwater for the Project, and is therefore beyond the scope of this EIS. There are currently no artesian aquifers located near the site and evaluation of long-term pumping impacts usually does not consider transient, short-term fluctuations in groundwater flow. A detailed description of the hydrogeology of the site area is presented in the Groundwater Study in DEIS **Appendix G**.

2.5.47 SERVICES PROVIDED BY SCWA

Summary of Comments: Sonoma County (G-34) commented that:

- SCWA does not provide or treat surface water. The commenter requested that the references be removed throughout the DEIS;
- SCWA also provides potable water via groundwater wells within the Santa Rosa Plain. According to the commenter, the DEIS describes the Russian River System, and stated that this should be revised in the DEIS; and,

- The City of Rohnert Park receives water from SCWA under terms of the Final Restructured Agreement for Water Supply effective June 23, 2006.

Response: The comments from Sonoma County (G-34) regarding the services provided by the SCWA have been incorporated into the FEIS where applicable.

2.5.48 SCWA URBAN WATER MANAGEMENT PLAN (UWMP)

Summary of Comments: Sonoma County (G-34) commented that the DEIS should reflect the analysis made in the Urban Water Management Plan (UWMP) adopted by the SCWA. Furthermore, the commenter stated that if the City of Rohnert Park's UWMP is finalized before the FEIS, the EIS should reflect the analysis contained in the City's UWMP.

The commenter also stated that the DEIS should, "...acknowledge that there is some uncertainty about the SCWA's ability to provide a water supply to its water contractors, including the City of Rohnert Park, for the reasons described in SCWA's UWMP." Additionally, the commenter stated that changes in the assumptions of the UWMP's analysis could affect the ability of SCWA to divert water from the Russian River or to construct and operate the Water Project. Moreover, the commenter stated that, "If delays occur in the construction and operation of the Water Project or an alternative project to meet demands of water contractors, or if there is a delay in the expected date by which SCWA obtains water rights allowing SCWA to divert additional water from the Russian River, then deliveries by SCWA to its water contractors would be limited by any then-existing constraints on the capacity of the transmission system and by SCWA's current Russian River diversion limit of 75,000 acre-feet per year."

Moreover, the commenter stated that the DEIS should not assume that SCWA will be able to deliver to the City the current allocation of 75,000 acre-feet per year as set forth in the Restructured Agreement for Water Supply for two reasons: 1) That allocation was premised upon the assumption that SCWA would construct the Water Supply and Transmission System Project (WSTSP), yet, the SCWA no longer intends to construct the WSTSP, but instead intends to construct and operate the Water Project; 2) That allocation was premised on an outdated analysis of the amount of water reasonably needed by the City from SCWA to meet the City's future demands.

The commenter also stated that the UWMP assumes that the City would continue to implement existing water conservation programs and institute aggressive new water conservation programs in the future. According to the commenter, the DEIS should evaluate the status of the City's implementation of these programs and standards and identify others that may be required to offset the water consumption of the Proposed Project.

Response: The Groundwater Study completed for the DEIS (**Appendix G**, Section 4) includes information regarding current and projected groundwater demand by municipal pumpers in the Santa Rosa Valley Basin contained in the SCWA’s UWMP, and information regarding current and projected future groundwater use by the City of Rohnert Park contained in the City of Rohnert Park’s Draft UWMP, which was completed in August 2007. Furthermore, the Groundwater Study (Section 4.5.2) acknowledges that the Restructured Agreement states “...SCWA will not be liable in the event it is not able to meet its entitlement due to drought, environmental laws or regulations, or other causes beyond SCWA’s control, and prioritizes delivery of available water if the entitlements cannot be met.” A discussion of the history of the Restructured Agreement and the WSTSP is also included. The SCWA’s latest Urban Water Management Plan has recently been invalidated by the Sonoma County Superior Court (*Sonoma County Water Coalition, et al. v. Sonoma County Water Agency*, SCV 240367, Sonoma County Superior Ct., October 28, 2008). The court has required the SCWA to prepare a revised Urban Water Management Plan that demonstrates sufficient water supplies through 2030. It is assumed that a revised Urban Water Management Plan will be prepared that demonstrates sufficient water supplies for regional water customers, as required by the Urban Water Management Planning Act (Water Code Section 10610 et seq.). The City of Rohnert Park has demonstrated a decreasing reliance on groundwater in recent years and is constrained by a settlement agreement capping groundwater pumping at 2.3 mgd. This constraint will be in place even should SCWA be unsuccessful in obtaining the water supply requested by the City of Rohnert Park in the future and will force the City to find methods other than increased groundwater pumping (such as increased conservation) to ensure adequate supplies.

It should be noted that since the project will rely on groundwater as a water supply, it will not be affected by the ability or inability of the SCWA to meet the water delivery allocations under the Restructured Agreement. Since the Tribe will be acquiring water from on-site sources, and not from the SCWA or its retailers, analysis of this Project’s conformance to the UWMP is not required. The City of Rohnert Park has indicated that available potable water supply from their distribution system will not be made available to the Tribe (this is not included as an option in the DEIS). Connecting to other water retailers is not feasible.

2.5.49 IMPACTS TO COASTAL WATER

Summary of Comments: Lloyd Iversen (I-168) stated, “It is likely that an increase of sedimentary flow and nitrogen loading would impact the Russian River Water shed;” and inquired as to what effects on coastal waters this increase would have; and requested a detailed description of “how much sediment from the Casino Project might possibly reach the coast and what negative impacts it could have on the already stressed coast waters and beaches.”

Response: The NIGC’s Preferred Alternative does not include a discharge to the Russian River watershed. Should a surface water discharge to the Russian River Watershed be pursued, the loading of nitrogen would increase within the watershed. The discharge of surface water from the proposed

WWTP would not include sediments. Other potential discharges of sediments from the development areas would be mitigated by implementation of a Stormwater Pollution Prevention Plan (SWPPP) and other mitigation measures discussed within the DEIS and required by the Clean Water Act. There is expected to be no change in sediment transport as a result of increased water flows from WWTP effluent, since the volume discharged is extremely small compared to the flow of water in the watershed. Similarly, the impact of sediment transport on coastal waters would be negligible. Also see FEIS **Section 2.11**.

2.5.50 ESTIMATED WASTEWATER GENERATION

Summary of Comments: Sonoma County (G-34) commented that the estimated total wastewater generation of 218,000gpd weekday, and 354,400 gpd weekend were determined based on the number of seats, or square feet of the area identified and not actual numbers of customers per day or total use per room per day. According to the commenter, “Generating estimates based on number of seats or square feet or area may not accurately reflect actual wastewater generated,” and recommended that the Tribe, “Reevaluate water consumption and wastewater based on the number of patrons and other known significant water uses.”

Response: The methods used in the DEIS for quantifying wastewater generation are similar to planning studies used in Clark County, Nevada, and are applicable to quantifying flows for this project. Las Vegas is within Clark County and contains a large number of projects that are similar to what is proposed for this project. These methods have also been used on other casino projects in California that have undergone environmental review within the last five years. Since a number of these projects are operational, wastewater generation rates for these projects have also been incorporated into this project. The wastewater generation rates in the DEIS are estimates, and are intended only to size the treatment, storage, and disposal facilities.

2.5.51 MITIGATION MEASURE H

Summary of Comments: Sonoma County (G-34) commented that the DEIS does not define ‘pre-project levels’ for mitigation measure H regarding stormwater discharge. The commenter stated that the DEIS should be revised to disclose how it determined this level, and whether it is the actual level or the designed level.

Response: The pre project levels of stormwater discharge were calculated using the SCS Method. The variables used and the detailed calculations are included in the DEIS **Appendix C**.

2.5.52 APPENDIX C

Summary of Comments: Sonoma County (G-34) stated the following comments regarding DEIS **Appendix C**:

- The DEIS does not include the calculations used to support its pre and post runoff values;
- The DEIS does not discuss hydrology methodology except in **Appendix C**, but even that appendix presents only the factors used to calculate the pre and post runoff and the final results;
- Neither the DEIS itself nor **Appendix C** present the actual calculations necessary to review and verify the DEIS's conclusions;
- The DEIS should be revised to include the supporting calculations for all engineering analysis; and,
- The DEIS should include the coefficients, parameters, and all other factors used in those calculations.

The commenter stated that the above comment applies to all calculations regardless of the methodology used.

Response: DEIS **Appendix C** – Site Grading and Storm Drainage includes an Appendix A that contains the requested calculations (Robert A. Karn and Associates, 2007).

2.5.53 GENERAL CONCERNS REGARDING WATER RESOURCES

Summary of Comments: Sonoma County (G-34) commented that, the DEIS's analysis of water supply and impacts from runoff is, "...built on incorrect assumptions and faulty analysis."

Individual commenters including, I-8, I-14, I-21, I-23, I-27, I-30, S-2, S-3, S-90, S-92, and S-110 expressed general concerns about the availability of water resources. Commenter S-3 stated that the mitigation measures included in the DEIS are inadequate.

Lloyd Iversen (S-29) stated, "The Sierra Club has taken a position against the casino project," due in part to "reasons...related to...water pollution."

Loretta Smith (I-166) expressed concerns regarding water rights during periods of drought. She specifically questioned the Tribe's responsibility in mitigating impacts from water rationing due to a drought and if the Tribe has committed to reducing water consumption. Moreover, the commenter asked, "If not, why does the casino believe that out of town visitors should enjoy a resource that is limited to those who live here full time?" Furthermore, the commenter wanted to know how to prevent the change in the amount and direction of surface runoff leaving the site.

Commenters S-39 and S-51 cited the Tribe's commitments to reducing impacts to water resources.

Response: Regarding Sonoma County's general comment, please see above responses regarding specific comments on the DEIS assumptions or analysis.

In regards to water conservation measures identified by Loretta Smith (I-166), the commenter is referred to Response to Comment 2.5.14 for the water conservation measures that will be implemented for this project. It was also noted that the use of water by other facilities in the area, whether during periods of mandatory water conservation or not, is not limited to those who live here full time, or those who do not live here.

While the Tribe's agreements with the City of Rohnert Park and the County do not address specific cooperative plans for responding to and coordinating emergency water shortages or droughts, the DEIS outlines many water conservation measures that the Tribe would implement year-round. See DEIS **Section 5.2.2**. The Tribe has made and offered significant financial and other commitments to address many areas impacting the health, safety, and welfare of surrounding communities, as well as demonstrated its commitment to environmental stewardship and conservation. In the event of a water supply emergency or prolonged drought, we expect reduction of water consumption and additional conservation measures by the Tribe would be consistent with the conservation-oriented approach taken by the Tribe in other areas, including preserving open space, wetlands, and green building techniques. Consistent with the precedence of cooperation established by the Tribe through the MOUs with the City and County, the Tribe would continue to consider additional cooperative measures with local agencies. Regarding water rights issues, please see Response to Comment 2.5.5.

Potential groundwater level impacts during drought conditions are discussed in Response to Comment 2.5.1.

2.6 AIR QUALITY

2.6.1 FEDERAL 8-HOUR OZONE STANDARDS

Summary of Comments: The Bay Area Air Quality Management District (BAAQMD) (G-2) submitted a comment letter requesting that the DEIS be revised to state that the District's attainment date is June 15, 2007 instead of the April 2007 date mentioned in the DEIS and page 6 of the Draft Conformity Determination. The commenter quoted the DEIS as stating that the District is expected to attain the federal 8-hour ozone standard in April 2007, and would request redesignation to attainment of the standard at that time. In addition, the commenter noted that new federal PM_{2.5} standards have the potential to result in the Bay Area as being classified as nonattainment, possibly requiring the District to prepare a PM_{2.5} attainment plan by 2013. The commenter noted that the District must formally petition the USEPA to request redesignation to attainment, which would also require the District to prepare a maintenance plan that demonstrates continued attainment before they could act on any request for redesignation. According to the commenter, the District has not initiated the redesignation process.

Response: Changes were made to the Draft Conformity Determination that corrects the date of attainment and the need for the BAAQMD to submit a request for redesignation, see **Appendix W**. PM 2.5 is addressed in **Section 4.4.1** of the DEIS. The FEIS includes a statement that the BAAQMD could possibly be required to prepare a PM_{2.5} attainment plan by 2013.

2.6.2 GREENHOUSE GAS EMISSION ANALYSIS

Summary of Comments: The BAAQMD (G-2) recommended that the FEIS include a discussion of the greenhouse gas emissions for each of the alternatives and quantify and identify measures to reduce these emissions.

The Roblar Area Property Owners Association (B-27) inquired about mitigation for Greenhouse emissions created during transport of rock.

Marilee Montgomery (B-33) commented that the DEIS should include a discussion of the impacts the proposed development would have on global warming. Stating that the DEIS should be revised to include the potential impacts, and the impacts that global warming might have on the proposed development. Specifically, “This data should include, but not be limited to, regional water supplies and flooding, and the removal of agricultural land from crop production.”

Moreover, Sonoma County (G-34) commented that the DEIS must be revised and recirculated to address project effects on greenhouse gases and, thereby, global warming per state requirements of AB 32.

According to Lloyd Iverson (S-29), “The Federal Government now recognizes global warming.”

Response: There is, as yet, no definitive guidance from the CEQ on the extent to which NEPA’s scope includes the impacts occasioned by greenhouse gases. However, the United States Supreme Court has held that CO₂ (a greenhouse gas) falls within the Clean Air Act’s definition of “air pollutant” such that EPA has statutory authority to regulate the emission of these gases from motor vehicles. *Massachusetts v. EPA*, 127 S.Ct. 1438, 1462 (2007). The Court noted that the Intergovernmental Panel on Climate Change (IPCC) had in 1991 concluded that greenhouse gas emissions from human activities would “result[] on average in an additional warming of the Earth’s surface.” *Id.* at 1448. Five years later the IPCC concluded that “[t]he balance of evidence suggests there is a discernable human influence on global climate.” *Id.* at 1449. Thereafter, the United States Court of Appeals held, directly on point, that the potential for greenhouse gas emissions must be discussed in NEPA documents. *Ctr. for Biological Diversity v. NHTSA*, 508 F.3d 508 (9th Cir. 2007).

While there is merit to the contention that this issue could be better dealt with on a regional scale when governmental agencies are developing regional policies or development plans, the NIGC has

proceeded under the assumption that the environmental impacts covered by NEPA should include greenhouse gas emissions potentially resulting in climate change and have added an analysis of greenhouse gas impacts during construction and operation to FEIS **Sections 3.4** and **4.4**. A quantification of the projects CO₂, N₂O, and CH₄ emissions was added to FEIS **Section 4.12**. A cumulative discussion of greenhouse gas can be found in FEIS **Section 4.12**.

Sonoma County has raised the issue of recirculation. That legal issue specifically is addressed in Responses to Comments 2.1.7 and 2.4.3 above. In short, a DEIS need only be recirculated in those cases where the draft is “so inadequate as to preclude meaningful analysis.” 40 CFR 1502.9(a). That clearly is not the case here.

2.6.3 URBAN ENVIRONMENTAL MANAGEMENT INFORMATION SOFTWARE (URBEMIS) ASSUMPTIONS

Summary of Comments: The BAAQMD (G-2) addressed the URBEMIS modeling data presented in the DEIS. The District, noted that the URBEMIS modeling files included in **Appendix W** indicated that some mitigation measure options were turned from “off” to “on,” and therefore, the proposed development’s estimated emissions were reduced in anticipation of the implementation of mitigation measures. The commenter noted that these mitigation measures were not provided in **Section 5** of the DEIS, nor included as a part of the project description. According to the commenter, the URBEMIS model was run with the mitigation measure for increased efficiency beyond Title 24 building standards, changed to “on.” The mitigation measure included in the DEIS reads, “...*meets* or exceeds Title 24 requirements,” (emphasis added by the commenter). The District noted that it is not mitigation if it merely “meets” Title 24 requirements. The District recommends that the mitigation language in the DEIS be changed to “...*shall* exceed Title 24 requirements,” and that implementation of this measure be required as a condition of project approval.

The commenter also noted that the URBEMIS model was run with the electric landscape maintenance equipment mitigation measure changed to “on,” yet the DEIS does not contain mitigation measures that would require the Tribe to use electric landscape maintenance equipment. The District recommends that if the casino and hotel are to be developed, then electric landscape maintenance equipment should be included as a required mitigation measure.

Sonoma County (G-34) stated that the DEIS is inconsistent in regards to the project’s estimated construction emissions. The following inconsistencies from pages 4.4-1, **Table 4.4-2** and **Appendix W**, were noted by the commenter:

- Construction emissions reported in the URBEMIS 2002 modeling is not based on URBEMIS defaults as reported on page 4.4-1. For example, the URBEMIS modeling

used for Alternative A indicated that the total land use to be developed would be 25.6 acres, while elsewhere the document indicates the site would occupy about 66 acres.

- The DEIS model indicates that there would be 5 pieces of equipment plus one water truck during grading. This seems low for a project with a 60+-acre footprint.
- During the construction phase, the DEIS URBEMIS modeling assumes 1 concrete/industrial saw and 2 pieces of equipment rated at 190 hp. It would take much longer than 12 months to construct the project using this quantity of equipment. However, it is stated elsewhere in the DEIS that construction would occur over 27 months.
- The DEIS URBEMIS model inputs indicate only one paver and one roller could lay all the asphalt in 0.5 months. The commenter stated that even a cursory modeling of Alternative A using URBEMIS defaults shows construction emissions about 10 times greater than those reported in the DEIS.

The commenter stated that the DEIS must re-analyze the construction emissions using reasonable estimates of projected construction activity.

Response: Mitigation measure H was changed to include the words “[s]hall exceed” Title 24 requirements. Mitigation measure YY has been added to the FEIS to address the issue of landscape maintenance mitigation that were included in the URBEMIS air model.

The URBEMIS model is based on both URBEMIS defaults and site-specific data; this has been clarified on page 4.4-1 of the FEIS. URBEMIS calculates the land use based on the input in the “Land Use” section of the URBEMIS model. Due to the lack of guidance from the BAAQMD on construction equipment use for projects, The Sacramento Metropolitan Air Quality Management District (SMAQMD) 2004 *Guide to Air Quality Assessment* was used to determine the construction equipment needed to complete each phase of construction. The FEIS has clarified the length of time for construction for each alternative (see page 4.4-1). Whenever possible site-specific inputs are used to better quantify emissions.

2.6.4 OPERATIONAL EMISSIONS

Summary of Comments: The BAAQMD (G-2), the commenter stated that all “recommended” mitigation measures to reduce operational emissions should be required as a condition of project approval.

The City of Rohnert Park (G-4) stated that, on page 5-11 under Operational Emissions, Sonoma County Transit and Golden Gate Transit should be listed as regional transit providers that the Tribe will work with to ensure that there is adequate transit to the project. The commenter stated that specific information should be provided regarding mitigation measures D.b. and D.e. and also

requested that the FEIS acknowledge the potential for SMART rail to provide transit to the casino and the Tribe's willingness to work with this agency.

Leslie Nelson (I-36) suggested that casino buses should be clean air vehicles in order to reduce emissions.

Larry Resnick (I-147 and S-1) requested that the emissions inventory of Nitrogen Oxides (NO_x) and Hydrocarbons (HC) be included in the FEIS. He also stated that the emissions inventory should include what impacts to regional air quality would be, plus what it would be with the proposed casino in all of the alternative locations. According to the commenter, the DEIS found that operational emissions will add significantly to the emission inventory of both NO_x and HC, however, the commenter stated that the model used by AES suggests that there is no impact on air quality from these emissions. The commenter continued, "Bay Area Air Quality Management District (BAAQMD) data for oxidant for recent years shows levels just below the 8 hour limit, 80 parts per billion, which is the first stage alert level for this pollutant...the BAAQMD model for ambient air quality, the CAMx model, shows an influence coefficient for NO_x adversely affecting air quality." The commenter stated that either the emissions were underestimated, or their affect on air quality is unrealistic. However, the commenter stated that a realistic prediction of increases would cause a violation of the Clean Air Act first stage level for oxidant (exceeding 80ppb). "Although both HC and NO_x emissions have been declining in the area of interest in recent years ... Further population increases in the surrounding area will add to the emission inventory, offsetting the decline." The commenter asked if the projected impact on ambient air quality indicated in the DEIS is inaccurate, and questioned how the proper impact of the emissions is to be considered in the development of the Proposed Project.

The Roblar Area Property Owners Association (B-27) inquired if air quality would be compromised from gardening and maintenance/repair.

Response: The BAAQMD's suggestion that the NIGC incorporate all recommended mitigation measures to reduce operational emissions is noted. It is the function of the EIS to propose mitigation measures for public and agency comment, but it is the Record of Decision (ROD) at the end of the NEPA process, which actually imposes the mitigation. (40 CFR 1502.2; see 40 CFR 1505.3.) The provisions of the ROD and of the associated agreements can be enforced (subject to the varying circumstances) by the NIGC. *Tyler v. Cisneros* 136 F.3d. 603 (9th Cir. 1998). In other words, as a general statement, if the NIGC imposes mitigation, it can enforce it (unless, what is involved is an authorization from or the property of or under the control of another agency). See also Response to Comment 2.16.3.

The Sonoma County Transit, potential SMART rail, and Golden Gate Transit were added to mitigation measure C.

In response to the comment regarding clean air vehicles, mitigation has been added to **Section 5.2.3** of the FEIS, regarding the use of alternative fuel for casino vehicles.

Emissions inventory for NO_x and ROG (hydrocarbons) is presented in page 3.4-16 of the DEIS. The impacts on regional air quality are discussed in **Section 3.4, 4.4, and 4.12** of the DEIS. In **Section 4.4** under each alternative subheading the impact to regional air quality is discussed. The conclusion of this discussion is that there will be a significant impact from emissions of NO_x due to emissions exceeding de minimus levels (see **Section 4.4**, Table 4.4-3). Table 5-1 shows emissions after mitigation. NO_x after mitigation will be zero and thus would have no impact on air quality. ROG emissions would be below the de minimus level and therefore under the Federal Clean Air Act would not violate or cause a violation of the National Ambient Air Quality Standards. There is expected to be a significant reduction in NO_x and ROG_s in the region, as stated in the DEIS, **Section 4.12, Table 4.12-2**. The projected decline in NO_x and ROG by CARB includes growth factors in the region as stated in the DEIS, **Section 4.12, Table 4.12-2**; therefore, the additional emissions in the region will not slowdown the decline of ozone precursors (NO_x and ROG).

There would be some increase in emissions due to gardening and maintenance/repair. These emissions are accounted for in the Area input section of the URBEMIS model (see **Appendix W** of the EIS). Mitigation measures have been added to the FEIS to reduce these emissions are in **Section 5.2.3** of the FEIS.

2.6.5 TOXIC AIR CONTAMINANTS (TAC)

Summary of Comments: The BAAQMD (G-2) recommended that additional mitigation measures be added to **Section 5** of the FEIS, to further reduce exposure to TAC. This includes, electrification of all loading docks and a prohibition of diesel truck idling.

The City of Rohnert Park (G-4), commented on the use of the term “mixed-use” on page 4.4-25 of the DEIS (within the Toxic Air Contaminants of Alternative E subsection). The commenter suggested that the use of the term is not consistent with the General Plan’s vision for the North West Specific Plan (NWSP). Therefore, the FEIS should take into consideration the General Plan’s vision of “mixed-use” for the NWSP.

Commenter S-76 stated that secondhand smoke was declared a toxic air contaminant by the California Air Resources Board, therefore, the commenter stated that it should be discussed under the section which analyzes toxic air contaminants.

Response: Mitigation measure Y has additional mitigation language that includes the electrification of the loading docks and limits truck idling to five minutes. The term “Mixed Use” has been deleted from **Section 4.4** of the FEIS. Because there are over 200 toxic air contaminants (TAC), the discussion under the TAC Subsection only generally analyzes TACs, however, due to the potential of impact of secondhand smoke in the casino further analysis was necessary; therefore DEIS **Sections 3.4** and **4.4** include further analysis of impacts from secondhand smoke.

2.6.6 EMISSION REDUCTION CREDITS (ERC)

Summary of Comments: The BAAQMD (G-2), recommended that first, the Tribe reduce emissions as much as possible on-site before purchasing ERCs. In addition, the origination of any credits purchased should be from facilities as close as possible to the Proposed Project site. All ERC’s obtained by the Tribe must be certified by the District and processed through the District’s emissions bank in accordance with their Regulation 2, Rule 4 – Emissions Banking.

Sonoma County (G-34) stated that, “The EIS must identify the specific credits or other methods the Tribe would use to offset its project’s air quality impacts, and delete the ‘if available’ exception. In addition, the offsets should benefit Sonoma County where much of the project emissions would occur.” The commenter provided an example of an offset program that would include a residential fireplace retrofit program that does not meet EPA standards. Additionally, the commenter stated that the project could fund programs that retrofit older diesel mobile sources that are routinely used in Sonoma County.

Furthermore, the County commented that, in the DEIS it is indicated that offsets could be purchased, but according to the commenter, offers no evidence that this strategy has been investigated. The commenter stated that the DEIS should include information of how and where these offsets would be obtained, and that, “It may be infeasible to identify sufficient offsets, in which case the Proposed Project would need to be reduced in size and scope, or be in violation of EPA emission limits.” Therefore, the commenter concluded that the DEIS should acknowledge that offsets may be hard or impossible to acquire in the region’s air basin, and the scope of the project may need to be reduced to meet NOx and other conformity standards.

Response: 51 Mitigation measures are presented in **Section 5.3** of the FEIS, which reduce emissions from the Proposed Project. NOx ERC credits have been purchased from BAAQMD approved ERC, which originate within the boundaries of the San Francisco Bay Area Air Basin. All ERCs have been certified by the BAAQMD and conform with all requirements that AQMD is requesting. The Tribe has a contract with the owner of 149 tons of NOx ERCs; this transaction is outlined in the FCD, Appendix W. Further ERCs shall be purchased for other pollutants wherever feasible (note, ERCs for some pollutants are so exorbitantly expensive as to jeopardize the feasibility of the project). Over 75 percent of the project, emission will come from mobile source outside of Sonoma County (see DEIS

Section 4.4, Trip Distribution) and many air pollutants are transported to Sonoma County from other Counties within the air basin. Thus, even if offsets are purchased from sources outside of the County, the County will still be benefited as long as they are purchased from within the same air basin. In addition, given the regional nature of many air pollutants, reducing impacts to other counties within the air basin should be considered in addition to Sonoma County. The FCD provide specifics regarding the purchase of offsets for NO_x, which is the only pollutant that the Tribe is required to purchase offsets for under the Federal Clean Air Act. The Tribe may purchase other offsets to mitigated emissions of ROG_s and PM₁₀ if these offsets are available.

2.6.7 ODOR IMPACTS

Summary of Comments: The City of Rohnert Park (G-4) requested that the discussion of the method of assuring that noxious odors would not be produced from Alternative A, Wastewater Treatment Option 2 (DEIS page 2-14) be discussed in greater detail in the FEIS.

Marilee Montgomery (B-33) stated that the impacts from objectionable odors from the proposed wastewater treatment plant cannot be mitigated.

The Roblar Area Property Owners Association (B-27) inquired if air quality would be compromised from sanitation odors.

Response: The on-site wastewater treatment plant would be expected to contain the following unit processes: screening, membrane bioreactor (MBR), UV disinfection. The screening process receives raw sewage from the collection system, and would be expected to contain odors that are typical of raw sewage. To minimize odors in the screening process, the unit would be either completely enclosed or enclosed to an extent to allow for air emanating from the unit to be captured and treated using odor control equipment. Either method for odor control would result in minimization of odors from that unit process.

Following screening, influent would be routed to the MBR. The MBR process design adds a large amount of air, resulting in dissolved oxygen concentrations that are high enough to prevent formation of Hydrogen Sulfide (H₂S) gases, the primary component of “noxious odors” from wastewater treatment plants. The MBR tanks will be designed to be open to the environment, since odors are not expected to be released from these tanks from these unit processes.

Following treatment in the MBR, effluent will travel to the UV Disinfection process. Following MBR treatment, virtually all of the solids are removed, and no odors are expected from this effluent. The UV disinfection system will be designed as either an open-air channel or an in-line enclosed system. Either method is not expected to cause any noxious odors. Additionally, it is in the best interest of the proponents of the casino to ensure that no unpleasant odors are present.

2.6.8 INDOOR AIR QUALITY

Summary of Comments: The City of Rohnert Park (G-4) stated the FEIS should acknowledge that secondhand smoke would be a major indoor air pollutant and would be harmful to those employees who work in the areas where smoking would be allowed indoors (the commenter refers to page 3.4-21 of the DEIS). The commenter also suggested the prohibition of smoking indoors as a mitigation measure.

The City of Cotati (G-31) requested that prohibition of smoking within the facility be offered as a mitigation measure for indoor air quality impacts.

Response: Comment noted; at present there are no Regulatory thresholds for indoor air quality or secondhand smoke; however, secondhand smoke can cause illness and death, Section 4.4. There is also no accepted method of quantifying secondhand smoke emissions in an enclosed area, **Section 4.4**; however, because smoking will be permitted in the casino the impact is considered significant. Mitigation measures are contained in **Section 5.2**, which would lessen the impact of secondhand smoke to less than significant. It would be the Tribes decision to allow or prohibit smoking at the casino/hotel.

2.6.9 COORDINATION BETWEEN LOCAL TRANSIT SERVICES AND CASINO RELATED TRANSIT SERVICES

Summary of Comments: The City of Petaluma (G-14) stated that the DEIS did not address the air quality impacts that could be mitigated through the coordination of local transit services and casino transit services.

Response: The DEIS (page 5-11) includes mitigation measures that provide for a Travel Demand Manager that would assess any transportation need. This would include coordination of local transit services and casino shuttles from the nearest mutually acceptable major transit nodes.

2.6.10 REDUCED COMMUTING WITH ON-SITE EMPLOYEE HOUSING

Summary of Comments: The City of Petaluma (G-14) stated that traffic related air quality impacts may be further mitigated by providing on-site housing for casino and hotel employees that might otherwise have to commute to the site.

Response: The local population of Rohnert Park has an adequate number of workers that live in the area to staff the casino-hotel (see DEIS **Section 4.7**). Thus, on-site housing is not necessary and would only add to environmental impacts.

2.6.11 GENERAL AIR QUALITY CONCERNS

Summary of Comments: The County of Sonoma Teen Eagles (B-21) and individual commenters (I-20, I-62, I-152, I-156, I-166, S-30, and S-90) expressed concerns that the project would increase air pollution.

Chris and Silvey Cameron (I-101) stated that “the serious traffic congestion on Highway 101 in Sonoma County” results in poor air quality. Eunice Edgington (I-100) submitted a comment letter stated that pollution is a “significant factor.” Elaine L. Matheny (I-105) submitted a comment letter expressing concern regarding pollution from cars and buses. Commenter I-164 stated, “buildup of automobile exhaust will not confine itself locally and will be spread far enough to worsen the surrounding countryside’s clean air which is one of the natural assets of Sonoma and Napa Valleys.”

The Sierra Club, Sonoma Group (B-31) stated concerns regarding the increase in vehicle trips associated with the proposed development, and the effects on air pollution and greenhouse gas emissions (GHG). Specifically, “The huge, unavoidable increase in GHG emissions, traffic congestion, and air pollution from the Casino Project ... are a step in the wrong direction.” Furthermore, the commenter indicated that increased effort to avoid increases in GHG emissions and air pollution should be considered before the Final EIS is released. Commenter I-166 asked, “How will you protect residents from exposure to hazardous gasses and objectionable odors caused by the volume of traffic and from the rise in pollution when busses, service trucks, brinks trucks and autos are stuck in traffic?”

Chip Worthington of Stop the Casino 101 (B-29) claimed that there are inconsistencies within the Air Quality section of the DEIS, stating that **Section 4.4** identifies impacts as less than significant, which are deemed significant in **Section 4.12**.

Lloyd Iversen (I-168) inquired about the types and quantities of air pollution that could be produced by the casino project; expressed concern regarding the potential impacts to air pollution resulting from the eventual decommissioning of the project; and inquired about the potential for businesses, households, and farms to incur costs for maintenance, upkeep, and repairs due to an increase in air pollution resulting from the project.

Lloyd Iversen (S-29) stated, “The Sierra Club has taken a position against the casino project,” due in part to “reasons...related to air...pollution.”

Response: Comments noted. Air quality issues, including local and regional air quality impacts from traffic, are discussed at length in DEIS **Sections 3.4, 4.4., 4.12, and 5.0**. See Response to Comment 2.6.2 regarding greenhouse gas emissions. It is possible for DEIS **Section 4.4** and **Section 4.12** to come to different significance conclusions because the two sections are analyzing different

impacts. DEIS **Section 4.12** is devoted solely to the analysis of cumulative impacts. Types and quantities of air pollution is shown in Sections 3 and 4. If the project were decommissioned there would be no project related air quality impacts and therefore, no cost for maintenance, upkeep, and repairs due to increased air pollution.

2.6.12 HEALTH-RELATED AIR QUALITY CONCERNS

Summary of Comments: Tiffany Renee (I-99) commented that the “Casino project’s lack of examination of the effect of the increased air pollution on asthma.” The commenter expressed a particular concern about children of low-income families without health care. Individual commenters I-20, I-21, and S-76 expressed concerns regarding increased rates of asthma for children because of the proposed development. Moreover, commenter S-76 stated that the DEIS does not examine the health effects of the proposed development from increased traffic on neighboring residences.

Response: Health related issues, such as asthma, are analyzed under the National Ambient Air Quality Standards (NAAQS) (**Sections 3.4 and 4.4** of the FEIS). The Clean Air Act (CAA), which was last amended in 1990, requires EPA to set NAAQS for wide-spread pollutants from numerous and diverse sources considered harmful to public health and the environment. The CAA established two types of national air quality standards. Primary standards set limits to protect public health, including the health of "sensitive" populations such as asthmatics, children, and the elderly. We have considered the CAA NAAQS in DEIS **Section 4.4**. Vehicle emissions from heavy traffic volumes can create health issues. The analysis and subsequent significance statement in DEIS **Section 4.4** shows with mitigation vehicle related emissions would not create adverse health effects.

2.6.13 DRAFT GENERAL CONFORMITY DETERMINATION (DCD) – CARBON MONOXIDE

Summary of Comments: The USEPA (G-29) stated, “While it is appropriate to use the CO protocol to evaluate emissions impacts, the entire process has not been completed. Section 4.7.5 of the CO protocol notes that, ‘under certain special conditions, there still may be cause for concern about the air quality impacts of the project even if no further analysis was required according to Sections 4.7.3 and 4.7.4.’ In order to complete the analysis,” the commenter noted, “the project must be evaluated in accordance with the criteria in Section 4.7.5 of the CO protocol.” The EPA recommended in the final general conformity determination and FEIS, the Tribe evaluate CO impacts in accordance with the criteria set out in Section 4.7.5 of the CO protocol and include a discussion of the results of the evaluation and any additional analyses that may be triggered.

Sonoma County (G-34) stated that the modeling supporting the Conformity Determination for CO was not provided as stated in the DEIS and Draft Conformity Determination. According to the commenter, this information must be provided in order to assess the significance of project CO emissions.

Response: In the final conformity determination CO was further analyzed according to Section 4.7.5 of the Davis Traffic Protocol an industry standard protocol.

2.6.14 DRAFT GENERAL CONFORMITY DETERMINATION (DCD) – NITROGEN OXIDES (NO_x)

Summary of Comments: The USEPA (G-29) stated, “Section 4.0 of the draft conformity determination (DCD) indicates that the project proponent intends to demonstrate conformity for NO_x by purchasing emission credits to fully offset NO_x emissions.” According to the commenter, “Offsets used to demonstrate conformity must meet all criteria for federal enforceability, i.e., reductions must be real, surplus, permanent, quantifiable, and enforceable and must be obtained and used in accordance with the federally approved SIP for the Bay Area.” The commenter recommended that in the final general conformity determination and the FEIS language is added that acknowledges the requirement for federal enforceability of offsets.

Sonoma County (G-34) stated that the DCD is incomplete in its analysis of NO_x. The commenter stated that, “The DEIS concedes that a Conformity Determination would have to be made because NO_x emissions exceed the *de minimus* levels, but provides no further analysis and identifies no NO_x emission reductions or offsets.” In addition, that the DEIS indicated that the emissions could be purchased, but does not provide evidence to show that this plan has been investigated. The commenter recommended that the DEIS provide examples of where and how the offsets would be obtained, and should acknowledge that offsets may be hard or impossible to obtain in the air basin, which would require that the scope of the project be reduced to meet NO_x conformity standards.

Response: In the final conformity determination (FCD), an agreement between the Tribe and Elements Market to purchase 149 tons of NO_x emissions reduction credits in the BAAQMD is discussed in the conclusion section. All federally enforceable criteria are also addressed in the conclusion Section of the FCD (Appendix W).

2.6.15 DRAFT GENERAL CONFORMITY DETERMINATION (DCD) – OZONE

Summary of Comments: The USEPA (G-29) requested that the FEIS note that the federal 8-hour ozone standard attainment date is June 15, 2007 rather than April, and in addition, the Bay Area Air Quality Management District (BAAQMD) is not required to, “. . .petition the USEPA for upgraded ozone status” and may not immediately do so. The commenter continued by stating that, “ While monitoring data currently indicate that the Bay Area is attaining the 8-hr ozone standard, it is not certain that it will continue to do so, and it is premature to state that the Bay Area is, ‘expected to be classified as an ozone maintenance area.’ Therefore the commenter recommended that the final conformity determination and the FEIS modify the language in the document to reflect the uncertainty regarding when and if the Bay Area will be redesignated as an ozone maintenance area.

Response: Changes were made to the Draft Conformity Determination that corrects the date of attainment and also the need for the BAAQMD to submit a request for redesignation, see FEIS Appendix W.

2.6.16 AIR QUALITY MITIGATION MEASURES

Summary of Comments: The USEPA (G-29) stated the importance of ensuring the mitigation measures proposed for impacts to air quality are adopted and commitments to them included in the record of decision (ROD). The EPA recommended the additional mitigation measures: 1) Use of construction entrances to reduce soil/dust transport off the site, and; 2) time-staged construction to avoid dust/open soils. As an operational mitigation measure, the EPA suggested the following, the inclusion of a bus-driver lounge to discourage idling, and adoption and enforcement by the Tribe of an anti-idling ordinance for buses.

Commenter I-147 stated that in the DEIS the operational emissions are said to be mitigated, but the commenter found that there was no mitigation present. Pamela Miller (I-167) posed questions related to air quality impacts from vehicle emissions, asking, “How will you prevent increased air pollution (from vehicle traffic)...How will you prevent increased health problems associated with vehicle pollution?”

The City of Cotati (G-31) requested that Sonoma County Transit and Golden Gate Transit be listed as regional transit providers that the Tribe will work with to ensure adequate transit to the project; that specifics be provided regarding mitigation measures “D.b.” (bicycle commuting) and “D.e.” (bicycle parking); and that the EIS acknowledge the potential for SMART rail to serve the casino, and the Tribe’s willingness to work with this agency.

Lloyd Iversen (I-168) asked for a list of potential air pollutants and how they would be mitigated.

According to commenter S-76, “The American Society of Heating, Refrigerating, and Air-conditioning Engineers, the preeminent standard setting body on ventilation issues, has concluded that ventilation systems cannot remove secondhand smoke from indoor environments.” Moreover, “Even separately enclosed, separately exhausted negative pressure smoking rooms cannot keep secondhand smoke from spilling into adjacent areas.” Furthermore, the commenter stated that establishing a smoke free environment would be the only effective mitigation for impacts from secondhand smoke. “Otherwise, any billboard, radio, web ads that is placed on non-sovereign land must include a warning that the environment is a smoking environment that is harmful...” Lastly, the commenter stated that the Tribe should contribute to a smoking cessation program.

Response: Regarding the inclusion of mitigation measures in the ROD the USEPA's comment is noted. Also, please see Response to Comment 2.6.2. The mitigation measures recommended by the USEPA were incorporated into the FEIS in **Section 5.2.3**.

Air quality mitigation measures, including those to mitigation operational impacts, are outlined in **Section 5.2.3** of the DEIS. These mitigation measures will reduce impact of project emissions, thereby reducing potential health problems associated with air pollution (see DEIS **Section 3.4**).

Mitigation measure H in Section 5.2.3 of the FEIS includes Sonoma County Transit, Golden Gate Transit, and SMART. Further explanation has been provided in the FEIS regarding mitigation measures Db. and De.

A list of project pollutants can be found in DEIS **Section 4.4** and mitigation measures are included in **Section 5.2.3** of the DEIS.

Indoor air issues including secondhand smoke and ventilation are discussed in **Section 4.4.2** of the DEIS and mitigation measures for both secondhand smoke and ventilation issues are found in **Section 5.2.3**. There is a significant impact due to secondhand smoke, **Section 4.4**, with mitigation measures found in **Section 5.2.3**; these impacts would be less than significant.

2.6.17 BUS MAINTENANCE

Summary of Comments: Larry Resnick (I-147 and S-1) stated that when heavy-duty vehicles, like tour buses, are not maintained their emissions increase. "And as the fleet of buses is made more current, the effect of a lack of maintenance causes the emissions to increase further." The commenter questioned if the Tribe would maintain the buses properly, and if not, "...will the tribe waive their sovereign status to require proper maintenance? And how will this be enforced?"

Response: Mitigation measure H has been added to FEIS **Section 5.2.3** that would require the Tribe to maintain all vehicles per the manufactures specifications. Please see Response to Comment 2.16.3 regarding enforcement of mitigation.

2.6.18 BUS IDLING

Summary of Comments: Resnick (I-147 and S-1) expressed concerns about bus idling and the associated air quality impacts. According to the commenter, "The DEIS mentions that any passenger bus not be idled for more than 5 minutes while waiting for passengers...how is this 5 minute limit to be enforced? Will the tribe waive their sovereignty to ensure this condition is enforced?" The commenter asked who would be responsible for the enforcement of the rule, and requested information on maintenance schedules for the buses. Moreover the commenter stated the data in the DEIS for heavy duty vehicle emissions should be more realistic, in addition, "Most of the comments

that I submitted were in writing, and I saw you didn't respond to more than half of them." Chip Worthington of Stop the Casino 101 (B-29) stated that the impact of idling buses, with air conditioning running, has not been adequately addressed. Lloyd Iversen (I-168) stated that there is a federal requirement that diesel engines not be left idling for long periods of time, and requested a detailed description of the number of buses and wait times that might take place at the casino.

Response: Mitigation measure H has been added to **Section 5.2.3** of the FEIS, which address vehicle maintenance (see Response to Comment 2.6.17). Mitigation measure E of the FEIS restricts bus idling to 5 minutes. URBEMIS estimates approximately 0.2 percent of all vehicles visiting the casino will be buses. URBEMIS is an USEPA and CARB approved air quality program and is considered an industry standard for estimating air impacts. Please see mitigation measure E in **Section 5.2.3** regarding the enforceability of bus idling.

2.6.19 TRAFFIC RELATED EMISSIONS

Summary of Comments: Marilee Montgomery (B-33) commented that the operational emissions have the potential to, "...result in a cumulatively considerable increase in criteria pollutant concentrations for PM₁₀ and ozone for which the region is in non-attainment status related to traffic at intersections" and also that the proposed development has the potential to expose sensitive receptors to high concentrations of pollutants. She continued by stating that, the information in the DEIS regarding air pollution is inadequate because traffic projections are incomplete. She requested that the FEIS analyze these issues further, using completed traffic data, and include projected increases in asthma and heart disease among women.

The Roblar Area Property Owners Association (B-27) inquired if air quality would be compromised from traffic and diesel engines.

Barbara Pollack (I-171) stated that permanent negative impacts would occur to air quality with the increase of 18,000 daily car trips along US 101 through Petaluma.

Chip Worthington of Stop the Casino 101 (B-29) stated, "A narrowed and grossly inadequate traffic analysis also contributes to the inadequacy of air quality discussion in the DEIS."

Lloyd Iversen (I-168) inquired about the pollution impact of "the additional stalled traffic of non-Casino traffic that is moving slower than it would otherwise," and questioned whether the amount of traffic related air pollution would increase in the future.

Response: The FEIS traffic section and traffic impact study was modified to include further analysis (see DEIS **Section 4.8** and **Appendix O**). In addition, the Tribe entered into an agreement to purchase 149 tons of NO_x ERCs, which will offset NO_x emissions reducing the Proposed Project's

ozone emissions to zero (see **Appendix W**). PM₁₀ emissions would be cumulatively considerable and at this time the BAAQMD is in nonattainment for PM₁₀; however, the USEPA does not require states to submit a SIP for PM₁₀ and therefore, there is no SIP to conform to. Increased risks to sensitive receptors are discussed in **Section 4.4**.

There would be increases in pollutants from increased traffic and diesel engines. These increases are analyzed in **Sections 4.4** and **4.12** of the DEIS, including an analysis of future cumulative impacts. Mitigation measures are outlined in FEIS in **Section 5.0**.

2.6.20 CONSTRUCTION RELATED AIR QUALITY IMPACTS

Summary of Comments: Sonoma County (G-34) stated that there is not enough adequate evidence to demonstrate that uncontrolled emissions would not result in a violation of ambient air quality standards. The commenter stated that, “Most importantly, these activities could lead to exceedances of both California and national ambient air quality standards for PM₁₀ and PM_{2.5}...The DEIS only analyzed the annual emissions associated with construction activity, which does not address localized impacts.” The commenter continued, “It should be noted that the DEIS analysis of those emissions is understated...Although emissions may be less than 100 tons per year, the BAAQMD’s threshold should apply to this project and the DEIS should acknowledge the potential impacts from uncontrolled construction emissions.”

The Roblar Area Property Owners Association (B-27) inquired if air quality would be compromised by construction-related asbestos or other toxic contaminants. The commenter also inquired about dust management during construction.

Lloyd Iversen (I-168) expressed concern regarding nitrous oxide emissions resulting from gravel trucked to the casino project site; and questioned how many pounds of air pollution would be generated, how the pollution could increase health risks, how it could be mitigated, and whether calculations of nitrous oxide have been submitted to the Bay Area Air Quality Management District.

Response: The BAAQMD states in their CEQA guidelines that if a project provides mitigation measure outlined in those guidelines than the Proposed Project would not violate any air quality standards Section 4.4, methodology. Mitigation measure A in **Section 5.2.3** of the DEIS outlines these measures.

Toxic air contaminants, including asbestos in buildings are regulated under 40 CFR 61, as discussed in **Sections 3.4** and **4.4** of the DEIS and mitigation measures are outlined in **Section 5.2.3**.

Appendix W of the DEIS contains URBEMIS output files which contain the NO_x emission estimates in pounds per day and tons per year. The output files include emissions from gravel trucked to the

site. Analysis of NOx impacts are shown in **Section 4.4** of the DEIS. Construction NOx emissions are considered less than significant. If an impact is considered less than significant, the health impact is considered the same under National Ambient Air Quality Standards, which are established by the EPA. Mitigation measures for NOx and other pollutants of concern are outlined in **Section 5.2.3** of the DEIS. The BAAQMD has received the DEIS and has provided comments, please see comment letter G-2.

2.6.21 TITLE 24 COMPLIANCE

Summary of Comments: Sonoma County (G-34) stated that characterizing Title 24 compliance as mitigation (page 5-12 Measure H) is inaccurate in that compliance should never represent a mitigation measure. The commenter suggested that, “Rather, the project should propose measures that would exceed Title 24 building standards by at least 10%. This would indirectly reduce significant air pollutant emissions and reduce greenhouse gas emissions.” Moreover, the commenter stated that the DEIS should include additional mitigation measures to reduce energy usage from the project such as requiring low-wattage bulbs, and utilizing natural light, and other green building measures.

Response: Absent a mitigation measure, Title 24 would not apply to the Tribal development on trust land, so adding the mitigation measure actually does add value. DEIS Mitigation measure G states that the Tribe will take advantage of solar heating and natural cooling, also, passive solar design will be used. These measures are all green building measures.

2.6.22 IMPACTS FROM SPRAY FIELD IRRIGATION DRIFT

Summary of Comments: Sonoma County (G-34) commented that mitigation measure W on page 5-15 requires that spray field irrigation cease when winds exceed 30 miles per hour (mph). However, the commenter noted that spray drift could occur at speeds below 30 mph. Therefore, the County recommended that, the DEIS should also require irrigation to cease whenever spray is dispersed beyond the site, regardless of the wind speed. Additionally, the DEIS should describe how the monitoring of spray drift to offsite areas would not occur.

Response: Mitigation for potential impacts related to odors and spray drift from the proposed wastewater treatment plant and sprayfield operations is discussed under **Section 5.2.3** of the FEIS. Specifically, mitigation measures X and Y would require that sprayfields are not operated during periods when winds are over 30 miles per hour. Mitigation measure X has been revised to provide for daily monitoring of the wastewater treatment plant and sprayfields, when they are in use, to ensure that no off-site drift of treated wastewater would occur. In the event that offsite drift is found to occur, measures shall be taken to eliminate offsite drift.

2.6.23 BAY AREA AIR QUALITY MANAGEMENT DISTRICT

Summary of Comments: Lloyd Iversen (I-168) emphasized the need for the BAAQMD to be involved in the EIS process, and asked if the BAAQMD has been “completely informed about the potential for increased air pollution from additional air pollution caused by the traffic congestion scenario.”

Response: The BAAQMD has been issued a copy of the DEIS and has made several comments regarding the document; please see comment letter G-2.

2.6.24 IMPACTS TO EMPLOYEE HEALTH FROM SECONDHAND SMOKE

Summary of Comments: Commenter S-76 expressed concerns about employee exposure to secondhand smoke. According to the commenter, “Casino employees are at a greater risk for cancer, lung, and heart disease because of secondhand smoke exposure on the job.”

Response: Secondhand smoke can cause illness and death; see Response to Comment 2.6.8. Secondhand smoke in the casinos could have a potentially significant effect; however, with the implementation of mitigation measures EE, FF, II, KK, and LL (**Section 5.2.3**) the effect of secondhand smoke will be reduced to a less than significant level.

2.7 BIOLOGICAL RESOURCES

2.7.1 CALIFORNIA TIGER SALAMANDER HABITAT

Summary of Comments: Sonoma County (G-34) commented that the proposed development is likely to cause harm to the California tiger salamander (CTS). According to the commenter, “Development of the proposed project as envisioned would create significant barriers to species mobility and migration, putting survival of the local population at risk.” Therefore, the County stated that the DEIS must be revised and recirculated to identify direct and indirect adverse impacts on this and other special-status animal and plant species. Furthermore, the commenter stated that, “Appropriate protocol surveys must be conducted within the property proposed for development, and in any areas where implementation of project-related mitigation measures, such as road widening, highway improvements, and pipeline installation,” which have the potential to result in impacts to wetlands or special-status species. The commenter concluded by stating that the areas for mitigation from impacts to biological resources, and impacts from mitigation implementation, must be identified in the FEIS.

The Sonoma County Land Rights Coalition (B-11) and commenter S-72 noted that the CTS habitat is within the area planned for development on the Wilfred site. Commenter B-11 asked if the Tribe would be responsible for mitigating for loss of CTS like other developers in the area and expressed the assumption that because of the amount of acres the casino would take up, the mitigation fees

should be “enormous.” Individual commenters I-158 and I-166 also expressed concerns regarding the potential loss of Salamander habitat. Moreover, commenter I-166 mentioned that she had unearthed an individual CTS at a soil depth of less than six inches. She asked, “...what is the likelihood that the discing to the property that I observed prior to the Salamander study had an effect on the number of Salamanders found? What studies have been done on the effect of discing land on Salamander survival? What further study will the applicant do on this property to assure that a biologically accurate study is completed on the Tiger Salamander?”

The Sierra Club, Sonoma Group (B-31) stated that the proposed development on the Wilfred and Stony Point sites are in a corridor between two California Tiger Salamander Conservation Areas. According to the commenter, “This is a buffer zone intended by the U.S. Fish and Wildlife Service to have no major change in use. It is very important for the success of this recovery plan that habitat be as unfragmented as possible.” The commenter indicated that the proposed commercial development would have a negative effect on the recovery efforts.

Congresswoman Lynn Woolsey (G-30) stated that the Wilfred site is located midway between Santa Rosa and Rohnert Park California Tiger Salamander (CTS) habitat, and that development of the project would create barriers to the salamander’s mobility and migration patterns. According to the commenter, USFWS-approved surveys should be conducted to determine impacts and mitigation measures, which should be referred to in the DEIS.

The Roblar Area Property Owners Association (B-27) inquired as to how impacts to Tiger Salamander habitat will be mitigated “if human engineered substitutes are found inadequate.”

Connie Martin (I-13) noted concern regarding the CTS and the use of a 2003-2004 study for mitigation. Martin suggested a current study with May 2006 Mitigation acres, along with recently discovered CTS sites.

Lloyd Iversen (I-168) expressed concern regarding the potential impacts to Tiger Salamander resulting from counting individuals.

Response: As noted in **Sections 3.5.4** and **4.5.1** of the DEIS, as well as **Appendix J** (Biological Assessment for the Wilfred and Stony Point Sites), California tiger salamander site assessments were conducted on the Northwest Specific Plan and southern portions of the Wilfred Site, as well as the entire Stony Point Site. CTS protocol surveys were conducted on the Northwest Specific Plan portion of the Wilfred Site. The CTS site assessments and surveys were conducted between 2002 and 2004. The results of these surveys of the Wilfred and Stony Point Sites are considered current and accurate. The Biological Assessment prepared for the Wilfred and Stony Point Sites (**Appendix J** of the DEIS) reflects any CTS sightings in the vicinity that have been documented since the time of the CTS

surveys. As discussed in **Sections 3.5.4** and **4.5.1**, CTS presence is assumed on the Wilfred and Stony Point Sites. Mitigation in **Section 5.2.4** has been developed accordingly.

Development of the casino and all hardscape under Alternatives A and H would be within an area planned for annexation by the City of Rohnert Park, as outlined in the City's Northwest Specific Plan. If the casino were not developed, or if Alternatives B – F were operated, the area would still be developed under the Northwest Specific Plan. According to Figures 2 and 3 of the Santa Rosa Plain Conservation Strategy, the site of casino development under Alternatives A and H is located within planned "Urban Growth Boundaries." Also according to Figure 3 of the Santa Rosa Plain Conservation Strategy, the site is "Already Developed (no potential for impact)."

Development of the casino and all hardscape under Alternatives A and H would be within a property previously proposed for development by Redwood Equities LP. In August 2005, the U.S. Fish and Wildlife Service (USFWS) issued a Biological Opinion (BO) and Incidental Take Statement for the proposed Redwood Equities project (presented as Attachment 4F to **Appendix J** to the DEIS). USFWS would not have issued a BO for a project in a buffer zone that they intended to have no major change in use. A BO is designed to conclude whether a project is likely to adversely impact or not likely to adversely impact a Federal listed species. If impacts from a Proposed Project are likely to jeopardize the continued existence of a Federal listed species or jeopardize the success of a recovery plan for a Federal listed species, the BO and associated Incidental Take Statement are not issued. The BO for the Redwood Equities project (located on the Northwest Specific Plan portion of the Wilfred Site) concludes that the project (with a similar footprint as the Proposed Project) is not likely to jeopardize the continued existence of the CTS. Section 7 consultation with the USFWS has been initiated for the Graton Rancheria Casino and Hotel Project. The consultation is expected to result in an amendment to the BO that has been issued for the Northwest Specific Plan portion of the Wilfred Site. A letter of initiation of consultation has been included in **Appendix JJ** of the FEIS.

The lead federal agency is required to consult with the USFWS for any project that may adversely impact a Federal listed species. Like other developers in the area, the Tribe is subject to the Federal Endangered Species Act, is subject to the conditions of a USFWS-issued BO for any project, and is required to mitigate for impacts to the CTS, a Federal listed species. Mitigation presented in **Section 5.2.4** of the FEIS has been revised to recommend more stringent mitigation ratios than exist in the existing BO for the Northwest Specific Plan portion of the Wilfred Site pursuant to initial discussions with the USFWS.

As discussed in **Section 2.9.2** of the DEIS, in addition to the Wilfred and Stony Point Sites, the Tribe evaluated approximately 48 potential sites throughout its aboriginal territory. The majority of these sites were soon eliminated for a variety of reasons, environmental and otherwise. After selecting the Stony Point Site as the initial preferred site, the Tribe continued to search for other potential sites in

its aboriginal territory that were less biologically sensitive than the Stony Point Site. The Tribe settled on the Wilfred Site because it would reduce impacts to wetlands by approximately 90 percent. Additionally, the Wilfred Site was closer to currently developed areas, reducing habitat fragmentation compared to the Stony Point Site.

Under all on-site wastewater treatment options for Alternatives A – E and Alternative H, sprayfields would be located outside of “Urban Growth Boundaries” and “Already Developed (no potential for impact)” areas. The majority of the Wilfred and Stony Point Sites are located within 100-year floodplain. According to specific coordination with the USFWS regarding CTS, USFWS does not consider areas within 100-year floodplain to be CTS habitat. As indicated in **Section 5.2.4**, Measure D, of the DEIS, mitigation for CTS “would be accomplished off-site and would consist of purchase of CTS credits from an approved mitigation bank or purchase of farm land providing suitable habitat for CTS (where CTS is known to occur) and placing the area under conservation easement.” Land costs and costs for purchase of mitigation credits at established mitigation banks change over time, so precise costs cannot be determined at this time.

The Wilfred and Stony Point Sites are located between areas that Figure 2 of the Santa Rosa Plain Conservation Area designates as the Stony Point and Northwest Cotati “Conservation and Preserve Areas.” These two “Conservation and Preserve Areas” are already separated by barriers to CTS migration and mobility. These barriers include high-use roads such as Rohnert Park Expressway and Wilfred Avenue, the Laguna de Santa Rosa, and urbanized Rohnert Park. Under Alternatives A and H, the casino and associated hardscape would be developed within an “Urban Growth Boundary” as designated by the Santa Rosa Plain Conservation Strategy.

Indirect impacts to biological resources from road improvements and potential pipeline construction are discussed in **Section 4.11.2** and **4.11.3**, respectively, of the DEIS. These sections have been revised in the FEIS, expanding their discussion of impacts to CTS. Construction of off-site roadway improvements and pipeline construction may impact Army Corps-jurisdictional roadside ditches that serve as CTS habitat. As clarified in the FEIS, the tribe may partially or fully fund a roadway or pipeline project, but may not force a local governmental entity to allow the implementation of such a project. The off-site roadway improvements and pipeline construction projects will require separate Section 7 consultation that will be conducted during permitting for these projects. Mitigation will be developed in coordination with USFWS during the Section 7 consultation for the off-site roadway improvements and pipeline construction projects.

A brief search for studies on CTS survival in disked fields did not recover published articles on the subject. On January 11 and February 10, 2005, a consulting firm presented to the Santa Rosa Plain Conservation Strategy Team the results of a study it was conducting of CTS on farms owned by the City of Santa Rosa (Santa Rosa Plain Conservation Strategy Team, 2005). The study “shows that

CTS are present on disked and irrigated fields, but does not conclude that it is adequate habitat for long-term preservation of the species.”

2.7.2 IMPACTS TO FORESTS

Summary of Comments: The California Department of Forestry and Fire Protection (G-16) submitted a letter that contained information which indicated that the following permits and/or mitigation would be required if timberland or oak woodlands occur on any of the project sites:

- Timberlands require a conversion permit and/or timber harvest plan. This would include Christmas trees.
- Under 7.3.1 Mitigation Measures, loss of Oak Woodland/Mixed Evergreen Forest. Public Resources Code (PRC) §750, et seq. states that only a Registered Professional Forester (RPF) may practice forestry on non-federal, forested landscapes.
- Sonoma County has been declared a Sudden Oak Death infested county. Removal and disposal of oak trees must conform to standards set by the Sonoma County Agricultural Commission.

Response: No timberland or oak woodland occurs on the Wilfred, Stony Point, or Lakeville Sites.

2.7.3 IMPACTS TO WETLANDS

Summary of Comments: The California Native Plant Society (CNPS), Milo Baker Chapter (B-13), stated their support for the proposed on-site wetlands restoration/creation for Wilfred site, Alternative A. However, it was recommended that some of the wetlands be contoured to encourage reestablishment of historic Burke’s goldfields (*Lasthenia burkei*) and Sonoma sunshine (*Blennosperma bakei*) occurrences along Stony Point Road.

The CNPS also stated concerns regarding the 50-foot buffer between the proposed spray fields and designated wetlands given the application volume and duration. The letter stated that if Option 1 is to go forward, then the commenter recommended greater buffer distances and the installation of swales to confine irrigation water in case of mishap or application errors. The commenter also recommended that the Tribe utilize the property west of Wilfred Avenue as a possible preserve or mitigation bank consistent with the Santa Rosa Plain Conservation Strategy, and to manage the California annual grassland community and formerly cultivated areas to establish native plant species dominance.

The USEPA (G-29) commended the Tribe for the avoidance of wetlands by the proposed Alternative A on the Wilfred site. According to the commenter, this site location reduces impacts to wetlands by approximately 90%. The commenter stated that Alternative H could avoid impacts to wetlands, and recommended this Alternative for development. Furthermore, the commenter mentioned that **Figure 2-6** and **2-7** show how wetlands can be avoided by reconfiguring the parking lot, considering

Alternative H would require 1452 fewer parking spaces. The EPA also recommended that the design for Alternative H configure the smaller parking lot to avoid additional wetlands, and if Alternative H is not selected, according to the commenter, the project proponent should evaluate the feasibility of utilizing an additional parking structure to further avoid wetlands.

The EPA also noted that, "...the Clean Water Act (CWA), Section 404 permit will only permit the Least Environmentally Damaging Practical Alternative (LEDPA) with regards to wetlands." The EPA recommended offsite wastewater treatment and disposal, "...if agreements with the City of Rohnert Park and the Laguna Subregional Wastewater Treatment Plant can be achieved."

Barbara Pollack (I-152) writes that the Proposed Project "would cause massive environmental degradation to remaining wetlands and destruction of wildlife."

While another commenter, Marilee Montgomery (B-33), stated that the proposed development would result in a substantial loss of, "... known and potential vernal pools, vernal swale, and wetland habitat within grassland areas." The commenter discussed the listing of the wetlands on the Wilfred and Stony Point sites on the National Wetlands Inventory, specifically stating that the proposed development would not comply with wetland conservation efforts, and that there is no guarantee that the Tribe would waive their sovereign rights to ensure compliance with wetland mitigation. A printout of the US Fish and Wildlife Service National Wetlands Inventory map of the Wilfred and Stony Point sites was included with the comment letter. The commenter was also concerned whether the Tribe would comply with mitigation proposed in the DEIS once the property was taken into trust, how the proposed storage ponds affect on-site wetlands, and what the cumulative impacts would be.

The commenter continued by stating that the proposed development is not in compliance with Executive Order (E.O.) 11990, Protection of Wetlands, which is intended to discourage federal funding of new construction or filling in of wetlands. According to the commenter, compliance is required by the wetlands decision-making process (§ 55.20 of 24 CFR Part 55), therefore she stated that the Tribe should, "...use Part 55 published in the Federal Register on January 1, 1990 for wetland procedures."

The USACE (G-32) stated that the NIGC has agreed to include in the EIS an analysis of impacts to waters of the U.S. within 50 feet on either side of roadway improvements.

Lloyd Iversen (I-168) expressed concern regarding the potential impacts of sewage discharge and runoff to seasonal wetlands, particularly the wetting and drying cycle; and inquired about the potential for temperature change within the pools, and how that temperature change might effect biological populations.

Response: Operation of sprayfields will be restricted to the warm, dry season of May 14 to September 30 of each year unless other terms are specified in the NPDES permit (Measures J and L from **Section 5.2.2** of the DEIS). Application of treated wastewater to sprayfields will be implemented at agronomic rates (**Section 2.2.7** of the DEIS). Thus, proposed operational characteristics and EIS mitigation measures will ensure that treated wastewater will not run-off into wetlands. The proposed 50-foot buffer between sprayfields and wetlands is intended to provide an additional protection to wetlands from mishaps or application errors. As discussed in **Section 2.2.7** of the DEIS, the Tribe's preferred method of wastewater disposal is connection to the City of Rohnert Park's sewer disposal system; however, an agreement has not yet been reached between the Tribe and the City of Rohnert Park.

The DEIS has not relied on the National Wetlands Inventory for mapping of wetland resources in the proposed development area, but on specific wetland delineations prepared pursuant to U.S. Army Corps of Engineers criteria and the 1987 wetland delineation manual. These delineations have been verified by the San Francisco District of the Corps. As noted by the USEPA, wetland impacts under Alternative A are reduced by approximately 90% compared to Alternatives B – F. Wetland impacts under Alternative H are reduced compared to Alternatives B – F; however, even with reconfiguration of parking lots, wetland impacts would not be completely eliminated under Alternative H. Wetland impacts will be mitigated by replacement/restoration of wetlands, as outlined in **Section 5.2.4**. Mitigation for impacts to wetlands and other waters of the U.S. is required by the Federal Clean Water Act. As the administrator of Section 404 of the Clean Water Act, the USACE permits fill of wetlands and enforces mitigation requirements. Impacts to wetlands and other waters of the U.S. are regulated by the USACE under the Federal Clean Water Act separate from the NEPA process and its requirements. The Tribe is also required to mitigate for its impacts to wetlands by the NIGC. For additional discussion on the enforceability of mitigation measures, see Response to Comment 2.16.3, below. Created wetlands will have hydrological characteristics conducive to the growth of Burke's goldfields and/or Sonoma sunshine. A mitigation measure has been added to the FEIS, committing the Tribe to consider feasible changes to the parking lot design, in consultation with the USACE, to reduce wetland fill.

Wetland impacts from treated-wastewater storage ponds and stormwater detention basins are addressed in **Section 4.5**. As discussed in Section 4.2 of **Appendix J** of the FEIS, stormwater detention basins were designed with sufficient setbacks that no direct or indirect impacts to wetlands would occur. Any wetland impacts from treated-wastewater storage ponds would be mitigated at a proposed 1.5:1 ratio of seasonal wetland restoration/creation to impacted acreage (Measure B on page 5-27 of the DEIS). Cumulative impacts to wetlands are addressed in **Section 4.12.3** of the DEIS. None of the alternatives would result in a net loss of waters of the U.S., which has been more clearly presented in the FEIS.

As described in **Section 5.2.4**, a detailed plan will be developed and implemented to conserve ecological resources in the 182-acre southern portion of the Wilfred and Stony Point sites. This 182-acre portion of the site includes the portions of the known Sonoma sunshine and Burke's goldfields populations that occur within the Wilfred Site. The management plan for this area will provide for a grazing regimen that will conserve populations of Sonoma sunshine and Burke's goldfields.

24 CFR Part 55 applies to floodplain management, not construction or filling of wetlands. Executive Order 11990 requires that, prior to a Federal agency undertaking new construction in wetlands, the head of the agency must find "(1) that there is no practicable alternative to such construction, and (2) that the proposed action includes all practicable measures to minimize harm to wetlands." The order also provides that, "the head of the agency may take into account economic, environmental and other pertinent factors." **Section 2** of the DEIS discusses the alternatives analysis undertaken for the project. Alternatives A - G have been discussed in detail in **Sections 3** and **4** of the DEIS. Detailed discussion of Alternative H has been added to the FEIS. Additional alternatives analysis will be conducted as part of the Section 404(b)1 Alternatives Analysis required as part of the process of obtaining a Department of the Army Permit for the project. Minimization and mitigation measures for each alternative have been incorporated into **Section 5.2.4** of the DEIS. In addition to measures discussed in the DEIS, the Tribe will consider feasible changes to the parking lot design, in consultation with the USACE, to reduce wetland fill. The measure has been added to **Section 5.2.4** of the FEIS.

As described in **Section 5.2.7** of the DEIS, the Tribe will fund improvements to several intersections and roadways to mitigate impacts to traffic from the various alternatives. As noted by the USACE, the NIGC has agreed to include in the EIS an analysis of impacts to waters of the U.S. within 50 feet on either side of roadway improvements. Such an analysis has been performed and is included in **Section 4.11** of the FEIS (also see FEIS **Appendix HH**). The analysis is based on information gathered from rapid, on-the-ground surveys, available previous delineations, National Wetlands Inventory, and aerial photography.

Regarding comment I-152, impacts to wetlands and wildlife are discussed in **Section 4.0** of the DEIS.

2.7.4 IMPACTS TO NATIVE PLANT SPECIES

Summary of Comments: The CNPS (B-13), expressed concerns regarding summer and fall applications of effluent in Wastewater Treatment Option 1, which according to the commenter, encourages exotic plant species to grow and thereby degrade native plant habitat.

Lloyd Iversen (I-168) stated, "Rhizobium Nuclei are the basis for native oak tree immunity. Native Redwoods also may need the symbiosis of Rhizobium Nuclei to exist," and inquired whether the casino project could affect Rhizobium symbiotic relationships among plant species.

Response: Under Alternatives A-E, as well as Alternative H, as discussed in Measure C on page 5-19 of the DEIS, a detailed plan will be developed and implemented to conserve ecological resources in the 182-acre southern portion of the Wilfred and Stony Point sites, which encompasses all sprayfields for Alternative A. The plan will provide a grazing regimen that will conserve populations of Sonoma sunshine and Burke's goldfields. Proposed sprayfields for all options of Alternative A will avoid known populations of sensitive plant species.

The Wilfred, Stony Point, and Lakeville Sites are all currently, and were historically, dominated by herbaceous vegetation communities. None of the alternative sites contains oak woodland, redwood trees, nor any type of woodland or forest. Planting of woodland is not proposed. Impacts to Rhizobia necessary for maintenance of woodland are not anticipated.

2.7.5 MITIGATION IMPLEMENTATION FOR BURROWING OWL HABITAT

Summary of Comments: The City of Rohnert Park (G-4) stated that the person or agency responsible for monitoring the mitigation implementation for mitigation measure E in **Section 5.2.4**, Biological Resources should be identified in the FEIS.

The City of Cotati (G-31) requested that the entity responsible for monitoring preconstruction surveys for burrowing owls be identified.

Response: While the burrowing owl is not a federal listed species, the DEIS recommends that the Tribe protect the species through preconstruction surveys and, if any are found, passive relocation is recommended, as described in Measure E on page 5-22 in **Section 5.2.4** of the DEIS. The NIGC will monitor the implementation of mitigation measures contained in the ROD, which are expected to include the burrowing owl mitigation. Also please see Response to Comment 2.16.3.

2.7.6 MITIGATION IMPLEMENTATION FOR NESTING BIRDS

Summary of Comments: The City of Rohnert Park (G-4) requested that the person or agency responsible for monitoring the mitigation implementation for mitigation measure F in **Section 5.2.4**, Biological Resources be identified in the FEIS.

The City of Cotati (G-31) requested that the entity responsible for monitoring preconstruction surveys for migratory birds be identified.

Response: Measure F in **Section 5.2.4** of the DEIS recommends mitigation for nesting birds in order to comply with the U.S. Migratory Bird Treaty Act. The NIGC will monitor the implementation of mitigation measures contained in the ROD, which are expected to include mitigation for nesting birds. Also, please see Response to Comment 2.16.3.

2.7.7 LOBB'S AQUATIC BUTTERCUP

Summary of Comments: The City of Rohnert Park (G-4) noted that page 3.5-23 should include a discussion of Lobb's aquatic buttercup, as it was mentioned as being present in the area. The City of Rohnert Park (G-4) stated that Lobb's aquatic buttercup that were found on-site are not indicated on **Figure 3.5-5**.

Response: Lobb's aquatic buttercup was found in the western portion of the Wilfred and Stony Point Sites, west of the Bellevue-Wilfred Channel (**Section 3.5.2** of the DEIS), and will be avoided under Alternatives A and H. Lobb's aquatic buttercup is a CNPS List 4 (Plants of Limited Distribution) species. It is not a Federal listed species and receives no legal protection.

2.7.8 IMPACTS TO SPECIAL-STATUS PLANT SPECIES

Summary of Comments: The CNPS (B-13) addressed the effects of Wastewater Treatment Option 1 on special-status plant species. The commenter was concerned about impacts to plant species, specifically during the wet season. The City of Rohnert Park (G-4) stated that Sonoma sunshine that were found on-site are not indicated on **Figure 3.5-5**.

Congresswoman Lynn Woolsey (G-30) stated, "surveys need to be conducted to determine the project's impacts on vernal pool plants species and to develop mitigation measures."

Response: Protocol surveys for listed vernal pool species were conducted in the Northwest Specific Plan Area (portion of the Wilfred site) each year during the four year period between 2001 and 2004. The Stony Point site (including the western portion of the Wilfred site) was subject to protocol surveys during 2004 and 2005. The entire Wilfred site was resurveyed during 2007. The results are included in **Section 3.5.4** of the DEIS and Section 2.5.1 of **Appendix J**. A separate report with results of the 2007 survey for the Wilfred site has been included as Attachment 4H to **Appendix J** of the FEIS.

Under Alternatives A and H, all known populations of special-status plant species are located across the Bellevue-Wilfred Channel from proposed sprayfields and are proposed for avoidance. As described in **Section 4.3.1** of the DEIS, treated wastewater would be applied to sprayfields during the dry season and not during the wet season. Sprayfield irrigation will, therefore, not have the potential to impact special-status plant species or habitat during the wet season. Fifty-foot buffers, as well as dry season irrigation at agronomic rates, will be adequate to ensure that dry season application of treated wastewater to sprayfields will not impact wetlands that support habitat for special-status plant species.

Sonoma sunshine was shown on **Figure 6 of Appendix J** to the DEIS. For the sake of clarity, **Figure 3.5-5** has been changed in the FEIS to more clearly reflect the data shown in **Figure 6 of Appendix J** to the DEIS.

2.7.9 IMPACTS TO ENDANGERED SPECIES

Summary of Comments: Sonoma County (G-34) stated that the DEIS failed to disclose or analyze Alternative F’s potential indirect impacts to the California red legged frog from using herbicides for vegetation control methods. According to the commenter, this information should be disclosed and the impacts analyzed.

Individual commenters, I-158, I-166, and I-168 expressed concern about the impacts of the project on Sonoma County’s endangered species. Commenter I-166 noted the following federally recognized endangered species: Sebastopol Meadowfoam (*Limnanthes vinculans*), Burke’s Goldfields (*Lasthenia burkei*), Sonoma Sunshine (*Blennosperma bakeri*), Showy Indian Clover (*Tipolium amoenum*), and California Tiger Salamander (*Ambystoma californiense*). She asked, “How will you prevent the loss of habitat from these endangered, threatened or rare species? How will you prevent the decrease in population of these species, which are endangered, threatened or rare?”

Response: A Phase I Habitat Assessment for California red-legged frog was conducted by a species expert in 2006 (**Section 3.5.4** of the DEIS). The expert concluded that channelization of streams and introduction of aquatic predatory species have resulted in an extirpation of the species from the Rohnert Park area. According to the survey report, California red-legged frogs do not inhabit either the Wilfred or Stony Point sites, and there is no chance for them to recolonize the site from adjacent drainages in the foothills to the east of the Santa Rosa Plain.

In its May 28, 2002 *Recovery Plan for the California Red-legged Frog (Rana aurora draytonii)*, USFWS states that the effects of chemicals such as herbicides on California red-legged frogs are not well known. As noted in the recovery plan, research is needed to ascertain the effects of such chemicals. As the species is not expected to occur in the project area, impacts of the type described by the commenter would not be possible.

All impacts that could be identified to special-status species will be mitigated as outlined in **Section 5.2.4** of the DEIS.

2.7.10 GENERAL ENVIRONMENTAL IMPACTS

Summary of Comments: Carrie Crandall (I-108) expressed concern that the environmental impacts associated with the Proposed Project are too high. Another commenter (I-136) writes that they are concerned about “destruction of natural habitat” associated with the Proposed Project. Miller (I-167)

posed the question, “How will you prevent the disruption/destruction of sensitive natural habitat due to excessive amounts of traffic?”

Lloyd Iversen (I-168) stated, “Water life and animal species are greatly affected by water pollution from water treatment discharge,” and “It is important to inventory all life forms and animal species prior to commencing the Casino Project.”

Iversen (S-29 and S-91) also stated, “The Sierra Club has taken a position against the casino project,” due in part to “reasons...related to...destruction of habitat.” Moreover, individual commenter I-166 asked, “How will you address the loss of habitat to the other animals that make this open space home; fox, possum, coyote, egrets and field mice, just to name a few?” In addition, she asked, “How will you keep this project from degrading the quality of the environment, reducing the habitats of endangered plants and animals, or decrease its population?”

Response: Impacts to habitats and other biological resources are discussed in **Section 4.5** of the DEIS. Impacts to biological resources will be mitigated as established in **Section 5.2.4** of the DEIS. Included in the mitigation are measures to conserve ecological resources in a portion of the affected site and to mitigate for impacts to special-status species habitat, wetlands, and other waters of the U.S.

Mitigation for impacts to traffic (**Section 5.2.7**) will include improvements to intersections, roadways, freeways and ramps. A study that identifies general impacts to waters of the U.S. from these traffic mitigation-sites has been completed and has been added to the FEIS (see **Section 4.11** and **Appendix HH** of the FEIS). As a traffic improvement project commences, additional environmental review will be required by the entity responsible for the implementation of the improvements, during which detailed effects to waters of the U.S. and other environmental components will be identified and mitigated.

Impacts to aquatic species from treated-wastewater discharge are discussed in **Section 4.5** of the DEIS. The Wilfred, Stony Point, and Lakeville Sites have been surveyed by biologists, as discussed in **Section 3.5** of the DEIS. Lists of plants observed and animals observed and expected at the Wilfred and Stony Point Sites, are presented in Attachment 2 to **Appendix J** of the DEIS. Lists of plants observed and animals (mammals, birds, reptiles, and amphibians) observed and expected at the Lakeville Site, are presented in Tables 1 – 6 in **Appendix K** of the DEIS.

2.7.11 BIOLOGICAL SURVEYS

Summary of Comments: The USEPA (G-29) submitted a comment regarding page ES-97 of the DEIS. According to the commenter, the DEIS indicates that biological surveys would be required to comply with the California Environmental Quality Act (CEQA). The commenter stated that it was not

clear how CEQA would apply to the tribe, therefore the commenter requested that the statement be clarified.

Response: Page ES-97 refers to environmental documentation that must be completed by the lead agencies for traffic improvement projects, prior to implementation of such projects. For example, a project with the California Department of Transportation as the lead agency must complete environmental documentation under CEQA. Clarification has been added to the FEIS. Note also that discussions of special-status species in the DEIS and in **Appendix J** include descriptions of not only federally-listed species, but of state-listed species and species of special concern relevant to review of the project.

2.7.12 IMPACTS TO WILDLIFE

Summary of Comments: Marilee Montgomery (B-33) commented that the construction of new roads in areas of known or suspected wildlife movements could provide a barrier to wildlife migration within the Wilfred, Stony Point, and Lakeville sites, resulting in a negative impact. The commenter also stated that net cumulative impacts to wildlife are not adequately addressed in the DEIS.

Lloyd Iversen (I-168) stated, “The proposed site is one of only two Wild Life Habitat Connectivity Corridors in the county;” requested a description of “any and all impacts the Casino Project could have” on the corridors; inquired about the plan for “re-transporting or re-creating” the corridor; asked, “Specifically which life forms will be affected and how will they be studied, tracked, monitored, and protected?” and requested that species be studied without being killed.

Response: Mitigation for impacts to biological resources from on-site construction is discussed in **Section 5.2.4** of the DEIS. No new off-site roads are proposed. Development under each alternative will occur on the edge of its respective site. New roads are not proposed outside of the development area. Since development is proposed on the edge of the sites, development is not expected to present a barrier to on-site species movements. Species in the development area will be displaced or otherwise impacted; however, as discussed in **Section 4.5** and the **Executive Summary** of the DEIS, impacts to biological resources will be less than significant after mitigation. As discussed in **Sections 2.0** and **4.5** of the DEIS, note that Alternatives A and H propose development in an area that, even without casino development, will be developed under the Northwest Specific Plan.

As discussed above in Response to Comment 2.7.1, development of the casino and all hardscape under Alternatives A and H would be within an area planned for annexation by the City of Rohnert Park, as outlined in the City’s Northwest Specific Plan. If the casino were not developed, or if Alternatives B – F were operated, the area would still be developed under the Northwest Specific Plan. According to Figures 2 and 3 of the Santa Rosa Plain Conservation Strategy, the site of casino development under Alternatives A and H is located within planned “Urban Growth Boundaries.”

Also according to Figure 3 of the Santa Rosa Plain Conservation Strategy, the site is “Already Developed (no potential for impact).”

Development of the casino and all hardscape under Alternatives A and H would be within a property previously proposed for development by Redwood Equities LP. In August 2005, USFWS issued a Biological Opinion and Incidental Take Statement for the proposed Redwood Equities project (presented as Attachment 4F to **Appendix J** to the DEIS). It is presumed that USFWS would not have issued a Biological Opinion for a project in a buffer zone that they intended to have no major change in use.

While many wildlife habitat corridors exist in Sonoma County, the Sonoma County Permit and Resource Management Department has identified certain important corridors, including “lands south of Glen Ellen connecting Sonoma Mountain and the Mayacamas Range, lands connecting the Laguna de Santa Rosa to agricultural areas south of Highway 116,” and certain “Priority Riparian Corridors” (Sonoma County Permit and Resource Management Department, 2003). None of the above habitat corridors is located on the Wilfred, Stony Point, or Lakeville Sites. While Highway 116 is located south of the Laguna de Santa Rosa, the Wilfred and Stony Point Sites are located north of the Laguna. No riparian corridors are located on the Wilfred or Stony Point Sites, or the development portion of the Lakeville Site.

As described in Measure C on page 5-19 of the DEIS, under Alternatives A – E and Alternative H, a detailed plan shall be developed and implemented to conserve ecological resources in the 182-acre southern portion of the Wilfred and Stony Point sites. The plan shall address management activities to ensure maintenance of breeding, refugial, and dispersal habitats for California tiger salamander (CTS); and should provide a grazing regimen that will conserve populations of Sonoma sunshine and Burke’s goldfields.

2.7.13 IMPACTS TO AQUATIC SPECIES FROM STORMWATER RUNOFF

Summary of Comment: Sonoma County (G-34) commented that the DEIS failed to identify the potential impacts from stormwater runoff to the steelhead, the Northwestern pond turtle, and other aquatic species. According to the commenter, “The EIR (sic) must conduct a hydraulic study analyzing these impacts, and identify measures to reduce or eliminate discharges during peak storm events.”

Marilee Montgomery (B-33) also commented that the DEIS did not adequately address how the proposed development in channeling stormwater runoff would affect water quality and flooding in Labath Creek, specifically, the impacts to steelhead trout and the Northwestern pond turtle.

Response: A hydraulic study has been conducted for the project alternatives, and is discussed in the Site Grading and Storm Drainage report (**Appendix C** of the DEIS). As described in **Section 4.3**, stormwater would be filtered through a system of sediment/grease traps. Impacts to water quality from stormwater runoff will be less than significant. Also described in **Section 4.3**, stormwater detention features (basins or created wetlands) have been incorporated into the design of Alternatives A – F and Alternative H such that there would be no increase in stormwater runoff up to a 100-year storm. Under alternatives B – F, hardscape would be created partly within the 100-year floodplain. Additional stormwater features would be created to more than offset the flood capacity that would be lost in the floodplain due to development. Stormwater detention features will capture stormwater, releasing it over time. With incorporation of stormwater filtration and stormwater detention features, impacts from stormwater to water quality and floodplain capacity will be less than significant. Likewise, impacts to aquatic species will be less than significant.

2.7.14 IMPACTS TO CALIFORNIA TIGER SALAMANDER FROM ALTERNATIVES B AND E

Summary of Comments: Sonoma County (G-34) stated that Alternative B and E would shift CTS impacts to the west, where according to the commenter, there would be a dispersal bottleneck due to the Laguna de Santa Rosa and previous development. The commenter referred to Figure 3 in the Santa Rosa Plain Conservation Strategy for impacts from previous development. Moreover the County acknowledged that the DEIS addressed potential impacts to CTS from Alternative A, but, the commenter stated that it failed to address Alternative B’s potential indirect impacts to CTS as a result of project-related physical barriers to CTS migration and dispersal. The County stated that the EIS should disclose, analyze, and mitigate the Proposed Project’s impacts to, “...the metapopulation dynamics and genetic heterozygosity of the Sonoma population of CTS.”

Commenter I-166 stated that the DEIS is contradictory and inconsistent, according to the commenter, “It is not possible to preserve salamander habitat while at the same time bringing in many acres of fill.” Moreover, the commenter inquired who would ensure compliance with the mitigation and if the mitigation were not complied with, who would be responsible for enforcement.

Response: The Stony Point Site is located between the Stony Point and Northwest Cotati “Conservation and Preserve Areas” as identified by the Santa Rosa Plain Conservation Strategy. The Stony Point Site is not located within “Urban Growth Boundaries” as identified by the Santa Rosa Plain Conservation Strategy. As discussed in **Appendix J** of the DEIS, Stony Point Road may be considered a barrier to east-west CTS movement. Development of Alternatives A or E would not be likely to impact migration and dispersal between the Stony Point and Northwest Cotati “Conservation and Preserve Areas.” Additionally, the Laguna de Santa Rosa and Rohnert Park Expressway may be considered barriers preventing CTS from moving south from the Wilfred and Stony Point Sites. **Section 4.5** of the DEIS acknowledges that impacts to CTS may occur and provides mitigation accordingly. Enforceability of mitigation measures is discussed in the response to comment 2.16.3.

2.7.15 SECTION 7 CONSULTATION

Summary of Comments: Sonoma County (G-34) stated that the DEIS should disclose if the proposed development has undergone a programmatic Section 7 consultation with the US Fish and Wildlife Service. If so, the County stated that the results should be included in the FEIS. If not, the County stated that page 5-19 in **Section 5**, Mitigation Measures, should be revised accordingly.

Response: Section 7 consultation is required for the project and is underway (**Appendix JJ** of the FEIS). The FEIS has been revised to reflect this. Final mitigation ratios for impacts to rare plants will be determined during the Section 7 consultation process and are, therefore, not yet available. Mitigation ratios have been established in a programmatic Section 7 consultation for U.S. Army Corps of Engineers 404 permitted projects that may affect four endangered plant species of the Santa Rosa Plain. The USFWS is expected to require similar mitigation ratios for the programmatic consultation and the Proposed Project. Measure C on page 5-19 of the DEIS uses mitigation ratios from the programmatic consultation as guidelines for mitigation ratios that are expected to apply to the Proposed Project. Measure C has been updated in the FEIS to clarify this point.

The Section 7 consultation will also include an evaluation of the project with respect to potential impacts on CTS for Alternatives A and H. The USFWS has indicated that they would amend the previous Biological Opinion for the site as the means for obtaining the requisite take authorization related to CTS. The applicant has proposed mitigation ratios as recommended in the May 16, 2006 agency interim guidance related to mitigation of CTS in the Santa Rosa Plain.

2.7.16 WATERS OF THE U.S. – POTENTIAL EFFECTS TO PLANTS WITHIN WASTEWATER DRAINAGES

Summary of Comments: Sonoma County (G-34) stated that the analysis regarding Alternative C's potential impacts on plant species within wastewater drainage structures was not sufficient. According to the commenter, "This sentence does not provide sufficient detail or analysis to support the EIS's conclusion that the alternative would benefit these species."

Response: The sentence in question (under the heading, "Potential Effects to Drainages" on page 4.5-20 of the DEIS) is intended to refer the reader to analysis performed for Alternative B (under the heading, "Potential Effects to Drainages" on page 4.5-16 of the DEIS), which is more substantial.

2.7.17 IMPACTS TO MIGRATORY BIRD HABITAT

Summary of Comments: Sonoma County (G-34) stated that the proposed mitigation measures on page 5-24 of the DEIS would not reduce Alternative F's impacts to active migratory bird nests to a less than significant level. The County stated that the DEIS should be revised to explain why mitigation does not require preconstruction surveys for all nesting birds on the Migratory Bird Treaty Act (MBTA) list or require other measures to avoid impacts to active nests. Furthermore, the County

commented that mitigation measure E on page 5-22 would relocate active nests, however, points out that mitigation referenced in this measure, "...list only preconstruction survey's and avoidance guidelines (i.e., timing window or appropriate spatial buffers, as illustrated in F), not nest relocation." Moreover, the County noted that the proposed mitigation is inconsistent with measure F on page 5-24, and that both temporal and spatial restrictions should be included for all alternatives.

Chip Worthington of Stop the Casino 101 (B-30) stated that he has documented migratory birds on the potential project sites. According to the commenter, Executive Order 13186 requires that a federal agency taking an action likely to negatively affect migratory bird populations must issue an MOU with USFWS to evaluate effects on migratory birds and minimize the take of species of concern. The commenter stated that the DEIS fails to apply the MOU adopted in compliance with Executive Order 13186, and fails "to maintain internal consistency within the EIS relative to addressing migratory bird impacts." According to the commenter, the DEIS offers no mitigation specific to migratory birds.

Lloyd Iversen (I-168) and Loretta Smith (I-166) expressed concern regarding impacts to birds on the Pacific Flyway. Iversen asked, "How many different types of birds on the Pacific Flyway land on this site and near this site and are there ever any instances in which they might depend on this site in some way to rest, feed, mate, or flourish?"; and stated that many birds use the same nests year after year, and harming the Pacific Flyway would "disrupt the macro genetic cycle of gene pool enrichment that keeps thousands of animal communities healthy." The commenter suggested that "all documents from the Convention on the Conservation of Migratory Species September 18-24, 2002, as well as subsequent meeting documents and policies;" and *How do Birds Find Their Way*, by Roma Gans, be reviewed. Smith (I-166) asked, "How will you prevent the loss of area of the Pacific Flyway Migration Corridor? How will you protect the feeding, nesting and resting sites?"

Response: As described in **Appendix J** and **Appendix K** to the DEIS, biological surveys were conducted on the Wilfred, Stony Point, and Lakeville Sites. A list of animal species that were observed on, or are expected to occur on, the Wilfred and Stony Point Sites, is presented in Attachment 2 to **Appendix J** to the DEIS. A list of animal species that were observed on, or are expected to occur on, the Lakeville Site, is presented in Table 3 in **Appendix K** to the DEIS.

In Measure F on page 5-22 (**Section 5.2.4**), the DEIS does require preconstruction surveys for birds (including migratory birds) during the nesting season, as well as buffers to avoid any active bird nest that is found. Measure F on page 5-22 applies to all alternatives, including Alternative F. Temporal and spatial buffers are proposed for all nesting birds. For burrowing owls, the possibility of passive relocation prior to the nesting season is described and proposed as mitigation and as warranted.

Measure F on page 5-24 of the DEIS establishes burrowing owl mitigation that is inconsistent with mitigation already established in Measure E on page 5-22. Measure F on page 5-24 has been removed from the FEIS.

Executive Order 13186 requires each Federal agency to develop a policy to “promote the conservation of migratory bird populations.” Consistent with the intent of the executive order, Measures E and F on page 5-22 of the DEIS offers mitigation for migratory, as well as other, birds. For further discussion on migratory bird mitigation, see Response to Comment 2.7.6.

2.7.18 INDIRECT EFFECTS TO BIOLOGICAL RESOURCES

Summary of Comments: Sonoma County (G-34) commented that the proposed water supply pipeline and planned road improvements do not adequately address potential impacts to CTS and sensitive plant species in roadside ditches. Moreover, the County stated that road improvements would require the filling of existing roadside ditches, which would likely be considered CTS habitat. According to the commenter, “These areas should be included in any biological assessments and mitigation, as the disruption of these areas is a direct consequence of the Proposed Project.” The County stated that the DEIS should identify areas for mitigation and confirm their availability. Furthermore, the County commented that, “Generally, the studies, mitigations, and permits would have to be obtained before right-of-way could be acquired,” and that the DEIS should be revised to discuss these factors and appropriately analyze all potential impacts. Additionally, the commenter stated that the DEIS should acknowledge that, “...environmental studies, mitigation determinations, and permits would be required before right-of-way could be acquired, and thus could add years to the project’s construction schedule.

Lloyd Iversen (I-168) posed the following question, “What species of plants and animals might be affected by a reduction of ground water or stream water?” and expressed concern that decreased groundwater levels could endanger riparian corridors and associated species.

Response: Precise determination of impacts to waters of the U.S., CTS, and the Federal endangered plants from the road improvements is not necessary in the EIS because separate environmental documentation will be required for each road improvement project. Whenever Federal funding is involved or a Department of the Army or other federal agency permit is required for any road or pipeline construction project with a potential to affect federally-listed species, a separate Section 7 consultation is required. Specific mitigation measures covering both CTS and Federal endangered plants would be developed as part of the separate Section 7 consultation and would be consistent with the Santa Rosa Plain Conservation Strategy (SRPCS; USFWS, 2005, Santa Rosa Plain Conservation Strategy, Sacramento, CA, December 1, 2005; available online at http://www.fws.gov/sacramento/es/santa_rosa_conservation.html).

Impacts to traffic will be mitigated by funding road improvements to specific intersections and stretches of roadway, as described in **Section 5.2.7** of the DEIS. In all cases, the improvements will be done by the appropriate lead agency (city, county, state), not the Tribe, and are therefore not addressed in detail within the EIS. In addition, in most cases this level of analysis is not possible. The road improvement projects discussed in Section 5.0 would be fully or partially funded by the Tribe pursuant to the ROD. The design and construction of these projects, however, must be specifically approved by the agency with jurisdiction over the roadway in questions, at which time the design of the road improvements and the specific environmental impacts can be determined.

Impacts from the improvements are, furthermore, indirect, rather than direct, impacts. Improvements to intersections and stretches of roadway may, in some areas, result in impacts to roadside ditches. These roadside ditches are subject to review by USACE and may be determined jurisdictional waters of the U.S. Portions of these roadside ditches provide breeding habitat for CTS. All impacts to waters of the U.S. and CTS must be addressed in appropriate CEQA or NEPA processes, as required based on the final plans for each project. Note that the Wilfred site currently has access to Wilfred Avenue. Contributions to roadway improvement projects are identified in Section 5.0 to mitigate impacts to traffic congestion and are not tied to the project's construction schedule.

The FEIS has been amended to include a discussion of indirect impacts resulting from the implementation of mitigation measures for impacts to traffic and wastewater. Per a request from USACE, a preliminary analysis of the indirect impacts to waters of the U.S. resulting from road improvements was performed (**Section 4.11** of the FEIS). The analysis showed that many of the road improvements were likely to result in impacts to waters of the U.S. Impacts to waters of the U.S. will require a Department of the Army permit and wetland mitigation at a ratio of no less than 1:1 (acres of impact : acres of mitigation). For impacts in areas that are not tribal lands, 401 water quality certification from the Regional Water Quality Control Board and perhaps a Streambed Alteration Agreement from the CDFG will be necessary. Impacts to waters of the U.S. will, furthermore, create a Federal nexus requiring that issues associated with federally-listed species be evaluated through a Section 7 consultation with USFWS. Precise impacts to CTS will be addressed in the consultation for each road improvement project and mitigation requirements will be identified consistent with the SRPCS.

Section 2 of the DEIS describes on-site and off-site wastewater disposal options for Alternatives A – E and Alternative H. If the off-site wastewater disposal is chosen, wastewater will be conveyed to the Laguna Subregional Wastewater Treatment Plant (WWTP). Conveyance from the Wilfred Site to the Laguna WWTP, which is located approximately two miles away, could occur via one of three methods depicted in **Figure 2-5**. These methods for connecting to the sewer system include:

- Connecting to the City of Rohnert Park gravity sewer system. The Rohnert Park Effluent Pump Station would pump sanitary sewage from the Wilfred Site through a new 30-inch diameter force main or an existing 24-inch diameter force main to the Laguna WWTP.
- Pump sewage directly into the City's sewer force main, bypassing the gravity collection system and existing effluent pump station. Sewage would be conveyed to the Laguna WWTP as described above. Although technically possible, the City has indicated that this would not be permitted.
- Construction of an on-site pump station and a parallel force main from the Wilfred Site to the Laguna WWTP.

A Mitigated Negative Declaration (MND), Biological Assessment, and wetland delineation were prepared by the City of Rohnert Park prior to construction of a new pipeline from the Rohnert Park Effluent Pump Station to the Laguna Subregional WWTP (Rohnert Park Sewer Interceptor/Outfall Project). The Laguna Subregional WWTP is located approximately two miles west of the Wilfred Site, and the pipeline route passes through the Wilfred Site. Under Alternatives A – E and Alternative H, if off-site wastewater disposal is chosen, the wastewater pipeline route will be parallel to the City of Rohnert Park's pipeline. Impacts to biological resources will be similar to those identified in the City's MND for the City's pipeline. The City's MND and supporting documentation concluded that temporary impacts to roadside ditches would occur due to the City's project; therefore, similar impacts would be expected from a pipeline constructed as part of the off-site wastewater disposal option. The MND's supporting documentation concluded that roadside ditches west of the Bellevue-Wilfred Channel could provide CTS breeding habitat during years of above average precipitation; however, the MND also concluded that the project is not likely to jeopardize the continued existence of the species. The MND (Winzler and Kelly, 2004, Draft Initial Study/Proposed Negative Declaration for the Rohnert Park Sewer Interceptor/Outfall Project, Santa Rosa, December 23, 2004) is incorporated by reference in the EIS to address these indirect impacts.

Similar to road improvements, off-site wastewater disposal option will require separate environmental documentation. Impacts to waters of the U.S. are anticipated based on comparisons to the MND performed by the City of Rohnert Park for a separate pipeline, and will require a Department of the Army permit and wetland mitigation at a ratio consistent with the current practice of the USACE. In areas that are not tribal lands, 401 water quality certification from the RWQCB and perhaps a Streambed Alteration Agreement from CDFG will be necessary. Impacts to waters of the U.S. will create a Federal nexus requiring that issues associated with federally-listed species be evaluated through a Section 7 consultation with USFWS. Precise impacts to CTS will be addressed and mitigation requirements will be identified in consultation with USFWS consistent with the SRPCS.

2.7.19 MITIGATION MEASURES FOR ALTERNATIVE F

Summary of Comments: Sonoma County (G-34) commented that mitigation measure D on page 5-24 should be revised to, "...specifically require surveys for known silverspot host plants, *Viola* sp."

Response: Surveys were conducted at the Lakeville Site for the Myrtle's silverspot butterfly (*Speyeria zerene myrtleae*) and Callippe silverspot butterfly (*Speyeria callippe callippe*) in 2003, as discussed in the Biological Assessment for the Lakeville Site (**Appendix J** to the DEIS). Neither the Myrtle's silverspot butterfly nor the Callippe silverspot butterfly was considered to have potential to occur at the Wilfred or Stony Point Sites.

2.7.20 BIOLOGICAL SURVEY METHODS

Summary of Comments: Lloyd Iversen (I-168) requested that "animals be counted so as not to destroy them," and asked, "Could changes in population levels be linked in any way to the methods of counting and land management recently employed on the site?"

Response: As described in **Section 3.5**, **Appendix J**, and **Appendix K** to the DEIS, biological surveys were conducted on the Wilfred and Lakeville Sites. During these surveys, plant and animal species were identified. Attachments 2 and 4 to **Appendix J** to the DEIS contain lists of plant species observed on the Wilfred Site. Attachment 2 to **Appendix J** to the DEIS contains a list of animal species observed or expected to utilize the Wilfred Site. Tables 1 to 5 of **Appendix K** to the DEIS contain lists of plants observed on the Lakeville Site. Table 6 of **Appendix K** to the DEIS contains a list of animal species observed or expected to utilize the Lakeville Site. Surveys performed at the alternative sites were non-invasive and are not believed to have affected plant or animal population levels. Land management in general, affects plant and animal populations; however, in-depth analysis of the effects of previous land management at the alternative sites was beyond the scope of this report. Impacts to special-status plant and animal species are discussed in **Section 4.5** of the DEIS. Mitigation for impacts to special-status species from the project alternatives is described in **Section 5.2.4** of the DEIS.

As described in **Appendix J** to the DEIS, California tiger salamander surveys were performed on the Wilfred Site. Attachments 4D and 4F to **Appendix J** to the DEIS are reports of California tiger salamander surveys on the Wilfred Site. Standard methods were used for California tiger salamander surveys, as described in the survey reports, so that no CTS was harmed by the surveys.

2.7.21 BURROWING OWL

Summary of Comments; Sonoma County (G-34) commented that the DEIS references and relies upon a 1995 "Staff Report on Burrowing Owl Mitigation" which according to the commenter, does

not appear to have been included in the text or appendices of the DEIS. The County stated that the DEIS should be revised and recirculated to include this report.

Sonoma County also noted that the DEIS indicated that the Tribe would create 'biologically unsuitable' burrows for burrowing owls. Therefore, the commenter stated that the DEIS should clarify this language.

Response: The 1995 "Staff Report on Burrowing Owl Mitigation" is cited in **Section 9.0** of the DEIS and is available online at:

<http://baydeltaoffice.water.ca.gov/sdip/documents/asip/doc/AppF.pdf>.

Measure E on page 5-22 of the DEIS states that passive relocation will be provided for each burrow that is rendered biologically unsuitable. The language has been clarified in the FEIS.

2.8 CULTURAL RESOURCES

2.8.1 AREA OF POTENTIAL EFFECT (APE)

Summary of Comments: The USEPA (G-29) submitted a comment regarding the definition of the area of potential effect (APE) in the DEIS. According to the commenter, the definition of APE on page 3.6-1 is, "...inconsistent with the National Historic Preservation Act, which states that the 'Area of potential effects means the geographic area or areas within which an undertaking may directly or indirectly cause alterations in the character or use of historic properties, if any such properties exist.'" The commenter requested that the definition for architectural APE in the FEIS should clarify how the cultural and paleontological resource APE is consistent with that of the National Historic Preservation Act.

Response: Neither the NHPA, nor its implementing regulations found at 36 CFR 800 provide explicit guidance on the definition of an undertaking's area of potential effect (APE). The implementing regulations define the APE as "the geographic area or areas within which an undertaking may cause changes in the character or use of historic properties, if any such properties exist. The area of potential effects is influenced by the scale and nature of an undertaking and may be different for different kinds of effects caused by the undertaking (36 CFR 800.16[d])." As such, the APE is defined on a case-by-case basis, in consultation with resource experts, the lead agency, and the State Historic Preservation Officer (SHPO). In the case of the Proposed Project, the archaeological and architectural APEs were defined in consultation between the National Indian Gaming Commission, SHPO, and resource experts.

The archaeological and architectural APEs were established using standard professional methods. As stated on page 3.6-1, the archaeological APE for the Proposed Project consists of the construction

footprint for each alternative, which includes all areas of construction, equipment storage, and lay-down areas. All other areas within the confines of the site boundaries are considered areas of indirect effect and are outside the APE. It was determined that parcels adjacent to, and one parcel beyond, would be sufficient in determining adverse effects on architectural historic properties.

2.8.2 IMPACTS TO CULTURAL RESOURCES FROM CONSTRUCTION ACTIVITIES

Summary of Comments: Marilee Montgomery (B-33) expressed concerns regarding the potential for project construction to encounter previously unknown cultural resources.

Response: In **Section 5.2.5**, the following mitigation measures are recommended for all of the alternatives:

- A. To avoid potential impacts to previously unknown cultural resources, including subsurface resources, the Tribe shall include the following requirement in construction contract specifications for the project:

In the event of any inadvertent discovery of archaeological resources during construction-related earth-moving activities, all such finds shall be subject to Section 106 of the National Historic Preservation Act (NHPA) as amended (16 U.S.C. 470) and its implementing regulations (36 CFR 800). Once the land has been taken into trust for the Tribe, the inadvertent discovery of archaeological resources is also subject to the Native American Graves Protection and Repatriation Act (NAGPRA) (25 USC 3001 et seq.) and the Archaeological Resources Protection Act (ARPA) of 1979 (16 U.S.C. 470 aa-mm). Specifically, procedures for post review discoveries without prior planning pursuant to 36 CFR 800.13 shall be followed. The following shall apply to the inadvertent discovery of both archaeological or paleontological resources: All work within 50 feet of the find shall be halted until a professional archaeologist, or paleontologist as appropriate, can assess the significance of the find. If any find is determined to be significant by the archaeologist, or the paleontologist, then representatives of the Tribe and BIA shall meet with the archaeologist, or paleontologist, to determine the appropriate course of action.

If human remains are discovered during ground-disturbing activities on Tribal lands, pursuant to NAGPRA, Section 10.4 Inadvertent Discoveries, the County coroner, the Tribal Official, and representatives from the BIA and NIGC shall be contacted immediately. No further disturbance shall occur until the County coroner, the Tribal Official, and the BIA and NIGC representatives have made the necessary findings as to the origin and disposition.

As stated in the DEIS, implementation of the above mitigation will reduce cultural resources and paleontological impacts to a less than significant level.

2.8.3 DRY CREEK RANCHERIA COMMENTS REGARDING THE CULTURAL RESOURCES ANALYSIS

Summary of Comments: Dry Creek Rancheria (G-33) expressed concerns regarding the adequacy of the cultural resource survey review provided in **Section 3.6** of the DEIS, specifically, the cultural and historical status of the proposed alternative sites. Moreover, the Rancheria stated that in fact, they were the original residents of Sonoma County, thus, making it unlikely that "...no tribe has significant links to the proposed Project locations." The commenter also stated that the ethno-historic and ethnographic studies of the proposed Project and alternative sites be undertaken in order to assess and document the potential impact that the proposed Project will have on the Tribes' historical religious and cultural resources.

Furthermore, the commenter stated that, "The analysis that has been included in the DEIS has only briefly and cursorily surveyed the archaeological and related physiographic/environmental features of the site." According to the commenter, the Tribe believes that, "...such studies are incomplete and may not have properly identified or described the cultural resources that may be present, or their Tribal meaning and uses."

Therefore, the Dry Creek Rancheria requested that the DEIS include the following in a revised cultural resource survey review:

- Identify knowledgeable tribal elders to assist in a comprehensive ethnographic and ethno-historic research Project;
- Contain a more thorough review and critical evaluation of all prior ethnographic and ethno-historic information sources;
- Further seek to actually identify and locate culturally sensitive sites and resources within and adjacent to the proposed Project locations to include information on their use, function, and meaning for the tribes; and,
- Suggest ways in which this information can be utilized to minimize risk to cultural sites and resources in Project administration.

Response: As the Lead Federal Agency for purposes of complying with Section 106 of the National Historic Preservation Act (NHPA) as amended, the NIGC is required to take into account the effects of its undertakings on historic and cultural resources and to afford the Advisory Council on Historic Preservation an opportunity to comment. The DEIS squarely addresses the issue of protecting cultural and paleontological resources and presents adequate mitigation to ensure against any impacts to Native American cultural resources. See DEIS, **Sections 3.6, 4.6.1, and 5.2.5**. At least five comprehensive cultural resource surveys were prepared by Tom Origer & Associates (Origer et al.

2003a, 2003b, 2005, 2006, 2007) encompassing all of the land contemplated under the project alternatives, including the Wilfred Site.

Contrary to the characterization presented in the comment letter, the DEIS does not state, "...no tribe has significant links to the proposed Project locations." The DEIS acknowledges that Sonoma County was occupied by Coast Miwok and Pomo people at the time of Euroamerican contact. The southern portion of the county, from somewhat north of Cotati to San Pablo Bay, has been documented by Barrett (1908), Kelly (1978), and Kroeber (1925) as being inhabited by the Coast Miwok.

The Federated Indians of Graton Rancheria is a federation of both Southern Pomo and Coast Miwok people. Ancestors of the Tribe, the Coast Miwok and Southern Pomo people, lived for thousands of years on lands around the Wilfred Site. For example, the Wilfred site is located only two miles away from the City of Rohnert Park adjacent to the city of Cotati. The City of Cotati derived its name from a Coast Miwok village, Kota'ti, which was located nearby. The original Graton Rancheria itself was located approximately nine-miles away from the Wilfred site near Sebastopol, California. By way of comparison, Dry Creek Rancheria is located approximately twenty-two miles away from the Wilfred site. The Lakeville site is clearly within the Coast Miwok area, while the Wilfred and Stony Point locations are situated near a border area between the two groups.

The archaeological studies completed for each of the alternatives included the entire properties under consideration. Archival research, surface survey, and limited subsurface inspections were completed. This survey work meets standard archaeological practice for identification of historic properties. The DEIS confirms that the project site is in a region that was traditionally controlled by the Coast Miwok Indians, with Rohnert Park itself near a traditional language boundary shared with the Southern Pomo. See DEIS, **Section 3.6.2**. Under **Section 4.6.1**, the DEIS confirms that development at the Wilfred Site would not adversely affect any known historic properties. **Section 5.2.5** of the DEIS also outlines in detail the mitigation measures planned for the Wilfred Site in order to avoid any impacts to previously unknown cultural resources, including subsurface resources. It is reasonably anticipated that implementation of these mitigation measures will reduce impacts to cultural resources to a less than significant level.

In terms of consultation with Native Americans, including other Indian tribes, the Native American Heritage Commission (NAHC) has confirmed that no record of sacred lands exist within or near the project area. The Cultural Committee for the Dry Creek Rancheria of Pomo Indians was contacted via letter on September 9, 2003 regarding the Proposed Project. The letter requested information concerning sacred lands or other cultural sites that may be impacted by project activities. A follow-up telephone call was placed to the Cultural Committee Chairperson on September 16, 2003. In the course of the telephone conversation the Committee Chair stated that the consultation letter had been

received and that “the [Committee] would respond if they have comments.” No response was received from the Committee, tribal elders, or anyone functioning in an official capacity on behalf of the Dry Creek Rancheria of Pomo Indians. Refer to **Appendix M** of the DEIS for the record of consultation.

Also, please see Responses to Comments 2.2.2, 2.2.6, 2.2.8, 2.2.10, 2.2.11, and 2.8.4.

2.8.4 ABORIGINAL TERRITORY

Summary of Comments: The Concerned Citizens of Rohnert Park (B-22) reference the use of the term “aboriginal territory” in **Section 2** of the DEIS. The commenter states that this term is not defined and is not consistent with the Cultural Resources Reports in **Appendix M**. The commenter states that according to **Appendix M** the presence of Native American cultural resources has not been identified in the immediate project area. The commenter states that the DEIS should be revised to include definition of aboriginal territory and support for the term when used.

The Concerned Citizens (B-22) further comment that the statement in DEIS **Section 3.6** that the “sites are in a region that ‘was traditionally controlled by the Coast Miwok, through Rohnert Park’” is unsubstantiated. The commenter suggests that the DEIS be revised “to remove or substantiate this information.”

The Concerned Citizens (B-22) also commented that historical presence of the Tribe is not documented in the description in the General Setting portion of DEIS **Section 3.6** of the history of Indian presence within the general setting for the Wilfred site. The commenter suggests that the DEIS “be revised to include historical documentation of the Graton Rancheria Tribe.”

Response: Ancestors of the Tribe, the Coast Miwok and Southern Pomo people, lived for thousands of years on lands throughout Marin and southern Sonoma counties, including the area in and around the Wilfred site. In fact, the City of Cotati in Sonoma County derives its name from the name from a nearby Coast Miwok village, Kota’ti. The Wilfred site is located approximately two-miles from Cotati. The historical presence of the Tribe and the connections of its ancestors to the lands in question are well documented.

Use of the term “aboriginal territory” in the DEIS is consistent with standard, accepted use in the English language. The term is consistent with the cultural resources reports in **Appendix M**, as well as the cultural section of the DEIS, which identify the project area as being located within a region that was “controlled by the Coast Miwok (DEIS 3.6-4)” at the time of Euroamerican contact. Refer to Barrett (1908), Kelly (1978), and Milliken (1995) for further discussion of the aboriginal territory of the Coast Miwok and their neighbors.

Section 3.6 of the FEIS was amended to include four references (Barrett 1908, Kroeber 1925, Kelly 1978, and Milliken 1995) substantiating the fact that the “alternative project sites are in a region that was traditionally controlled by the Coast Miwok, though Rohnert Park was near a traditional language boundary shared with the Southern Pomo (DEIS 3.6-4).”

By an act of Congress, the Graton Rancheria Restoration Act, the Secretary of the Interior was directed to accept into trust “any real property located in Marin or Sonoma County, California...” upon application by the Tribe (25 U.S.C. § 1405(a)). Thus, while **Section 3.6** of the DEIS makes no statements of fact concerning the traditional territory of the Graton Rancheria, under the Restoration Act the Tribe is entitled to select land within the counties specifically mentioned by Congress.

2.9 SOCIOECONOMICS

2.9.1 PROSTITUTION

Summary of Comments: Robert and Arilla Aherne (I-5) expressed concerns regarding increased prostitution in Rohnert Park due to the proposed casino’s location near an area known for high incidences of prostitution. The commenter attached an article from The Press Democrat published on October 29, 2005, which reported an incident where The Llano Motel was raided due to numerous reports of the management providing rooms for the prostitutes, and inflating room prices. The managers of the motel were later sued. The letter expressed concerns that a casino on the Wilfred site, would only lead to an increase in the demand for prostitutes due to the nature of the facility, leading to prostitution in the communities surrounding the proposed casino. Other individuals expressed concerns that the casino would increase prostitution in the area (I-158, I-159).

Lloyd Iversen (I-168) asked, “What specifically has been the record of child prostitution at any Station Casino project and what are the regulations for keeping those types of records? ... How could the Casino Project mitigate or prevent child prostitution? ... What are all the statistics, records, or accounts of HIV in relation to prostitution, child prostitution, and any relationship to casino activities?”

Response: **Section 4.7.1** and **Appendix N** of the DEIS analyze the impacts to crime and other social ailments from having a casino located in the local area. While the DEIS does not address impacts relating to prostitution or child prostitution specifically, the analysis included a thorough review of literature covering crimes and social issues related to casinos, in general. This includes both prostitution and child prostitution. Prostitution is not addressed specifically in the DEIS because casino impact researchers did not find a remarkable relationship between casinos and prostitution such that it should be addressed separately from other types of crimes. Based on the analysis in the DEIS, as with other types of crimes, the Proposed Project is not likely to significantly impact local prostitution or child prostitution. However, it should be noted that since prostitution is illegal, any

impacts to prostitution would be included in the overall crime rate impacts and would be addressed in crime-related mitigations.

2.9.2 IMPACTS TO CRIME

Summary of Comments: Many commenters, including B-21, B-33, I-105, I-108, I-146, I-152, I-156, I-158, I-159, S-90, and S-108 were concerned about the proposed casino project increasing local crime. Commenter I-166 inquired about an analysis regarding, identity theft, embezzlement, car vandalism, shoplifting, purse snatching, and rape. Furthermore, the commenter stated that, Earl Gringols is referenced in **Appendix N**, however, according to the commenter, Gringols has also claimed that the cost/benefit impacts to a community with a casino is a \$3 cost to every \$1 benefit.

Marilee Montgomery (B-33) requested that her previous comment letter from October 2005 be reviewed and the information she had previously requested regarding impacts to crime rates be included in the FEIS.

The Citizens Against Roblar Rock Quarry (CARRQ) group (B-23) submitted a comment expressing concerns of the impacts on crime rates from the proposed casino development. The commenter referred to a study conducted by California State University, Sacramento in 2004 which, "...found that those counties with a greater casino presence (more slot machines and/or more gambling tables) had much higher crime rates. Aggravated assaults and violent crime were two categories of crime that were strongly related to casino presence." In addition, the East Bay Coalition Against Urban Casinos (B-35) commented that the DEIS states that the impacts on crime and law enforcement would be less than significant. However, according to the commenter, crime statistics from collected from a San Pablo casino indicate that crime rates increased by 300%. The commenter stated that this could be expected for Rohnert Park as well.

Pamela Miller (I-167 and S-30) expressed concerns about "drug dealing, theft (auto, personal, and residential), physical violence, child abuse/abandonment, prostitution, drunk driving, and vagrancy." Miller posed the following questions:

- How will you prevent the serving of alcohol to minors in a 'college town'?
- How will you prevent increased numbers of drunk drivers (casino patrons) from driving through our neighborhoods?
- How will you prevent vagrants (associated with this type of development) or other casino patrons, 'down on their luck', from swarming into our neighborhoods looking for a place to spend the night, or something to steal and sell?
- How will you prevent residential burglaries associated with casinos in neighborhoods?
- Who will compensate local homeowners for the loss of property values due to their homes now being located in an increased crime area?

Long (I-177 and S-26) questioned how the Tribe would “prevent the predictable increase in car thefts...at our residences and shopping centers?”

The City of Cotati (G-31) expressed concern that crime impacts may affect neighboring cities, and that mitigation agreements exist only with the City of Rohnert Park and the County of Sonoma.

Sonoma County (G-34) commented that the conclusion in the DEIS that there is no definitive link between casinos and crime rates, is incomplete because the analysis does not include an evaluation of the, “...level of law enforcement in each jurisdiction.” Therefore, the commenter stated that the DEIS should be revised and recirculated to further analyze and disclose the role of law enforcement in preventing or mitigating criminal activities in each of these jurisdictions. Moreover, the commenter stated that the DEIS failed to evaluate the impact of the proposed development, given that it would be the, “...largest casino of all included in comparison.”

The County also commented that the DEIS should acknowledge that the Proposed Project would cause significant adverse impacts to crime. According to the commenter, “The Tribe has already agreed to mitigate impacts in the City by contributing to the construction of a public safety building, purchase of public safety vehicles, and establishment of a neighborhood enforcement team.” Furthermore, the commenter stated that it appears that the Tribe, City, and County all believe the proposed development would create impacts to crime that are sufficient to warrant mitigation. The commenter also stated that the DEIS should concur in this conclusion, and identify additional mitigation measures for crime outside of Rohnert Park.

Thomas Scott (I-98) questioned the study on the criminal impacts of the Proposed Project. He asked that a new study compare the proposed casino to others of similar size nationwide Scott also asked that an analysis of studies on casino gambling be included in the final report. His suggested the following guidelines:

- Name the major studies of casino crime;
- In what form was each major study published;
- When was the study published;
- What was the conclusion of each major study;
- What are the credentials of the authors of each study;
- Who funded each study;
- Was each study specifically challenged or refuted by a subsequent study with an opposing view;
- What was the methodology of each study;
- Were there different conclusions based on methodology; and,

- How many of the studies were sponsored by the gambling industry.

Lloyd Iversen (I-168) expressed concern about child endangerment, theft, embezzlement, organized crime, money laundering, and drug trafficking that reportedly takes place at casinos, and what the cost of these crimes to the community would be.

According to the commenter, Louisiana district attorneys cited gambling as a factor in rising crime rates. The commenter asked about the opinion of Sonoma County district attorneys and judges, and whether they have been properly informed about the casino project and its potential impacts.

According to the commenter, U.S. News and World Report reported, “Crime in casino cities is roughly 84% higher than the national average;” another report determined that “counties with casinos have crime rates 8 percent higher on average than [sic] counties without casinos;” and another article reported, “The crime rate in gambling communities is nearly double the national average.”

According to the commenter, a study showed that over 40 percent of Gamblers Anonymous members admit to having committed crime to support their habit; an expert claimed, “at least two-thirds of compulsive gamblers turn to crime to finance their addiction;” another study found that 62 percent of gamblers in treatment had “committed illegal acts as a result of their gambling;” and yet another study reported that 57 percent of Gamblers Anonymous members admitted to stealing to finance their gambling, stealing \$135,000.00 on average.

The commenter stated that the Federal Bureau of Investigation offers “training courses to Indian Country Law Enforcement Personnel: Crime Scene Management/Crime Scene Processing, Child Sexual Abuse Physical Abuse Training, Child Homicide, and others,” and questioned how it became necessary “for a community near a casino to Indian Gaming Investigations system and go so far as to hold regular classes on such subjects as Child Sexual Abuse, and other related classes.” The commenter elaborated further, asking “What were all of the cases and scenarios that led to the need for holding regular Child Sexual Abuse classes in conjunction with a community with a casino?” The commenter also asked, “Why doesn’t the Santa Rosa JC hold these types of casino crime classes?” and “What types of Child Sexual Abuse classes does the Casino Project recommend or intend to sponsor?” The commenter also asked, “Might over crowding and the lack of affordable housing give rise to crime rates and crime against children? If so, how? If not, why?”

Other questions posed by the commenter include, “Can the Casino Project guarantee that it can prevent and mitigate theft associated with casinos? ... What specific types of theft might increase in the local community and what will be the dollar costs of those thefts?” The commenter inquired about the potential for embezzlement to occur because of the casino project; questioned if Station

Casinos has ever been tied to an embezzlement case in the past; and asked how the effects of embezzlement would be mitigated.

The commenter asked, “What are all of the experiences that the Casino Project and Station Casinos has had and is likely to have with organized crime?” and “How will the Casino Project mitigate organized crime?”

The commenter asked, “What are all of the specific incidents of money laundering that have already happened at other Station Casino facilities?” and questioned how the casino would prevent or mitigate money laundering, particularly involving terrorist groups. The commenter reported that a Nevada casino recently was fined \$5 million for ignoring money-laundering reporting rules, and asked, “What are the money laundering reporting rules, and why has the local community not received education and information by the Casino Project in regards to this important information? What are all the things the Casino Project can do to support the intent of those money laundering reporting rules and follow them diligently?”

Commenters S-37, S-50, and S-77 refuted the indication that the proposed development would increase crime rates, S-37 and S-77 compared the impacts to crime from the proposed development to alternative commercial uses that, according to the commenter, would generate more impacts to crime. Whereas commenters S-50 and S-77 cited personal knowledge that casinos are generally safer because of security enforcement and staffing, commenter S-77 cited contributions presented in the Tribe’s MOU with Rohnert Park that would reduce impacts.

Response: Section 4.7.1 and Appendix N of the DEIS analyze the impacts to crime from having a casino located in the local area. As the DEIS specifies, there will be impacts to crime when the casino opens and over time. As noted in the DEIS and expanded upon in the FEIS, there is little agreement about the level of increased crime or the amount that can be attributed to a new casino (particularly in areas such as the Sonoma County area, where 2 existing casinos are already established).

Regarding Comment B-33, please see Response to Comment 2.1.2.

Although the interviews with other service providers in communities with comparable sized casinos (comparable by number of slot machines) were inconclusive, the literature review clearly shows that the casino will result in additional local crime. As economic analyses employ scientific methods of inference, they provide a better indication of the impacts than interviews with local service providers. However, as law enforcement and arrest data did not exist at the county level, the studies reviewed did not account for the local level of law enforcement, making it impractical to examine this particular aspect of the issue.

As additional crime will result from the casino, the MOU specifies that the Tribe will contribute funding to local law enforcement agencies to combat additional crime that occurs in the local area. According to **Section 3.9-14** of the DEIS, as of September 2006, the Tribe donated approximately \$1.3 million to local law enforcement. These funds resulted in 458 arrests and should mitigate the impacts to increased crime resulting from the casino, including local increases in car, home, and other types of theft.

However, there may be additional crimes from problem and pathological gamblers that live in neighboring communities, such as Cotati. **Appendix N** and the **FEIS** have been updated to recommend that the Tribe provide mitigation to local law enforcement agencies in the towns and communities within a ten-mile radius of the casino. **Section 4.7.1** of the DEIS shows that within ten miles of a casino, the problem and pathological gambling population will double. **Appendix N** recommends that the Tribe negotiate with the County and cities to mitigate the additional crime impacts from problem and pathological gamblers within these communities.

While the analysis does not specifically address the impacts to child abuse of a physical or sexual nature, the analysis does examine both the impacts to crime and the impacts to social issues such as child abuse and neglect. As these issues were relatively minor or missing from the literature review discussion in the DEIS, Appendix N indicates that casino impact researchers did not find a remarkable relationship between casinos and child abuse. Based on the analysis in the DEIS, as with other types of crimes, the Proposed Project is not likely to significantly impact local child abuse. However, it should be noted that since child abuse is illegal, any impacts would be included in the overall crime rate impacts and would be addressed in crime-related and social-related mitigations.

In regards to the specific studies used in **Appendix N** and the DEIS, subconsultant Bay Area Economics (BAE) used a variety of studies in the literature review of crime impacts. Although BAE does use a Grinols and Mustard study to examine the impacts to crime, it is not the only study used. Furthermore, since many economic articles examining the impacts of casinos differ in their estimates of financial impacts, no one study was determined to express the “correct” dollar impact. The same is true for the dollar impacts of crimes related to problem and pathological gamblers. The 2006 *Gambling in the Golden State: 1998 Forward* study was cited in DEIS **Appendix N**. This is the study that the commenter notes states that approximately 57 percent of Gambler Anonymous members admitted to committing crimes; however, as the studies reviewed cite different costs of crimes, **Appendix N** did not determine that any one study expressed the “correct” dollar impact of problem gambler crimes. In addition, the DEIS did not cite the 2004 Ortiz and Corcoran article *California’s Gaming Propositions: How Has the Expansion of Gaming Rights Affected Local Communities* because at the time of the preparation of the DEIS, the paper had not yet been published and was still in a working paper format. However, Ortiz and Corcoran’s findings that casino

communities have higher crime rates, is consistent with the findings of other papers used in the literature review section of **Appendix N**. Finally, although **Appendix N** does not cite the 1998 Newsweek or 2002 US News and World Report articles, the analysis uses judged and juried academic articles that find that casinos do increase local crime rates.

Finally, Sonoma County is a cooperating agency that is fully participating in the preparation of the EIS. Thus, County staff is fully informed about the casino and its potential impacts as discussed in the DEIS.

Please see “loss of property values” discussion in Response to Comment 2.9.11 and the affordable housing discussion in Response to Comment 2.9.31 for detailed discussions on these topics.

Section 4.9 of the DEIS addresses the impacts of the project on alcohol-related crimes. The issues of alcohol sales to minors and drunk driving from the project are addressed in Response to Comment 2.9.7. Prevention would occur through following the terms of the required alcohol and beverage license, granted from the California Department of Alcoholic Beverage Control and mitigation listed in the DEIS under **Section 5.0**.

Specific incidents of money laundering by facilities owned/developed by Station Casino

Neither Station Casinos, nor any of its subsidiary properties, has ever been accused of or fined for money laundering. In its 30-year history as a gaming licensee, the Company has paid two fines for violations of Nevada Gaming Commission Regulation 6A, which is a regulation designed to allow for the tracking of money throughout a casino, and Currency Transaction Reporting. The violations of Regulation 6A occurred in 1995 and 2004. As a result of the violation in 2004, the Company adopted a series of measures designed to enhance its compliance with Regulation 6A and has not had a single incident of Regulation 6A non-compliance since that time.

Prevention or mitigation of money laundering by the Tribe’s casino, particularly by terrorist groups

The Tribe’s resort hotel and casino will have in place an anti-money laundering (“AML”) program designed specifically for its casino operations that will be similar to programs at other Station Casinos’ affiliated casinos, and other major casino operations, for compliance with currency transaction reporting and suspicious activity reporting. The program will include an internal control system and procedures to record, audit, detect, and report to the federal government any money laundering activity by any individual or group, including terrorist groups. The program will include front-line department recording and reporting procedures and will include checks and balances by other departments to ensure the proper handling and reporting of cash transactions and the reporting of suspicious activity, if any. The key components of the AML program will include the following:

Tribal Gaming Agency

The Tribe's gaming regulatory body will adopt regulations that ensure compliance with federal currency transaction reporting and suspicious activity reporting regulations.

Written Anti-Money Laundering ("AML") Program

The casino will have in place a written AML program to document all currency transaction reporting requirements and Suspicious Activity Reporting pursuant to 31 U.S.C. § 5318 and 31 C.F.R. Part 103, in particular, Section 103.64. This program will also state the detailed procedures required to be performed by each of the casino's departments in order to comply with the requirements of currency transaction reporting and suspicious activity reporting. The AML program and procedures are all designed to prevent money laundering by individuals and groups. This program will be included in the training of casino personnel and will be available as a reference to all casino personnel. Tribal casinos are also required to comply with the Bank Secrecy Act (31 U.S.C. § 5312).

The casino will have a designated compliance officer (the "Compliance Officer") to oversee the AML program and ensure that it is functioning as designed to record and report applicable currency transactions and to prevent and report any suspected money laundering activity.

Training

All casino personnel in a position to handle cash or audit the results of casino operations will be required to attend training classes at the time of hiring and to attend periodic training classes thereafter. Particular emphasis will be placed on education and training of front-line staff, including cage cashiers who share the front-line defense against AML with casino surveillance. Cage cashiers and other members of the casino staff dealing directly with the public can often be the first point of contact with potential money launderers. Cashiers, whose duties may include recording cash coming into the casino cage area from a variety of sources and providing change and chips to casino customers, play an important role in ensuring the security of the casino's money, chips, and other financial assets. Thus, training to cashiers will be provided emphasizing factors that may give rise to suspicions and on the procedures to be adopted when a transaction is deemed as suspicious. Training of all casino personnel will be documented and such documentation will be reviewed by the Compliance Officer.

Department Operational Oversight

In addition to the front-line casino personnel performing and recording cash transactions, casino department supervisors will review and oversee cash transactions on an ongoing basis as they occur on the casino floor. Transactions over certain monetary thresholds will be required to be recorded in the casino's computer system and/or on appropriate forms, which will be forwarded to the accounting department. Transactions occurring over certain monetary thresholds will also be reported to the casino's surveillance department for monitoring as they are occurring.

Surveillance Department Oversight

As an oversight mechanism, the surveillance department will look for and review cash transactions on the casino floor as part of its monitoring of the casino operations. This surveillance activity will help ensure that transactions are being handled and recorded appropriately. Suspicious activity that is observed by the surveillance department will be recorded on the appropriate forms and forwarded to the Compliance Officer for review.

Accounting Audit

The accounting department will receive documentation of all transactions occurring on the casino floor within the 24 hour gaming-day period. In addition to the accounting function of monitoring and recording the revenues and expenses of the casino, a group of specially trained auditors within the accounting department will review all casino documentation and reports from the casino's computer system to identify and aggregate cash transactions by individuals. Transactions that accumulate to a reportable amount will be recorded on the appropriate forms and timely submitted to the Internal Revenue Service. The Compliance Officer will review reports of suspicious activity and submit reports concerning suspicious transactions to the appropriate branch of the federal government.

Internal Audit

The internal audit department, acting as an independent department providing oversight over casino operations, will perform additional, unannounced observations from the surveillance department, and periodic unannounced observations and walkthroughs of the casino departments, including questioning casino personnel regarding their knowledge of anti-money laundering regulations and their knowledge of the required procedures for recording and reporting cash transactions, and reporting suspicious activity. The internal audit department will also audit the work performed by the accounting department and ensure that all required forms are submitted to the appropriate federal agencies.

All of the above components of the Tribe's AML program, will be instrumental in aiding the Tribe to be in full compliance with federal regulations regarding currency transaction reporting and suspicious activity reporting. The FEIS has been updated to include the AML program as part of the casino alternatives.

Regarding comment I-98, DEIS **Appendix N** surveyed a broad range of studies of casino-related crime impacts and the citations have been provided for all of the studies which have been referenced and relied upon in the analysis for the proposed casino. Where applicable, **Appendix N** summarizes the methodologies and conclusions of the studies and discusses how the conclusions compare with the other studies referenced in **Appendix N**. While it is beyond the scope of the EIS to detail who funded each study and whether there have been any challenges, the studies were deemed reliable for the purposes of the EIS.

According to the FBI website, the FBI “has federal law enforcement responsibility on more than 200 Indian Reservations. The role of the FBI in Indian Country is to develop and implement strategies and programs to address identified crime problems in Indian Country for which the FBI has responsibility. The FBI has an additional responsibility to support the efforts of all law enforcement personnel working in Indian Country.” Offering training courses to Indian Country law enforcement personnel is undoubtedly a part of the FBI’s efforts to support the efforts of law enforcement personnel in Indian Country. According to the FBI website, the priority of work for the FBI in Indian Country is: 1) homicide/death, 2) child sexual/physical abuse, 3) violent felony assault, 4) drugs and gangs, 5) corruption/fraud against government/theft of tribal funds, 5) gaming violations, and 6) property crime. The offering of the training courses noted by the commenter is consistent with the FBI’s priorities. Other training courses offered by the FBI to Indian Country law enforcement personnel in fiscal year 2006 include Law Enforcement Training for Safety and Survival, Stress Management, Indian Gaming Investigations, Interviewing and Interrogation, First Responder Course, Forensic Interviewing, and Critical Incident Training. The commenter asks why these training courses are needed in communities with a casino. This question relies on an erroneous assumption that all “Indian Country” includes casino lands. In fact, “Indian Country” refers to a vast array of tribal lands, most of which do not contain a casino and the FBI provides Law Enforcement training throughout Indian Country. Law enforcement personnel within Indian Country must respond to the full range of criminal issues, only some of which are related to gaming. Finally, it is not clear from the FBI’s website that Child Sexual Abuse classes are regularly held, as the commenter assumes. The only training courses cited on the website are those that were offered in fiscal year 2006 (<http://www.fbi.gov/hq/cid/indian/background.htm>, accessed 5-8-08).

Santa Rosa Junior College offers a Law Enforcement Career Certificate program to provide “practical and technical instruction to meet the requirements of various law enforcement agencies at the local, state and federal levels.” (Santa Rosa Junior College Catalog, 2006-2007, http://www.santarosa.edu/schedules/college_catalog/pdf/2006-2007.pdf). Santa Rosa Junior College offers many administration of justice classes that would be applicable to it’s law enforcement certificate program’s goals of providing instruction to meet the requirements of law enforcement agencies, some of which provide law enforcement services to casinos and to Indian Country (such as Sonoma County and the FBI). A sampling of classes offered at Santa Rosa Junior College include: Basic/Advanced Criminal Investigation, Juvenile Procedures, Introduction to Evidence, Crime and Criminal Justice in Society, and Survival Shooting Instruction. To our knowledge, the Tribe does not intend to sponsor any Child Sexual Abuse classes. As noted in DEIS **Section 4.11.1**, available housing is expected to be available, so the conditions suggested by the commenter are not expected.

2.9.3 PROBLEM GAMBLING

Summary of Comments: The Sonoma County Advisory Board on Alcohol and Drug Problems (G-18) submitted a comment expressing concerns about increased problem gambling resulting from the development of the casino. Several other commenters were concerned that mitigation presented in the DEIS would not adequately address impacts from problem gambling or secondary impacts such as domestic violence, crime or bankruptcy.

Crystal Brody (I-80 and I-89) submitted a comment that cited a *2006 California Gambling Prevalence Study* by Rachel Volberg, “The lifetime prevalence of pathological gambling in California is 1.5% and the lifetime prevalence of problem gambling is 2.2%.” According to Volberg, “The overall lifetime prevalence rate of problem and pathological gambling in California (3.7%) is at the higher end of the range of prevalence rates identified using this screen in other states and nationally.” Brody continued with another citation from the study, “nearly one million Californians, one in every 28 adults, have developed ‘significant, lifetime problems related to gambling in the state.’” She stated that this study shows how compulsive gambling results in serious social, family, and economic problems, therefore implying that these potential problems would be reduced by not going forward with the Proposed Project.

The City of Rohnert Park (G-4), requested that an estimate of the number of problem and pathological gamblers within the general area of the proposed casino be analyzed, in addition to the estimate of problem and pathological gamblers in the city (referencing page 4.7-19 of the DEIS).

Sonoma County (G-34) stated that the net increase of new problem and pathological gamblers in Rohnert Park due to the proposed development is underestimated in the DEIS. The commenter stated that in the DEIS it is estimated that there would be a net increase of 1,290 new problem and pathological gamblers. The commenter stated that, “To only apply a percentage increase to the residents of Rohnert Park appears to artificially limit the scope of the potential problem.” In the DEIS the commenter pointed out that a 10-mile radius of the casino was used to estimate the increase in problem gambling, while elsewhere, the DEIS also states that several studies suggest that these population differentials take effect for residents within a 50 mile radius of the casino. According to the commenter, “Most of Sonoma County is within 50 miles of the site. The DEIS should use both the 50 mile and 10 mile data applications.” Furthermore, the commenter stated that, “The DEIS fails to apply the 10-mile and 50-mile radius in its calculation of the number of problem and pathological gamblers and crime rates.” According to the commenter, “Using these radius determinants, there would be no lag time in the development of pathological gambling.” Moreover, “An existing casino within Sonoma County reduced the proposed lag time.” Therefore, the commenter stated that the DEIS should be revised to address the impact of, “... two casinos overlapping a 50-mile radius of high density population areas, and to correct the assumption that there would be a 1-3 year lag in the development of pathological gambling and increased crime.”

The commenter also commented that in the DEIS it is stated that, "...we can anticipate an increase in costs associated with increased visitations ... for the City as well as the County." According to the commenter, "This statement contradicts the assumption quoted above that 'the number of employees ... is representative of the demand for services created by the facility.' It also ignores the fact that the alternative sites are all within the unincorporated County, and that the County will thus suffer the vast majority of cost impacts. Finally, it underestimates the impacts on existing County residents who may have a propensity to gamble, but whose gambling is limited due to lack of access to a nearby casino. Studies indicate that 1-4% of the population is addicted to gambling." Moreover, the commenter stated that the proposed development would provide easy access to existing residents that are not fully engaging in their addictive behaviors due to lack of proximity to a casino. The DEIS should be revised and recirculated to evaluate the impacts and costs to the county for providing health and human services to the increased percentage of current residents who would engage in problem gambling if the Proposed Project is developed.

Sonoma County (G-34) commented that the DEIS understated the estimated number of problem and pathological gamblers, and the cost of treatment, because low estimates were relied on. According to the commenter, "The DEIS analyzes only the cost of a six-week treatment program, which the DEIS describes as 'typical.' In fact, the length of a program is a key indicator of how successful it will be in the treatment of addiction disorders. A six-week program is insufficient and would result in a high rate of relapse and recidivism." Therefore, the commenter stated that the DEIS should be revised to require the Tribe to support longer, more effective treatment programs.

In addition, the County commented that, the DEIS does not show a breakdown of these costs of how the Tribe's contribution of \$630,662 to the County for treatment and prevention programs was calculated.

Several commenters, including, I-105, I-117, S-58, S-64, and S-108 expressed concerns regarding problem gambling. S-108 expressed concern regarding the impact of problem gambling on adolescents, furthermore, the commenter noted the National Council on Problem Gambling indicated that approximately one in five pathological gamblers attempt suicide. John Garate (I-117) noted that through professional experience he has seen many negative social impacts tied to the casino industry.

Long (I-177) expressed concerns that other Indian casinos have experienced problems related to compulsive gambling, citing the recent murder of a young woman who had been gambling at Thunder Valley Casino. The victim has been described as a compulsive gambler, and it is believed that her murderer lured her outside with the promise of a monetary loan.

Another commenter (B-33), stated that the DEIS does not include “hard figures” on pathological and problem gambling.

Paul M. Larson (I-170) expressed concerns regarding the encouragement of gambling.

An additional comment was received from Sherri Anderson (I-96) with regards to pages 4.7-18 and 19 and the lack of discussion about the negative effects of gambling upon families. She asked if assistance will be provided to families whose assets have been lost to problem gambling and if counseling will be provide for those in need.

Loretta Smith (I-166) asked, “What are the projected gambling addiction rates for a casino of the proposed applicant’ square footage as compared to 3 comparable existing casinos. Can the applicant demonstrate any examples of either increased or decreased gambling addiction, gambling debts and negative family environments of three existing comparable casinos? And how have the existing casinos mitigated these problems? How does FIGR propose to mitigate them?” The commenter wanted to know what types of preventative programs for problem gambling would the Tribe provide to surrounding school districts. The commenter asked, “How will they address affected families that this preventative program fails to reach?” Moreover, the commenter wanted assurances from FIGR that the casino would not engage in activities for minors that encourage them to gamble. She noted that at least one Indian casino, “...entices children to gamble when they provide on-site day care activities that are akin to gambling ie. ‘kiddy bingo’, or toys such as pretend slot machines that replicate gambling activity, or lottery-like gambling activities for 4 to 17 year olds that win prizes such as new bikes.” The commenter continued, “To what extent will on-site child care center encourage parents to leave their children in the day care for extended periods of time? What hours of operation will the day care have? What restrictions will be applied to encourage good parenting in spite of gambling? What security measures will be in place to ensure that no casino customers leave children unattended in a car?”

Commenter S-73 expressed that as a compulsive gambler, he acknowledges that it is not the Tribe’s responsibility to keep him out of the casino, and he requested that the Tribe contribute money for a clinic or rehab center for compulsive gambling.

Response: Section 4.7.1 and Appendix N of the DEIS analyze the impacts related to problem and pathological gambling, as well as related secondary impacts, such as mental health issues, bankruptcy, and addiction. The DEIS states that the presence of a casino increases the number and rate of local problem and pathological gamblers, and that communities within ten miles of a casino are likely to have twice as many problem and pathological gamblers as communities located outside of 50 miles from a casino. In addition, the DEIS states that three percent of problem and pathological gamblers seek treatment. The MOU does not provide sufficient funding to provide treatment for all

of the treatment seeking gamblers within the ten-mile radius. Thus, **Appendix N** and the FEIS recommend that the Tribe provide funding for all treatment seeking problem and pathological gamblers. As **Appendix N** of the DEIS includes similar findings that concur with the findings in Rachel Volberg's *2006 California Gambling Prevalence Study*, the DEIS does not require modification.

Using the methodology expressed in **Appendix N** of the DEIS, approximately four percent of Sonoma County residents, or 14,700 residents, are problem and pathological gamblers. The DEIS cites studies that suggest that the casino would result in a one to four percentage point increase in the number of problem and pathological gamblers within 50 miles of the casino, with a 100 percent increase (four percentage points) for those persons located within 10 miles of the casino. Thus, there would be approximately 10,050 additional problem and pathological gamblers within a ten-mile radius of the casino. However, as there are already two existing casinos within 50 miles of the County's population, some persons who are susceptible to problem and pathological gambling tendencies are likely gambling at the existing casinos. Since the existing casinos are within 50 miles of the proposed Graton Rancheria sites, as well as the rest of the County's population, the analysis estimates that the percentage increase of problem and pathological gamblers within ten miles of the casino site could be less than 100 percent and that there will not be new problem and pathological gamblers residing between 11 and 50 miles of the proposed casino sites. Thus, not all problem and pathological gamblers in the County could attribute their gambling problems to access to gambling at the proposed Graton casino. While the Proposed Project is expected to result in additional problem and pathological gamblers within the County, the impacts to crime and social issues from persons with existing problem and pathological gambling issues would not be attributable to Proposed Project. The current MOU payments for prevention and treatment programs would not cover the expenses for all of the three percent of 10,050 additional County problem and pathological gamblers that would likely seek treatment. Thus, **Appendix N** and the FEIS recommend that the Tribe contribute additional funding. However, using the 100 percent increase within ten miles to estimate the costs of providing treatment presents a conservative estimate. In addition, **Appendix N** and the FEIS **Section 5.2.6** recommend that the Tribe conduct annual customer surveys to determine the number of problem and pathological gamblers and make this information available to state and federal gaming regulators. This information has been added to **Appendix N** of the FEIS.

Section 4.7 of the DEIS and Appendix N rely on studies from California and Oregon to determine the length and cost of providing treatment to problem and pathological gamblers. The cost mentioned from the California study was associated with a typical six-week treatment program. The Oregon program is a multi-tiered treatment program that, according to materials published by the State of Oregon, provides three core elements including treatment, prevention, and outreach. The treatments may range from telephone-supported minimal intervention programs, traditional outpatient treatment programs, and inpatient treatment programs, depending on the needs of the client. According to these

materials, the average cost per case was \$828 overall, with an average length of enrollment of 140 days (Moore, T., Marotta, J., “Oregon gambling treatment programs evaluation update 2003”, Oregon Department of Human Services, Office of Mental Health and Addictions Services, 2004). As this program has been award-winning, it suggests that these costs provide for an effective treatment program. Since these costs are associated with a successful treatment program, **Appendix N** and the FEIS recommend that the Tribe use \$828 per treatment seeking problem and pathological gambler as the basis for mitigating problem and pathological gambling impacts.

In addition, **Section 4.7.1** and **Appendix N** of the DEIS discuss the link between casinos and problem gambling, and find that while having a local casino is not correlated with greater than average bankruptcy filings, problem and pathological gamblers are likely to exhaust their resources and file for bankruptcy. The sections also show that while there is evidence of a relationship between problem and pathological gambling and domestic violence, divorce, child neglect, and homelessness, problem and pathological gambling does not cause the previously mentioned social ailments.

It should be noted that the legal gambling age is 21 and underage persons will not be allowed to loiter in the gaming area. In addition, the current casino does not include an on-site day care center for patrons nor an arcade. Thus, the casino will not provide gambling-type games for children.

One commenter noted that a young woman, of legal gambling age, was lured outside of the Thunder Valley casino, where she was kidnapped and murdered. Unfortunately, crimes like this can occur anywhere. Had this occurred at a mall or other venue, security cameras may not have been available to identify the perpetrator, while such surveillance equipment is anticipated as part of the proposed casino. The Proposed Project would similarly use surveillance equipment to aid in crime prevention and crime solution.

We were unable to find a reference to a \$630,662 contribution to the County in the DEIS. Please see section 2.9.26 for a detailed discussion about the use of the service population to project fiscal impacts.

Regarding the need to recirculate the DEIS, please see Response to Comment 2.4.3.

2.9.4 ABILITY OF EMPLOYEES TO LIVE IN SONOMA COUNTY

Summary of Comments: A comment submitted by Robert and Arilla Aherne (I-5) expressed concerns about job creation at the casino. The commenter referred to a letter to the editor in The Press Democrat, October 25, 2005 which stated that the average income of Casino employees would be \$30,000. This was calculated by dividing the number of jobs by the payroll, which the commenter stated as 2,500 jobs and a payroll of \$75 million. The article compared the average Casino employee

income to the average income in Sonoma County (cited as \$53,000) stating that the income for the new jobs generated is too low for the employees to purchase homes, and to pay taxes.

Commenter I-166 asked how many local people would be employed by the casino, and stated, “If there are not enough local people to fill the workforce, how will the applicant recruit and provide housing for them?”

Response: As casino payroll information is proprietary, the DEIS does not specify any payroll or total employee compensation that the casino would pay its employees, and does not specify that the casino would have a \$75 million payroll. As this information is unavailable, it is not possible to verify the commenter’s calculations, nor respond to them.

In addition, average wages do not equal household income. According to the California State Department of Finance, there were 184,274 households in Sonoma County in January of 2007 (State of California, Department of Finance, E-5 Population and Housing Estimates for Cities, Counties and the State, 2001-2007, with 2000 Benchmark. Sacramento, California, May 2007). According to the California Employment Development Department, 250,500 Sonoma County residents were employed in January 2007 (State of California, Employment Development Department, Labor Market Information Division, Civilian Labor Force, Employment, and Unemployment, March 2006 Benchmark, Santa Rosa-Petaluma MSA, January 2007, www.labormarketinfo.edd.ca.gov.) Based on this information, there were approximately 1.36 workers per household in Sonoma County at the beginning of 2007. Thus, a household with average wages of \$30,000 per worker would have an average household income of approximately \$40,900 (i.e., 1.36 times \$30,000), not \$30,000, assuming no other income sources. However, since we cannot verify the average wages per casino worker, there is no way to determine whether this analysis represents casino workers.

Finally, **Section 4.11.1** and **Appendix N** of the DEIS examine the available workforce currently within the County and determined that the latent labor force could fill all casino openings, without requiring new workers to move into the County, or the City of Rohnert Park. That is, casino workers would not need to move into the community as a result of securing employment at the casino. Thus, housing affordability for project employees is not as important an issue as it would be if the project were anticipated to create the need to bring large numbers of workers into the community in order to staff the project once it is constructed.

2.9.5 IMPACTS TO BUSINESSES

Summary of Comments: Assembly member Jared Huffman (G-10) expressed concerns about the impact to businesses that would result from increased revenue going to the casino. According to the commenter, the casino would result in less money flowing into existing businesses, leading to economic decline in Rohnert Park. One commenter (I-138) questioned what consideration is given to

local businesses, specifically, the potential economic impacts from the proposed development. The commenter expressed that, “I feel overlooking non-tribal competition is discrimination.” Long (I-177 and S-26) and Smith (I-166) expressed concerns about economic impacts to the Home Depot/Wal-Mart shopping center 3/10 mile from the Wilfred Site. I-177 questioned how the EIS would address “the huge impact of casino traffic on these stores and this shopping center causing anchor stores to close and ancillary stores to do this same resulting in boarded up stores blight and a severe loss to the character and economy of our community.” The commenter also asked how the Tribe would address “the insurgence of Pawn Shops, Auto Pawn Shops and quick cash stores forever changing the character of our community?” Commenter I-166 expressed concerns that “The existence of competing food, service and entertainment activities constitute an unfair, potentially ruinous, business environment, not to mention the possible activity of land use laundering, or inviting businesses onto the reservation which allows them to be free of tax obligations.” Therefore, the commenter questioned that because of this advantage, “...why was there no in-depth discussion of the effect of sovereignty in the preliminary draft?”

Thomas Scott (I-98) stated concerns about the analysis of potential impacts to neighboring businesses, specifically, **Figure 3.8-9**. According to Scott, the DEIS identifies the location of some commercial businesses that might be affected by the proposed development and that a more detailed analysis should address social impacts. Scott requested that the following businesses and/or organizations be identified that are in close proximity of the proposed development on the Wilfred and Stony Point sites:

- Schools, and what types;
- Churches or places of worship;
- Parks;
- Hospitals;
- Police stations;
- Fire stations, identifying the number of full-time and volunteer staff;
- Daycare centers;
- Colleges; and
- After school recreation centers.

Emmons (I-148) also expressed concern over the casino’s potential impacts to “nearby schools, universities, monasteries, and churches.” Sherri Anderson (I-96) cited page 4.7-7 of the DEIS, which according to the commenter stated, “Given that the hotel/casino resort would be located in an urban setting these effects would not apply.” Anderson asked if there had been any consideration of the size of the proposed casino operation and the ability of the casino to market itself. The commenter continued by citing page 4.7-8, which according to the commenter stated, “As the casino/hotel resort would draw on non-residents to the area, the associated increase in new visitor demand for off-site entertainment venues, restaurants, and bars would make up for some area residents choosing to eat

within the proposed casino/hotel, rather than at existing eateries.” The commenter requested information about what this statement was based on and if there had been studies conducted to substantiate that claim. Emmons (I-148) and Donna Norrell (I-39) also requested information on the effects of the proposed casino on the Wells Fargo Center for the Arts in Santa Rosa, the Spreckels Performing Arts Center in Rohnert Park, and Sonoma State University’s Green Music Center.

The County of Sonoma Teen Eagles (B-21) stated, “Director of the U.S. Gaming Study Robert Goodman found that casinos result in economic loss for local businesses.”

Paul M. Larson (I-170) expressed concern that the casino’s low-cost meals and entertainment would compete with tax-paying local businesses.

The Roblar Area Property Owners Association (B-27) claimed that Sonoma County is not in need of economic development; stated that a casino would harm local businesses, which would have a “competitive disadvantage;” and inquired if the casino is willing to enter into binding agreements with local inter-industry businesses for janitorial and landscaping services, to ensure that the casino will not seek more cost efficient business services out of the area.

Roger A. Klein (I-9) perceived that the project would take essential money from local businesses, and blight healthy business growth.

Sonoma County (G-34) commented that, **Appendix N** correctly indicates that the County would suffer adverse substitution effects from tourists and residents who would otherwise spend their entertainment or other dollars elsewhere in the county. However, the commenter noted that, “But the Appendix then claims it cannot reliably quantify these adverse effects, and that accounting for them in any way would be ‘arbitrary.’”

Lloyd Iversen (I-168) inquired about the “probable competitive effects of the Casino Project on all of the local businesses”; and expressed concern about discrimination against non-union businesses; stated that providing “a fair and equal share of tax revenue into the economy” would put the casino on a “level playing field” with other businesses; and expressed concern about businesses being “black listed” by Station Casinos.

Response: **Section 4.7.1** and **Appendix N** of the DEIS examine the likely substitution effects of the casino, or the extent to which casino patrons will shift their entertainment dollars away from local restaurant and entertainments venues in favor of patronizing the casino. **Appendix N** of the DEIS considers four types of potential casino patrons – tourists, residents who would otherwise spend their money on local entertainment, residents who would otherwise leave the local area for entertainment, and residents who would otherwise save their money – to analyze the likely substitution effects from

each group. Casino expenditures from tourists, residents who would otherwise leave for entertainment, and residents who would otherwise save their money represent new economic activity within the local area. Substitution would only apply to those residents who would otherwise spend their money within the local economy. However, as **Appendix N** reasons, over time the casino would have a similar impact to other businesses as any other new restaurant or entertainment venue. This includes its impact on other local entertainment venues such as the Wells Fargo Center for the Arts, the Spreckels Performing Arts Center, or the Green Music Center.

Additional comments suggest that substitution will lead to economic decline in Rohnert Park. However, as the impacts to other local businesses will mirror the opening of a new restaurant or other entertainment venue, and will bring tourists into the area, the opening of a casino is not likely to result in local economic decline. **Section 4.7.1** and **Appendix N** of the DEIS provide a detailed analysis of the substitution impacts related to casino patrons, but does not quantify the substitution impacts, as any attempt at quantification would be arbitrary and not likely to be accurate.

If all traffic mitigation measures are implemented as identified in the DEIS, then traffic around the casino should not be any more congested than it is today. Thus, the casino is not likely to cause traffic congestion that would discourage local residents from continuing to shop at the Home Depot/Wal-Mart center.

One commenter also questioned whether the casino would use union labor. According to **Section 2.2.10** of the DEIS, the casino is committed to using union labor. Additional information has been added to the FEIS regarding the use of union labor. However, as **Appendix N** specifies, regardless of whether the casino hires union labor, it will need to pay competitive wages in order to attract and retain quality workers.

Regarding the Tribe's need for economic development, please see DEIS **Section 1.0**.

The casino is free to contract with any landscaping or janitorial service providers. However, as gas prices increase, it is likely that local contractors will be more cost effective than those that need to drive to the site from extended distances.

In addition, although the casino may not charge sales taxes for food served at the casino, it is unlikely that dining services will result in the closure of other local restaurants. **Appendix N** presents a discussion of substitution impacts that shows that local residents are likely to try the casino restaurant and then return to their prior local dining habits, as people like variety in their dining choices.

Finally, one commenter referred to a finding by Robert Goodman that casinos result in "economic loss for local businesses." However, the comment does not provide adequate information to identify

the primary source that it references. Thus, subconsultant BAE was unable to verify this finding. However, during the course of searching for the primary source, subconsultant BAE found discussions in the literature regarding Robert Goodman's work on the legalized gambling topic that calls into question both his objectivity and his underlying methodologies. According to a 1997 Robert Detlefsen article "Wagers of Sin," published in the online magazine *Reason.com*, Richard McGowan, professor of economics at Boston College says the following about Robert Goodman:

"...calls Goodman an 'anti-gambling ideologue' who poses interesting questions about the societal impact of gambling but whose conclusions are based solely on personal bias. Goodman's work on gambling is case-oriented, which is a far cry from traditional economic analysis, McGowan explains. Modern economists who wish to study the economic impact of some phenomenon typically employ sophisticated quantitative methods, such as time-series analysis, regression analysis, and various types of formal modeling. In contrast, Goodman's method consists of selecting individual cases that confirm what he already believes and then drawing from them a set of predetermined conclusions. McGowan dismisses Goodman's approach as 'methodologically unsound.'"

Although Goodman's own research is questionable, there are cases when Goodman cites other academic or governmental sources. In an April 29, 2003 letter that Goodman drafted to Casino Watch, Inc., Goodman cites two studies. The first is a study by Earl Grinols and David Mustard. The second is the 1999 *National Gambling Impact Study Commission: Final Report*. **Appendix N** of the DEIS cites a different study from Grinols and Mustard in the crime impacts section, and uses the NGISC report in its treatment of social costs. Thus, although the DEIS does not include Goodman's findings, it does include sources that are apparently acceptable to Goodman.

In response to commenter I-98, **Figure 3.8-9** shows the existing development near the Wilfred site. For a discussion of impacts to local businesses, please see the above response, which discusses Appendix N and the analysis of substitution effects. Additionally, the commenter requested a map that shows a number of businesses and/or organizations within the vicinity of the proposed development. **Figure 3.8-9** shows the existing development near the Wilfred and Stony Point sites, which shows that none of the businesses, except the Rohnert Park Bible Church are near the proposed development. For the reasons stated above regarding the analysis of substitution, effects in **Appendix N** the church would not be impacted from substitution effects from the proposed development. Impacts to fire protection services, police protection services, schools, and hospitals are addressed in the EIS in **Section 4.9.1**.

Similarly, commenter I-148's concerns regarding the potential impact to schools is discussed above, as well as under **Section 2.10.39**.

The effect of sovereignty is discussed where applicable to the analysis of impacts of the Proposed Project and alternatives. Note, however, that the transfer of land into trust is a non-discretionary action in this case and is therefore not a part of the proposed action (see DEIS **Sections 1.0** and **2.0**).

2.9.6 QUALITY OF LIFE

Summary of Comments: Assembly member Jared Huffman (G-10), expressed concerns that the casino may affect the quality of life in the area. He specifically indicated that impacts to: traffic, aesthetics, socioeconomics, and public services would negatively impact the quality of life for Sonoma County residents. Edward Emmons (I-148) also noted that the “long term impacts [of the casino] will reduce quality of life,” and suggests serious consideration of an alternative economic endeavor by the Tribe. The County of Sonoma Teen Eagles (B-21) stated that the project “will destroy Sonoma County’s family-friendly atmosphere,” and urged the National Indian Gaming Commission to reject the Draft EIS due to the “many adverse effects” of the project. Jenay McIntyre (I-158) stated that the quality of life for thousands of local residents would be “severely damaged” by implementation of the Proposed Project. Commenters I-136, I-52, I-62 expressed concern over “urban blight” resulting from the Proposed Project.

Betty G. LeDonne (I-102) expressed concerns regarding the impacts of the casino to the emotional health of its patrons, stating that “casinos provide a loud, smoke filled, booze soaked place,” and that casino patrons are “robbed of much more than their money.” Miller (I-167) posed the question, “How will you compensate homeowners for the loss of their quality of life?”

Marilee Montgomery (B-33) stated that the proposed development would decrease the quality of life in Rohnert Park due to un-mitigatable impacts from increased stress that, according to the commenter, should be addressed in the FEIS.

Barbara Pollack (I-171) expressed that the development would decrease open spaces, degrade the few remaining wetland and wildlife species, all of which negatively affect the quality of life in the region.

Individual commenters I-29, I-33, I-129, I-148, and S-87 stated that due to impacts to groundwater, traffic, and noise, the quality of life will decrease in area surrounding the proposed casino. Commenter I-128 noted that the casino proposal threatens the quality of life in the North Bay, he stated “Gambling does not a quality of life make.”

Chip Worthington of Stop the Casino 101 (B-29) stated that the EIS fails to address “community detriment” in accordance with IGRA Section 20, and that the community of Rohnert Park “will not be ignored by a separate tribal government or anyone foisting such an abhorrent project upon the environment of Rohnert Park.”

Lloyd Iversen (I-168) questioned how the “quality of rural life” might be diminished by the casino project; stated that the rural lifestyle in the vicinity of the Proposed Project is incompatible with a Las Vegas-style casino; asked, “In what ways does the Casino Project increase or decrease a clean, healthy image in Sonoma County?” and expressed concern that the area may become “less attractive to top talented people” as a result of the casino project.

Commenter I-166 asked, “What has been the impact to traffic, crime, noise, and light pollution, and water to the original property owners, over a 1 year, 3 year, 5 year, and 10 year period, and how have they been compensated for loss of quality of life.” Moreover the commenter requested the following information, “What has been the impact, as stated by the neighbors of 3 comparable existing casinos in a 10 square mile radius, of their satisfaction of quality of life comparing before and after the opening of the casino? How have these citizens been compensated by the tribes involved for loss of quality of life in their neighborhoods?”

The commenter also inquired what assurances FIGR will provide or implement that preserves the quality, economy, and lifestyles of the communities in a 10 mile radius, to ensure the effects do not reflect what has happened in Marysville, WA (Tulalip); North Stonington, Ledyard, CT (Pequot); Vernon, Verova and Sherrill NY (Oneida). Furthermore, the commenter asked about mitigation enforcement and, “What recourse does an affected party have absent a completed mitigation?”

Response: The issues affecting quality of life including traffic, aesthetics, socioeconomics, and public services are addressed in the topical sections of the DEIS. NEPA requires that social issues be analyzed when associated with physical environmental effects. Many of the comments received during the public comment period demonstrate the subjectivity of an analysis of quality of life. Some commenters pointed to the positive impacts that would result from the Proposed Project and generally suggest that quality of life would be improved. Other commenters focused on the negative impacts that would result and generally suggest that quality of life would be reduced. Some of the commenters forecasting a reduction in quality of life focused on issues unrelated to environmental impacts, such as whether gambling is immoral. These physical effects have been addressed in the DEIS and thus a subjective analysis on how the alternatives may affect resident's perception of the quality of life is not required.

Regarding the potential for “urban blight” please see Response to Comment 2.9.5.

Upon reviewing news articles related to casinos in the Marysville, WA (Tualip); North Stonington, Ledyard, CT (Pequot); Vernon, Verona and Sherrill NY (Oneida) areas, we found that most issues revolved around residential water rate hikes resulting from casino expansions and/or golf course additions at local casinos. This is unlike the proposed Graton casino, which would not utilize local water supplies.

2.9.7 ALCOHOL AND DRUG ABUSE

Summary of Comments: The Sonoma County Advisory Board on Alcohol and Drug Problems (G-18) expressed concerns that the DEIS was deficient in addressing alcohol and drug abuse. The letter stated that the following issues were inadequately discussed:

- Sales to minors in the casino and associated retail businesses;
- Provision of alcohol to minors by legal-age patrons in the casino hotel, restaurants or parking areas;
- Serving of intoxicated patrons;
- Driving under the influence by casino patrons;
- Alcohol-related assault, crime, and violence associated with the casino and hotel; and
- Increased burden on criminal justice, health, and social service agencies.

The following mitigation measures were recommended by the Sonoma County Advisory Board on Alcohol and Drug Problems (G-18) to reduce impacts from alcohol use and sales in the casino:

- Limiting the locations and hours of sale for alcoholic beverages;
- Requiring annual server training for all employers who serve or sell alcoholic beverages;
- Requiring the adoption of responsible beverage service policies and practices by all businesses operating within the project footprint;
- Prohibiting the presence of minors, under age 21, in any areas of the casino where alcoholic beverages are being served or sold;
- Requiring food service in all areas of the casino where alcohol is served;
- Implementing a designated driver program, including free transportation and lodging vouchers, for casino patrons; and
- Providing financial resources to local law enforcement, and supporting criminal justice agencies to implement DUI checkpoint programs and frequent monitoring of alcohol sales and service practices in the casino and associated retail businesses.

A letter from the County of Sonoma Teen Eagles (B-21) stated, “a study done by the California Highway Patrol found that incidents of people driving under the influence of alcohol increased by 600% after the opening of a casino,” and “Sonoma County already boasts the largest rate of teenage drunk-driving fatalities in America.” According to the commenter, the project would cause “thousands more” alcohol-related injuries and deaths. An individual commenter letter (I-158) also expressed concern over the perceived relationship between casinos, alcohol and drug use and an increase in related “crime and trouble.” Another commenter (I-146) is concerned that the proposed casino will increase alcohol related incidents and deaths on the roads.

Elaine L. Matheny (I-105) stated that alcohol abuse is a big concern. Pamela Miller (I-167) requested a response to the question, “How will you keep drunk drivers off the roads?” Linda Long (I-177) questioned, “How are you going to prevent the needles and other drug use paraphernalia from permeating and being part of the hazards in Honeybee Park and Hahn School as has been the experience of other communities where casinos moved in?”

Betty Fredericks (I-163) stated that since the DEIS was released, the Rohnert Park City Council (minutes for Feb. 13 and May 8, 2007) enacted new fees to businesses that sell or serve alcohol within the city. Fredericks, cited a report from Sgt. Art Sweeney with the Rohnert Park Public Safety Department, stated that a quarter of all police calls in Rohnert Park were alcohol related, and that “many of those who drink before they drive do so in a licensed establishment.” Fredericks asked if alcohol will be served at the casino, and if so which age group will be affected most and how would the impacts be mitigated. Sonoma County (G-34) commented that the mitigation in the DEIS of adopting a Reasonable Alcoholic Beverage Policy indicated that it would mitigate all alcohol related impacts to a less than significant level. The commenter stated that, “The DEIS should objectively analyze the efficacy of similar policies adopted by other gaming facilities, impose additional mitigation measures if necessary, and only then determine whether impacts would be significant.”

Lloyd Iversen (I-168) expressed concern about drunk driving, quoting a Mississippi police chief as saying, “arrests for drunken driving have increased 500% after a casino opened.”

Sonoma County (G-34) commented that the DEIS should consider requiring the Tribe to fund local law enforcement to conduct regular and frequent decoy operations (underage ‘stings’ and ‘shoulder-tap’ operations) to maintain enhanced enforcement levels relative to sales to minors and intoxicated patrons.

Response: **Section 4.7** and **Appendix N** of the DEIS address social issues, including substance abuse. Interviews were conducted with the county social service departments in casino communities, which noted a minimal increase in substance abuse assistance. None of the county social service departments contacted directly attributes the minimal increase in demand for their services to the casino project in their communities. It was noted that pathological and problem gambling are likely to coincide with other addictions and disorders, including alcohol and drug abuse.

Section 4.9 of the DEIS addresses the impacts of the project on alcohol-related crimes. The risk of serving alcohol or the incidences of driving under the influence or other crimes is similar to that of other businesses that serve alcohol. **Appendix N** addresses alcoholism and casinos and concludes that while alcohol use can disinhibit reckless gambling or other inappropriate behavior, there is no available evidence that the casino will result in an increase in the instances of alcohol abuse in the County.

The Tribe would be required to comply with the terms of an alcohol and beverage license, granted from the California Department of Alcoholic Beverage Control, which regulates alcohol sales. According to the California Department of Alcoholic Beverage Control website, the license limits the hours (6 a.m. to 2 a.m. the following day) and location of alcohol sales and includes restrictions on sale to minors and obviously intoxicated persons. Minors are restricted from on-sale general public premises. Suspected violations of the license are investigated and if supported by evidence may result in suspension or revocation of the license and potentially civil or criminal penalties (California Department of Alcoholic Beverage Control, 2007). This information has been added to **Section 4.9** of the Final EIS with citation added to **Section 9**.

As stated in **Section 2** of the Draft EIS, casino patrons would be required to be 21 years or older preventing impacts to younger age groups. Mitigation provided in **Section 5.2.8** addresses staff training to recognize intoxicated persons, security presence to reduce criminal and civil incidents, Responsible Beverage Service Training for employees of the project serving alcohol, and encouraging responsible drinking and designated driver programs, support of DUI checkpoints and other programs known to reduce impacts of alcohol in the community, and prohibition of anyone 21 years of age or younger from gambling. **Section 5.2.8** of the FEIS has been revised to state that alcohol server training will occur annually. With this mitigation, “decoy operations” would not be needed because minors would be restricted through carding or other means and decoy operations are already conducted by Alcohol Beverage Control. There is not currently a designated driver program with the City limits; however, there are several taxi companies available including one which operates out of Rohnert Park.

The Tribe would also provide contributions to local law enforcement. Fiscal impacts to County services including law enforcement are identified in **Section 4.7**. MOU contributions to the City of Rohnert Park are discussed in **Section 2.2.10**.

Regarding the effectiveness of mitigation measures, sobriety checkpoints, Responsible Beverage Server Training, and enforcement of legal age limits have been shown to be effective in reducing alcohol-related crashes and fatalities (Center for Disease Control and Prevention, 2007; University of Minnesota, 2006). This information has been added to **Section 4.9** of the FEIS with citation added to **Section 9**.

Additionally, the comment letter from Teen Eagles cites a Sacramento Bee article (12/16/2004) where statistics from the CHP show a 600 percent increase in arrest for driving under the influence of alcohol or drugs on three major roads surrounding the Thunder Valley Casino, over approximately 18 months following the casino’s opening. It should be noted that this area was previously undeveloped and that in the article CHP attributed the increases to growth in the area and the businesses involved.

The Tribe which operates the Thunder Valley Casino funds designated driver, problem gambling, and law enforcement services and the article notes a decrease in DUI incidents from June to December of 2004.

Drug-related crimes would be mitigated by provision of primary law enforcement services as discussed in **Section 4.9**. The Tribe is also currently funding a Special Enforcement Unit (SEU) discussed in **Section 3.9** which funds law enforcement efforts against gangs, drugs, and repeat offenders in Rohnert Park. The SEU conducted 458 arrests from July 1, 2004 to August 1, 2005 and served 7 search warrants on known narcotics dealer locations (Donley, 2005). These arrests and continued funding would help prevent drug-related crimes near local schools. The Tribe's contributions to the SEU are discussed further in Response to Comment 2.10.9.

2.9.8 GANG ACTIVITY

Summary of Comments: Robert and Arilla Aherne (I-5 and I-139) raised concerns regarding two major gangs in the Rohnert Park area, who according to the commenters may see the casino as an avenue for selling drugs, leading to tension over turf between gangs; therefore, leading to overall increases in violence and crime rates in Rohnert Park. The commenters suggested that the proposed alternatives be developed in an area that does not have established gang activity. Aherne (I-139) noted that Sonoma and neighboring Mendocino Counties are locations of established illegal drug production and distribution, and they perceived that a new casino would attract the criminal element. Other individual commenters, including, I-152, I-138, and I-171 also expressed concern over casino-related gang activity.

Thomas Scott (I-98), requested additional information regarding the money donated by the Tribe to specifically eliminate gang activity, and, questioned whether there was a connection between casinos, and gang activity in California and nationwide.

Response: **Section 4.7.1** and **Appendix N** of the DEIS analyze the impacts to crime and other social ailments from having a casino located in the local area. While the DEIS does not address impacts relating to gang activities specifically, the analysis included a thorough review of literature covering crimes and social issues related to casinos, in general. This includes gang activity. That gang activity is not addressed specifically as a casino impact. The DEIS indicates that casino impact researchers did not find a remarkable relationship between casinos and gang activities such that it was addressed separately from other types of crimes. However, **Section 4.7.1** and **Appendix N** of the DEIS do analyze the impacts to violent crimes, which would include most types of gang activities. Crime data from five California casino communities gives conflicting evidence regarding the link between the casino and violent crime, while the literature review suggests that increases in violent crime (i.e., assault, rape, and robbery) are related to problem and pathological gamblers.

However, as gang activity is an existing local issue, the Tribe is committed to contributing funding to address this problem. **Section 2.2.10** shows that MOU provides for payments sufficient to mitigate any additional crime, specifically allowing for annual payments of \$500,000 for the City to establish a neighborhood enforcement team (NET) for the express purpose of “combating gangs, illegal drug use, and other criminal activity in the City and surrounding community.” The Tribe has already begun making these contributions to the City as **Section 3.9.1** specifies. As of 2006, the Tribe had contributed approximately \$1.3 million for a Special Enforcement Unit to assist local law enforcement in fighting gang activity, drug trafficking, and repeat offenders. Between 2004 and 2005, this funding resulted in 458 arrests. In addition, payments to support pathological and problem gambling treatment and prevention programs will help mitigate the impacts to crime committed by problem and pathological gamblers, as these people seek and receive assistance.

2.9.9 BACKGROUND ASSUMPTIONS OF THE SOCIOECONOMIC IMPACT STUDY

Summary of Comments: Thomas Scott (I-98) requested information regarding the background assumptions of the Socioeconomic Impact Study (**Appendix N**). Specifically, Scott requested additional information on who commissioned the study, and which casinos cited in the study would be comparative to the Proposed Project. He also requested that similarly sized casinos nationwide be used to compare to the Proposed Project, instead of isolating the analysis to Tribal casinos in California. Sherri Anderson (I-96) and Timothy Edwards (I-26) requested further information on what specific casinos the Socioeconomic Impact Study was based upon. Edwards requested documentation on the group that commissioned the Socioeconomic Impact Study.

He also requested information on the studies of casino crime that were used to draw the following conclusion from page 56 of **Appendix N**, “...there is currently no agreement in the literature as to whether casino gambling increases or decreases local crime rates”. He also requested:

- The location and time of when each study was published;
- The conclusion of each study;
- The credentials of the author(s) of each study;
- Where funding for the study was obtained; and,
- The methodology, conclusions, and specific challenges to the findings of the studies.

Thomas Scott (I-98) requested additional information regarding the assumptions of **Table 4.7-10**, specifically, the methodology behind defining the local population for the Graton Casino in Rohnert Park as 42,000. Scott asked that the local population be extended to include the cities of Cotati, Santa Rosa, and Sebastopol.

Response: A wide variety of studies in the substitution, crime, and social impacts analyses are presented in **Section 4.7.1** and **Appendix N** of the DEIS. Based on a review of the content of each

study, we believe that the studies included in the DEIS represent a balanced assessment of the impacts from a casino. The studies looked at casinos across the nation to determine the impacts. While some studies focused on rural casinos or casinos in specific states, others analyzed the impacts from casinos nationwide. These studies were evaluated to ascertain whether the findings for each study were applicable to an urban casino like the proposed Graton Rancheria facility. Furthermore, **Appendix N** lists all of the references used in the analysis, including the authors' names, dates, and publishing information. It is beyond the scope of the EIS to evaluate the location and funding sources for each article.

Nothing in NEPA or its implementing regulations requires the level of detail that the commenter would prefer. The regulation dealing with responses to comments, 40 CFR § 1503.4, sets out several alternative means for an agency to respond to comments. When the agency concludes that the comment does not warrant further response, the agency is to explain why that is so, citing the "sources, authorities, or reasons which support the agency position" Nothing in NEPA or its regulations requires delving into the credentials of the authors of the studies, or where their funding came from. Indeed, even in the basic text of the EIS itself, the regulations require only a list of preparers, with their "expertise, experience, professional disciplines," for the persons who were "primarily responsible" for preparing the EIS and significant papers, noting that the entire list will normally not exceed two pages. 40 CFR 1502.17. The agencies are responsible for ensuring the professional integrity, including the scientific integrity, of the discussions and analyses in the EIS, identifying the methodologies used and making reference to the scientific and other sources relied upon for conclusions in the statement. 40 CFR 1502.24. An EIS, after all, is not an academic treatise. "The primary purpose" of an EIS, as set out by the CEQ NEPA Regulations, is "to serve as an action-forcing device to insure that the policies and goals defined in [NEPA] are infused into the ongoing programs and actions of the Federal Government." 40 CFR 1502.1. It is to include a full discussion of the environmental impacts and to inform the decisionmakers and the public of the reasonable alternatives which would avoid or minimize adverse impacts or enhance the quality of the human environment. *Id.* Agencies are to focus on the "significant environmental issues and alternatives" and shall "reduce paperwork and the accumulation of extraneous background data." *Id.* EISs are to be "concise, clear, and to the point." *Id.*

Note that the Socioeconomic Impact Study (DEIS **Appendix N**) was commissioned by AES in preparing the EIS for the NIGC.

A commenter also questioned the population figures presented in **Table 4.7-10** of the DEIS. The "local population" figures for each casino represent the population of the community surrounding or immediately adjacent to each casino, specified as the "location" in the first column of the table. BAE used these population figures, rather than a radius or extended population in order to show the comparability and basic statistics of each casino.

2.9.10 SOCIAL EFFECTS OF THE PROPOSED DEVELOPMENT

Summary of Comments: Comment letters received from local residents (I-158, I-159) expressed concern over various social problems that the writers perceive are linked to casino gambling, such as increased anger and depression in individuals who lose money at the casino, destabilization of families, and strains on the criminal justice system due to the subsequent increase in crime. Long (I-177) speculates that the proposed development would lead to “blight caused by abandoned autos out of gas or not in working order from the unfortunate down and out incrementally prevalent near casino/resorts on the borders of communities.”

The Roblar Area Property Owners Association (B-27) stated that increased divorces and home foreclosures are likely to result from an increase in problem gambling, and questioned how these impacts will be mitigated.

Lloyd Iversen (I-168) suggested that *American Indians, Answers to Today's Questions*, by Jack Utter, urban be reviewed for information regarding “negative socio-economic impacts on the entire population of the area.” According to the commenter, “The sociological impact on the American Indians will be even worse” than on the general population, as the Tribe could suffer from membership disputes.

Response: The potential adverse social effects, such as personal problems, stress on families, foreclosures, and abandoned autos from the down and out would not be caused by a casino per se, but they could be indirect effects stemming from people who have, or who develop, gambling problems. Therefore, the concern would be that a lack of adequate mitigation for the effects of problem and compulsive gambling could potentially lead to an increase in these types of indirect impacts. Response to Comment 2.9.3 above provides further discussion of this issue.

In regard to strains on the criminal justice system due to potentially increased crime associated with a casino, please see Response to Comment 2.9.2, which discloses that increases in crime can be anticipated with the opening of a casino. **Appendix N** and the FEIS have been updated to recommend that the Tribe provide mitigation to affected local law enforcement in neighboring communities.

In regard to the comment regarding negative socioeconomic impacts on the entire population of the area, see responses to comments in Section 2.9. In regard to the comment regarding impacts on American Indians being worse than on the general population due to the possibility of membership disputes it is important to note if the overall benefits to tribal groups from establishing casino operations did not outweigh the potential adverse effects, there would not likely be the popularity of Indian casinos that has occurred. In addition, tribal members not wishing to be involved with casino

operations and their attendant challenges are not obligated to participate. While we have not reviewed the publication suggested by the commenter, the bibliography of **Appendix N** lists a broad range of studies that have been reviewed in the assessment of the potential socioeconomic impacts of the proposed casino and it is beyond the scope of the EIS to perform an exhaustive review of all available publications on the topic.

2.9.11 IMPACTS TO LAND VALUES

Summary of Comments: Sherry Anderson (I-96), cited page 4.7-27 of the DEIS, which according to the commenter states, “Development on the site would increase land values, thereby increasing property tax revenue to local government.” Anderson requested additional information on evidence that supported this statement, if this increase in land values has occurred in other areas, how much of an increase is expected, and if the increase applies to the immediate vicinity, or the county as a whole.

A letter from the County of Sonoma Teen Eagles (B-21) stated, “Director of the U.S. Gaming Study Robert Goodman found that casinos result in...millions of dollars lost in property values.”

Roberta Walker (I-146) and Joe Masters (I-52) expressed concerns that the proposed casino will reduce the property values of the 40,000 residents of Rohnert Park, costing them future economic losses.

Elaine L. Matheny (I-105) stated, “a casino will injure the value of our homes and property.” Other local residents (I-148) also expressed concern over lowered property values near the casino. Miller (I-167) questioned how homeowners would be compensated for any loss of property values associated with casino development.

Larry and Kathy Madsen (I-175) expressed concerns regarding the future of their property’s value, which is located one and a half blocks from the proposed casino. They feared the possible depletion of their water supply would deem their land worthless.

Jason Merrick and Sue Buxton of Roblar Area Property Owners submitted a comment letter (B-27) stating that property values in the vicinity of the casino are likely to experience devaluations, and questioned how property owners would be compensated.

Loretta Smith (I-166) inquired, “What has been the effect of a casino on surrounding property values within a 10 square mile over a 1 year period, 3 year period, 5 year period, and 10 year period after opening? Can the applicant (FIGR) demonstrate any examples of either increased or decreased residential property values within a 5-mile radius of three comparable existing casinos?” Furthermore the commenter asked what impacts to resale values in a 10 mile radius over a range of 1 to 10 years after the casino has been opened. The commenter wanted to know what FIGR would do to

compensate and relocate her because of decreased market values. In addition, “How will the applicant establish market value and guarantee equal protection of civil rights to near or adjacent property owners?” Moreover, the commenter requested information regarding compensation to neighboring property owners in three communities with comparable casinos.

Response: Page 4.7-27 of the DEIS states that “development on the site would increase land values, thereby increasing property tax revenue to local government.” The commenter asked for evidence that supports this claim. It is important to note that this statement refers to the No Action alternative, under which the Tribe does *not* take the land into federal trust. Under this alternative, the City annexes the land, and developers build out the land per the Northwest Specific Plan. Any time developers build on previously undeveloped land, the value of the construction increases the land’s value. In addition, under Proposition 13 the County can reassess the value of the land and improvements anytime the land either changes hands (such as with the sale of a building) or when a person makes improvements to the property (such as a construction project or renovation). As construction both adds value to the land, and triggers a reassessment of the parcel, development leads to increased real property values that would increase property tax revenues for local government. The proposed casino may result in changes to local property values. However, the direction and magnitude of the change are mixed as property values, are based on a host of factors, depend on the relative proximity of the homes to the casino, and whether the casino is located in an urban area. In relatively rural areas, casinos resulted in property value increases (Arthur Anderson, 1997). However, as at least the Wilfred and Stony Point sites casino alternatives would be located in a relatively urban area, these findings may not hold.

Homes located within close proximity (one mile or less) to the casino, tend to experience decreases in home values. According to a study by faculty associated with the Lied Institute of Real Estate Studies at the University of Las Vegas, Nevada, homes in the Las Vegas area within one mile of a casino with 100 or more slot machines suffered on average a 4.6 percent decrease in values (*“Rolling the Dice: Would Casinos Harm Illinois Home Values”*, Illinois Real Estate Letter, Winter 98, Vol. 12, Number 1, University of Illinois, Office Real Estate Research). The authors conducted this study using home prices from suburban Las Vegas, where there are a number of casinos located within residential neighborhoods. However, it should be noted that the Bay Area housing market tends to be stronger than elsewhere in the nation, and may be resistant to changes related to the casino. In the Bay Area, home values are stagnant compared to the rest of the State and Nation, which has experienced decreases in home values. It is likely that the relative scarcity of homes in the area, coupled with the desirability of the region will be much stronger factors in determining home value than the existence of a casino within the local community.

The study also found that homes located more than one mile from the casino site experienced no impact on property value from casinos. This information has been added to the FEIS and **Appendix N**.

Finally, one commenter referred to a finding by Robert Goodman that casinos result in “millions of dollars of lost property value.” However, the comment does not provide adequate information to identify the primary source that it references. Thus, those responsible for EIS preparation were unable to verify this finding. However, during the course of searching for the primary source, Bay Area Economics (BAE), authors of the Socioeconomic Impact Study for the Proposed Project (**Appendix N**) found discussions in the literature regarding Robert Goodman’s work on the legalized gambling topic that calls into question both his objectivity and his underlying methodologies. See Response to Comment 2.9.5.

2.9.12 FISCAL IMPACTS TO LOCAL JURISDICTIONS – CITY OF ROHNERT PARK

Summary of Comments: A comment received by the City of Rohnert Park (G-4), referred to the Executive Summary of the DEIS, **Table ES-1**, by quoting the text, which according to the commenter states, “The City of Rohnert Park can expect a large fiscal surplus after the implementation of Alternative A...” According to the commenter, the City would be entering the following fiscal year with a projected deficit of \$4.7 million. And that the City currently has an un-funded retiree medical benefit balance of more than \$50 million. The commenter expressed that the above statement should be adjusted to reflect the casino’s financial impact rather than to provide any view of the City’s financial condition.

Response: The Socioeconomic Impact Study (**Appendix N**) and the FEIS **Section 4.7** have been changed to clarify that projected fiscal impacts refer to the net impact of the project, and do not pertain to the overall health of the City’s budget, which is affected by multiple factors not related to the proposed casino.

2.9.13 ESTIMATED POPULATION OF THE CITY OF ROHNERT PARK

Summary of Comments: The City of Rohnert Park (G-4) mentioned that the actual Department of Finance (DOF) population estimate for Rohnert Park is 42,455, not 42,150.

Response: The commenter suggested that the Department of Finance population estimate for Rohnert Park in 2004 was 42,455 and not 42,150 as reported in the DEIS. As the 42,150 estimate came from the Department of Finance in 2005, and represents a less than one percent change in population, it is appropriate to keep the population estimate currently within the DEIS. The Department of Finance frequently adjusts and revises its population estimates from prior years. However, as the change is miniscule, reasonable, and does not significantly effect any analysis in the EIS, it does not warrant updating within the DEIS. Please also see Response to Comment 2.4.11.

2.9.14 LAW ENFORCEMENT STAFFING

Summary of Comments: The City of Rohnert Park (G-4), submitted a comment letter stated that on page 3.9-12 of the DEIS the text shows that there are 12 officers and, according to the commenter, this should be at least 45. The commenter also noted that the agency has a total of 78 sworn personnel and 115 total employees which includes support personnel.

Betty Fredericks (I-163) commented on the potential future costs to the Sonoma County Sheriff's Department to patrol Stony Point Road and Wilfred Avenue for drunk drivers, as well as, the costs to the California Highway Patrol for monitoring US-101 for drunk drivers.

Sonoma County (G-34) commented that the ratio of 1.01 police officers to 1,000-population is not correct; and should be revised to 1.17 officers to 1000-population. The commenter requested that the DEIS provide information on who developed the projected service ratio of 1.19 officers per 1,000 residents.

Response: **Section 3.9** of the FEIS was revised to that there are approximately 59 Public Safety Officers, 78 sworn personnel, and 115 total employees including support personnel.

Section 4.9 of the DEIS addresses the impacts of the project on alcohol-related crimes. Mitigation in **Section 5** includes support of DUI checkpoints. The issue of drunk driving from the project is addressed in **Response 2.9.7**. The estimated fiscal impact to law enforcement, including arrests for drunk driving offenses has been added to **Section 4.7** of the FEIS.

The existing and projected officer to population ratios were obtained from the Draft EIR for the Sonoma County General Plan 2020 prepared by Nichols Berman in which the Sheriff's Department was interviewed for information. This reference was added to **Section 9** of the FEIS. The current ratio was updated based on the County's comments.

2.9.15 ESTIMATED INDIRECT ECONOMIC EFFECTS

Summary of Comments: A letter from the County of Sonoma Teen Eagles (B-21) stated, "Director of the U.S. Gaming Study Robert Goodman found that casinos result in...billions of dollars in regional economic loss." Commenter Edward Emmons (I-148) notes that the casino will likely "bring increased growth, and thus a better economy" for Sonoma County. A comment from Sherry Anderson (I-96), stated that, "The IMPLAN model that is used relates to revenue. Nowhere in this discussion did I find any mention of indirect cost..." Anderson inquired if indirect costs were considered, and if the revenue indicated was a net of those costs.

Another commenter, Thomas Scott (I-98), cited **Section 4.7.1** of the DEIS which according to the commenter, indicated that construction impacts would, "... generate substantial economic activity within Sonoma County and the larger nine-county Bay Area Region[;]...it is assumed that all the expenditures would occur locally, as the physical building would be located in the local economy and all workers would need to be in the local economy..." Scott requested that the term "local economy" be defined further in the FEIS, and that a major study regarding the commute patterns of construction/manual laborers be included in the FEIS. The commenter also requested that if "local economy" was specific to Sonoma County, then the FEIS should include, and consider, specific information about the study. Including the following: where and when the study was published; the conclusion of the study; the credentials of the authors; where the funding for the study was obtained; any refuted statistics in the study; and the methodology of the study. If "local economy" is defined by the nine-county Bay Area Region, then the following should be included in the DEIS: 1) If the other counties benefit, explain what they would be required to contribute to offset impacts to Sonoma County; and, 2) Explain why Sonoma County is expected to absorb the impacts and costs for a project that benefits the entire region.

Response: As **Section 4.7.1** and **Appendix N** specify, the IMPLAN input-output model projects the total value of economic activity that would occur as a result of the casino, based on gross casino revenue estimates. The value of economic activity does not directly relate to costs or revenues, except as the revenues indicate the size or magnitude of initial economic activity available to circulate through the economy. The model uses the casino's projected annual revenues to estimate the indirect impacts, which represents additional economic activity related to business-to-business expenditures. Thus, when the casino buys a good from a local vendor (i.e., accounting services, stationary, etc.), these purchases represent a cost to the casino, but a revenue to the service provider (i.e, accounting firm, stationary store, etc.). Since one economic actor's costs are another's revenues, IMPLAN does not use net revenues to estimate the economic activity. It should be noted that IMPLAN does not estimate the fiscal costs to government for providing local services (i.e., police, fire, etc.), nor does it estimate the social costs of the casino (crime, problem and pathological gambling, etc.). However, **Section 4.7.1** and **Appendix N** provide a separate analysis for each of these impacts.

Section 4.7.1 and **Appendix N** specify that the analysis estimates the economic impacts for both the Sonoma County and the nine-county Bay Area "local economies." Each geographic area that IMPLAN models is called a "local economy;" this term refers specifically to the economy in which the event takes place (i.e., Sonoma County and the Bay Area).

IMPLAN treats construction activities as 100 percent local at the construction-site, which in this case is within both Sonoma County and the Bay Area. However, as **Appendix N** states, IMPLAN applies county-specific commute pattern data from governmental sources to the event to determine the induced impacts. Thus, if 90 percent of local construction workers live outside of Sonoma County,

and 50 percent of them live outside of the Bay Area, the model will ignore 90 percent of construction wages in the County model, and 50 percent from the regional model as it estimates the induced impacts of construction.

Although other counties in the region are likely to benefit from the casino's indirect and induced economic impacts, it is not likely possible for Sonoma County to charge the other counties for their benefits. Bay Area residents often work in a different county from the one in which they reside, but the county of work does not charge the other counties for supplying their citizens with infrastructure and municipal services. To the extent that workers spend money in the counties where they are employed, those counties may recoup service costs in the form of sales taxes, but cannot charge other counties.

Finally, one commenter referred to a finding by Robert Goodman that casinos result in "billions of dollars in regional economic loss." However, the comment does not provide adequate information to identify the primary source that it references. Thus, subconsultant BAE was unable to verify this finding. However, during the course of searching for the primary source, subconsultant BAE found discussions in the literature regarding Robert Goodman's work on the legalized gambling topic that calls into question both his objectivity and his underlying methodologies. Please also see Response to Comment 2.9.5.

2.9.16 ESTIMATED ROHNERT PARK LABOR POOL

Summary of Comments: The City of Rohnert Park (G-4) stated that the DEIS on page 4.9-33 assumes that the existing labor pool would fill the jobs created by Alternative E. According to the commenter, a business park would likely draw its labor force from a larger regional area; thus the statement appears misleading. The commenter quoted the following statement from page 4.11-3 of the DEIS, "...the existing housing stock would continue to serve the existing labor pool, resulting in no housing growth caused by the alternatives." The commenter requested that the basis of the conclusion be presented.

Response: According to **Section 4.11.1** and **Appendix N** of the DEIS, the business park alternative would result in 2,000 new jobs. In order to estimate the total demand for new housing in the area, the analysis considers commute patterns for Sonoma County workers, current and historic local unemployment rates, and current and historic local labor force rates. Although the business park could potentially draw workers from a larger region, labor force data and commute patterns suggest that there are currently enough unemployed workers in Sonoma and Marin Counties to staff the business park. Specifically, the number of positions that Sonoma County residents would potentially fill account for roughly 15 percent of unemployed residents, not including those workers that could be enticed to rejoin the labor market. In Marin County these positions account for less than one percent

of the current unemployed residents. Thus, there are likely sufficient workers in both locations to fill the business park positions.

In addition, there are certainly sufficient workers living within a reasonable commute distance to fill these jobs without inducing people to move into the area. If the business park draws from a larger area, it will likely draw from nearby areas that have an abundance of available workers. More workers could come from Marin County, which is a relatively short commute. Thus, it is not likely that the business park alternative would result in demand for new housing in Rohnert Park, or the County.

2.9.17 IMPACTS TO AFFORDABLE HOUSING

Summary of Comments: The City of Rohnert Park (G-4) quoted the following statement from page 4.11-3 of the DEIS, "...the existing housing stock would continue to serve the existing labor pool, resulting in no housing growth caused by the alternatives." According to the City, there would realistically be a need for additional affordable housing to serve lesser-paid employees, thus, the burden would fall upon local jurisdictions, and therefore the statement may not be correct. Other individual commenters, including, I-152 and I-156 stated that the proposed casino development would significantly worsen the region's shortage of affordable housing.

The City of Cotati (G-31) stated, "there will be an increased demand for affordable housing, and, therefore, increased competition for existing affordable residential units." The City of Cotati anticipates an adverse impact to affordable housing to affect Cotati and other neighboring cities, which, according to the commenter, should be analyzed and mitigated in the FEIS. The City of Cotati also stated, with regard to the first full paragraph on page 4.12-29 of the DEIS, that the growth in housing predicted by the Sonoma County Economic Development Board not be affordable for casino employees. According to the commenter, this issue needs to be further analyzed and mitigated.

Barbara Pollack (I-171) stated that the casino development would worsen the ability of moderate and low-income families to find affordable housing in Sonoma County.

Chip Worthington of Stop the Casino 101 (B-29) stated, "Affordable housing availability within Rohnert Park is seriously constrained." According to the commenter, it is likely that multiple families will live in single homes, which would deteriorate housing stock and quality of life.

Lloyd Iversen (I-168) expressed concern regarding the potential for low-income jobs provided by the casino project to lead to overcrowded living situations; asked, "How will affordable housing be provided for low income families who crowd into housing to save money?" and requested that this issue be analyzed in comparison to the Canal District of San Rafael and Todd Road of Rohnert Park.

Commenter I-166 asked how the Tribe would prevent existing housing from being displaced and destroyed to make room for road expansions because of increased traffic.

Response: According to **Section 4.11.1** and **Appendix N** of the DEIS, there are a sufficient number of existing residents who are willing and able to work at the casino, such that the casino would not result in new housing demand within Rohnert Park or Sonoma County. Since local workers already have a place to live, they would not increase the burden on local affordable housing. In addition, since the casino will employ unemployed residents and/or residents not currently in the labor force, these jobs will lead to higher household incomes for workers, which would not increase the burden on affordable housing in Rohnert Park, Cotati, or the County.

As noted in DEIS **Section 4.11.2**, it is possible that some existing housing will need to be displaced to allow for traffic improvements, such as the widening of Wilfred Avenue. Housing can only be displaced at the direction of local governments. Governments typically displace residential housing only as a last resort if the improvements cannot be made to accommodate existing development. As noted in DEIS **Section 4.11.2**, the U.S. Constitution and California Constitution require that property owners be fairly compensated for any governmental taking.

2.9.18 CREATION OF NEW ENTERTAINMENT AND SOCIAL OUTLETS

Summary of Comments: Commenters including, G-26 and S-98 stated that the project would create entertainment and social activities for the City of Rohnert Park and surrounding communities.

Response: It is acknowledged that the Proposed Project would create additional entertainment/social activities.

2.9.19 CREATION OF JOBS

Summary of Comments: The Ironworkers Local Union 377 (G-26) stated that the project would create “much needed construction jobs” in the Sonoma County area and permanent job opportunities for the residents of Rohnert Park and other cities. Several commenters, including, S-50, S-51, S-74, and S-98 stated that the proposed development would benefit the County through job creation.

The County of Sonoma Teen Eagles (B-21) stated, “The University of Illinois found that for every job created by a casino, 1.5 jobs were lost. This equates to a loss of almost 2,000 jobs in Sonoma County if this project is approved.”

Sonoma County (G-34) stated that pages 4.7-8, **Appendix N** page 9, and **Table 4.7-6** of the DEIS indicated that the Proposed Project would generate approximately 2,000 to 2,600 job openings, and that there is an adequate number of unemployed workers who could fill these new jobs. According to the commenter the, “Employment Development Department labor market data indicate there are

11,000 unemployed individuals in Sonoma County of which 1,100 live in Rohnert Park.” The commenter also stated that the DEIS provided no analysis to establish that a sufficient number of the potential employees would be willing or able to meet the employment requirements, or that the hours available to work would allow them to work for the casino or hotel. According to the commenter, the DEIS should be revised to provide a more detailed and realistic analysis of how the proposed development’s labor force would be selected and trained. “At a minimum, the revised DEIS should include data on the regional distribution (residence) of labor at other casino projects as compared to the location of the casino.”

The Roblar Area Property Owners submitted a comment letter (B-27) asked, “If the majority of employees will come from local cities and county, how will additional revenue be generated as Appendix N purports? Will starting wages be guaranteed at hire (*sic*) rates than the median county wage?” The commenter also stated that Sonoma County has a low unemployment rate, and questioned whether the casino employees will be taken from local businesses or come from outside the County.

Response: It is acknowledged that the proposed casino will bring jobs to Sonoma County.

Although there are only 1,100 unemployed residents in Rohnert Park, **Table 4.11.1** of **Section 4.11** of the DEIS and **Table 8** of **Appendix N** show that based on local commute patterns, only a maximum of 814 casino workers will come from Rohnert Park. This represents approximately 74 percent of current unemployed workers. In 2003, there were approximately 13,000 unemployed County residents and up to 2,600 potential casino jobs that County residents would likely fill, which represents a maximum 20 percent of unemployed residents. Thus, there are sufficient unemployed residents within a reasonable commute area such that casino employees will not need to move into Rohnert Park or the County. In addition, as the casino will need to pay competitive wages to attract and retain quality employees, persons who were once in the labor force, but left, may reenter the labor force in order to work at the casino. Thus, there are sufficient residents within Sonoma and Marin Counties to fill all proposed casino jobs.

Although casino employees will come from the local area, their wages would be new to the County. The casino will provide between 2,000 and 2,600 new jobs – that is, jobs that do not currently exist within the County. The wages that the casino pays to those residents will be new, particularly if the residents are currently unemployed or out of the labor force. While some casino employees may come from other jobs, they are not likely to take jobs at the casino unless the employee compensation is better than their current jobs. However, even if some currently employed persons take casino jobs, their current jobs will become available for unemployed persons to fill. Thus, the casino jobs represent new jobs within the County.

2.9.20 HOMELESSNESS

Summary of Comments: The County of Sonoma Teen Eagles (B-21) stated, “Director of the U.S. Gaming Study Robert Goodman found that casinos result in...increase in homelessness.”

Long (I-177) questioned how the Tribe would “prevent the unfortunate down and out gamblers from sleeping in and around the Home Depot/Walmart shopping center...sleeping in Honeybee Park or bathing in Honeybee Pool...[or] sleeping at Hahn School?”

Response: Section 4.7.1 and Appendix N of the DEIS analyze the social impacts from having a casino located in the local area. While the DEIS does not address impacts relating to homelessness specifically, the analysis included a thorough review of literature covering social issues related to casinos in general. This includes homelessness. That homelessness is not addressed specifically as a casino impact in the DEIS indicates that casino impact researchers did not find a remarkable relationship between casinos or problem and pathological gambling and homelessness such that they were addressed separately from other social issues.

The commenter referred to a finding by Robert Goodman that casinos result in an “increase in homelessness.” However, the comment does not provide adequate information to identify the primary source that it references. Thus, subconsultant BAE was unable to verify this finding. However, during the course of searching for the primary source, subconsultant BAE found discussions in the literature regarding Robert Goodman’s work on the legalized gambling topic that calls into question both his objectivity and his underlying methodologies. See Response to Comment 2.9.5.

2.9.21 NON-TRIBAL INTERESTS

Summary of Comments: Several commenters including: I-107, I-125, I-144 and I-146, I-171 are concerned that the interests and financial support is coming directly from the Las Vegas, Nevada casino owners and supporters and not from the Tribe, and that these interests will be the primary beneficiaries of the proposed casino. Judith Ann Nader (I-107) also expressed that it does not appear that Tribal members work in or benefit from the casinos.

Response: The management contract provides only a small percentage of the profits to the SC Sonoma Management and for a limited time period. Also SC Sonoma Management must perform a service (manage the hotel/casino) for which they are to be compensated. Commenter I-107’s observations are noted. Based on our experience, tribal casino project tend to provide employment opportunities for tribal members, and contribute to self-sustaining tribal governments, consistent with the purposes of IGRA (see DEIS Section 1.0).

2.9.22 TRIBAL COMPETITION

Summary of Comments: One commenter (I-138) expressed concerns about the possibility of another Tribe building a casino that would draw people away from the proposed development. The commenter asked, “What happens when another tribe builds a bigger and better attraction? What is the life span of a project like this?” The commenter requested an analysis of the impacts in 2, 5, and 8 years. Individual commenter I-166 posed the following question, “FIGR is a small tribe and it is reasonable that two tribes could share a site or casino A Pomo tribe recently purchased acreage south of the Sonoma/Marin County line. Why don’t the two tribes partner on the venture to the benefit of both?”

Another commenter (I-147) stated, “Nowhere is the issue of tribal competition mentioned.” The commenter discussed the intentions of the Dry Creek Band of Pomo Indians to develop a casino to the south of the proposed alternative sites in the DEIS. According to the commenter, “...the second Dry Creek casino will be built to retain their market share, or perhaps attempt to increase their market share.” The commenter speculated that the Dry Creek casino would be built to offer a greater gaming capacity than the Proposed Project. The commenter requested that additional information be provided on the possibility of the development of the Dry Creek casino, which according to the commenter the result would, “... be a round of casino upmanship, with the real possibility of an additional wave of casino construction to serve the market of the population centers to the south.” The commenter also wanted the cost of removing the older casinos that have become obsolete due to tribal competition.

The Dry Creek Rancheria (G-33) expressed concerns that the proposed development would have a significant impact on the economic situation of the River Rock Casino owned by the Rancheria. According to the commenter, the DEIS notes CEQ environmental justice requirements, however, it doesn’t analyze potentially significant impacts to the Rancheria. The Tribe commented on page 4.7-28 and 4.7-30 of the DEIS, “While noting that the Project contains a ‘casino component’ which would compete with the River Rock Casino, it merely states that the construction of the Project would result in River Rock sustaining certain levels of ‘convenience losses’ and ‘participation gains.’ It states that these projected ‘convenience losses’ would, depending on the Project alternative selected, vary from 13% to 22% and projects the ‘participation gains’ at 38% in all cases.”

Dry Creek Rancheria commented that, the analysis in **Appendix N** regarding the impacts to the Rancheria is superficial and “...based upon an overly simplistic analysis premised solely upon imputed calculation of increased distance between the River Rock Casino and population centers.” In addition, the commenter expressed that the analysis in the DEIS regarding the potential impacts to the River Rock Casino and the Twin Pine Casino (operated by the Middletown Rancheria Band of Pomo Indians) attempted to “brush aside” concerns relating to the potential economic impacts.

Moreover, the Rancheria commented on the assumptions regarding ‘participation gains’ which according to the commenter are, “...based upon allegations that similar results have occurred in such locations as Las Vegas.” The commenter stated that, “...the DEIS provides no support for the conclusion that such ‘participation gains’ will occur for facilities that are spread over dozens of miles. This analysis is grossly inadequate and cannot survive scrutiny.” Furthermore, the commenter stated, “Even if the DEIS has provided an adequate analysis for the conclusion it contained regarding the potential impact of the Project on the Russian River Casino and the Tribe (which it does not), it is obvious that the conclusion that the River Rock would simply “remain profitable” could not, even if true, mean that the Tribe would not, through the construction of the Project, sustain substantial economic damage because of the impairment of its primary business enterprise.” The commenter stated that the DEIS must address the specific economic impacts of the proposed development on the River Rock Casino.

In addition, the commenter stated that the concepts of environmental justice require that, “...additional studies be conducted to verifiably demonstrate the potential economic impacts of the Project upon the Tribe and its government, infrastructure, health, welfare and educational needs,” that are being met by the operation of the River Rock Casino. The Rancheria noted that the studies should be conducted using standard economic principles, and that the Rancheria should be allowed to participate and comment on those studies. “Moreover, any analysis as to the potential impact of the Project upon the Tribe, must not be premised upon simple concepts of ‘profitability,’ but must also consider the actual impact of the Project upon such sectors as the Tribe’s employment and housing.”

Response: **Appendix N** and **Section 4.7** of the DEIS address the competitive impacts of the casino on other casinos within a 75-mile radius of the site. As a second Dry Creek casino located south of the Marin-Sonoma is currently speculative, the DEIS does not address the impacts to a potential casino. However, the analysis does show that based on the average population per slot machine in states other than Nevada, California can absorb additional slot machines without adversely impacting existing casinos. That is, the state is not currently saturated in terms of number of slot machines.

While the approach used in **Appendix N** and the DEIS to determine potential revenue losses to other casinos may seem “simple,” it is based on economic inference models used at the national level, that focused on Indian Gaming casinos. As no other studies contradicted this model, the NIGC assumes that the study’s findings are valid for the purposes of this EIS. Likewise, the increased participation analysis is based data from a national study. Although Harrah’s conducted the study, it is not based on participation rates in Nevada. Furthermore, subconsultant BAE determined that the conclusions in the Harrah’s study were reasonable, and only used participation rates for California to estimate the potential participation impacts in northern California, as opposed to assuming the greater participation impacts that national data suggest would occur with increased gaming availability.

Finally, although the analysis does not explicitly discuss the impacts to the Dry Creek Tribe's government, housing, economic development, and infrastructure, the analysis does examine the impacts to the Tribe's primary business enterprise, gaming. Since the analysis determined that gaming will remain profitable for the Tribe, it stands to reason the Tribe will be able to use its continued gaming revenues to fund other ventures and benefits, such as those listed above. Furthermore, while the DEIS identified a potential gaming revenue loss to the River Rock Casino of \$8.7 million per year under a "worst case" scenario that assumed no increase in gaming participation rates from current levels, it would be speculative for the consultants to attempt to project how the Dry Creek Tribe's government would decide how such losses would be handled in regard to reducing expenditures on other activities that are currently funded with gaming profits.

A competitive analysis of the two other tribal facilities in the area which are expected to compete with the Tribe's proposed facility is briefly discussed in **Section 4.7.2** of the DEIS. Both of these other tribal facilities are located further from the large population centers than the Tribe's proposed facility. Thus, an expansion of either of the existing tribal facilities (it was recently announced that both facilities would be expanded in the near future) would likely have little impact on the Tribe. Such an expansion, however, should serve to expand those casinos' ability to compete in the market. The only other competitive possibility suggested by the commenter is if an Indian tribe secured new trust lands which were deemed eligible for gaming pursuant to Section 20 of IGRA and were located significantly closer to the immediate San Francisco Bay Area population. This was deemed unlikely to occur anytime in the foreseeable future. The property recently purchased by the Dry Creek Band is just south of Petaluma along Highway 101 and incorrectly referenced by the commenter—the site is in Sonoma County and not Marin County. Because the Dry Creek Band already operates a gaming facility on its reservation in the Alexander Valley of Sonoma County, the Secretary of the Interior would need to agree to take the lands into trust and determine the lands eligible for gaming pursuant to the so-called two-part determination under Section 20 of IGRA. Under Section 20, if the Secretary affirmatively determines that the lands should be eligible for gaming, the State Governor must concur. This has only occurred three times since IGRA was enacted in 1988, and never in California. California's Governor has indicated that he will not concur without strong local support and an independent public policy rationale. See Response concerning Governor's Proclamation under 2.2.14.

The Dry Creek proposal does not satisfy either criterion at this time. In fact, the proposal appears to be widely opposed locally. In November 2006, Petaluma residents soundly defeated an advisory referendum as to whether a gaming facility should be built at the proposed site south of the City. Absent local support, it is highly questionable whether the Dry Creek Band will be successful in acquiring new gaming eligible lands south of the Tribe's facility. In addition, the Tribe has historically opposed attempts by other tribes to acquire lands within its aboriginal territory of southern Sonoma and Marin counties. For these and other reasons, it is not reasonably foreseeable that the Tribe will face significant new tribal competition which requires further analysis in the EIS.

A partnering venture was not considered as a reasonable alternative because it was not foreseeable that the Tribe would enter into such an agreement. Each of the Indian tribes in Sonoma County and elsewhere is an independent sovereign entity with inherent powers of self-government. Neither IGRA nor any other law requires two distinct tribes to jointly operate a tribal casino. Therefore, the NIGC has no authority to compel the tribe to enter into such an agreement. Further, a joint tribal gaming venture between two tribes with different histories, land situations, memberships, etc., would be highly complex and difficult undertaking. Moreover, a partnering venture would reduce the revenues received by the tribe to improve the health and welfare of its more than 1100 members and to benefit the larger community. Reducing revenues would lengthen the time for the Tribe to achieve self-sufficiency and eliminate reliance on federal and state funding for the tribe.

Regarding the lifespan of the Proposed Project, the Tribe intends to operate the casino/hotel resort indefinitely to fund Tribal government. It is certainly reasonably foreseeable that the Proposed Project would continue to operate profitably throughout the cumulative time period discussed in the DEIS, given the large San Francisco Bay Area market. NEPA does not require speculation into the distant future and does not require a detailed and duplicative analysis (2, 5, 8 years, etc.) that would likely require speculation as to specific occurrences each year and would be unlikely to garner additional useful information over the current cumulative analysis.

2.9.23 IMPACTS TO STUDENTS OF SONOMA STATE UNIVERSITY

Summary of Comments: Betty Fredericks (I-163 and S-31) questioned if any studies have been conducted to determine the effects of a casino on the student population of Sonoma State University and if impacts are determined how would they be mitigated. Fredericks stated that the endowment of \$1.5 million dollars to the Native American Studies program by Graton Rancheria Chairman Greg Sarris, who also is the endowed chair of the Native American Studies program at Sonoma State, could influence students.

Fredericks quoted a University of Nevada, Las Vegas study by Oster and Knapp (2001), which found that college students developed gambling problems at twice the rate of other adults, with gamblers between the ages of 18 and 25 losing an average of \$30,000 each year. According to the commenter, the study indicated that, "...well over half the student under 21 claim to have gambled in a casino with nearly a quarter claiming to do so weekly."

Donald and Babette Allcock (I-65 and I-79) added additional comments regarding the temptations put upon college students with regards to gambling, alcohol, and prostitution. Further, comments were made toward the lack of student housing, and the negative impact the proposed casino would have on future student housing development.

The Eagle Forum of California (B-17) and an individual commenter (I-75) expressed concerns on the potential fiscal impacts to Sonoma State students.

The Roblar Area Property Owners Association (B-27) questioned whether marketing campaigns for the casino would be targeted at Sonoma State students.

Response: Appendix N and Section 4.7 of the DEIS examine the impacts of the casino on problem and pathological gambling behavior in young adults. Since there is little agreement within the literature as to whether the youth population has a higher rate of problem and pathological gambling than the general adult population, the DEIS does not quote a certain rate for this population segment, but states that this population may have problem and pathological gambling rates up to ten percent higher than the general population. In addition, with the rise and fall of Internet gambling in the United States, it's difficult to specify the amount of money that students, and particularly underage persons, will lose gambling in the U.S. Finally, as the legal gambling age is 21, the casino has the incentive (i.e., risk of losing its liquor license) to keep underage gamblers away from its bars and gaming floor.

As the EIS team does not know the casino's marketing strategy (as it has not yet been devised and is outside the scope of an EIS), we cannot comment on the targeted population segments.

It is unlikely and certainly not reasonably foreseeable that Chairman Sarris will use his position as an educator for any purposes other than to teach Native American studies.

Finally, Sonoma State University is located across Rohnert Park from the Wilfred and Stony Point sites. Universities typically build student housing close to campus. Thus, it is unlikely that this site would be ideal for student housing.

2.9.24 BACKGROUND ASSUMPTIONS OF THE CRIME ANALYSIS

Summary of Comments: Linda Long (I-177) questioned the use of Thunder Valley Casino in DEIS Section 4.7, page 4.7-12 as a comparable development. Long points out key differences between Thunder Valley Casino and the proposed Wilfred Site development, noting that "It [Thunder Valley Casino] is located in wide open spaces spotted with medium-heavy duty industry. It is a smaller casino. No occupied homes were near this casino when this analysis was done. No food service restaurants or fast food restaurants were located near this casino where people can hang out when this analysis was done. No shopping centers were near this casino when this analysis was done. The casino is financially backed by Stations Casino the same backers as the proposed Wilfred Site making any figures on crime suspect." The commenter points to the community surrounding the casino run by the San Manuel Band in San Bernadino County as a better representation of the type and amount of criminal activity and blight that could be expected with the proposed development of the Wilfred

Site. Long also questioned the legitimacy of the crime analysis because the City of Rohnert Park Public Safety Department has received monetary contributions from Stations Casino.

Response: While the DEIS and **Appendix N** include comparable casinos and the Rohnert Park study in their analyses of the casino's impacts to crime, the analyses do not rely on this data exclusively. **Section 4.7** of the DEIS and **Appendix N** state that the Rohnert Park crime study and surveys with law enforcement officials from comparable casino communities do not show a direct relationship between the casinos and crime. However, the literature review, which depends on statistical inference models, does show a strong relationship between the opening of a casino and increases in crime. As the literature review relies on sound economic research principals that isolate the impacts of the casino, the DEIS concurs with the findings of the literature review, rather than the surveys. Nonetheless, the Thunder Valley Casino is the only California Indian casino managed by Station Casinos, the proposed manager for the Graton Casino. Therefore, information gained on this casino is relevant to the proposed Graton casino.

2.9.25 IMPACTS TO LOW INCOME FAMILIES

Summary of Comments: Marilee Montgomery (B-33) requested that information be provided in the FEIS on the impact of the proposed development on the low-income households in the immediate vicinity of the Wilfred and Stony Point sites including, the Rancho Verde, and Rancho Feliz Mobile Home Parks. Additionally, the commenter requested information on: drug, alcohol, and gambling addition among Sonoma County's low-income households; and the racial make-up within a specified radius. However, the commenter stated that the DEIS, "...relied on previously-prepared data, rather than fresh data specific to my request." The commenter asked that her October 2005 scoping comment letter be reviewed and the requested information be provided in the FEIS.

Montgomery (B-33) was also concerned about asthma rates in low-income children as well as incidences of heart disease among women, which according to the commenter, would result from casino related air pollution. She stated that these impacts cannot be mitigated, and, "...should not be tolerated." She also stated that there is no data provided in the DEIS regarding these impacts, and that this was in violation of Executive Order 12898, Environmental Justice in Minority Populations and Low-Income Populations as of February 11, 1994. Montgomery stated that, "Neither AES, the FIGR, or the NIGC should ignore the impact of the Project on the low-income families in this area by pretending they do not exist."

Response: Regarding potential disproportionate impacts to low-income and minority populations, please see DEIS **Sections 3.7.4** and **4.7.2**.

Air pollution impacts are analyzed in **Sections 3.4, 4.4, 4.12, and 5.0** of the DEIS. Furthermore, air pollution effects on health issues are discussed in **Section 3.4** under subheading Pollutants of Concern

and Sensitive Receptors. Sensitive receptors are considered people with medical conditions, children, and the elderly. Impacts from pollutants of concern are analyzed for their potential health impact to sensitive receptors in **Section 4.4** under each alternative. With the implementation of mitigation measures outlined in **Section 5.2.3** there would be a less than significant impact to sensitive receptors due to air pollution emission from the proposed casino.

2.9.26 FISCAL IMPACTS TO LOCAL JURISDICTIONS – SONOMA COUNTY

Summary of Comments: Sonoma County (G-34) stated that the proposed annual payment of \$43,596 (on page 5-26 of the DEIS) to mitigate socioeconomic fiscal impacts to the county is inadequate, and would not mitigate impacts to the county as a whole. The commenter stated, “Even a 1-4% increase in problem or pathological gamblers in the County could lead to increased social services needs (in areas such as child welfare) that would be substantially higher than the \$43,596 figure.” Therefore, the commenter requested that the DEIS be revised to use the percentage increases referred to in the previous comment (1-4%) to develop a more realistic fiscal impact to social services in the county.

Furthermore, Sonoma County commented that, “The DEIS calculated the County’s per service population cost using an incorrect methodology. This may also be an issue for other County Departments.” Therefore, the commenter requested that the Sheriff’s Department be contacted to obtain the correct methodology.

In addition, the commenter stated that the DEIS indicated that a large portion of casino patrons would be tourists, yet the commenter stated the number of local patrons is crucial to determining the cost to the county for incremental operating and capital costs and should be calculated. Moreover the commenter stated that, “Tourists would not add any dollars to the County because the Proposed Project would be located on Trust land not subject to local taxes.” According to the commenter, “Tourists instead represent a net reduction of dollars to the County because they would visit the Proposed Project rather than other forms of local entertainment.”

Sonoma County also commented on **Appendix N**, page 24, “The DEIS states its calculation of impacts ‘does not include the patron population because the employment figure captures the patron’s portion of demand.’ The rationale is that the number of employees necessary to staff a facility capable of drawing the number of patrons for which the casino is designed, is representative of the demand for services created by the facility.” According to the commenter, “The DEIS provides no documentation or other support for this rationale. The DEIS’s methodology is perhaps applicable to retail/commercial businesses, but it does not apply to a tourist or entertainment establishment that would draw thousands of patrons. Project visitors would require substantial additional law enforcement, EMS, and other and above those provided to proposed employees.” The commenter provided the AT&T Park as an example of a venue that could attract several thousand visitors on

game days, and thus, required substantial additional law enforcement and EMS technicians on those days.” However, the commenter stated that the DEIS would conclude that park employees capture the patron’s portion of demand, and that the City of San Francisco should encounter no additional costs of hosting baseball team. No substantial evidence supports this conclusion, which substantially underestimates the Proposed Project’s costs to Sonoma County.” Therefore, the commenter stated that the DEIS must be revised and recirculated to provide a reasonable estimate of daily patrons and a fair calculation of their impacts on County services.”

The County noted that in **Appendix N**, page 27, Table 12 shows the \$143 applied to half the estimated number of the Project’s employees.” However, the commenter continued by referencing the statement in the Appendix on page 27, which indicated that small increases in county revenues may be expected as a result of fines and forfeitures, because of casino patrons who may be cited for infractions off-site. “If the employees of the Proposed Project are assumed to be existing residents of the County (as the DEIS assumes at Table 8), revenues generated by these residents are already included in the County’s budget and cannot be attributed to the Proposed Project.” Therefore, the commenter stated that the statement in the Appendix indicates that the revenues would be generated by casino patrons, which, according to the commenter, is a contradiction. Moreover, the commenter stated that the expected increase in fines and forfeitures would not fully recover the cost of providing increased law enforcement services resulting from the Proposed Project, and that **Appendix N** overestimates the potential revenue that would be generated. The commenter stated that the DEIS should be revised and recirculated to analyze, “. . . actual sources for each revenue section, and disclose which revenues would be impacted by the additional patrons visiting the area and which would impacted only by local residents.”

The County also commented that, “. . . estimating costs associated with the Proposed Project based on existing per capita expenditures underestimates County costs.” Therefore, “The departments that will be impacted the most should be calculated with specific feedback from department heads and their estimate of service costs-these include, but are not necessarily limited to, law enforcement, fire protection, EMS, district attorney, judicial, public works and social services.”

Lloyd Iversen (I-168) inquired about negative impacts to the Sonoma County economy, and quoted a University of Illinois study that reportedly found, “For every \$1 the casino brings into the state, it will cost the residents between \$3 and \$7 in hidden costs.” The commenter asked, “What will be the total cost to bring the Sonoma County infrastructure back to its current level of performance in the future?” and inquired about costs to the County specifically related to crime. Commenter I-166, asked for how the profits from the casino would be spent and how that would affect Sonoma County for 20 years following the opening of the casino. Commenter S-50 cited contributions the Tribe have committed to making that would benefit Sonoma County.

Response: The DEIS and **Appendix N** state that the casino will cost the County a net \$181,700 to provide services to casino employees and patrons. This does not include the amount that private citizens with problem and pathological gambling issues would need to pay for treatment. As most problem and pathological gamblers would use private insurance and/or personal funds to pay for these services, they do not show up as a County General Fund cost. The net fiscal impacts identified in the DEIS and Appendix N only show the amount that the County requires to mitigate providing county services to the site, the patrons traveling to and from the site, and the employees at work.

Per service population based fiscal impact models are used throughout the urban planning practice to estimate the impacts of a new development on a County's or City's General Fund. This analysis uses a per service population method for calculating per capita costs of providing new County services to the casino. The analysis divides the new employment population in half to show that commercial uses demand fewer services than residential uses. This is a standard practice for calculating the new service population. As the calculation is based on total new employees, it accounts for extended hours of operation at the casino, as longer hours will result in additional shifts, and therefore, additional employees.

The calculation does not include the patron population as their demand is captured in the employment figure. Baseline cost figures are calculated by dividing the total service costs in the County for the current year, by the existing service population. Demand from current retail and commercial patrons are captured in the employee portion of per capita service costs. If patrons of one type of establishment require a higher level of services, those costs are allocated across the entire service population, so they are included in the per service population estimate.

As the per service population cost and revenue estimates account for service demand and revenues from patrons, it is not contradictory to project revenues from fines imposed on patrons. Although a parking ticket from an employee that currently lives within the County does not represent new County revenue, a parking ticket from a casino patron would represent new County revenue. Generally, a new development will result in an additional \$11.50 per service population in fines and forfeitures. This revenue multiplier represents the additional fines that the development generates from *both* employees and patrons. Thus, it is not contradictory to state that the County will receive additional revenues from fines on patrons while using a per service population method for projecting County costs and revenues. The fiscal analysis acknowledges that the site would not produce any on-site County revenues in the form of property taxes, sales taxes, or Transient Occupancy Tax revenues.

The DEIS and **Appendix N** use the per service population cost method for estimating the impacts to the County's General Fund from the casino development. This is a better method than using a patron-based estimate, like at AT&T Park, because the Tribe will provide private on-site security and according to **Section 2.2.10** of the DEIS, the casino will also have trained personnel for medical emergencies. Casinos generally have a strong security force with numerous cameras in order to

dissuade thieves and others from trying to commit crimes against or within the casino, and are not generally staffed with local police and emergency personnel, as a ballpark might be. As the casino will use private security and emergency personnel to handle crowd control and patron emergencies, unlike AT&T Park, which relies on City Police and EMTs to provide these services, a fiscal analysis based on methods employed at a ballpark would not be appropriate for this project.

As discussed in **Section 1.4**, IGRA (25 U.S.C. Section 2710(b)(2)(A)) limits the use of net gaming revenues to the following:

- Funding tribal government operations or programs.
- Providing for the general welfare of the Indian tribe and its members.
- Promoting tribal economic development.
- Making donations to charitable organizations.
- Funding operations of local government agencies.

Regarding potential substitution effects, please see Response to Comment 2.9.5.

2.9.27 HOUSING GROWTH

Summary of Comments: The City of Cotati (G-31) stated, with regard to the first paragraph on page 4.11-3 of the DEIS, that the basis for the conclusion that “no housing growth” would occur should be presented. According to the commenter, “The composition of the jobs within the project would help determine this; however, no information regarding this is presented.” The City of Cotati also stated, with regard to the first full paragraph on page 4.12-29 of the DEIS, that the growth in housing predicted by the Sonoma County Economic Development Board will not necessarily be developed in the immediate vicinity of the project. According to the commenter, this issue needs to be further analyzed and mitigated.

Commenter S-10 stated concerns regarding the availability of housing from the increases in population related to the project.

Response: The basis for determining that casino employees will not need additional housing is presented in **Section 4.11** of the DEIS and **Appendix N**. The analysis assumes that casino employees will follow the same commute patterns as other Rohnert Park employees and that labor force participation rates and employment rates could return to their historic highs before the casino would need to solicit workers from outside of the area. Although the tribe does not specify the composition of casino jobs, it is likely that they will try to attract quality employees and train them to work in the casino. For example, Station Casinos, the proposed manager for the Graton Casino, conducted local employee training sessions (including approximately 5 months of dealer training school) prior to

opening the Thunder Valley casino for the Auburn Rancheria in 2003. Approximately 450 of the 530 dealers currently employed by the Thunder Valley casino were trained at these local sessions. Thus, the casino would not likely need to import specialized workers into the area.

Although planned residential development may not occur within the immediate vicinity of the proposed casino, it will occur within a reasonable commute distance from the casino, so that casino workers could move into these units and still commute to the casino for employment.

2.9.28 CHILDCARE

Summary of Comments: The City of Cotati (G-31) requested that on-site childcare facilities be considered, in order to meet the needs of casino employees.

Response: Page 17 of **Appendix N** considers the availability of daycare services in Sonoma County and recommends that the Tribe consider providing daycare services for employees, particularly those that work in the evenings. Also please see DEIS **Section 4.12.3**.

2.9.29 COMPARISON OF PROPOSED DEVELOPMENT TO THE THUNDER VALLEY CASINO IN LINCOLN, CALIFORNIA

Summary of Comments: Sonoma County (G-34) commented that the DEIS should provide additional information regarding the Thunder Valley Casino that was used in comparison to the proposed development. According to the commenter, the DEIS should disclose that the, "...Thunder Valley facility is located in Lincoln, California, which has just one-fourth the population of Rohnert Park, and which is not immediately adjacent to a major population center like Santa Rosa." Moreover, the commenter stated that the DEIS should further disclose that the Thunder Valley facility is located off of State Route 65, as opposed to Highway 80, and should compare SR-65 to US-101, which, "...is the primary artery for Northern California coastal counties and already suffers from significant congestion and other traffic impacts." Additionally, the commenter stated that the DEIS should provide the exact trip count information for the Thunder Valley facility collected by Kimley-Horn, referenced in **Appendix O**, page 39.

Response: The Thunder Valley casino was used as one casino among five to compare to the proposed Graton Rancheria casino. This casino was chosen for its newness, number of slot machines, and relatively urban location compared to other casinos in northern California, and because it is managed by Station Casinos, the proposed manager for the Graton Casino. In the course of this analysis, subconsultant BAE interviewed local service providers in Lincoln, CA, as well as the other comparable casino communities to get a local perspective from service providers as to whether the opening of a casino resulted in increased crime and service demand. While the Lincoln staff could not point to the casino as the sole reason for increased crime, the literature review in **Appendix N** and

Section 4.7 of the DEIS does find a relationship between casinos and crime. As the analysis gives greater weight to the findings of the literature review, no modification of the document is necessary.

In addition, Table 19 of Appendix N provides the location of each comparable casino, as well as statistics on the size of the casinos and community populations in Rohnert Park, Lincoln, Pala, Santa Ynez, Lakeside, and Palm Springs.

Thunder Valley data was collected on a weekday and Saturday in 2005. During the weekday PM peak, 836 vehicles were observed to enter or exit the site during a one-hour period which results in a trip generation rate of 3.64 vehicle trips per 1,000 square feet of gross floor area. During the weekend PM peak, 1553 vehicles were observed to enter or exit the site which results in a trip generation rate of 6.75 vehicle trips per 1,000 square feet of gross floor area. It is not necessary to provide this information in the EIS as this is only a portion of the data that were used to generate the trip generation assumptions made in the traffic study (which are reported in the EIS). Providing this data in the main body of the EIS would only serve to confuse the EIS' discussion of trip generation.

2.9.30 ANALYSIS OF DRIVING UNDER THE INFLUENCE (DUI) IMPACTS

Summary of Comments: Sonoma County (G-34) commented that the DEIS correctly acknowledges that the proposed development would increase driving under the influence (DUI) offenses, however according to the commenter the DEIS does not provide effective mitigation. The commenter stated that diversion and treatment programs, as well as, child welfare would also be affected. Moreover, the commenter stated that, "The DEIS should be revised to identify methods to support these programs and alleviate the increased demands on the County."

Furthermore, the commenter stated that the DEIS does not adequately address impacts from DUIs and other moving violations. According to the commenter, "These violations are adjudicated in the County's judicial system, and would affect the District Attorney and Public Defender's offices and the Courts." Moreover, the commenter stated that, "DUIs also affect treatment and detention programs, and the Proposed Project's increased traffic would hinder EMS response times and substantially increase costs." Therefore, the commenter stated that the DEIS should be revised and recirculated to calculate these costs on a department-by-department basis with input from department representatives, and not on a per capita basis as done in the DEIS.

Response: **Section 4.9** of the DEIS addresses the impacts of the project on alcohol-related crimes. DUI impacts and effectiveness of mitigation are also addressed in Response to Comment 2.9.7.

The fiscal impacts are discussed in **Section 4.7** and **4.9** of the EIS as well as extensively in **Appendix N**. Impacts to county services such as diversion, treatment, child welfare services, judicial system, District Attorney's office, and Public Defender's office, and court system are included in the fiscal

analysis. Mitigation includes compensation to the County for the anticipated increase in services. The methodology for the fiscal impact analysis including per capita analysis rather than interviewing individual department heads is discussed under **Response 2.9.26**. The effect of traffic on emergency response times is discussed in **Response 2.11.29**.

2.9.31 EMPLOYMENT

Summary of Comments: Sonoma County (G-34) commented that the, "...DEIS failed to properly acknowledge the region's low unemployed rate, and failed to analyze the extent to which it consists of individuals who cannot or do not desire to be employed." Furthermore, the commenter stated that the DEIS fails to, "...differentiate between unemployment in the service sector versus other job categories that do not lend themselves to casino, hotel, or restaurant employment." Therefore, the commenter stated that the DEIS should be revised and recirculated to estimate using accepted methodologies the ability of the local employment market to meet the increased demand for employment resulting from the project. "If the analysis determines that the local labor market is unable to meet this increased demand, the DEIS should analyze the increased need for housing to accommodate new households established because of the Proposed Project."

Furthermore, the commenter stated that **Appendix N** concludes that 'there are enough current residents who are either unemployed or out of the labor force in each area to fill all new direct jobs associated with the proposed casino.' According to the commenter, **Appendix N** does not analyze whether employees out of the labor force are able or willing to enter the labor force. "Nor does it address whether the Proposed Project would pay sufficient wages and benefits to attract the unemployed, given Sonoma County's median home price of \$569,000 in 2-6." Therefore, the commenter stated that the DEIS should be revised to analyze whether an actual skill match exists between current residents who are unemployed or out of the labor force and the jobs that would be created by the Proposed Project. Moreover, the commenter stated that, "The DEIS's bare conclusion cannot withstand scrutiny without an appropriate analysis, based on an accepted methodology."

Commenter S-93 expressed concerns about the economic benefits of the proposed development, and in addition, inquired about the employees of the proposed development, and whether the Tribe would provide benefits to the employees and if they would be unionized.

Response: According to **Section 2.2.10** of the DEIS, the Tribe would provide hiring preferences to City residents and Native Americans subject to collective bargaining agreements. This means that the Tribe would first hire local residents and the Tribe will use union labor.

According to **Appendix N** and **Section 4.7** of the DEIS, there are more than enough workers in Marin and Sonoma Counties that are either unemployed, or relatively fresh out of the labor force to supply workers for all casino positions. If some of the available workforce is not interested in working at the

casino, then the distribution of casino workers may shift within the two counties, but would not induce workers to move into the area. There are approximately 29,544 workers available to fill the potential maximum 2,600 casino positions, which represent approximately nine percent of unemployed workers and workers newly out of the labor force. The casino could employ approximately 15 percent of the 17,680 unemployed persons in the two counties. Since the casino would need to pay competitive wages relative to the region in order to attract and retain quality employees, it is likely that casino jobs could absorb nine percent of unemployed residents and those recently out of the labor force.

Given that the casino intends to use union labor, and that casino employees already live within Sonoma and Marin counties, the casino should not have a significant impact on home affordability. Those persons that are presently unemployed will use wages from their casino jobs to supplement other household income, or improve their situation.

2.9.32 GENERAL CONCERNS REGARDING SOCIOECONOMIC IMPACTS

Summary of Comments: Sonoma County (G-34) expressed concerns that the DEIS presented a, "...fatally flawed analysis of socioeconomic impacts and revenues for all casino alternatives." Moreover, the commenter stated that, "Affected populations are miscounted, costs of services are grossly underestimated, and the anticipated employee housing demand is confused... The DEIS's proposed mitigation measures are inadequate even to address its flawed and understated impacts, and wholly insufficient to address the true impacts of the proposed project."

Several commenters, including: S-94, I-50, I-62, I-71, and I-166, expressed concerns regarding impacts to taxes, crime, social problems, sewer capacity, local businesses, neighborhoods, and if workers compensations insurance would be available to casino employees.

Commenter S-42 refuted indications that the Tribe would not hire union workers, by stating the commitments the Tribe has made to do so, while S-73 expressed that the proposed development would create economic stimulus in the region.

The East Bay Coalition Against Urban Casinos (B-35) commented that the DEIS indicates that social and economic effects from the proposed development could be mitigated to a less than significant level; however, according to the commenter, several studies including one by Professor William Thompson of UNLV, conclude that urban casinos have significant negative social impacts.

Commenter S-103 stated that he had knowledge of two studies which indicate that casinos do not elevate negative social impacts.

Commenter S-93 expressed concerns regarding the fiscal benefits of the proposed development, and its impacts on the City, County and State.

Response: Sections 4.7, 4.9, and 4.11 of the DEIS, as well as **Appendix N** explicitly present methodologies used to determine the socioeconomic, fiscal, and growth inducing impacts of the proposed casino. All methodologies are based on standard planning industry practices and are widely used and accepted by cities and counties throughout California and the nation. For more detailed explanations of the methodologies used in these analyses, please see the above mentioned sections of the DEIS, **Appendix N**, and related comment responses.

Regarding comment B-35, the analysis finds that the casino will result in social and economic impacts and provides mitigation recommendations. Although the economic and social analyses do not rely on Professor Thompson's study, they do cite studies referenced in his report. Thus, the two analyses are not necessarily in conflict.

2.10 PUBLIC SERVICES

2.10.1 IMPACTS TO PUBLIC WATER/WASTEWATER SERVICES

Summary of Comments: Comments received from Jim Bell (I-111), Marian King (I-115), and Andrew Craig (I-129), stated potential issues about the increased demand for water from the casino in Rohnert Park. The commenters claimed that the area is in water overdraft, and specifically asked about the impacts of this increased demand on the water table. Also, comments received from the following citizen's groups: Stop the Casino 101 Coalition (B-3, B-6, and B-10); the O.W.L. Foundation (B-4 and B-5); and the Sonoma County Land Rights Coalition (B-11) expressed concerns about regional water supplies in Marin and Sonoma Counties. According to Craig (I-129) the City of Rohnert Park has not confirmed whether they would provide services and/or sanitary sewer connections to the project. He also stated that the regional groundwater supply is inadequate for existing city connections.

The Sonoma County Land Rights Coalition (B-11) and commenter S-72 are concerned that Sonoma County is in a "water crisis" based on what has been heard, in addition to, water conservation and stream protection measures in the County's proposed 2020 General Plan Update. The Coalition is worried that the casino would worsen the water crisis.

The City of Rohnert Park (G-4), expressed concerns regarding a statement made on page 2-11 of the DEIS. The commenter quoted the DEIS as stating that the City, "...expressed an interest in connecting the project to the City's sewer main that crosses the Wilfred site." According to the commenter, this is an inaccurate statement. However, a more accurate characterization was included in the DEIS on page 4.9-3, "The second conveyance scenario would be to pump directly to the City's

sewer force main. Although possible, the City has indicated that this would not be permitted.” The commenter suggested that this statement be included on page 2-11, and emphasized throughout the document. The commenter also stated that the last sentence on page 3.3-7, is misleading, “The City of Rohnert Park’s well log data indicates groundwater at depths of over 200 feet.” It was noted by the commenter, that the City’s well logs show water levels at depths varying from as little as 9 feet from the surface as recently as April 2006. The average depth to water for the City’s wells, according to the commenter, in April, May, and June of 2006 was 30 feet.

Chris and Silvey Cameron (I-101) stated, “the demand for water that this project will create alone should be an unacceptable environmental impact.”

Elaine L. Matheny (I-105) expressed concerns regarding decreased water supply and sewage problems.

Steve Klausner (I-174) commented that because the proposed development on the Wilfred site is within the boundaries of Rohnert Park, there should be a level of cooperation between the Tribe and the City. According to the commenter, “Any other kind of development in this area would reasonably expect the city to provide them with water. The tribe needs to find a level of cooperation with the city that grants them this basic utility service.”

Sonoma County (G-34) commented that, “The reliable capacity of SCWA’s transmission system is currently limited to 92 million gallons per day.” According to the commenter, “Summertime demands on SCWA’s transmission system may exceed this capacity. To the extent that the proposed project could increase peak summertime demands, the DEIS should discuss ways in which peak summertime demands from both of the project specifically and in the City’s service area generally could be reduced.” Moreover, the County commented that in the Tribe’s MOU with the City, Rohnert Park has, “...agreed to use its best efforts to limit its demand on the Transmission System during Periods of Temporary Impairment to 5.4 mgd for the Summers of 2006-2008.” According to the commenter, the DEIS uses old allocation numbers on the last sentence of the page.

Lloyd Iversen (I-168) inquired how the casino’s water usage would affect costs for existing water users, what the economic impact of overdraft is, and whether the casino would reimburse well owners for additional pumping and drilling costs; and requested a “complete list of all of the water users in the basin and how much water have they used in the past, present, and possibly need to exist in the future.”

Commenter S-10 stated that he didn’t think the Tribe would be able to utilize the Rohnert Park water system if the Tribe’s system fails.

Response: Impacts from increased consumption of groundwater by the project, including impacts on water service providers, are addressed in **Section 4.3** and **Section 4.9** of the DEIS.

Wastewater/sewage impacts are also addressed in **Section 4.9**. Cumulative impacts are addressed in **Section 4.12**. Mitigation measures are contained in **Section 5.0**, including reimbursements for nearby well owners. The demand for water would not be considered significant unless it would adversely affect the human environment including adverse impacts to neighboring wells or public water suppliers. As stated in **Section 4.9**, given that the City's water system would not be utilized and that a stable local groundwater level is expected after use of on-site wells, a less than significant impact would occur. The DEIS does not state that the City's or SCWA's water system would be used and also does not claim that an agreement for regional wastewater treatment has been reached with the City of Rohnert Park or any other entity.

See **Response 2.5.6** regarding impacts to groundwater levels in the vicinity.

The effects of the proposed pumping would not affect groundwater basins in Marin County, which are separated from the Santa Rosa Valley Basin by a bedrock ridge.

See also Response to Comments 2.5.1 and 2.5.4 for additional information on groundwater availability and regional groundwater resources.

Regarding the connection directly to the City's sewer force main it was added to **Section 2.2.7** of the FEIS that although possible would not be permitted. It was removed from **Section 2.2.7** of the FEIS that the City expressed an interest in connecting the project to the City's sewer main. The recent depths to water in the City's wells is noted. The DEIS and Groundwater Study (**Appendix G**) acknowledge that groundwater levels in the vicinity of Rohnert Park have been recovering in recent years, which is reflected by these recent, slightly higher, depths. The reference to groundwater levels at 200 feet in the DEIS text is incorrect and inconsistent with language in DEIS **Appendix G**, which correctly states that the City's wells are screened at 200 feet. The incorrect DEIS text has been removed from the FEIS.

The comments from Steve Klausner (I-174) about providing the any kind of development outside the City reasonably expecting to receive City utility service is not true. The City of Rohnert Park provides utility service both within and outside of the City in accordance with their Municipal Code. However, as noted above the Tribe has not proposed to utilized City water supply services.

In response to the comment from Sonoma County (G-34) that the temporary impairment MOU allocation numbers provided in DEIS **Section 3.9** are incorrect, these erroneous numbers have been deleted and replaced with a reference to limited allocation during periods of temporary impairment to ensure no inconsistency and to maximize the clarity of the discussion by removing references to numbers that have only limited utility to the analysis contained in **Section 4**.

As discussed in detail in the Response to Comment 2.5.3, pumping of groundwater for the casino project will result in some increase in electrical costs to pump groundwater for nearby well users and could adversely impact a few nearby shallow wells. The resulting costs will be reimbursed to the well operators. Because the groundwater basin in which the project is located has not been identified by DWR as being in a state of overdraft, evaluation of the economic impact of overdraft is not required and is beyond the scope of this EIS.

The Groundwater Study (DEIS **Appendix G**) includes an evaluation of the current and potential future use of groundwater in the Santa Rosa Valley Groundwater Basin and the southern portion of the Santa Rosa Plain groundwater sub-basin. In addition, the Groundwater Study includes a review of DWR records for water wells located within 1.5 miles of the site center, a review of the City of Rohnert Park's water supply system and a review of historical, current and anticipated future groundwater usage by the City of Rohnert Park. This review is sufficient to characterize the environmental and hydrogeologic setting of the site, identify groundwater impacts and provide a context for the evaluation of cumulative impacts. Further evaluation, and specifically compilation of a "... complete list of water users in the basin ..." and their historical, current and projected future groundwater use is not necessary or required for this evaluation.

2.10.2 IMPACTS TO EMERGENCY MEDICAL SERVICES AFTER CLOSURE OF THE SUTTER WARRACK MEDICAL CENTER

Summary of Comments: Justin Merrick (B-9) requested that the EIS address the effects of the closure of the Sutter Warrack Medical Center in Santa Rosa. Specifically, what could be done to alleviate the increased demand on emergency healthcare. The commenter requested an additional analysis regarding the closing of the Medical Center.

The Roblar Area Property Owners Association (B-27) inquired about potential delays to emergency service resulting from increased traffic.

Sonoma County (G-34) commented that, the DEIS refers to the Sutter Warrack Hospital as a nearby emergency medical facility. According to the commenter, "This facility is no longer operating as a receiving hospital/emergency department in the County." Therefore, the commenter stated that the DEIS should be revised to remove the references to this facility. Moreover, the commenter stated that the DEIS should also revise the discussion of the Sutter Hospital Project to accurately reflect the hospital's current situation and potentially uncertain future.

Response: Since release of the DEIS, Sutter has announced that the Sutter Medical Center of Santa Rosa (Warrack and Chanate Campuses) will be closed. This has been updated in **Section 3.9** and **4.9** of the FEIS, with citation added to **Section 9**.

This closure is not anticipated to impact ambulance or emergency response times, as ambulance service would continue to be provided by American Medical Response. Sutter is contractually obligated to the County to provide access to health care through 2016, which means the construction of a new facility or transaction with Santa Rosa Memorial to assume Sutter's obligations (Sonoma County Health Services, 2007). Thus, it is not anticipated that the number of emergency or other healthcare facilities would be drastically reduced. Regional planning has resulted in Santa Rosa Memorial Hospital planning expansion of in-patient, emergency and intensive care services. Santa Rosa Memorial Hospital will include approximately 300 in-patient beds, 19 emergency bays, and 26 intensive care beds in October 2007. The planned expansion over the next 10 years includes increasing to 500 inpatient beds, 38 emergency bays, and 38 intensive care beds. The expansion to 38 emergency bays will occur in 2009 (Santa Rosa Memorial Hospital, 2007). The Wilfred and Stony Point sites would still be served by multiple hospitals. Both Petaluma Valley Hospital and Santa Rosa Memorial Hospital are less than seven miles from these two sites. Petaluma Valley Hospital includes 9 emergency room beds and 9 intensive care beds (St. Joseph Health System, 2007). Increased emergency services as a result of the project should be taken into consideration for planning purposes. As with other privately provided services, increased demand would fund needed improvements or expansions. The funding of these services would be privately provided and thus fiscal impacts to local government would be less than significant.

The impact on traffic on emergency medical services is discussed in **Response 2.11.29**.

2.10.3 IMPACTS TO SCHOOLS

Summary of Comments: Robert and Arilla Aherne (I-5) expressed concerns about declining enrollment and budget deficits to Rohnert Park elementary schools, thus leading to schools closing. The letter specifically refers to the closing of the Richard Crane Elementary School, which is speculated to stem from: declining enrollment, increased housing costs, job losses, and incentives from surrounding school districts. The commenters were concerned that the casino would cause families to move out of Rohnert Park, and to nearby communities, further decreasing enrollment rates in schools, triggering the additional closing of schools.

Chip Worthington of Stop the Casino 101 (B-29) stated that a large tribal workforce would cause overcrowded schools, new school bus systems, and multi-lingual teaching staff.

Response: Impacts to schools are addressed in **Section 4.9** of the Draft EIS. As discussed in **Section 4.9** and **4.11**, the existing labor pool would fill the jobs created by Alternative A. As the analysis finds that new workers will not need to move into the area, the casino should not result in an increase in demand for educational facilities, nor should it change the racial composition of local schools.

Regarding school enrollment, the evidence suggests that families will not move out of the local area following the opening of a casino. First, the new casino will bring more jobs into the area, which typically makes an area attractive. Second, the proposed casino site is located away from local schools, in a commercial area. Finally, local school enrollment data was examined to determine the impact of similar casinos on school enrollment in other casino communities and their respective Counties to determine whether there were any significant deviations from enrollment trends in the school-year following the opening and/or expansion of a casino. Compared to their respective counties, all but one of the communities experienced slower growth in the year following the opening of the casino. However, without understanding development trends within each of these counties, it is not possible to determine whether this is related to the casino, or relatively aggressive development elsewhere in the County. Analysis of enrollment data from California casino communities has been added to **Section 4.9** of the Final EIS. Overall, this analysis shows that enrollment is on the rise in some of the casino communities and that over time the presence of the casino does not seem to have a large negative impact on local school enrollment (Bay Area Economics, 2007).

2.10.4 CITY OF ROHNERT PARK MEMORANDUM OF UNDERSTANDING (MOU)

Summary of Comments: Thomas Scott (I-98), expressed concerns regarding the date of the Memorandum of Understanding (MOU) between the Tribe and the City of Rohnert Park. According to Scott, the MOU signed in 2003, is out of date and he feels that a new agreement should be made that takes into account: increased fuel costs, the increased cost of construction materials, the possibility of limited federal money (for construction improvements to U.S. 101), limitations on carbon and greenhouse gas emissions, and other possible restrictions regarding climate change.

The City of Rohnert Park (G-4), stated that on page 4.7-18 of the DEIS the current MOU does not provide for the impact to law enforcement services or the necessary mitigation to address it. The commenter also noted that in **Section 5** of the DEIS, mitigation measure T on page 5-6 does not seem to be included in the 2003 MOU, therefore, the commenter requested that it be included in the MOU.

Commenter I-147 stated that in the MOU with the City of Rohnert Park, the Tribe would be allowed to cancel the MOU if the revenue generated by the casino is, “below the expectations of the tribe.” According to the commenter, “It will become apparent to the tribe, once the casino is operating, that the revenue will surely be below their expectations, so the city will receive no mitigation payments.” The commenter stated that the negative impacts would remain, thus, asked for information on how the impacts would be mitigated if the MOU is cancelled, and if the tribe would relinquish their sovereignty, so the city can obtain redress. If not, the commenter asked how these impacts would be mitigated.

Marilee Montgomery (B-33) stated that the MOU with the City states that the City would not provide utility services to the proposed development. Therefore, the commenter stated that the sections

discussing the possibility of the City to provide services is incorrect, and if services were provided, the proposed development would be subject to CEQA.

Sonoma County (G-34) commented that the Wilfred site is not located in Rohnert Park, but in the unincorporated Sonoma County, within the jurisdiction of the Rincon Valley Fire Protection District. Additionally, the commenter noted that the cumulative impacts from the proposed development would impact multiple fire and emergency service providers. According to the commenter, the DEIS should be revised to conduct an independent study of cumulative impacts on a regional basis. “This independent analysis, commonly called a ‘Standards of Cover’ study, should then form the basis for region-wide mitigation measures, including the negotiation of formal agreements with all service providers that would be impacted by the Proposed Project.”

Response: The MOU between the Tribe and the City of Rohnert Park is not a product of the NEPA process. The NIGC had no role in the negotiation of the MOU. Nonetheless, given that the MOU is a binding agreement, its terms have been considered in the preparation of the DEIS to the extent applicable.

Impacts to law enforcement are addressed in **Section 4.9** of the DEIS. The Tribe may contract with the City or County for law enforcement or fire protection and emergency medical services as discussed in Response to Comment 2.10.6 and 2.10.7. Mitigation Measure T on page 5-6 of the Draft EIS was referencing Section 5(b) of the MOU which states that “to the extent feasible and commercially reasonable (as determined by the Tribe), building in the Project will be designed using water conservation techniques. Funding for this mitigation would come from the Tribe or private entity and is not a burden on the City.

Regarding the Tribe’s ability to unilaterally terminate the MOU, please see DEIS **Appendix E** (containing the MOU in full). The only termination events contained in the MOU are if the property is no longer “Indian country” (and, thus, gaming cannot take place), if the Tribal-State Compact, after becoming effective, terminates (removing authority for Class III gaming), if the Tribe decides not to take the property into trust (and, thus, gaming cannot take place), if the reservation is not eligible for gaming, or if the Management Agreement is not approved by the NIGC (thus effectively removing the possibility of gaming on the site). Thus, assuming the Tribe is able to operate a Class III casino on-site, the Tribe cannot unilaterally cancel the MOU regardless of the difference between actual and expected revenues. Note that the Tribe has waived their sovereign immunity for the purposes of negotiating the terms of the MOU (see DEIS **Appendix E**).

The DEIS considers a connection to the City of Rohnert Park wastewater system under Alternatives A and H; however, no other City utilities are discussed as part of the project or alternatives. The existing MOU (see DEIS **Appendix E**) states in Section 5(a) and (c) that if the Tribe requests that the

City provide infrastructure, State laws may require environmental review pursuant to CEQA. The MOU acknowledges that the Tribe has not requested that the project be served by the wastewater system but the MOU does not explicitly state that the City would not provide wastewater service.

Note that the site is not wholly located within the County – four acres are located within the Rohnert Park city limits. It is acknowledged that the majority of the site is currently located within the jurisdiction of the Rincon Valley Fire Protection District (see DEIS **Section 3.9.5**).

The majority of law enforcement and fire protection impacts would fall upon the provider of primary services. Mutual aid on occasion would need to be provided and these services are normally not compensated between jurisdictions. The future law enforcement and fire protection arrangements could consider mutual aid services. The Tribe is funding efforts which will improve law enforcement and fire protection in the region including the Special Enforcement Unit and a new public safety building as conditions of the MOU with the City of Rohnert Park. **Section 4.12** discusses cumulative impacts to fire protection and emergency medical services in a regional context.

A separate Standards of Cover report to assess the cumulative impacts on a regional basis is not required as **Section 4.9** and **Section 4.12** of the EIS evaluate the direct impact and cumulative impact on fire protection and emergency medical service providers in the region. The impacts to fire and emergency medical services are properly analyzed in the EIS in that they assess the departments that would be affected, in what way they would be affected, and mitigation to reduce these impacts. Additionally, fiscal impacts to the affected fire agencies are analyzed in **Section 4.7**.

2.10.5 IMPACTS TO ENERGY CONSUMPTION

Summary of Comments: Crystal Brody (I-89) suggested that a study of the benefits of solar power for the proposed development be included in the FEIS. The City of Rohnert Park (G-4) suggested that the use of a photovoltaic system be explored as a mitigation measure.

Annette Elder-Evins (G-27) requested that the Tribe consider methane co-generation as a power source for the casino and surrounding development to reduce the demand for municipal electricity.

The USEPA (G-29) stated that although the Tribe has agreed to design buildings using green building techniques, it is not clear to the commenter how the site plan or architectural rendering of the Proposed Project (**Figures 2-1** and **2-2**) are utilizing passive solar design. Therefore, the commenter recommended that the NIGC and the Tribe commit to a facility that is a LEED certified green building. According to the commenter, this specification will guide the building process and create a high-performance, sustainable building, which would be consistent with the goals of EO 13423. The commenter continued, “LEED certification will enable the Tribe to establish themselves as recognized leaders in the green building sector and offer them the opportunity to market their venue as an environmentally friendly facility.”

Chip Worthington of Stop the Casino 101 (B-30) stated that Executive Order 13423 requires that federal agencies set standards for acquisition of materials based upon “sustainable environmental practices.” According to the commenter, this Executive Order applies to energy consumption, and the EIS should address its applicability to the project.

Lloyd Iversen (I-168) stated that his long-term goal of sustainable energy would be “severely compromised” by the project.

Response: The EIS evaluates the project with electricity obtained from PG&E. As discussed in **Section 4.9** of the EIS, PG&E has sufficient capacity to accommodate the operation of Alternative A. The Tribe has agreed to consider the use of a photovoltaic system and methane co-generation in the future. Mitigation in **Section 5.2.3** includes the use of photovoltaic cells on the roof of the on-site structures if feasible and enrollment in PG&E’s ClimateSmart program. This program allows PG&E to invest in green and renewable energy.

In response to the U.S. EPA’s comment (G-29), **Section 2.2.10** mentions that in the MOU with Rohnert Park the Tribe has committed to using green building techniques. The Tribe does not indicate in the MOU that the buildings would be developed using passive solar design. As stated above under Response to Comment 2.4.5, applying the various mitigation measures included in **Section 5.0** would result in the achievement of enough credits to qualify for LEED certification. It is agreed that the LEED certification would enable the Tribe to establish themselves as leaders in efficient building design; however, the NIGC cannot require the Tribe to make efforts to become LEED certified, as it is at the Tribe’s discretion to make that decision. Typically, it has been difficult for casino projects that allow smoking indoors to obtain LEED certification for gaming areas. One of the prerequisites for LEED certification is Environmental Tobacco Smoke (ETS) Control that intends to minimize exposure of building occupants, indoor surfaces, and ventilation air distribution systems to ETS. Therefore, casinos that allow smoking indoors would be required to comply with a number of stipulations that would at a minimum, either prohibit smoking, or locate designated outdoor smoking areas at least 25 feet away from entries, outdoor air intakes, and operable windows. The USGBC also requires that if indoor smoking areas are designated, that they be physically separated from non-smoking areas. According to the USGBC, “the smoking room must be directly exhausted to the outdoors with no re-circulation of ETS-containing air to the non-smoking area of the building, and enclosed with impermeable deck-to-deck partitions.” (USGBC, 2005) Thus, it would be difficult to meet this prerequisite to obtain LEED certification.

In response to commenter (B-30) the goals and duties in Executive Order 13423 apply to agency practices and internal agency procedures, such as the acquisition of goods and services, extending agency equipment life, standards for the construction of agency buildings, and establishing agency

programs. In this case the agency would be approving a management contract (the proposed federal action) but would not be constructing or operating the proposed hotel/casino resort (the Proposed Project). Thus, the goals and duties of this executive order would not apply to the NIGC's proposed action. Nonetheless, the NIGC's inclusion of extensive mitigation measures in the EIS to reduce and eliminate impacts on the environment meets the policy of this executive order that "agencies conduct their environmental, transportation, and energy-related activities under the law in support of their respective missions in an environmentally, economically and fiscally sound, integrated, continuously improving, efficient, and sustainable manner. Thus, the proposed action would be consistent with Executive Order 13423. Note also that according to Section 10(c) of Executive Order 13423, "[t]his order is intended only to improve the internal management of the Federal Government and is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by a party against the United States, its departments, agencies, instrumentalities, entities, officers, employees or agents, or any other person."

Mr. Iverson's comment is noted.

2.10.6 IMPACTS TO LAW ENFORCEMENT

Summary of Comments: The City of Rohnert Park (G-4), stated that the Rohnert Park Department of Public Safety (RPDPS) cannot assume law enforcement responsibility for the project. In addition, the commenter noted that throughout the DEIS there are statements that the existing MOU covers the cost of the City's provision of law enforcement services to the casino. These statements are inaccurate and need to be corrected according to the commenter.

The City of Rohnert Park (G-4), made the following comments regarding the impacts to law enforcement services. Beginning with the assumption that the Tribe would contract with the RPDPS for primary law enforcement services is incorrect in the DEIS, and cannot be done according to Public Law 280. The commenter also requested that this discussion on page 4.9-8 be reanalyzed and that mitigation for any impacts related to public safety be offered. In addition, on pages 4.7-9 and 4.7-10 the commenter pointed out that if RPDPS were to provide public safety services to the Proposed Project, Sonoma County would not be the dispatcher.

The City of Cotati (G-31) requested that the primary law enforcement service provider be identified, and that any relevant mitigation be presented in the EIS.

Sonoma County (G-34) commented that the DEIS should disclose that there have been no site agreements between the County and the RPDPS that would allow the RPDPS to provide services in the unincorporated area near the Wilfred site.

Moreover, Sonoma County commented that the discussion in the DEIS of impacts to law enforcement is limited to first-level impacts to the Sheriff's Department. According to the commenter, "The DEIS should also disclose that increased crime will require substantial additional resources from the Sonoma County District Attorney, Sonoma County Public Defender, and the Sonoma County court system." Additionally the commenter stated that the preparers of the DEIS should contact the County to determine the extent of potential impacts, and analyze and mitigate them in the DEIS.

In addition, Sonoma County stated that the DEIS identifies several studies that find that casinos generate additional crimes, including rapes. However, according to the commenter, the DEIS does not address the cost of a Sexual Assault Response Team (SART) deployment, forensic examinations, and County law enforcement, health, and court services. Therefore, the commenter stated that, "The DEIS should be revised to require funding to reimburse the County for emergency care of victims and the costs of forensic services."

Commenters Donald and Babette Allcock (I-65 and I-79) perceived that additional traffic will create additional problems with the response time of the Rohnert Park Police Department and Mike Kraus (I-156) predicted a higher demand for the mutual aid from Petaluma Police Department.

Response: Section 4.9 of the FEIS has been revised to assume that the Sonoma County Sheriff's Department would provide primary law enforcement services; however, the Tribe may enter into an agreement for the provision of primary services from the City of Rohnert Park Public Safety Department. Once land is transferred into trust, absent a law enforcement agreement stating otherwise, it is assumed that the Sonoma County Sheriff's Department would retain primary jurisdiction over the Wilfred Site. It is incorrect to state that the Rohnert Park Department of Public Safety cannot provide law enforcement services under Public Law 280. Approximately 4 acres of the site are located within the City of Rohnert Park and the unincorporated portion of the site is under consideration for annexation. Under Public Law 280, the State of California and other local law enforcement agencies have enforcement authority over criminal activities on Tribal land; both the County Sheriff's Department and City police can enforce criminal law on Reservations. Additionally, a cooperative law enforcement agreement could establish that primary responsibility for law enforcement services would be provided by the City; the City has previously assumed primary law enforcement responsibility through a cooperative law enforcement agreement for Creekside Middle School, which is located in the unincorporated portion of the County. State law reinforces that either a city or county may enter into a contract for law enforcement services with the Tribe in a manner consistent with Public Law 280. California Government Code 54981.7 states that "[a] city or county may enter into a contract with an Indian tribe for the city or county to provide fire protection services and police or sheriff protection services for the Indian tribe either solely on Indian lands, or on the Indian lands and territory adjacent to those Indian lands ... Nothing in this section shall be construed to alter or affect federal Public Law 280, relating to state jurisdiction in Indian lands."

There is not currently an agreement between the County and RPDPS to provide services to the Wilfred Site. **Section 4.9** of the DEIS states that “there is currently no specific, formal agreement for the provision of primary services with the City.”

Regarding the fiscal impact on law enforcement services, the MOU with the City of Rohnert Park states that the Tribe and the City agree that the compensation specified in the MOU is sufficient to offset the cost of equipment, other capital improvements, and other expenditures which the City deems necessary or appropriate to mitigate impacts of a gaming facility on the City’s law enforcement services. The EIS analysis however does not rely on this statement but independently projects the costs to law enforcement based on a service population. The original analysis assessed the fiscal impact to the City of Rohnert Park. **Section 4.7** of the FEIS has been revised to assess the fiscal impact to the County as the majority of the site is currently within County jurisdiction and there is no agreement for law enforcement services. An agency does not need to be identified; there are multiple agencies within the vicinity, which could provide primary law enforcement services.

It is agreed that if Rohnert Park provided law enforcement services that Sonoma County would not provide dispatch. The fiscal analysis in **Section 4.7** of the FEIS has been updated to assess the fiscal impact to the County for both law enforcement and dispatch service.

As the County provides Sonoma County District Attorney, Sonoma County Public Defender, and Sonoma County court system services, as well as the Sexual Assault Response Team deployment, forensic examination services, non-patrol law enforcement, and health services on a countywide basis, and the cost of these services are included in the County’s budget, the County fiscal analysis in **Section 4.7** of the DEIS and **Appendix N** accounts for the impacts to the County of providing additional services resulting from the casino. Mitigation recommended in **Section 5.2.6** for these services was based on the fiscal analysis. The methodology for the fiscal impact analysis including per capita analysis rather than interviewing individual department heads is discussed under Response to Comment 2.9.26. In addition, **Section 4.7** of the DEIS and **Appendix N** include discussions of the impacts to violent crimes, such as rape, resulting from the casino.

The effect of traffic on emergency response times is discussed in **Response 2.11.29**.

2.10.7 IMPACTS TO FIRE PROTECTION SERVICES

Summary of Comments: The City of Rohnert Park (G-4) stated that **Figure 3.9-3** incorrectly indicated the location of the City’s fire stations, and therefore, should be corrected in the FEIS. In addition, the commenter noted that the area discussed on page 3.9-14 is actually within the Rincon Valley Fire District, not the Sonoma County Fire Services Division.

The City of Santa Rosa (G-22) stated that the majority of the Wilfred site falls within the Rincon Valley Fire Protection District (RVFPD), while a small amount falls within the City of Rohnert Park. According to the commenter, CFD does not respond initially to structure fire or emergency medical calls within the RVFPD; the RVFPD has an automatic aid agreement with the City of Santa Rosa for responses to fire emergencies within the area; in 2006, the Santa Rosa Fire Department responded into the Fire Protection area serving the majority of the Wilfred site and the Todd Road RVFPD responds to the City of Santa Rosa on a regular basis; and the majority of the Wilfred site is serviced by the Redwood Empire Dispatch Communication Authority dispatch center for fire emergencies. The commenter also stated that the incident statistics are not sourced and the City of Santa Rosa is unsure of their origin and geographic area.

According to the City of Santa Rosa (G-22), fire protection at the Wilfred site would not affect the County of Sonoma, as it is located out of their jurisdiction. According to the commenter, primary impacts would be to the RVFPD with secondary impacts to the Rohnert Park, Santa Rosa, and Rancho Adobe Fire Protection Districts. Moreover, the commenter stated that the fire districts rely on property tax revenues, and that, “Removing the casino property from the County tax rolls The commenter also stated that calls for fire emergencies will impact response times, that the south end of Santa Rosa depends on RVFPD Station 4 (Todd Road) as part of the automatic aid agreement, and that increased response times by RVFPD Station 4 will impact City of Santa Rosa response times.

The City of Cotati (G-31) requested that the primary fire protection service provider be identified, and that any relevant mitigation be presented in the EIS.

Sonoma County (G-34) stated that the DEIS incorrectly stated that the Sonoma County Fire Services Division provides fire service management services to the majority of the Wilfred site. According to the commenter, “The Wilfred site is actually under the jurisdiction of the Rincon Valley Fire Protection District.” Moreover, the commenter stated that by taking the Wilfred site into trust, tax revenues available to the Rincon Valley Fire Protection District would be reduced, which might potentially result in reductions in service capacity and other impacts. Therefore, the commenter stated that the DEIS should be revised to address these potential impacts and that the County’s costs should be calculated and fully reimbursed.

Additionally, the County commented that, the DEIS does not appear to require the Tribe to mitigate the Proposed Project’s impacts on districts providing back-up or emergency mutual aid services because such services ‘are not normally compensated.’ According to the commenter, “This analysis fails.” Moreover, the commenter stated that the proposed development would impact service providers outside of Rohnert Park Public Safety Department, therefore, the DEIS should be revised to provide mitigation for those potential impacts.

Mike Kraus (I-156) predicted a higher demand for established mutual aid from Petaluma Fire Department.

Response: Location of City fire stations was corrected in **Section 3.9** and on **Figure 3.9-3**. **Section 3.9** of the FEIS was clarified to state that the majority of the site is currently under the jurisdiction of the Rincon Valley Fire District while a small portion is under the jurisdiction of the Rohnert Park Department of Public Safety. Information was added to **Section 3.9** of the Final EIS regarding Wilfred site fire and emergency medical dispatch and the automatic aid agreement between the Rincon Valley Fire District and the Santa Rosa Fire Department. The statistics in **Section 3.9** were obtained from the City's website as noted on the bottom of the table and in **Section 9.0**, References. The table is a breakdown of all fire/emergency medical calls responded to by the Rohnert Park Department of Public Safety and includes mutual aid responses. The web address has changed to <http://www.rpcity.org/content/view/27/53/> which was updated in **Section 9.0** of the FEIS.

Once land is transferred into trust, there would be no obligation on a local fire department to provide services to the trust lands. The BIA maintains fire management responsibility on trust land (see Memorandum of Understanding among BIA, National Resource Conservation Service, and Farm Service Agency Relative to Planning and Implementing U.S. Department of Agriculture Conservation Programs on Indian Lands and between BIA and USDA, BIA and CDF Agreement approved December 6, 2006 and Cooperative Fire Protection Agreement between BIA and California Department of Forestry and Fire Protection approved July 18, 2003); however, the BIA lacks the infrastructure to provide services to the site. The impact of not having an agreement for fire services is significant. Mitigation in **Section 5** includes that the Tribe will enter into an agreement for the provision of primary fire protection and emergency medical services. The agreement would address compensation for the provision of services. The Tribe could contract with the Rincon Valley Fire Protection District, the Rohnert Park Department of Public Safety or another city/county agency pursuant to State law; California Government Code 54981.7 states that “[a] city or county may enter into a contract with an Indian tribe for the city or county to provide fire protection services and police or sheriff protection services for the Indian tribe either solely on Indian lands, or on the Indian lands and territory adjacent to those Indian lands ... Nothing in this section shall be construed to alter or affect federal Public Law 280, relating to state jurisdiction in Indian lands.” An agency does not need to be identified; there are multiple agencies within the vicinity which could provide primary fire protection and emergency medical services.

Removing the site from the tax rolls would affect revenue; however, that is only relevant if the RVFPD is providing services to the property for which taxes were previously collected. The DEIS recommends that the Tribe negotiate an agreement for the provision of fire and emergency medical services, which will address the costs of providing the service to the site.

The majority of fire protection impacts would fall upon the provider of primary services. Mutual aid on occasion would need to be provided and these services are normally not compensated between jurisdictions. The future fire protection arrangements could consider mutual aid services. The Tribe is funding efforts which will improve fire protection in the region, including a new public safety building, as conditions of the MOU with the City of Rohnert Park. Due to the proximity of the Wilfred and Stony Point sites to the City and contributions for facilities in the MOU, **Section 4.9** of the FEIS assume that the Tribe would most likely contract with the City of Rohnert Park for fire protection and emergency medical services. The fiscal analysis in **Section 4.7** and **Appendix N** includes the cost of providing of fire and emergency medical services by the City of Rohnert Park and mitigation is recommended in **Section 5.2.6** for this fiscal impact. Annual contributions at this level would prevent a reliance on mutual aid services.

2.10.8 DESCRIPTION OF PUBLIC SERVICE OFFICERS (PSOs) AND EQUIPMENT

Summary of Comments: The City of Rohnert Park (G-4) noted that the text on page 3.9-12, should be revised to reflect that Public Service Officers (PSOs) are certified as first responders, and that many are also EMTs. The commenter noted that on page 3.9-15, the text should indicate that: there are at least 59 PSOs, there is no longer a Fire Commander, fire inspectors are sworn officers, a Lieutenant manages this division, and the division is allotted 3 fire sergeants. In addition, the text should note that officers will respond if available.

The commenter also noted the following should be updated in the DEIS on page 3.9-17:

- Station Three has a Type I Engine with 1250 GMP pump and 500 gallon tank, air rescue capacity of 6000 pounds per square inch, and no longer has the hazardous materials response trailer in their possession;
- Station Four has a Type I Engine with a 1500 GPM pump; and
- The Fire Division has two Expeditions, three Explorers, and no Crown Victorias.

Roberta Walker (I-146) is concerned with any future costs that may be associated with additional public safety officers (pension, health) that would put financial burdens on Rohnert Park residents.

Response: **Section 3.9** of the FEIS was updated based on the information received from the City of Rohnert Park.

As shown in **Appendix N** and **Section 4.7** of the DEIS, the City of Rohnert Park is fully compensated for the fiscal impacts of the casino. In addition, the FEIS and **Appendix N** have been updated to reflect lower City costs, as the analysis no longer assumes that the City will provide law enforcement services to the site. Thus, the City will receive the same payments under the MOU, but have fewer costs. Should the City provide law enforcement or fire protection services it would require an agreement which would negotiate compensation for services.

2.10.9 AVAILABLE SPECIAL ENFORCEMENT UNIT (SEU) FUNDING

Summary of Comments: The City of Rohnert Park (G-4) stated that the Special Enforcement Unit (SEU) has no remaining funding, therefore, according to the commenter, the text in the FEIS should reflect the availability of funding for the SEU.

Response: Section 3(d)(ii) of the Rohnert Park MOU specifies that the Tribe will contribute \$700,000 for SEU funding on July 1, 2004, and \$500,000 annually thereafter, but provides that in the event that construction of the project has not occurred by June 30, 2006, then the Tribe can suspend such contributions until construction begins. While the project is not yet under construction, the Tribe has agreed to continue to fully fund the SEU through June 30, 2008, which will bring its total contribution for SEU funding to \$2,200,000. In June 2007, at the request of Rohnert Park, the Tribe also agreed to provide \$153,000 in additional funding for two new Public Safety Department positions beginning January 1, 2008, including a school resource officer and a records supervisor. The school resource officer will be assigned primarily to the middle schools for early intervention, education, and mentoring purposes. The records supervisor will be responsible for the daily supervision of the Department's records unit. This will allow the person currently responsible for the records unit, the administrative sergeant, to focus primarily on recruitment and hiring.

2.10.10 LAW ENFORCEMENT MITIGATION

Summary of Comments: The City of Rohnert Park (G-4) commented on mitigation measure Y in **Section 5.2.8** of the DEIS. The commenter noted that it was stated that the Tribe would contract with a law enforcement service provider for primary law enforcement services. The commenter requested that the provider should be identified in the FEIS, and mitigation measures should be provided.

Sonoma County (G-34) commented that mitigation measure Y on page 5-55 in the DEIS should be revised to read, "Prior to operation, the Tribe shall enter into an agreement for law enforcement services with all law enforcement agencies that have jurisdiction in and around the proposed development site." The commenter stated that if this mitigation measure is not revised, then impacts to law enforcement from Alternatives A-F would not be less than significant, therefore the text in the DEIS that references this mitigation must be revised.

Sonoma County (G-34) also commented on the Tribe's agreement to contribute funding toward the construction of a new public safety building that is developed at a mutually agreed upon location. The commenter stated that, "Given that the Proposed Project would be on and surrounded by unincorporated land under the jurisdiction of the County Sheriff, it is inappropriate to infer that this public safety building would adequately mitigate law enforcement needs that arise in the Sheriff's jurisdiction."

The commenter inquired about the enforcement of off-site parking enforcement. Specifically, the commenter asked who it would be controlled by, and that the only control for off-site parking would be zoning that designated areas as No Parking zones that would be established through county ordinances. The commenter noted that, enforcement would come from CHP ticketing and that CHP does not routinely perform ‘no parking’ surveillance.

Responses: **Section 4.9** of the DEIS addresses law enforcement impacts with mitigation recommended in **Section 5.2.8**.

Typically in a NEPA document, the preparer need only look to the jurisdiction where the site is located to know which agency will have certain responsibilities. This is not the case with the Wilfred Site as a small portion of the site is within the City of Rohnert Park, and all of it is within the City’s sphere of influence and subject to annexation by the City. However, most of the site is now within the unincorporated area of Sonoma County. This dual assertion of jurisdiction complicates the task of assigning certain responsibilities.

A primary law enforcement provider does not need to be identified; there are multiple agencies within the vicinity which could provide primary law enforcement services. Mitigation language was not revised to state that the Tribe would enter into an agreement with multiple agencies as an agreement with a primary provider would reduce the impact. Mutual aid assists are not intended to occur regularly and are normally not compensated. Contributions to the City of Rohnert Park for public safety facilities would improve regional mutual aid resources. The FEIS was revised to clarify the assumption that absent an agreement stating otherwise, the Sonoma County Sheriff’s Department would provide law enforcement services. **Section 4.7** of the DEIS and **Appendix N** accounts for the impacts to the County of providing law enforcement services resulting from the casino. Mitigation recommended in **Section 5.2.6** for these services was based on the fiscal analysis. Annual contributions at this level would prevent a reliance on mutual aid services.

The DEIS does not state that a new public safety building adequately mitigates law enforcement needs in the Sheriff’s jurisdiction. The DEIS simply repeats the language in the MOU which states that the Tribe and the City agree that the compensation specified in the MOU is sufficient to offset the cost of equipment, other capital improvements, and other expenditures which the City deems necessary or appropriate to mitigate impacts of a gaming facility on the City’s law enforcement services. Note that the analysis has been revised to assume that the County would provide law enforcement services to the proposed casino.

There would not be off-site parking. The parking lot was sized by the developer and their architect to ensure no need for off-site parking even during peak usage. Please see Response to Comment 2.5.26.

2.10.11 FIRE PROTECTION MITIGATION

Summary of Comments: The City of Rohnert Park (G-4) commented on the information regarding the potential fire protection service provider as stated under mitigation measure FF. According to the commenter, there is a discussion of how prior to the project's operation, the Tribe would enter into an agreement with a fire service provider for primary fire protection. The commenter requested that the provider be identified in the FEIS, and furthermore, that the FEIS should be revised to reflect additional mitigation or impacts that may result from the identification of the fire service provider.

The City of Santa Rosa (G-22) suggested that "provider" be changed to "providers" because there are multiple jurisdictions involved, and stated that an agreement should fund ongoing staffing of the fire response services. According to the commenter, additional analysis is required to identify the impacts to the fire response jurisdictions based upon the experience of similarly sized casino property responses, and an agreement should be obtained to provide fire response services based on the analysis.

Sonoma County (G-34) commented that the DEIS should clarify on page ES-82 that the UFC and California Building Codes will be replaced with the IFC and IBC in January 2008.

The County also commented that, "The DEIS should be revised to recognize that the Proposed Project would adversely impact all fire protection agencies that have jurisdiction in and adjacent to the proposed development site." Furthermore, the commenter stated that, "The revised DEIS should require the Tribe to negotiate formal agreements with all fire service providers that would be impacted by the Proposed Project."

In addition, the County commented that the construction of the public safety building at a mutually agreed upon location, would be on and surrounded by unincorporated land under the jurisdiction of the Rincon Valley Fire Protection District. Therefore, according to the commenter, "...it is inappropriate to infer that this public safety building would adequately mitigate fire protection needs that arise in the district's jurisdiction."

Commenter S-37 refuted the impacts to fire protection from the proposed development by citing the commitments outlined by the Tribe in its MOU with the City of Rohnert Park.

Responses: Section 4.9 of the DEIS addressed fire protection impacts with mitigation recommended in Section 5.2.8. Response to Comment 2.10.7 discusses fire agency jurisdiction on trust land. A primary fire service provider does not need to be identified; there are multiple agencies within the vicinity which could provide primary fire protection and emergency medical services. Mitigation language was not revised to state that the Tribe would enter into an agreement with multiple agencies as an agreement with a primary provider would reduce the impact. Mutual aid assists are not

intended to occur regularly and are normally not compensated. Due to the proximity of the Wilfred and Stony Point sites to the City and contributions for facilities in the MOU, **Section 4.9** of the FEIS assume that the Tribe would most likely contract with the City of Rohnert Park for fire protection and emergency medical services. The fiscal analysis in **Section 4.7** and **Appendix N** includes the cost of providing of fire and emergency medical services by the City of Rohnert Park and mitigation is recommended in **Section 5.2.6** for this fiscal impact. Annual contributions at this level would prevent a reliance on mutual aid services.

In January of 2008, the effective California Building Code will be based on the International Building Code and effective California Fire Code will be based on the International Fire Code so the references to the California Codes do not need to be changed.

The EIS does not state that a new public safety building adequately mitigates fire protection needs of the Rincon Valley Fire Protection District. The EIS simply repeats the language in the MOU which states that the compensation detailed within the MOU is sufficient to cover the cost to the City of constructing and equipping a new public safety building which is of sufficient size and quality to mitigate potential impacts of a gaming facility on fire protection and first responder services.

2.10.12 IMPACTS TO INCREASED MUTUAL AID ASSISTANCE FROM THE CITY OF PETALUMA

Summary of Comments: The City of Petaluma (G-14) submitted a comment stated that the Petaluma Fire Department (PFD) and American Medical Response depend on each other for mutual aid/backup service. The commenter stated that increased demands for EMS responses are likely to increase PFD mutual aid calls for service to Rohnert Park and this could affect the PFD's ability to meet its minimum staffing requirement for EMS and fire responses in Petaluma. The commenter suggested that the FEIS study this impact and recommend mitigation appropriately. The commenter suggested the EIS consider as mitigation the purchase of a new ambulance and associated medical equipment as well as upgrades to PFD's Fire Station Two (South McDowell Boulevard at Corona Road) to accommodate housing the vehicle and personnel to staff it.

Petaluma residents Michael Kraus (I-156) and Barbara Pollack (I-152, I-171) expressed concern that the Proposed Project would heighten demand for mutual aid from Petaluma's fire and police departments. Pollack notes that this would result in an increase to local taxes.

Responses: See Response 2.10.7 regarding impacts to local fire departments including mutual aid services. As emergency medical services including ambulance are primarily funded by the individual requiring service, increased calls for service should primarily fund increased equipment and staffing needs. Additionally, as **Section 2.2.10** specifies, the MOU calls for a new fire station in Rohnert Park. This additional fire station will be available to provide mutual aid to neighboring jurisdictions, and thus, would result in a benefit to the neighboring jurisdictions. In addition, Sonoma County fire

staff indicated that a new fire engine would allow for better fire protection throughout the region (see **Appendix N**, footnote 43 on page 28).

2.10.13 IMPACTS TO EMERGENCY MEDICAL SERVICES FROM THE LAKEVILLE SITE ALTERNATIVE

Summary of Comments: The City of Petaluma (G-14) submitted a comment which stated that the PFD has ambulance responsibility for the Lakeville Corridor. According to the commenter, the proposed development on the Lakeville site would create an estimated additional 2-3 calls per day, using their current call statistics. The commenter also stated that this impact should be analyzed in the FEIS, and appropriate mitigation measures provided. The commenter suggested the EIS consider as mitigation the purchase of a new ambulance and associated medical equipment as well as provide upgrades to the PFD's Fire Station Three (located at South McDowdell Boulevard at Caulfield Lane) to accommodate housing the new ambulance and personnel to staff it.

Response: The impact to fire protection and emergency medical services from the Lakeville Site alternative is discussed in **Section 4.9**. Without an agreement for service, impacts could occur to the PFD. As emergency medical services including ambulance are funded by the individual requiring service, increased calls for service should primarily fund increased equipment and staffing needs including new ambulances and personnel. The fiscal analysis in **Section 4.7** and **Appendix N** includes the cost of providing of fire and emergency medical services by Sonoma County (presumably through the Lakeville Volunteer Fire Department) and mitigation is recommended in **Section 5.2.6** for this fiscal impact. Annual contributions at this level would prevent a reliance on mutual aid services from PFD. Mitigation in **Section 5.0** states that prior to operation, the Tribe shall ensure that a fire station is constructed near the Lakeville site and staffed with at least three firefighters. This would reduce impacts to the City of Petaluma.

2.10.14 IMPACTS TO EMERGENCY MEDICAL SERVICES - INDIRECT IMPACTS ON CITY OF PETALUMA RESPONSE TIMES

Summary of Comments: The City of Petaluma (G-14) stated that PFD provides emergency ambulance services to the Lakeville site and mutual aid/backup to the Rohnert Park sites. The commenter stated that increased demand for ambulance service could affect fire suppression levels in the City of Petaluma, potentially increasing response times and/or redirecting resources to the Proposed Project resulting in lower levels of service to citizens served by the fire stations within the city limits. The commenter stated that increased call volume create proportional increases in equipment usage and maintenance, and increases in corresponding risks for accidents and lost time to employees due to injuries associated with EMS responses. The commenter stated that it is difficult to quantify the impact of this added growth on the department's ability to response to multiple incidents simultaneously. The commenter stated that the number of simultaneous incidents will increase, potentially delaying subsequent calls for assistance and impacting the resources of mutual aid

neighbors. The commenter adds that PFD could be affected as they have the only available water craft for rescue on the Petaluma River.

Response: Regarding impacts to the City of Petaluma for increased mutual aid responses see Responses to Comments **2.10.12** and **2.10.13**. As the alternatives would not provide direct access to the Petaluma River or increase recreational use of the Petaluma River they are not anticipated to have a significant affect on the availability of rescue watercraft operated by PFD.

2.10.15 REGIONAL WASTEWATER PLANT CAPACITY

Summary of Comments: The City of Santa Rosa (G-22) stated that 354,000 gallons per day (gpd) of wastewater to the Laguna Treatment Plant is 239,000 gpd higher than anticipated in the Rohnert Park General Plan, and above what is in the current Integrated Regional Wastewater Management Plan and Program EIR. The commenter inquired as to whether the Casino would be considered a separate entity or if the project should be part of the Rohnert Park allocation and, if the Tribe is considered a separate entity, whether or not it would pay for the amendments to the Master Plan and program EIR.

Response: Impacts to the Laguna Treatment Plant are discussed in **Section 4.9** of the EIS. The project would be outside of the jurisdiction of the City of Rohnert Park, but a portion of the Wilfred Site is within the area proposed for development under the City of Rohnert Park's Northwest Specific Plan. As discussed in **Section 4.9**, the Laguna Treatment Plant does appear to have the capacity to accept the additional project flows. Should wastewater be treated at the Laguna Subregional WWTP, it would be up to the Laguna Subregional WWTP partners to determine how the project would be considered in the allocation calculations. The Tribe would pay for its fair share of the amendments to the Master Plan, and appropriate environmental documentation, if necessary. This discussion was expanded in **Section 4.9** of the FEIS. Mitigation was clarified in **Section 5** of the FEIS to include environmental documentation in fair share payments. It should be noted that use of the Laguna WWTP is not the NIGC's preferred alternative as an agreement to allow a sewer connection has not yet been reached, which is discussed in **Section 2.11** of the FEIS.

2.10.16 TERMS OF TRIBE'S RECYCLED WATER USAGE

Summary of Comments: The City of Santa Rosa (G-22) stated that if the Laguna Plant treats the project's wastewater, the Tribe requests up to 50 gpm of recycled water, and inquired as to how the Tribe will negotiate this commitment with the Regional Authority and what price the Tribe will suggest for the water.

Response: Impacts affecting use of recycled water are discussed in **Section 4.9**. The Tribe would expect to pay the same price for recycled water as the other users of recycled water. If that is not the case, the price would be determined as specified in the agreement to treat wastewater from the project at the Laguna Subregional WWTP. The outcome of this agreement would be dependent on the

decisions of the Laguna Subregional WWTP partners. The FEIS was revised to expand this discussion in **Section 4.9** and specify recycled water in Mitigation Measure 5.2.8(A).

2.10.17 ANALYSIS OF IMPACTS OF WASTEWATER DEMAND

Summary of Comments: The City of Santa Rosa (G-22) stated that the wastewater analysis in the EIS document discounts demand, and therefore discounts impacts, due to the Northwest Specific Plan. According to the commenter, NEPA requires that the environmental analysis evaluate effects of the Proposed Action relative to existing conditions (that is, the Northwest Specific Plan as it is described in Rohnert Park's general plan) and the EIS wastewater impact analysis should be modified to reflect effects of all the project's wastewater demand.

Response: Given that Alternative A or H will displace some development planned by the Northwest Specific Plan, it is appropriate to consider the displacement of that demand and the increase in demand that may result from Alternatives A or H. Note that the complete water demand and wastewater disposal demand are fully disclosed throughout the DEIS. Note also that the DEIS acknowledges that a separate agreement for wastewater services would be required before hookup to the regional treatment plant would be required (service could not be obtained under Alternatives A or H simply because development under those alternatives would be located on the same site where Northwest Specific Plan development is proposed by the City of Rohnert Park).

2.10.18 ANALYSIS OF IMPACTS OF WATER DEMAND

Summary of Comments: The City of Santa Rosa (G-22) stated that the water analysis in the EIS document discounts demand, and therefore discounts impacts, due to the Northwest Specific Plan. According to the commenter, NEPA requires that the environmental analysis evaluate effects of the Proposed Action relative to existing conditions (that is, the Northwest Specific Plan as it is described in Rohnert Park's general plan) and the EIS water impact analysis should be modified to reflect effects of all the project's water demand.

Response: Please see Response to Comment 2.10.17.

2.10.19 IMPACTS TO EMERGENCY MEDICAL SERVICES

Summary of Comments: According to the City of Santa Rosa (G-22), additional analysis is required to identify the impacts to the emergency response jurisdictions based upon the experience of similarly sized casino property responses, and an agreement should be obtained to provide EMS response services based on the analysis.

A comment received from Gretchen Daniels, of the Sutter Nurses Against the 101 Casino (SNAC), a group of nurses from the Sutter Medical Center in Santa Rosa (B-20), requested an additional study that would analyze the impacts of the proposed development to the Sonoma County healthcare

system. The study should include a projection of fatalities and traumas associated with college drivers interacting on the same freeway structures within a five mile radius of a tribally governed casino. Additionally, Gretchen Daniels of the Sutter Nurses Against the 101 Casino requested that the proposed development not go forward. According to Daniels, Sonoma County is not prepared to take on a further epidemic of trauma and fatalities that may result from people leaving the proposed development intoxicated, thus increasing the demand on emergency medical services.

The City of Santa Rosa (G-22) stated that the following would apply to emergencies at the Wilfred site: Initial first responses would be from the Rincon Valley Fire Protection District's Todd Road fire station; American Medical Response would provide ambulance transport services; the closest Advance Life Support (ALS) unit would respond; and, during busy system times, Santa Rosa Fire Medic Engine 8, located on Burbank Avenue, would be the first responder. The commenter also stated that the majority of the Wilfred site is serviced by the Redwood Empire Dispatch Communication Authority dispatch center for medical emergencies.

The Citizens Against Roblar Rock Quarry (CARRQ) group (B-23) stated that, "The increase in temporary population caused by casino visitors, staff and increased traffic will lead to growth in medical care needs (e.g. first aid), EMS ambulance responses, and visits to emergency departments (EDs)." According to the commenter, "Other communities with gaming casinos noted an increase in volume of first aid, EMS, ED and police enforcement needs." The commenter expressed that with some Sonoma County hospitals closing, the development of the casino would have a huge impact on emergency room capacities. The CARRQ group questioned that with side roads being congested from commuters avoiding US 101, what would happen to people being transported by ambulance and the emergency response teams.

According to the commenter, "The average time from dispatch to a scene and return to service in Sonoma County ranges from 15 to 30 minutes and for transports it can be upwards of 1 hour." The CARRQ group expressed that existing conditions are too congested to allow for increased casino related traffic. The commenter continues, "Our community is already burdened with severe traffic hazards, lack of fire and police support."

Sonoma County (G-34) commented that the DEIS stated that AMR provides emergency medical services throughout the County. However, according to the commenter, "AMR in fact provides ambulance transport services only to the core area of Santa Rosa and Rohnert Park, not to the entire County." Moreover, the County stated that the DEIS should not assume that the cumulative impacts from the proposed development would have an isolated impact on AMR.

The County (G-34) also commented that the DEIS does not mention the Petaluma Valley Hospital, which according to the commenter, "...is probably the destination of preference for patients

originating from the casino site.” Therefore, the commenter stated that the DEIS should be revised to identify this facility.

Sonoma County also stated that the discussion of the impacts is insufficient, for the following reasons:

- The DEIS does not address potential impacts to emergency response providers off the project site. The DEIS appears to incorrectly limit its analysis to on-site impacts alone;
- The DEIS includes no analysis of the Proposed Project’s draw down effects on all emergency service providers;
- The DEIS does not provide a complete picture of all fire services provided in the region, and does not disclose or analyze the ways in which calls from the Proposed Project would impact regional service levels;
- The DEIS should be revised to conduct an independent study of the Proposed Project’s cumulative impacts on service providers. This independent analysis, commonly called a ‘Standards of Cover’ study, should then form the basis for region-wide mitigation measures, including the negotiation of formal agreements with all service providers that would be impacted by the Proposed Project;
- The DEIS includes no analysis of the Proposed Project’s traffic impact on emergency service providers. The Proposed Project would significantly increase vehicle trips and traffic congestion on both local roads and Highway 101, causing potentially significant impacts on regional response times; therefore,
- The DEIS should be revised to analyze these impacts, and require the applicant to provide funding sufficient to ensure that the Proposed Project would not decrease response times nor adversely impact existing residents.

Sonoma County (G-34) also commented that the DEIS does not recognize project effects associated with the provision of EMS/ambulance services, and does not propose funding to mitigate these impacts. According to the commenter, the DEIS acknowledges that AMR would provide ambulance transportation and stated that these services are primarily funded by the individual requiring transport and that the impacts would be less than significant. The commenter stated that the DEIS only addresses instances where a patient is transported, and does not consider the costs associated with incidents in which an individual does not require transport, and does not fund the ambulance service. “As a result, the DEIS understates the average compensation rate per call that the Proposed Project would generate, and incorrectly assumes that transport rates would suffice to fund all required ambulance resources.” Therefore, the commenter stated that the DEIS should be corrected to acknowledge the jurisdiction of the County in providing services to the Proposed Projects, and should include all appropriate mitigation to ensure the County is compensated for all increased costs

associated with the proposed development. Moreover, that the County would be the first responder to calls for service, and would provide public safety services to the Proposed Project.

Commenter I-76 stated that the proposed development would have emergency, fire, and medical services, and noted contributions the Tribe has made toward the City of Rohnert Park to mitigate impacts to these services. The commenter also noted provisions outlined in the Tribal-State compact that require the Tribe to ensure the public's safety through food inspections, compliance with building code and fire safety standards, and water quality standards.

Response: Existing emergency medical services are discussed in **Section 3.9** and impacts to emergency medical services are discussed in **Section 4.9**. The Executive Summary and **Section 3.9** were clarified to state that AMR provides service to Santa Rosa, Rohnert Park and unincorporated areas near Rohnert Park. The existing emergency responders to the Wilfred site are noted; however, the Tribe may contract with another fire or emergency medical agency to provide primary services to the project.

The EIS states in **Section 4.9** that operation of the project would result in increased calls for service and a potential decrease in response time to local emergency responders. Most ambulance trips and hospital visits would be funded by the individual requiring service which would help fund increase infrastructure, equipment and staffing needs. If any calls were funded by the County they would be included in the fiscal impact analysis. The cost of calls not requiring transport is subsumed by the ambulance company or fire agency just as would occur for non-project related calls. See **Response 2.10.7** regarding impacts to local fire protection agencies including mutual aid services.

Petaluma Valley Hospital was discussed in **Section 3.9** of the DEIS; the discussion of Petaluma Valley Hospital was expanded to **Section 4.9** of the FEIS. Santa Rosa Memorial has more emergency room capacity than Petaluma Valley Hospital and is designated as a Level II – Trauma facility; therefore, it is just as likely to be the destination for emergency medical incidents as Petaluma Valley Hospital. A discussion of the closure of Sutter Medical Center, including emergency medical, has been added to **Section 4.9** of the Final EIS.

The dispatch times given by the commenter include the time spent traveling to and from an emergency and do not take into account that fire agencies are often the first to arrive to a medical emergency. Fire agencies are typically first responders to medical emergencies due to their distribution throughout a district. Ambulances provide transport and their response times are typically longer as there may be only be one or two ambulance facilities within a fire district. The EIS states in **Section 3.9** that the average response times for the Rohnert Park Department of Public Safety for fire/emergency medical responses is 4 minutes and 33 seconds. This is a reasonable response time for first response. The City of Santa Rosa and County comments assume that the

County would be the first responder and would be providing fire protection services. This assumption is not correct as the Tribe can choose to contract with either the City or County. The EIS analysis assumes that the City would be primary provider of fire protection/emergency medical response services and would be the first responder.

The mutual aid discussion for both fire protection and emergency medical was expanded in **Section 4.9** and **Section 4.12** (Cumulative) of the FEIS. Off-site emergency response providers, regional effects, and drawdown effects are discussed in the analysis of mutual aid. The fire service providers applicable to the project site are discussed in **Section 3.9**. This discussion was expanded to discuss surrounding agencies. The future fire protection arrangements could consider mutual aid services. The Tribe is funding efforts which will improve fire protection in the region including a new public safety building and fire truck as conditions of the MOU with the City of Rohnert Park. In addition, Sonoma County fire staff indicated that a new fire engine would allow for better fire protection throughout the region (see **Appendix N**, footnote 43 on page 28).

See **Response 2.10.4** regarding the Standards of Cover report. See **Response 2.10.7** regarding mitigation for fire protection services.

Regarding accidents from drunk driving see **Response 2.9.7**. The effect of traffic on emergency response times is discussed in **Response 2.11.29**.

Commenter I-76's comments are noted.

2.10.20 WASTEWATER TREATMENT

Summary of Comments: The County of Sonoma Teen Eagles (B-21) stated that the project would increase wastewater. Commenter I-135 expressed concerns regarding the wastewater disposal to the Laguna Subregional Wastewater Treatment Plant, which, according to the commenter, is operating near capacity.

Response: **Section 4.9** and **Appendix D** of the DEIS discussed that the project would result in an increase in wastewater generation from what is currently generated. Additionally, **Section 4.9** and **Appendix D** addressed the capacity of the Laguna Subregional WWTP. The WWTP is operating near capacity, but is believed to have adequate treatment capacity to treat sewage from the project as discussed in **Response 2.10.15**. Mitigation in **Section 5** includes that if the Tribe disposes wastewater off-site to the Laguna WWTP, the Tribe would coordinate with the WWTP and the City of Rohnert Park to pay appropriate connection fees and ongoing service. The Tribe would also pay the fair share cost of future expansion/improvements, including environmental documentation, to increase wastewater capacity of the Laguna WWTP. It should be noted that use of the Laguna

WWTP is not the NIGC's preferred alternative as an agreement to allow a sewer connection has not yet been reached, which is discussed in **Section 2.11** of the FEIS.

2.10.21 IMPACTS TO U.S. POSTAL SERVICE

Summary of Comments: Annette Elder-Evins (G-27) requested that the Tribe develop a U.S. Postal Service Vehicle Maintenance Facility/Job Training Institute as mitigation to potential impacts to postal services.

Response: The project is not anticipated to have an adverse impact on existing postal services. The project may generate additional mail to the Wilfred Site; however, the cost of delivering mail is subsumed by the price of postage and other revenue sources. The project would not create a need for a substantial amount of new postal vehicles or employees. Also, please see Response to Comment 2.5.12.

2.10.22 IMPACTS TO SOLID WASTE SERVICES

Summary of Comments: The City of Rohnert Park (G-4) requested a discussion of, and mitigation for, the generation of biosolids from the wastewater treatment plant be included in the FEIS.

Emila Aguilar (I-103 and S-41) commented that, "The Project's solid waste generation will not significantly decrease the life expectancy of the Redwood landfill." According to commenter (S-41), the project-generated waste would represent approximately 0.5 percent of the landfill's permitted daily intake. According to the commenter, the Tribe's project "takes steps to minimize the amount of solid waste generated by its project."

The USEPA (G-29) stated, "We are concerned with a lack of commitment in the DEIS to implement these basic pollution prevention measures. The Council on Environmental Quality (CEQ) has issued guidance on integrating pollution prevention measures in NEPA documents." The commenter continued, "...Executive Order (EO) 13423², Section 2(e) states that each agency shall 'ensure that the agency (i) reduces the quantity of toxic and hazardous chemicals and materials acquired, used, or disposed of by the agency, (ii) increases diversion of solid waste as appropriate, and (iii) maintains cost-effective waste prevention and recycling programs in its facilities.'" Therefore, the EPA recommended a firm commitment in the FEIS and ROD to the implementation of solid waste recycling programs for the project.

Chip Worthington of Stop the Casino 101 (B-30) stated that Executive Order 13423 requires that federal agencies set standards for acquisition of materials based upon "sustainable environmental practices." According to the commenter, this Executive Order applies to solid waste generation, and the EIS should address its applicability to the project.

Response: Solid waste impacts are discussed in **Section 4.9** of the DEIS. The DEIS states that solid waste generation would be considered an insignificant contribution to the waste stream and is not expected to significantly decrease the life expectancy of the Redwood Landfill. Commenters I-103 and S-41 agree with this conclusion.

As discussed in **Section 4.9** of the DEIS, if an on-site wastewater treatment plant were built it would produce sludge (biosolids) that would periodically need to be disposed of, either on-site through reuse or off site at a landfill. A belt filter press is used to dewater biosolids. Biosolids would be trucked off-site, approximately once per week, for disposal at the Redwood Landfill or a composting facility.

Regarding Executive Order 13423, see Response to Comment 2.10.5. While the Executive Order does not apply to the construction or operation of the project, the inclusion of solid waste mitigation measures in **Section 5.2.8** are consistent with constructing and operating the project in a sustainable matter. The following mitigation measure was added as 5.2.8(D) to the FEIS, “[a] solid waste management plan shall be adopted by the Tribe that addresses recycling and solid waste reduction on site. The plan shall have a goal of at least 25% diversion of materials from disposal which includes reduction, recycling, and reuse measures.” Mitigation measures 5.2.8(B), (D), (F), and (G) increase diversion of solid waste and/or address waste prevention and recycling. Toxic and hazardous materials impacts are discussed in **Section 4.10** with mitigation in **Section 5.2.9**. See Response to Comment 2.16.13, regarding the enforceability of mitigation measures in the FEIS and ROD.

2.10.23 IMPACTS TO LOCAL RESOURCES

Summary of Comments: A few Rohnert Park resident commenters (I-144 & I-146) are concerned that with the proposed casino, the local natural resources will be compromised. Dawna Gallagher (I-144), stated that when she served on the Rohnert Park City Council between 1992 and 1996 she “made it very clear that if a sustainable very slow rate of growth with an enormous amount of resource conservation does not occur there will be no basic quality of life for anyone in Sonoma County.”

The City of Cotati (G-31) stated that Cotati anticipates fiscal impacts related to law enforcement, housing, recreation, and city services to result from the project. According to the commenter, these impacts should be studied in the FEIS, as they relate to Cotati and other neighboring cities.

Response: Impacts to natural resources are discussed throughout the EIS; **Sections 3.2** and **4.2**, analyze impacts to Land Resources; **Sections 3.3** and **4.3**, analyze impacts to Water Resources; **Sections 3.4** and **4.4** analyze impacts to Air Quality; and **Sections 3.5** and **4.5**, analyze impacts to Biological Resources. Please see Response to Comment 2.9.6 regarding comments on impacts to quality of life. The City of Cotati is not expected to provide any services to the proposed

developments. Please see Response to Comments 2.9.2 and 2.9.17 regarding comments on fiscal, crime, and housing impacts to the City of Cotati.

2.10.24 IMPACTS TO EMERGENCY SERVICES DURING A TERRORIST ATTACK

Summary of Comments: Marilee Montgomery (B-33) expressed concerns regarding the impacts of the proposed development to emergency vehicles and response teams during a terrorist attack and requested that the FEIS include an emergency plan, which according to the commenter, is mandatory for federal projects.

Response: NEPA requires the analysis of reasonably foreseeable effects. It does not require the consideration of remote, speculative, or worst case effects. Thus, it does not require that the NIGC speculate on the possibility of a terrorist attack on a casino/hotel resort, which is too far removed from the natural or expected consequences of the proposed action to require study under NEPA.

Federal emergency response is coordinated by the Department of Homeland Security. As stated on the Department website, the department assumes primary responsibility for ensuring that emergency response professionals are prepared for any situation (Department of Homeland Security, 2007).

2.10.25 IMPACTS TO EMERGENCY SERVICES DURING A WILDFIRE

Summary of Comments: Marilee Montgomery (B-33) expressed concerns regarding the potential impacts resulting from a wildfire. According to the commenter, the proposed development would be adjacent to undeveloped areas, and therefore could potentially be impacted by wildfires. The commenter requested that this potential impact be analyzed in the DEIS.

Response: As discussed in **Section 3.9**, wildland fires make up a portion of calls for service to local fire protection agencies. **Section 4.9** of the DEIS discusses that during construction, equipment and vehicles may come in contact with wildland areas and accidentally spark and ignite vegetation. Mitigation is included in **Section 5** for this impact. The risk of wildfire to the project is similar to other developments bordering undeveloped areas. Project driveways and parking lots serve as a fire break preventing injury to patrons and employees. Mitigation in **Section 5** includes that the Tribe shall use fire resistant construction materials and equip all enclosed buildings with automatic sprinkler systems. The impact would also be mitigated by an agreement for primary services with a fire protection agency which is included in **Section 5**.

2.10.26 IMPACTS TO INCREASED DEMAND FOR SOCIAL SERVICES

Summary of Comments: Sonoma County (G-34) stated on page 4.7-18 of the DEIS and page 55 of **Appendix N**, indicate that the Proposed Project would cause a less than significant increase in demand for social services. According to the commenter, the conclusion was based on calls to five social service agencies where casinos were added, all of which stated that they could not directly

attribute increased service demand to casinos. The commenter stated this approach is flawed, and provided the following link to further substantiate this statement:

<http://www.addictionrecov.org/qandagam.htm>

The commenter also stated that the DEIS failed to cite any source for the claim that one-half factor is the industry standard for calculating costs of providing new city and county services to the casino. Furthermore the commenter stated that the DEIS failed to support its claim that commercial uses are less demanding on social services. According to the commenter, "...if all new employees are existing residents, service demands for these employees are already included in the County budget and no new service demand should be added."

Response: Although the analysis does include surveys of social agencies in casino communities, it relies more heavily on the findings of a literature review that does find increased crime and problem and pathological gambling rates in casino communities. However, many problem and pathological gamblers that seek help will do so privately, that is, outside of the County's service providers. In addition, the MOU with the City of Rohnert Park provides mitigation for problem and pathological gambling treatment. Thus, the analysis finds that there will be some increased service demand and provides for mitigation. Mitigations measures appear in **Section 5.0** of the DEIS.

For a detailed response to comments regarding the per service population fiscal methodology, please see Response to Comment 2.9.26.

2.10.27 IMPACTS TO THE SONOMA COUNTY SHERIFF'S DEPARTMENT

Summary of Comments: Sonoma County (G-34) commented that the DEIS calculations relating to the proposed development's on-going fiscal impacts to public safety service needs would, "...cost the City of Rohnert Park between \$265,000 and \$313,000 annually (and \$241,000 for Alternative E). This is based on the per capita cost of public safety services in Rohnert Park, multiplied by between 1,100 and 1,300 employees." According to the commenter, these calculations do not match the expectations of the impacts to the Sonoma County Sheriff's Department for the following reason: "It does not take in to account the number of visitors to the Proposed Project, and it assumes that the casino will require the same type and level of services that are required by residents." Therefore the commenter stated that the DEIS should be revised to state, "On-going public safety costs incurred by the Sheriff's Department will be set forth in an MOU between the Tribe and the County of Sonoma. Such costs shall be determined by a calculation methodology that is developed by or acceptable to the Sonoma County Sheriff's Department."

Sonoma County quotes that a requirement of mitigation measures is that the Tribe "negotiate an MOU to provide the City of Rohnert Park at least \$313,000 annually for public safety services or the Tribe shall compensate Sonoma County for additional public safety demands caused by the operation

of the development where deemed necessary by the parties.” According to the commenter, “The phrase ‘where deemed necessary by the parties’ does not explain how the determination of necessity would be made, or what would occur if there is disagreement.” Moreover, the commenter stated that the agreement does not clearly account for potential impacts to the Sheriff’s Department, and that, “...the \$313,000 figure is not based on an acceptable formula.” Therefore, the commenter recommended that the DEIS be revised to state, “Prior to operation, the Tribe shall enter into an agreement for law enforcement services with all law enforcement agencies that have jurisdiction over the proposed development site and adjacent areas,”

Response: Response to comment 2.9.26 explains that a per service population cost factor is appropriate for the fiscal analysis and that it does take patron service demand into account.

Appendix N, Section 4.7 and Section 4.9 of the FEIS were revised to assume that, absent an agreement stating otherwise, the Sheriff’s Department would provide law enforcement services. While the cost is included in the fiscal analysis and mitigation for fiscal impacts in **Section 5.2.6**, the actual cost is subject to negotiation.

The MOU agreement with the City preceded the fiscal analysis. Thus, the fiscal analysis is not the basis for the MOU agreement with the City. Under the MOU, the Tribe agreed to pay the City \$500,000 in annual contributions to supplement police enforcement. However, as no fiscal impact analysis preceded the negotiations, this amount is not necessarily representative of the actual fiscal costs to providing police services.

Mitigation measures do not specify \$313,000 as the final amount for public safety services or include the phrase “where deemed necessary by the parties.” The source of these quotes is unknown. Mitigation language was not revised to state that the Tribe would enter into an agreement with multiple agencies as an agreement with a primary provider would reduce the impact.

2.10.28 GENERAL PUBLIC SERVICE CONCERNS

Summary of Comments: Paul M. Larson (I-170) and Loretta Smith (I-166) expressed concerns that taxes would not be paid to local governments to maintain roads, security, fire protection, etc. Furthermore, individual commenters I-33, I-62, I-82, I-75, I-166, and S-57 expressed concerns regarding the impacts to social services because of the development of the casino. Individual commenter I-166 wanted to know who would bear the costs of the following: additional fire protection; additional police protection; additional road maintenance; additional social services, as a result of alcohol abuse, gambling abuse, domestic violence, and financial problems. In addition the commenter asked how the DEIS would address the need for the following: power, communications systems, water treatment and distribution systems, sewer/septic systems, solid waste disposal, and, local or regional water supplies.

Sonoma County (G-34) stated that the DEIS, "...misstates or ignores County responsibility for public safety at all of the potential alternative project sites." In addition, the County commented in general that the proposed development would, "...aggravate demands for health, safety, and other crucial public services." The commenter expressed concerns that the proposed development would create, "...a substantial on-going demand for a variety of health and human services provided by Sonoma County... This increased demand would dramatically increase the County's costs in providing health and social services, decrease the help available to existing County residents and visitors, or both."

In addition, the commenter noted that the DEIS states that the County is to be compensated for 'public service demand caused by the operation'. According to the commenter, "the DEIS does not disclose the amount of compensation, nor the services that would be provided by the County vs. the City."

In addition, the County stated that the DEIS should be revised and recirculated to impose the long-term mitigation and monitoring to assess the social service impacts after the Proposed Project begins operation. The commenter also stated that the DEIS should include provisions for the Tribe to reimburse the County based on measurement data assembled by individual social services' departments and divisions. "Further, the DEIS should include all appropriate mitigations to ensure the County is compensated for all increased costs arising from the Proposed Project."

The commenter stated that **Appendix N** failed to include public safety costs in the analysis and contains many contradictory statements.

Commenter S-25 stated the commitments made by the Tribe to comply with state public health and safety standards.

Congresswoman Woolsey (G-12) expressed concern that the potential impacts to water supply, sewage disposal, wetland preservation, and traffic congestion would exacerbate existing problems in Sonoma County.

Response: **Section 4.7** of the DEIS and **Appendix N** show the fiscal impacts to each jurisdiction from the casino, both of which have been revised in response to comments in the FEIS. Please see the Response to Comment 2.9.26 for a detailed account of countywide fiscal impact assumptions, including those pertaining to problem and pathological gamblers' treatment costs.

Section 3.9 and **Section 4.9** address the following issues: power, communications systems, water treatment and distribution systems, sewer/septic systems, solid waste disposal, and, local or regional water supplies. Impacts to wetlands are addressed in **Section 4.5** and traffic is discussed in **Section 4.8** of the DEIS. **Section 4.9** has been expanded to include additional discussion regarding the

responsibility of the Sonoma County Sheriff's Department. The Sheriff's Department currently has law enforcement jurisdiction over a majority of the Wilfred Site and the entirety of the Stony Point and Lakeville Sites. See Response to Comment 2.10.6 regarding the ability of the Tribe to contract with other law enforcement agencies for primary services. **Section 4.7** and **Appendix N** of the FEIS account for the impacts to the County of providing law enforcement services and impacts to the City of providing fire protection and emergency medical services to the project. Mitigation recommended in **Section 5.2.6** for these services was based on the fiscal analysis. Compensation to the City through the MOU is discussed in **Section 4.9**.

Regarding recirculation, please see Response to Comment 2.4.3.

Note also that on October 29, 2004, Sonoma County entered into a MOU with the Tribe in which the County committed to finalize interim Intergovernmental Agreements and a Comprehensive Intergovernmental Agreement with the Tribe covering mitigation, the ultimate resolution of which is to be subject to binding arbitration. See DEIS, **Appendix E**. Such discussions are under way. Undoubtedly the County will attempt to obtain additional funding by way of mitigation. NEPA, as discussed in Response to Comment 2.16.3, does not require the adoption of a mitigation plan. Indeed, as the U.S. Court of Appeals for the 9th Circuit has stated, "A mitigation plan need not be legally enforceable, funded or even in final form to comply with NEPA's procedural requirements." Okanogan Highlands Alliance v. Williams, 236 F.3d 468, 473 (9th Cir. 2000). Nevertheless, the binding agreement between the Tribe and the County referenced above, will likely address the issue of funding. It is also worth noting that the CEQ NEPA Regulations provide that cooperating agencies objecting to or expressing reservations about a proposal on environmental ground specify the mitigation it considers necessary to meet the agency's objections. The Intergovernmental Agreement is expected to have this effect.

2.10.29 MUTUAL AID AGREEMENT – CITY OF ROHNERT PARK

Summary of Comments: Sonoma County (G-34) commented on the Tribe's mutual aid agreement with the City of Rohnert Park. According to the commenter, "The weight of this Agreement is unclear given that all alternative locations are in the Sheriff Department's jurisdiction, and it has not relinquished jurisdictional control to the City." The commenter stated that this issue is the same for fire protection services.

Response: The discussion in **Section 4.9** has been revised regarding the provision of primary law enforcement and fire protection services. The Tribe may contract with either the City or County for law enforcement or fire protection services as discussed in Response to Comments 2.10.6 and 2.10.7. The MOU with the City of Rohnert Park includes compensation for public safety but does not state that the City of Rohnert Park will provide services in the Sheriff's jurisdiction.

2.10.30 SHERIFF'S DEPARTMENT PATROL ZONES

Summary of Comments: Sonoma County (G-34) commented that the DEIS should indicate that the Sheriff's Department' Patrol Zone 5 is the fifth largest out of the 7 at 182 square miles. The commenter stated that Zone 5 is staffed by two deputies twenty-four hours per day, seven days per week.

Response: This information was incorporated into **Section 3.9** of the FEIS.

2.10.31 PRIMARY PUBLIC HEALTH AND SAFETY SERVICE PROVIDERS

Summary of Comments: Sonoma County (G-34) commented that the DEIS states, "Sonoma County would have jurisdiction to provide primary services to the hotel/casino resort under Public Law 280." The commenter stated that this is correct, however, all other references throughout the document indicate that the City of Rohnert Park would provide primary public safety services. According to the commenter, "There is no agreement between the City and County relinquishing jurisdictional control in any of the alternative locations (which are all unincorporated land." Therefore, the commenter stated that all references regarding which agencies would provide services to the proposed development must accurately reflect jurisdictional authority. Moreover, the commenter stated that, "The DEIS misrepresents jurisdictional authority, understates level-of-service requirements by using an erroneous service-to-population ratio, and does not propose any measures adequate to address public safety impacts on the County." Therefore the commenter stated that the DEIS must be revised to address jurisdictional issues and the Proposed Project's significant public safety impacts.

Sonoma County (G-34) also commented that the indication in the DEIS that the Tribe plans to enter into an agreement with the City of Rohnert Park Public Safety for the provision of primary public safety services is stated as being incorrect by the Sonoma County Sheriff's Department. The commenter stated, that the Sheriff's Department responded to this indication with, "All alternative locations in the DEIS are on and surrounded by unincorporated County property." Therefore, the Sonoma County Sheriff's Department asserted that public safety impacts would not be mitigated until the Tribe entered into an agreement with the Sheriff's Department. Furthermore, the County stated that the DEIS also indicated that the Sheriff's Department may provide secondary public safety services to Rohnert Park and noted that backup support is typically provided free of charge under a mutual aid agreement. However, the commenter stated that, "...the Sonoma County Sheriff's Department has law enforcement jurisdiction over all alternative locations and is the primary public safety responder in all unincorporated areas of the County." Therefore, according to the commenter, "All alternative proposals would over-extend the current resources of the Sheriff's Department. Without additional resources and funding, public safety in the surrounding areas will be compromised." Moreover, the County stated that the DEIS presented an incorrect assumptions

regarding mutual aid and backup services. “Mutual aid and cross-jurisdictional backup are provided under extraordinary circumstances only, and not for routine operational assistance.”

Response: The FEIS and Appendix N have been updated to reflect new assumptions that the County will provide law enforcement patrol services to the site. See Response to Comment 2.10.6 regarding the ability of the Tribe to contract with other law enforcement agencies for primary services. The Tribe has the ability to contract with several local fire protection and emergency medical service providers as discussed in Response to Comment 2.10.7.

For a detailed explanation of why the fiscal impact methodology is appropriate, please see Responses to Comment 2.9.26.

See Response 2.10.7 and Response 2.10.10 regarding impacts to mutual aid responders.

2.10.32 SONOMA COUNTY’S LAW ENFORCEMENT SERVICES

Summary of Comments: Sonoma County (G-34) commented that the DEIS failed to consider the specialized law enforcement services that would be provided by the Sheriff’s Department and not the Rohnert Park Police Department. According to the commenter, the services would include, “...the Bomb Squad (which is partially funded by the County General Fund and partially funded through contributions made by all of the cities in Sonoma County), the Helicopter Unit, and SWAT (which is deployed to respond to hostage situations and other critical incidents).

Response: As these special services are included in the County’s annual budget, they are included in the fiscal analysis located in **Section 4.7** of the DEIS and **Appendix N**. The County’s fiscal analysis included all Sheriff Department functions that provide countywide services and only excluded the patrol functions; however, patrol functions were added in the FEIS to reflect that, absent a law enforcement agreement stating otherwise, the Sheriff’s Department would provide primary law enforcement services to the site.

2.10.33 IMPACTS TO FIRE PROTECTION SERVICES – WILFRED SITE

Summary of Comments: Sonoma County (G-34) commented that, **Table 3.9-3** only identifies common calls to the Rohnert Park Fire Services Division. According to the commenter, “The Wilfred site is located in the unincorporated County under the jurisdiction of the Rincon Valley Fire Protection District.” Therefore, the commenter stated that the table should be revised to show calls to the District, as well as, other fire stations in the region.

Furthermore, the County (G-34) commented that the MOU with the City of Rohnert Park “...also focuses only on fire services and does not appear to address the increased costs associated with the need for additional ambulance resources.” Additionally, the commenter stated that the DEIS does not

consider costs associated with incidents in which a patient is not transported, and therefore the DEIS underestimates the funding that would be necessary to provide ambulance services to the Proposed Project.

Response: While the majority of the site is currently under the jurisdiction of the Rincon Valley Fire District a portion is under the jurisdiction of the Rohnert Park Department of Public Safety. Once land is transferred into trust the Tribe may contract with either department or another fire protection provider pursuant to California Government Code § 54981.7. According to the Rincon Valley Fire Protection District Website, the District has an annual estimated call volume of 3,200 calls of which 2/3 are medically related. This information was added to **Section 3.9** of the FEIS. See Response 2.10.19 regarding fiscal impacts to the County for emergency medical services.

2.10.34 IMPACTS TO PUBLIC HEALTH AND SAFETY SERVICES

Summary of Comments: Sonoma County (G-34) commented that the reference to the Tribe's MOU with the City of Rohnert Park on page 4.9-7, should require that the potential impacts from the proposed development on all affected service providers be addressed in the DEIS.

Furthermore, the commenter stated that the cost impacts to the County do not vary based on whether the Proposed Project site is in trust. According to the commenter, "The Proposed Project would require EMS services, fire services, and law enforcement services regardless of its trust status. In addition, the need for services would extend beyond the Proposed Project site regardless of its trust status." Therefore the commenter stated that the DEIS should be corrected to acknowledge the County's jurisdiction in providing services, and should include mitigation to ensure that the County is compensated for all increased costs arising from the proposed development. The commenter also stated that in the DEIS it is indicated that, "...there will be an increase in the service population of approximately 1,200 persons, which is assumed to be equal to one-half the estimated number of casino employees." According to the commenter, this statement is flawed, and that the, "...methodology underestimates the cost to the County, as it does not take into account the patrons' impact on services."

The commenter continued, "Appendix N calculated the Total Service Population by adding half of the County's employees to County population and dividing that into specific General Fund Revenue to get 'non-taxes per service population.' The Appendix then multiplies this amount, \$143, by the estimated new service population (1/2 of estimated project employees)." According to the commenter, "This methodology is flawed because it does not consider patrons, and for the other reasons stated above..."

Lloyd Iversen (I-168) asked, “What diseases and public health risks could result from any run off or indirect pollution from the Casino Project?”

The County (G-34) commented on the statement in the DEIS in which, according to the commenter, “...the Tribe shall make an agreement with the applicable City or County to address inspection, maintenance, and operation of any swimming pools available to patrons.” According to the commenter, “The agreement should include standards for design, maintenance, and operation similar to those followed by other public pools in the City or County.”

The County (G-34) stated that, “The DEIS should be revised to require for all alternatives that include retail food facilities that certifies and experiences staff evaluate food construction plans, conduct routine inspections and food-borne illness investigations, and collaborate with the Sonoma County Health Officer on reports of food-borne illnesses.”

Response: The FEIS and **Appendix N** have been updated to reflect new assumptions that the County will provide law enforcement patrol services to the site. See Response to Comment 2.10.6 regarding the ability of the Tribe to contract with other law enforcement agencies for primary services. The Tribe has the ability to contract with several local fire protection and emergency medical service providers as discussed in Response to Comment 2.10.7. In addition, as AMR, a private ambulance service, provides EMS services within the County, EMS services should not impact the County’s budget beyond an increase in dispatch services, which are included in the model. For a detailed explanation of why the fiscal impact methodology is appropriate, please see Response to Comment 2.9.26.

The impacts of runoff are analyzed in **Section 4.3**, hazardous materials in **Section 4.10** and pollution throughout **Section 4** of the DEIS. Mitigation is included for any significant pollution impacts and there are no identified diseases or public health risks identified. Public health and safety is discussed in **Section 4.9** of the DEIS. This discussion includes food safety, which will be inspected in compliance with the anticipated Tribal State Compact. Alternative E is the only alternative for which there would be no Compact and thus it was included in mitigation in **Section 5.2.8** of the DEIS that the Tribe shall make an agreement with the applicable City or County to address building inspection and food safety inspections prior to public use of facilities. Mitigation in **Section 5** of the DEIS addressed the County concerns with regards to swimming pools. The mitigation states that an agreement to address inspection, maintenance, and operation of swimming pools shall be made with the applicable City or County, which will also address the standards for design.

2.10.35 EMERGENCY MEDICAL SERVICE MITIGATION

Summary of Comments: Sonoma County (G-34) commented that the mitigation provided in **Section 5.2.8** does not identify the exact mitigation measures to be adopted, however, it stated that the Tribe

would make reasonable provisions for adequate emergency, fire, medical, and disaster services for patrons and employees. The commenter stated that this was inadequate. And that, “This response is inadequate as written and needs to provide specific information in order to satisfactorily address impacts.” According to the commenter, the DEIS must be revised and recirculated to disclose exactly what reasonable provisions would be adopted, and to independently analyze whether those measures would adequately address impacts on regional emergency medical services.

Moreover, Sonoma County commented that the proposed development would generate at least 175 EMS calls per year for medical responses and motor vehicle injuries related to project traffic. According to the commenter, the current ambulance system for the central Sonoma County and Rohnert Park area operates near maximum capacity (based on unit hour workload). “The volume of calls generated by the Proposed Project would require the addition of another ambulance to the EMS system. The operation of another ambulance would cost approximately \$490,000 per year for the current ambulance provider.” The commenter stated that the DEIS did not disclose or adequately mitigate this cost, and therefore, should be revised to require the applicant to fund at least one additional paramedic ambulance on a 24 hour/day basis.

Sonoma County (G-34) also commented that the DEIS should be revised to require the Tribe to contribute to, “...the development of a seamless and integrated emergency response system, including a common dispatch system, to address potential impacts on the multiple service providers in the area.”

Response: As stated in the DEIS, the project would increase the need for law enforcement, fire protection, and emergency medical services. See Responses 2.10.6, 2.10.7, 2.10.10, and 2.10.11 regarding mitigation for these impacts. Mitigation measures have been tailored to address the impacts and include compensation or entering into agreements with local service providers. A regional emergency medical impacts discussion has been added to **Section 4.9** of the FEIS. Ambulance service is provided by a private company and does not represent a fiscal impact to the County or City. Additionally, the Tribe will contract with an ambulance service provider to adequately provide service to the project. Since individuals are charged for emergency medical service it would be the responsibility of the ambulance company to use the added revenue it receives to buy a new ambulance in order to maintain the response level required by the company’s contracts with local jurisdictions. The Tribe would consider contributing to an integrated dispatch system; however, there is currently no plan or funding mechanism mentioned for creating this system.

2.10.36 ROAD DEGRADATION

Summary of Comments: Lloyd Iversen (I-168) requested an “evaluation of the load carrying capacity of all the local roads within a 5 mile radius of the Casino Project and what degradation might happen, and what will it cost to repair,” as a result of increased traffic; requested mitigation for road

degradation, “since gravel trucks are very heavy;” and questioned to what extent roads and highways would be impacted by compression of the groundwater table.

Response: Information on the structural design of most of the roads suggested for evaluation is not available without taking core samples from each roadway segment. Furthermore, such an analysis to determine the load carrying capacity of local roads and the effect of construction vehicles on pavement degradation is not a typical requirement by the city, county, or Caltrans for a traffic impact study associated with development projects. This is because most roadways are capable of accommodating heavy construction related traffic for temporary periods of time unless the roadways are currently in a degraded state. The road surfaces surrounding the Wilfred and Stony Point sites are all in acceptable condition and should not result in significant degradation during construction, with the exception of Labath Avenue, which is currently in a degraded state. It is expected that Labath Avenue would be improved during project construction to facilitate internal circulation during operation of the Proposed Project. Nonetheless, a mitigation measure has been added to the FEIS that requires that the Tribe fully fund the improvement of Labath Avenue. In addition, the street with the greatest volume of project construction traffic would be Wilfred Avenue, which is narrow with no shoulders but has recently been resurfaced. The Tribe has recently (see FEIS **Section 5.2.7**) committed to paying the full cost of reconstructing/widening Wilfred to three lanes as project mitigation regardless of whether it is damaged by construction vehicles.

Also note that flood storage areas have been added to the southern portion of the Wilfred Site to mirror that already proposed for the Stony Point site alternatives (see FEIS Figure 2-11). Excavation associated with these areas would provide enough fill for the development of the Wilfred and Stony Point site alternatives. Thus, all fill needed for Alternatives A-E and H would be obtained on-site, limiting truck traffic to the immediate vicinity of the Wilfred and Stony Point sites. The FEIS has been updated with this analysis and additional mitigation measures to reduce possible impacts to roadways have been added to FEIS **Section 5.2.7**.

2.10.37 INCREASES IN SONOMA COUNTY’S SERVICE POPULATION

Summary of Comments: Sonoma County (G-34) commented that the DEIS indicates that Alternative A would not result in an increase in County service population because the land would be taken into trust, however, according to the commenter, “The County service population will increase if additional employees move to the area. Whether the proposed site would be in trust is irrelevant.” Furthermore, the commenter stated that the DEIS anticipates and acknowledges the increase in demands for services by the estimated 28,000 daily patrons of the proposed facility. “Yet elsewhere the DEIS assumes only employees would require services, ignoring patron demands completely.” According to the commenter, the Proposed Project would cause significant impacts to County service providers and increase local housing demand.

The commenter also noted that a statement from page 24 of **Appendix N**, regarding the Proposed Project site being taken into trust, ignores that the alternative sites are located in unincorporated Sonoma County. Furthermore, the commenter stated that, "...the issue is not only about providing County/City services on reservation land, but about providing services to patrons as they travel through the County or City, frequent County or City businesses, and use County or City streets." The commenter continued, "Appendix N estimates the Annual Per Service Population Expenditures amount of \$283 by dividing County expenditures by the 2004 Service Population." The commenter stated that this methodology is flawed because it does not adequately account for patrons' demand for services and because it underestimates costs of several direct service departments.

Whereas, the commenter stated that, Table 13 applies the Annual Net Per Service Population Expenditure of \$176 to half the employees of the Proposed Project. If the employees of the Proposed Project are assumed to be existing residents of the County (as shown in Table 8), costs generated by these residents area already included in the County's budget and cannot be attributed to the Project." Therefore, the commenter stated that Appendix N does not calculate the impact of patrons on service costs and revenue, and so, the costs from casino patrons should be calculated.

Response: According to **Appendix N** and **Section 4.7** of the DEIS, there are more than enough workers in Marin and Sonoma Counties that are either unemployed, or relatively recently out of the labor force to supply workers for all casino positions. If some of the workers are not interested in working at the casino, then the distribution of casino workers may shift within the two counties, but would not induce workers to move into the area. There are approximately 29,544 workers available to fill the 2,600 casino positions, which represent approximately nine percent of unemployed workers and workers newly out of the labor force. The casino could employ approximately 15 percent of the 17,680 unemployed persons in the two counties. Since the casino would need to pay competitive wages relative to the region in order to attract and retain quality employees, it is likely that casino jobs could absorb nine percent of unemployed residents and those recently out of the labor force. Thus, additional employees are not likely to move into the area.

Per service population-based fiscal impact models are commonly used in urban planning practice to estimate the impacts of a new development on a County's or City's General Fund. This analysis uses a per service population method for calculating per capita costs of providing new County services to the casino. The analysis divides the new employment population in half to show that commercial uses demand fewer municipal services than residential uses. This is a standard practice for calculating the new service population.

The calculation does not include the patron population as their demand is captured in the employment figure. Baseline cost figures are calculated by dividing the total service costs in the County for the current year, by the existing service population. Demand from current retail and commercial patrons

are captured in the employee portion of per capita service costs. If patrons of one type of establishment require a higher level of services, those costs are allocated across the entire service population, so they are included in the per service population estimate.

As the per service population cost and revenue estimates account for service demand and revenues from patrons, it is not contradictory to project revenues from fines imposed on patrons. Although a parking ticket from an employee that currently lives within the County does not represent new County revenue, a parking ticket from a casino patron would represent new County revenue. This revenue multiplier represents the additional fines that the development generates from *both* employees and patrons.

The average per service population method is useful in this case because it captures the community-wide impact of a given land use. Instead of attributing costs to specific locations of commercial businesses or residential developments, it considers the community wide impact of the collective body of people (residents, workers, visitors) who are associated with the community's inventory of residential and commercial developments and public places as they conduct their daily activities throughout the community, including traveling to and from different locations within the community.

2.10.38 FIGR'S MEMORANDUM OF UNDERSTANDING (MOU) WITH THE CITY OF ROHNERT PARK

Summary of Comments: Marilee Montgomery (B-33) stated that the MOU with Rohnert Park should be revised to incorporate the proposed alternative site located at northwest corner of Labath Avenue and Wilfred Avenue. According to the commenter, "The only site mentioned in the MOU is the original site located at the northeast corner of Stony Point Road and Wilfred Avenue in unincorporated Sonoma County."

Response: That the existing MOU with the City of Rohnert Park does not apply to the Wilfred Site is acknowledged in **Section 2** of the DEIS. Please see Response to Comment 2.10.4 regarding the role of the MOU in the NIGC's NEPA analysis.

2.10.39 IMPACTS TO SCHOOL DISTRICTS

Summary of Comments: Commenter I-166 expressed concerns regarding impacts to school districts, "I have been teaching for 16 years, and as a teacher I have concerns whether our school district's quality of education will deteriorate when the casino opens and whether the school districts will be less inviting to qualified teachers in the future." The commenter wanted to know how the Tribe would mitigate those potential impacts in the first, third, fifth, and tenth year of casino operation. The commenter noted the following districts that fall within a 10 mile radius of Rohnert Park are the most likely to be impacted by the proposed development: Rohnert Park-Cotati; Penngrove, Dunham, Waugh, Old Adobe, Liberty, Petaluma City, Cinnabar, Wilson, Bellevue, Wright, Roseland, Santa Rosa City, Piner-Olivet; Rincon Valley, Bennett Valley, Sebastopol Union,

West Sonoma County Union, Gravenstein, Twin Hills, Oak Grove, and, Woodside. She asked how these districts and schools would likely be affected by the casino and the potential impacts over a 1, 3, 5, and 10 year period. Specifically, the commenter requested the enrollment trends for the districts above, for the past 5 years, and the estimated enrollment of these schools over a 1, 3, 5, and 10 year period.

In addition, the commenter asked how the acquisition of additional trust land would impact the tax bases the school districts mentioned above, and how the Tribe would mitigate the loss of revenue.

Response: Incoming teachers and other residents assess various factors when deciding whether or not to move and/or work in a community. These factors include quality of life, cost of living, and environmental concerns, etc. Quality of life is discussed in Response to Comment 2.9.6 while environmental issues are addressed throughout the EIS. Mitigation is included to reduce the impact on the environment. Assessing whether or not someone would teach in Rohnert Park is speculative as this decision may be based on intangible factors.

Impacts to school enrollment are discussed in Response to Comment 2.10.3. As the project would not increase or decrease enrollment significantly, these districts would not be affected in the foreseeable future.

While the acquisition of trust land would remove some tax base from the County property tax rolls, it should be noted that the proposed site is currently undeveloped and thus, would not represent a large tax base loss for the County. In addition, the Educational Revenue Augmentation Fund (ERAF) only receives 0.1308121 of the one percent base property tax levied on the property (Sonoma County Auditor-Controller, 2007). Thus, the actual loss to education revenues will be very small. Although the impacts to school property tax revenues will be small, **Section 2.2.10** of the DEIS shows that under the MOU, the Tribe agrees to contribute \$1 million annually to an educational trust for use in the Cotati-Rohnert Park Unified School District.

2.11 TRAFFIC

2.11.1 TRIP GENERATION METHODOLOGY

Summary of Comments: A comment was received from Assembly member Jared Huffman (G-10), in which he stated that the estimated trips generated by the casino were too low. The City of Petaluma (G-14) stated in a comment letter that the trip generation analysis assumptions consider trips to/from outside of the immediate vicinity of the proposed development. Yet, the commenter stated that many of those traveling to the area to stay at the proposed hotel would patronize local businesses and attend events in the area. Among those, the commenter noted, trips would be made to newly renovated downtowns, city, regional, and state parks, wineries and vineyards, or local

entertainment activities. Additional commenters Donald and Babette Allcock (I-79) perceived the 18-24,000-car increase was woefully underestimated considering the revenue projections of the proposed casino. Linda Long (I-177) stated that because no existing equivalent-sized casinos in settings similar to the proposed Wilfred Site were available for comparison, the trip generation rates should be estimated at “30,000 to 36,000 to insure [sic] accuracy in the reporting.” Long also requested that trip generation analyses should be based on information from “a like casino/resort that has no fiduciary connection or affiliation to the Graton Tribe or Station Casinos.”

The California Department of Transportation (Caltrans) (G-25) cited **Appendix O**, page 6, regarding the software and methodology used to perform the intersection analysis. “The Commerce Blvd northbound on/off ramp intersection, the Commerce Blvd/Golf Course Dr intersection, the Golf Course Dr/Roberts Lake Rd intersection, the southbound Wilfred Ave no/off ramp intersection and Wilfred Ave/Redwood Dr intersection are very closely spaced intersections because they do not capture queuing interaction between intersections.” The commenter recommended that, “Another software should be used to address spill-back potential from the downstream to the upstream intersection, effects of downstream queues on the upstream saturation flow rate, and unusual platoon dispersion or compression between intersections.”

Sonoma County (G-34) commented that the DEIS should be revised to require continual traffic monitoring and mitigation after the Proposed Project begins operation. The commenter stated that it, due to the size of the proposed development, it is hard to estimate the project’s peak trip generations with certainty, and that it is, “...imperative that the NIGC require regular, independent monitoring of trip generation and local circulation system operation and the implementation of additional mitigation measures, if necessary.”

Furthermore, the commenter stated that, “The DEIS’ level of service and queuing analysis for the future Wilfred-Golf Links, Rohnert Park Expressway, and Gravenstein Highway interchanges does not accurately reflect the system impacts of closely spaced intersections on the operation of adjacent intersections.” According to the commenter, the software used in the analysis treated each intersection as if it were isolated and not impacted by signal timing restrictions. Therefore, the commenter stated that the DEIS preparers to use the Synchro and SIM traffic programs to provide a, “...system evaluation of near- and long-term horizon Base Case and Base Case + Project levels of service and 95th percentile queuing at the four intersections that are (or will be) part of or in close proximity to the three U.S. 101 interchanges serving project traffic.” Moreover the commenter stated that the DEIS should be revised to evaluate each off-ramp diverge at the three interchanges serving project traffic. According to the commenter, “Caltrans typically requires that a second off-ramp volume levels are projected to exceed 1,500 vehicles per hour.”

Response: As described in the traffic studies (DEIS **Appendix O**), trip generation for development projects is typically based on rates contained in the Institute of Transportation Engineer's (ITE) publication *Trip Generation, 7th Edition*. This is a standard reference used by jurisdictions throughout the country in estimating trip generation for various land uses. However, *Trip Generation* does not have a land use for Native American casinos similar to the type proposed by the Tribe. According to ITE in *Trip Generation Handbook, 2nd Edition*, if the use "is not covered by the land use classifications presented in *Trip Generation*, the analyst should collect local data and establish a local rate."

ITE further recommends that a minimum of three samples (preferably five) be used in determining a local trip rate. Per ITE, trip generation information was utilized from five northern California gaming facilities, including Thunder Valley Casino which is one of the busiest casino facilities in California.

Trip information from the five facilities showed that the smaller gaming facilities had higher trip rates (per square foot) than the larger facilities, similar to the trip generation characteristics of shopping centers where small centers generate trips at a higher rate than larger centers. The data also indicated that trip rates based on building square footages are not linear. A regression analysis showed a R^2 of 0.83 which indicates a strong fit to the data. Furthermore, in *Update on Impacts of Tribal Economic Development Projects in San Diego County* (April 2003), San Diego County concluded the same premise that trip rates are lower for larger gaming facilities because they include "several accessory uses to encourage customers to stay longer."

The northern California data indicates that the "local" PM trip rate for the Graton Casino would be approximately two trips per 1000 square feet of gross floor area. Although the data suggest a PM peak trip rate of 2/1000 s.f., it was determined that a higher and more conservative rate should be used in the EIS. Therefore, the PM trip rate used in the EIS was 4.95/1000 s.f. which represents a 148% increase over data from the combined 5 northern California gaming facilities. Using this higher trip generation rate ensured a conservative approach to identifying project impacts and associated roadway improvement. Using a rate greater than already included in the EIS is unwarranted.

Conservative trip rates used in the analysis would account for some casino patrons visiting local businesses and attending events in the area. In other words, because trip rates are conservative, if additional trips are generated, they would be accounted for in the analysis.

In preparation of the FEIS, secondary level of service and queuing analyses were prepared using Synchro software as recommended by the commenter. In some cases, future traffic conditions were determined to be slightly worse sometimes resulting in new or modified mitigation (however, no new significant and unavoidable impacts were identified). In other instances, the analysis determined that

traffic conditions were slightly better sometimes resulting in removal or modification of previously identified mitigation. Results of the traffic analysis were updated to reflect the results of the secondary analysis (see FEIS **Appendix O**).

Finally, with respect to Sonoma County's assertion that continuous post-construction monitoring of trip generation be instituted with provision for additional mitigation measures if necessary, please see Response to Comment 2.16.3.

2.11.2 BACKGROUND TRAFFIC ASSUMPTIONS

Summary of Comments: The City of Rohnert Park (G-4) noted that all roadway configurations proposed in the DEIS should be in conformance with the City's General Plan designations for these roadways. The commenter also noted that on page 4.12-35 it is stated that the Redwood/Commerce intersection was not analyzed as it would not be retained after the intersection improvements. According to the commenter, this is not accurate, as the intersection would remain after the interchange improvements are made. The commenter requested that the traffic study be revised to reflect this, and mitigation included to reduce any impacts.

Linda Long (I-177) quoted the traffic study regarding the traffic information presented in the City of Rohnert Park General Plan, the Sonoma County General Plan, and data obtained from Caltrans and the Sonoma County Transit Authority: "Because none of the agencies' planning and project programming documents anticipated a casino and hotel development or its potential impacts, this study evaluated the addition of a casino and hotel near the intersection of Stony Point Road and Wilfred Avenue." According to Long, the traffic study methodology is faulty because the information provided by the referenced agencies is out of date. The commenter states, "The lead agency in this project (NIGC) must insure that the studies are done with the latest information from the above entities and if not yet available must wait to do the traffic study until the information is available."

Long stated that updated background traffic information, including an analysis of the Wilfred Avenue/Golf Course Drive and U.S. 101 intersection with projected casino traffic, was available from a 2005 traffic study prepared by Whitlock & Weinberger for the City of Rohnert Park, for the July 2005 Initial Study/Negative Declaration for Caltrans' Wilfred Avenue Interchange Project. The commenter asked whether this or any other, newer information was requested from the City of Rohnert Park, Caltrans, the Sonoma County Transit Authority, or Whitlock & Weinberger. Long requests that this information be incorporated into the current traffic study, if it has not already been considered.

Sonoma County (G-34) commented that the DEIS seemed to have estimated project traffic impacts in relation to year 2008 traffic volumes. According to the commenter, "This analysis is arbitrary and

unhelpful,” because the Proposed Project could not be operational until 2010 or 2011 at the earliest. The commenter continued, “NEPA instead compels the NIGC to evaluate the Proposed Project against actual baseline conditions . . . By using 2008 background volumes, the DEIS presents a more favorable (lower volume/lower impact) traffic analysis scenario than would actually occur.” Therefore, the commenter stated that, “An evaluation of the Proposed Project against the No Project Alternative would establish the difference in traffic with and without the Proposed Project both now and at the projected opening date.” However, the commenter stated that under either analysis, comparing impacts to 2008 is arbitrary and unhelpful. In addition, the commenter stated that the error in using 2008 information for background traffic volumes understates traffic impacts for all alternatives by relying on background traffic volumes that would be out of date by the time the project is operational.

Response: The proposed Graton Rancheria Casino and Hotel was not anticipated in the City’s General Plan; therefore, intersections affected by the Proposed Project and their associated improvements are sometimes different than contained in the General Plan. The Redwood/Commerce intersection is included in the existing and near-term evaluation because a large share of project traffic will pass through the intersection until the Wilfred interchange is reconstructed. When the interchange is completed, project traffic will no longer pass through the intersection. Furthermore, according to Caltrans, the Commerce leg of the intersection is to be disconnected under the freeway and will become a T-intersection serving the adjacent shopping center. Therefore, study of the intersection in the long-term was not warranted because it will not be affected by project traffic.

The traffic study and DEIS relied on traffic forecast information provided by the Sonoma County Transportation Authority and Caltrans which was considered to be sources for the most reliable data, including at the Wilfred Interchange. Additional information regarding the Wilfred Interchange project was obtained from Caltrans including the Initial Study and Environmental Assessment, and subsequent revisions to the planned design. All have been incorporated into the analysis. Data from other sources was considered to be second hand and less comprehensive.

The 2008 condition is intended to provide an assessment of conditions that correspond with the estimated opening year of the casino/hotel. That date may ultimately change depending on the time needed to complete the EIS process, obtain permits, complete construction, etc. Regardless of the actual opening date of the proposed casino/hotel, the traffic analysis evaluated a long-term cumulative 2020 condition which identifies impacts, including those identified for the opening year. Therefore, the EIS does not underestimate cumulative traffic impacts for the project. Please see Response to Comment 2.9.13 regarding the use of allegedly outdated information.

2.11.3 IMPACTS TO US-101

Summary of Comments: Assemblymember Jared Huffman (G-10) stated that the existing U.S. Route 101 (US-101) expansion plans were designed to relieve traffic congestion. However, according to Assemblymember Huffman, the plans do not take into account future commercial development. Thus, the development of a casino may negate the planned improvements. Commenters Michael Kraus (I-156) and Barbara Pollack (I-152, I-171) note that most of the trips generated by the casino would be along Highway 101 through Petaluma; as residents of that town, they oppose the development.

Lynn Cominsky (B-14) compared the estimated 18,000 additional trips on US-101 to the proposed development with trips generated by Sonoma State University students (approximately 8000), and faculty and staff (approximately 1,600), in addition to, the future increased traffic generated by trips to Sonoma State University's Green Music Center with a capacity to hold 10,000 people.

The City of Rohnert Park (G-4) quoted the DEIS, "Planned Caltrans improvements to the roadway network...that are expected to occur in 2008 include the addition of high occupancy vehicle lanes (HOV) to the US-101 freeway from SR-37 through Santa Rosa..." According to the commenter, only small portions of that corridor are fully funded, and there is a funding gap of \$500 million for the remaining segments. The commenter continued by stating that the reconstruction of the US 101/Wilfred Avenue interchange wouldn't be completed until 2011, and requested that the DEIS provide an analysis of what impacts would be expected on US-101 until the HOV lanes are added, and that the appropriate mitigation is offered in **Section 5** of the FEIS to address the impacts.

Additionally, the City of Petaluma (G-14) noted that only 5 percent of the project's trips are assumed to leave northbound US-101 at SR-116 to travel north on Stony Point Road. According to the commenter, without the assumed HOV improvements to US 101 on the Cotati Grade, a greater number of trips would leave the highway as early as the Old Redwood Highway interchange, thus, impacting Petaluma. Those impacted would include the interchange at US-101 and Old Redwood Highway. The commenter reasoned that as the lack of improvements, or provision for HOV lanes on Highway 101, continuing south from Rohnert Park, the likelihood of infiltration, according to the commenter, of project related trips into the local street network would increase. The commenter continued by stating that the last portion of HOV lanes to be completed along the US 101 corridor, from Windsor to Novato, would be the stretch between Railroad Avenue and South Petaluma Boulevard.

Several commenters including, I-135, I-153, I-154, and I-157, I-164, expressed concerns about traffic congestion on US-101 resulting from the proposed development Alternatives.

Chris and Silvey Cameron (I-101) stated that there is “serious traffic congestion on 101.” According to the commenter, “the DEIR speaks of another 18,000 cars on 101 daily due to the casino – this is insane!”

Eunice Edgington (I-100) stated, “the Wilfred Avenue/Golf Course 101 interchange was never intended to accommodate future commercial development, but to relieve existing congestion.”

The City of Cotati (G-31) expressed concern that traffic impacts may affect neighboring cities, and that mitigation agreements exist only with the City of Rohnert Park and the County of Sonoma. Additionally, the commenter requested that the EIS analyze and provide mitigation for impacts expected to occur on US-101 before HOV lanes are added.

Sonoma County (G-34) commented that the 18,250 vehicle trips per day, on US 101 would cause, “...significant adverse impacts including sharply increased congestion, vehicle accidents, and roadway deterioration.”

Response: Designs for US-101 carpool lanes, new interchanges and other improvements near the project were based on travel forecast information prepared by Caltrans in conjunction with adopted land uses for Sonoma County, Rohnert Park, and other surrounding cities. The roadway facilities were sized to accommodate existing congestion and development consistent with the jurisdictions’ general and local specific plans at levels of service acceptable to the state. Although the designs did not anticipate a casino located along Wilfred Avenue in or near Rohnert Park, it did account for the northwest specific plan development area, including development on the Wilfred Site under Alternatives A and H). The DEIS **Sections 4.8** and **4.12** and the traffic study (DEIS **Appendix O**) evaluated the potential effects of the casino on the planned facilities and identified several additional roadway improvements necessary to support the trips generated by the alternatives. Proposed development alternatives would not “negate the planned improvements.”

Depending on the Alternative, trip generation is estimated to be as great as 18,261 vehicles per day, many of which will occur during midday or later evening outside of peak commute periods. Insufficient information is available however to determine if it represents an approximate equivalent to student, faculty, staff, and Green Music Center special event traffic generated by Sonoma State University.

Timing of the improvements including freeway and interchange projects was also considered in the preparation of the traffic study associated with the DEIS. The traffic study specifically noted that construction of the Wilfred interchange would not begin until 2008 and that completion of HOV lanes south of Rohnert Park Expressway would not be completed until after the proposed opening of the casino/hotel. Proposed mitigation improvements to US-101 would be in addition to projects already

planned by Caltrans. According to Caltrans, the mitigation improvements would need to be completed after their projects to avoid delays to their schedules. Also see Response to Comment 2.11.6.

As noted in the EIS, the location of the San Francisco Bay Area population in relation to the project site, as well as peak hour turning movement volumes at the study intersections, the likely customer and employee base for the site, major connections to highways, and potential access limitations, were evaluated in order to estimate the distribution of project traffic. The most likely period of traffic diversion is south of the casino site during the PM peak hour in the northbound direction. Locations where most traffic may leave the US-101 freeway to use parallel routes include Rohnert Park Expressway and Gravenstein Highway. Nominal amounts may divert using Railroad Avenue, Old Redwood Highway, East Washington Street, Lakeville Highway, or Petaluma Boulevard South; however, the farther away from the casino/hotel site the less likely traffic will divert from the freeway because of the longer travel path and the number of intersections and stops drivers will encounter on the alternate route. East Washington Street, Lakeville Highway, and Petaluma Boulevard South (which are in Petaluma) are up to 14 miles from the casino site so are unlikely to attract a significant amount of project traffic through Petaluma.

Traffic analysis and related mitigation was prepared that covered locations most likely to be adversely affected by the casino/hotel project and was not limited to the City of Rohnert Park and Sonoma County. Analysis was not prepared for a condition where the casino is open prior to construction of the US-101 HOV lanes because it is expected that both projects will be completed at approximately the same time.

The DEIS notes that the Proposed Project would add to traffic already on the roadway network and identified several roadway improvements necessary to support the additional trips generated by the project. When the improvements are implemented, traffic delays and congestion are projected to be better or at least the same as before the completion of the proposed casino/hotel project. Thus, after mitigation it is not expected that a sharp increase in congestion, accidents, or roadway deterioration will occur. Please see Response to Comment 2.10.36 regarding potential roadway deterioration.

2.11.4 TRAFFIC DISTRIBUTION

Summary of Comments: Several commenters including, B-7, B-16, B-27, I-5, I-129, and S-8, addressed the lack of discussion in the traffic study regarding impacts to alternative paths taken from U.S. 101 to the casino. The Roblar Area Property Owners (B-27 and S-19), stated, “This extension of Stony Point [south of 116] is Highway 101’s primary alternative route to Rohnert Park coming from the greater Bay Area and our community’s primary transportation route... This route would be considerably impacted by traffic seeking alternative paths from Highway 101 to the casino.” Emmons (I-148) noted that the DEIS did not consider the potential traffic impacts to residents of side

streets near the Wilfred Site. Long (I-177) stated , “101 Northbound traffic will be exiting on to Golf Course Drive/Commerce Blvd. to get to the proposed casino/resort. This is not indicated in your study...In your 101 segments portion there is no mention of Golf Course Drive Wilfred Avenue northbound or southbound as these segments relate to Rohnert Park Expressway and Santa Rosa Avenue.” The commenter also expressed concern that “Golf Course Drive would act as a conduit for traffic, via Snyder Lane, traveling down Petaluma Hill Road to and from the casino/resort. Petaluma Hill Road is a Sonoma County 101 alternate route and needs to be acknowledged in the traffic and other reports.” Individual commenter S-8 stated that the traffic study failed to show that 69 percent of traffic would be coming northbound on US 101, and that Stony Point from Gravenstein to North Petaluma Hill Road is an alternative route.

The City of Rohnert Park (G-4) stated that **Figure 4.8-4** assumes that 25 percent of casino traffic would arrive via Labath Avenue, noting that this is a circular route. According to the commenter, this percentage should be lower, and the traffic study should be revised to reflect the change and include revised mitigation. The commenter also made the same statement regarding **Figure 4.8-5**, stating that the assumption of 30 percent of casino traffic exiting via Labath Avenue should be lower.

The City of Petaluma (G-14) stated that the project trip distribution for Alternative A-E assumes 30 percent to/from the north via the US-101 corridor, while Alternative F assumes 20 percent to the north and only 10 percent of this traffic generated from the 101 corridor. According to the commenter, given that the trip generation assumptions for Alternative F have 40 percent of the project traffic generating to/from the east, the commenter stated, it is reasonable to assume that a large portion of the 70 percent of trips from Alternative A would chose to travel through both the Sonoma and Petaluma Valleys to get to US-101 northbound to avoid Highway 37. It was stated that the extent of this impact on the City of Petaluma could be as much as 30 percent of the Alternative’s trip generation.

The Citizens Against Roblar Rock Quarry (CARRQ) Group (B-23) expressed concerns regarding increased traffic on access roads to US 101. According to the commenter, these regional access roads are already overcrowded and in need of repairs, including fixing pot holes, and widening the roads. The commenter stated that if the casino is developed, “It will harm farmers, rural families, many small businesses, and will increase access times for any emergency vehicles across the county.”

Sonoma County (G-34) commented that, “...once ramp metering is activated in the Rohnert Park/Cotati area, the demand to access the freeway from on-ramps to be used by project traffic will not be fully met.” According to the commenter, this would impact travel times resulting in casino-related traffic using alternative routes, for example, Stony Point Road.

Response: In preparation of the traffic distribution, the Proposed Project's use in proximity to the surrounding population centers was considered. Because of the nature of the Proposed Project, customers and employees are expected to travel from nearby locations and beyond. Many of the trips are expected to travel to/from US-101. The location of the San Francisco Bay Area population in relation to the site, as well as peak hour turning movement volumes at the study intersections, the likely customer and employee base for the site, major connections to highways, and potential access limitations, were evaluated in order to estimate the likely distribution of project traffic.

Based on the factors discussed above it was determined that approximately 30% of the project traffic would be distributed to destinations north of the site, with the remaining 70% distributed south of the site as shown in the traffic study and DEIS. Much of the project traffic is expected to come from the freeway; however, all of the alternatives assumed that some traffic would use alternate facilities to bypass congestion on the freeway. For the alternatives located on either the Wilfred or Stony Point Sites and depending on the location of the casino and convenience of the alternate routes, between 15 and 50 percent of the casino traffic was routed off the freeway before the closest interchange to the casino and assigned to other less direct roadways including Gravenstein Highway, Stony Point Road, Millbrae Avenue, and parts of Rohnert Park Expressway. Note that these distribution patterns were modified after consultation with local and state cooperating agencies, including Sonoma County and Caltrans. Figures are provided in **Appendix O** showing the expected traffic distribution along major corridors and figures also show traffic volume assignment at individual intersections including US-101 ramps, Golf Course Drive, and Wilfred Avenue. Petaluma Hill Road and Snyder Lane are less direct and less convenient for access to the casino; therefore, only 2 percent of project traffic was assumed to use the routes. This traffic would eventually travel along Golf Course Drive and Rohnert Park Expressway in East Rohnert Park. Because casino traffic was expected to be less than 25 vehicles per hour on each route, they were not considered to be significant enough to require analysis.

It is noted that the City of Rohnert Park recommended that traffic assigned to Labath Avenue should be lower than assumed in the EIS. However, based on expected levels of congestion at individual intersections and shortest paths to the casino/hotel, the distribution of traffic assumed in the EIS is considered to be realistic.

Traffic distribution for the site near SR-37 (Alternative F) is different from the Rohnert Park sites because of its proximity and convenience to other locations of the Bay Area. Furthermore, some patrons that would have visited the Rohnert Park locations would not visit the site if located near SR-37, and vice versa. Thus, a "large portion" of project trips for Alternative A will travel through the Sonoma and Petaluma Valleys to bypass SR-37 traffic. Under all of the distribution alternatives, project impacts were identified and improvements proposed to meet acceptable levels of traffic operations.

With regard to potential delays to emergency vehicles, mitigation improvements identified in the EIS are to restore traffic operations to levels within acceptable standards or to levels as good as or better than without the casino/hotel project. Any potential increases in response time by emergency vehicles due to project-related traffic would be offset by the funding of roadway improvements included as mitigation. Therefore, if mitigations are implemented as proposed in this report, no significant increase in emergency response time would occur.

The EIS noted that Rohnert Park intends to widen Wilfred Avenue as the surrounding area develops. However, the widening is not expected until sometime after the proposed casino may open. Therefore, the EIS prepared near term estimates of vehicle queuing along Wilfred Avenue assuming that the improvements would not precede completion of the casino/hotel. Readers are directed to vehicle queuing tables in Appendix O for the expected results. Proposed mitigation is identified to alleviate queuing impacts connected with casino/hotel traffic.

Traffic forecasts for US-101 were based on information provided by Caltrans in the vicinity of the casino. Ramp metering improves mainline freeway flow which reduces overall travel time on the freeway. It is recognized that when the ramp meters are activated, some motorists may temporarily divert to other routes; however, with the improved mainline operation, more drivers will be attracted to the freeway and away from routes such as Stony Point Road.

Under all of the distribution alternatives, project impacts were identified and improvements proposed to meet acceptable levels of traffic operations in the traffic study and DEIS.

2.11.5 IMPACTS TO TRAVEL TIME

Summary of Comments: The Roblar Area Property Owners Association (B-7, B-16, and B-27) expressed concerns about the increased travel time to work from casino related traffic for either going to work or to the Dunham School on Roblar Road. The commenters also inquire, “What is the expected total impact on this section of Stony Point Road [south of Highway 116] from the Graton Casino including total vehicle trips and traffic delays during peak hours?”

Thomas Scott (I-98), suggested that the FEIS include a study of the travel patterns of construction employees and how that may effect levels of service (LOS) in Sonoma County. According to the commenter, the study should include LOS data for possible delays in project completion time.

Sonoma County (G-34) commented that the DEIS should be revised to analyze potential impacts to emergency response times, and ensure that the proposed development does not impact existing residents.

Sonoma County (G-34) also inquired about the near term queue lengths during the operation of the casino, presuming the casino construction precedes other development and traffic improvements along Wilfred Avenue.

Response: The EIS notes that the Proposed Project would add to traffic already on the roadway network and identified several roadway improvements necessary to support the additional trips generated by the project. When the improvements are implemented, traffic delays and congestion are projected to be better or at least the same as before the completion of the proposed casino/hotel project. Thus, after mitigation there would be no additional delays to emergency response times resulting from the project. In addition, Dunham Elementary School on Roblar Road is nearly 5 miles from the Wilfred Site and is unlikely to be affected by traffic related to the Proposed Project. Furthermore, DEIS **Appendix O** shows that casino traffic is lowest in the morning and builds throughout the day, peaking at 7:00 PM after the main rush hour; therefore, overlap with traffic going to work or school is relatively low.

Effects of construction traffic was evaluated in General Project Information Section of the TIS. It is estimated that during construction there would be 850 additional trips. These trips would mainly take place outside of the area wide peak hour traffic time and would travel on relatively uncongested traffic intersection movements, because of this the impact on roadways used by construction vehicles and employees would be less than significant. Construction related employee and materials delivery parking would be confined to the casino project site and therefore, would have a less than significant impact on area roadways.

Regarding impacts to emergency response time, please see Response to Comment 2.11.4.

As noted in the DEIS, the location of the San Francisco Bay Area population in relation to the project site, as well as peak hour turning movement volumes at study intersections, the likely customer and employee base for the site, major connections to highways, and potential access limitations, were evaluated in order to estimate the distribution of project traffic. For the alternatives located on either the Wilfred or Stony Point Sites and depending on the location of the casino and convenience of the alternate routes, between 15 and 50 percent of the casino traffic was routed off the freeway before the closest interchange to the casino and assigned to other less direct roadways.

The most likely period of traffic diversion is south of the sites during the PM peak hour in the northbound direction. Locations where most traffic may leave the US-101 freeway to use parallel routes include Rohnert Park Expressway and Gravenstein Highway. Note that these distribution patterns were modified after consultation with local and state cooperating agencies, including Sonoma County and Caltrans. Nominal amounts may divert using Stony Point Road south of SR-116; however, the farther away from the casino/hotel site the less likely traffic will divert from the freeway

because of the longer travel path and the number of intersections and stops drivers will encounter on the alternate route.

Vehicle queuing was calculated for intersection most likely to receive a significant amount of project traffic. Mitigation related to excess queuing caused by the casino/hotel project was recommended in the traffic study contained in DEIS **Appendix O**.

2.11.6 PROPOSED INTERSECTION IMPROVEMENTS NEAR THE WILFRED AND STONY POINT SITES

Summary of Comments: Caltrans (G-25) commented on the background assumptions for the 2008 near-term conditions and the year 2020 for long-term conditions. “Even if this project were completed by 2008, a study horizon of 20 years after completion of construction should be used. Please note that the US-101/Wilfred Ave Interchange project will not be completed by 2008, and revise the freeway configuration accordingly.”

Marilee Montgomery (B-33) stated that the proposed Wilfred Avenue overpass might not be developed because of legal challenges to the project’s Negative Declaration. According to the commenter, the overpass is expected to result in an LOS E or worse. The commenter inquired how the movement of the overpass project to be north of Wilfred Avenue would affect the proposed casino/hotel project. Montgomery stated that none of this information is in the DEIS, and that the FEIS cannot be released until the Wilfred overpass project has been resolved.

Sonoma County (G-34) commented that the widening of Wilfred Avenue would have similar impacts as Alternative A, and that the DEIS assumes this would be completed prior to casino operation. According to the commenter, this should be included in the MOU with Rohnert Park, and that the limits of the improvements are clearly defined. Additionally, the commenter stated that the project proponent should require that the casino remain closed until the improvements are completed and in service. Furthermore, that the DEIS should note that until the City annexes the project site, including Wilfred Avenue, the road would remain under County jurisdiction and any widening or improvements would require County approval and cooperation. Without the improvements in place along Wilfred Avenue, the County would consider closing Wilfred Avenue as an access point within its jurisdiction.

Moreover, the commenter stated that traffic distribution at Stony Point Road indicated needs for extra turn lanes along the Stony Point Road frontage with signalization due to the high speed limit, amount of traffic, and truck turning movements. According to the commenter, “This may require dedicated turning (right turn in and right turn out) along the Stony Point Road frontage. This should be considered in the analysis and project design.”

The commenter also noted that anticipated road improvements to between Labath Avenue and Stony Point Road should be disclosed in the DEIS.

According to the commenter, the traffic distribution presented in the DEIS demonstrates a need for Stony Point Road and Wilfred Avenue capacity improvements. Therefore, the commenter stated that the DEIS should be revised to address this need.

Response: Please see Responses to Comments 2.11.3 and 2.16.3. The cumulative forecast is based on the year 2020 modeling which is consistent with the land use assumptions contained in the Sonoma County General Plan, Rohnert Park General Plan, and other applicable specific plans. Kimley-Horn worked with SCTA to obtain base year and cumulative forecast year data for roadways in the study area.

Forecasts for a longer horizon year or for the AM peak period as suggested by Caltrans were not available.

Comments regarding the “Wilfred Avenue Overpass” are assumed to reference the planned Wilfred Interchange improvements. Currently the project is fully funded, the design is nearly completed and Caltrans expects to bid the project for construction shortly thereafter.

It is recognized that a legal challenge was recently filed against Caltrans regarding the Wilfred Avenue interchange. The effect of the challenge on the project schedule is unknown at this time but may cause the construction date to slip.

Given that this NEPA process has taken longer than most, it no longer appears that the proposed project can be opened in 2008. The result of delays in the interchange project is that the construction of the interchange and the casino are still likely to be completed at approximately the same time. Therefore, cumulative impacts and mitigations reported in the EIS are still valid.

In response to comment G-34, the traffic study in **Appendix O** inadvertently reported that Wilfred Avenue would be reconstructed prior to opening of the proposed casino/hotel. All calculations and mitigation recommendations assume that Wilfred Avenue will be improved at approximately the same time as the casino and as a project mitigation. The statement has been corrected in the traffic study.

Regarding the NIGC’s ability to dictate MOU terms, please see Response to Comment 2.10.4.

DEIS **Section 3.8.1** notes that expansion of Wilfred Avenue would occur within the Rohnert Park city limits. Thus, the sphere of influence area would have to be annexed before the City could make those

improvements. The FEIS has been modified to clarify this point. FEIS **Section 5.2.7** has been modified to clarify that improvements recommended by the EIS can be fully or partially funded by the Tribe, but the Tribe cannot force a local governmental entity to actually approve and construct such improvements. Note that the Tribe has recently agreed to pay the full implementation costs of any widening of Wilfred Avenue recommended by the FEIS (see FEIS **Section 5.2.7**).

Pavement widening to support project traffic can foreseeably be constructed at the same time as the casino and within existing rights-of-way and along project frontage in control of the casino/hotel project. The Tribe is willing to pay for the full costs of the widening and work with the County to construct the Wilfred improvements and have them in place at the time of building occupancy. Therefore, the county would not need to consider closing Wilfred Avenue as a project access.

Implementation of mitigation improvements for each Alternative are identified for the near and long term in the traffic study and DEIS. Improvements noted in the DEIS include Wilfred Avenue and Stony Point Road. Depending on the specific mitigation it could be completed before, during, or after construction of the casino/hotel. The Tribe will work with local agencies to determine the best timing for completion of mitigation improvements.

As stated in the traffic study and DEIS, alternatives located adjacent to Stony Point Road recommend as mitigation a traffic signal and driveway with deceleration and acceleration lanes as suggested by the commenter.

The traffic study and DEIS also recommend other turn lane and traffic signal improvements to Stony Point Road, as well as widening of Wilfred Avenue with new traffic signals to mitigate casino traffic distributed to these roadways.

2.11.7 ROADWAY CLASSIFICATION

Summary of Comments: The City of Rohnert Park (G-4), noted that Dowdell Avenue is shown as a future “Minor Collector” only for the portion of the roadway within the City’s SOI. The City of Rohnert Park (G-4) stated that the Sonoma County General Plan should be used to provide the roadway classification for Langner Avenue, Primrose Avenue, and Whistler Avenue. The commenter also stated that the City of Cotati and Sonoma County General Plans should be used to provide roadway classification(s) for State Route (SR) 116. The City of Rohnert Park (G-4) also noted that on DEIS page 3.8-4, Stony Point Road is not shown as a “Minor Arterial” in the Rohnert Park General Plan, as it is not within the City’s Sphere of Influence (SOI). Instead, the commenter recommended that the Sonoma County designation be used.

Long (I-177) stated her objection to the multiple references in the traffic study to the “Wilfred Avenue/U.S. 101 interchange,” which she claims should rightly be called the “Golf Course Drive

/Wilfred Avenue Interchange.” Long also noted that the referenced “Northbound Wilfred Avenue on-ramp” and “Northbound Wilfred Avenue off-ramp” should properly be called the “Northbound Golf Course Drive on-ramp” and “Northbound Golf Course Drive off-ramp,” as these are termed in Caltrans’ November 2006 Wilfred Avenue Interchange Negative Declaration. The commenter stated that the traffic study also misrepresents other roads: “Commerce Boulevard is not a 5 lane roadway...Golf Course Drive is not classified as a major arterial...There is no place on Golf Course Drive that is 5 lanes as you state in your DEIS...Stony Point Road is a major arterial not a minor arterial as you have stated...Wilfred Avenue is not a major arterial.”

Response: Roadway classifications reported in the DEIS were obtained from the Master Street Plan (Figure 4.1-1) of the Rohnert Park General Plan which indicated classifications for roadways in and outside of the City’s Sphere of Influence (SOI). It is acknowledged however that Dowdell Avenue is shown as a future “Minor Collector” only for the portion of the roadway within the City’s SOI. Furthermore, according to the Draft 2020 Sonoma County General Plan, Stony Point Road and segments of SR-116 and Rohnert Park Expressway in unincorporated Sonoma County are classified as Rural Principal Arterials. Wilfred Avenue outside of Rohnert Park is classified as a Rural Major Collector and Langner Avenue, Primrose Avenue, and Whistler Avenue are classified as local roads. Golf Course Drive, Commerce Drive and Wilfred Avenue (in the city) are classified as a Major Arterial in the Rohnert Park General Plan. Classifications for city and county roads were updated in the traffic study as suggested by the commenter; however, differences in the jurisdictional classification or names of roadway facilities do not change the conclusions and recommendations of the DEIS. The traffic study was revised to clarify that Commerce Drive varies from two lanes to five lanes wide with left (and sometimes right) turn lanes at major intersections, and that Golf Course Drive is five lanes wide near the Wilfred interchange with left turn lanes at major intersections.

2.11.8 DESCRIPTION OF EXISTING CONDITIONS

Summary of Comments: The City of Rohnert Park (G-4) noted that the SMART project referenced on page 3.8-6 as being underway has since been completed.

Connie Martin (I-12) is concerned about the width, curve, and parking along Labath Avenue between Rohnert Park Expressway and Business Park Drive.

Response: At the time of the preparation of the traffic study and DEIS, the environmental study for the SMART project was not completed. It is now completed and the FEIS has been updated accordingly. Other elements of SMART are still to be completed. The traffic study and FEIS have been revised accordingly.

Labath Avenue is 36-38 feet wide and with on-street parking allows 10-11 foot driving lanes which are sufficient for a Minor Collector street and to provide a connection to the Wilfred site.

2.11.9 STATE FARM DRIVE / COMMERCE BOULEVARD INTERSECTION

Summary of Comments: The City of Rohnert Park (G-4) stated that the intersection of State Farm Drive and Commerce Boulevard should be analyzed to assess traffic impacts at this location.

Response: Little if any casino/hotel traffic is anticipated to pass through the State Farm Drive/Commerce Boulevard intersection even if Alternative A and Alternative H have a “back door” connector to Labath Avenue and Business Park Drive; therefore it was not included in the analysis.

2.11.10 TRAFFIC MITIGATION MEASURES

Summary of Comments: Steve Carroll (I-6) stated that traffic mitigation proposed by the FIGR is “more than fair.” Chuck Maisel (I-7) also provided examples of proposed traffic mitigation measures by the Tribe that were not required of neighboring commercial developments, and commends the Tribe for voluntarily preparing an EIS for the proposed casino project. Commenter I-148 noted that mitigation measures are not provided for some intersections, which would have a reduced level of service under the Proposed Project. Pamela Miller (I-167) posed the question, “How will you prevent casino traffic from filtering through our narrow neighborhood streets?” Linda Long (I-177) questioned how traffic mitigation measures would be enforced, given the FIGR’s status as a sovereign entity. Long asked, “How do you plan to insure (*sic*) all mitigation with regard to traffic will be legally binding?”

The City of Rohnert Park (G-4) suggested that some of the mitigation measures offered are inconsistent with the Rohnert Park General Plan. According to the commenter, some intersection improvements are unrealistic given existing right-of-way and structural constraints. The commenter mentioned that the eight through lanes on the Rohnert Park expressway over US-101 cannot be accommodated on the existing bridges and is extremely unlikely that further widening of the bridges would take place. The commenter stated that the DEIS should be realistic about what intersection improvements would actually be in place in 2020, and that the proposed development be sized so that LOS are maintained. In Table 5-4, the commenter stated that the Alternative A column should be checked for the Langner/Wilfred rows “Signalize” and “Widen Wilfred to 3 lanes (add EB and WB left).” The commenter also pointed out the rows marked P for proportionate cost of mitigation measure should be changed to F for full cost of mitigation measure. According to the commenter, there are no new sources of funding for improvements to these intersections.

On page 5-30 of the DEIS, the commenter stated that it is not clear what is proposed for Alternative A, under Intersection 6 Dowdell/Wilfred; that what is proposed is actually five lanes wide at the intersection, as shown in Figure A9 of **Appendix O**. The commenter stated that this would require significant right-of-way acquisition including potential condemnation of one house. The intersection is in unincorporated Sonoma County, thus the Board of Supervisors would be the authority to

condemn the property to accommodate the casino project. The commenter stated that more discussion of this issue should be in the FEIS including the likelihood of the Board taking such action and the impacts of the project if they don't. The same was also mentioned for Intersection 5 Wilfred/Labath where potentially 5-6 houses could be subject to condemnation.

The City also mentioned that the DEIS assumes that widening of Wilfred Avenue would be completed by 2008. The commenter stated that the widening would take at least two years due to the CEQA review process, right-of-way acquisition, wetland impacts and tiger salamander habitat impacts. According to the commenter, a more realistic time frame would be two years after groundbreaking of the casino project.

It was also stated that DEIS **Table 5-7** is presented as "Intersection LOS After Mitigation – Alternatives A-E (2020)" but the Signal Control Column does not reflect the intersection improvements shown in DEIS **Table 5-4**. The commenter noted that one intersection improvement for Wilfred/Stony Point is signalization under all scenarios yet **Table 5-7** shows Signal Control as Two Way Stop Control for the intersection. According to the commenter, the same is true for the Labath/Wilfred and Dowdell/Wilfred Intersections.

Steve Klausner (I-174) stated that impacts to traffic could be mitigated if the Tribe were to, "... explore working with the North Coast Rail Authority." According to the commenter, "This publicly owned rail line already has a station planned very near the Proposed Project which will connect to ferry service in San Francisco Bay." The commenter indicated that casino patrons who chose to utilize the train for transportation would reduce the impacts to traffic in Rohnert Park.

The Roblar Area Property Owners Association (B-27) inquired about traffic mitigation measures to the section of Stony Point Road south of Highway 116: "Is there money set aside for the county for improvements on this section of Road and how does the casino expect to improve traffic delays and road degradation? Vernal pool land is set aside for endangered species protection along Stony Point Road. How does Graton Casino expect to improve traffic delays if Stony Point cannot be widened along this section?"

Caltrans (G-25) commented that in Figure 4.8-3, traffic volumes for intersections #9, #10, #11, and #12, "do not reflect a NB loop off-ramp at Intersection #11 as mentioned in Chapter 5.0 Mitigation Measure (sic) (page 5-31)."

Crystal Brody (I-89) commented that the DEIS is lacking in its study of the alternatives to traffic congestions. According to the commenter, "There needs to be a study of the benefit of either developing a mass transit system or locating the Casino near a mass transit system."

Sonoma County (G-34) commented that mitigation listed on page 5-50 of the DEIS, "...lists no construction traffic mitigations other than 'construction material shall be scheduled outside of the area wide commute peak hours' and that 'prior to construction the Tribe shall work with emergency service providers to avoid obstructing emergency response service.'" According to the commenter, the DEIS must be revised to include a full quantitative analysis of construction traffic impacts and needed mitigation measures. "Those measures should include a traffic management plan prepared by the applicant and submitted to each local jurisdiction."

Sonoma County (G-34) commented that increased congestion is a factor that could result in an increased number of traffic accidents if left unmitigated. Therefore, the commenter stated that all traffic mitigation should be in place prior to operation.

The County also noted that combined traditional peak hour traffic with near-peak hour casino traffic must be reflected in the traffic mitigation requirements, due to impacts to the LOS for hours past the morning and evening peak hours.

According to the County (G-34), the dates for construction of mitigation identified in Table A5 #1 though #5 and #26, are unknown, but would most likely occur three to five years later than anticipated in the DEIS. The commenter noted that this should be taken into account in all analyses in the DEIS.

Response: Each mitigation measure shown in **Table 5.4** of the DEIS indicates whether the Tribe is responsible for paying for a proportionate share of the mitigation cost or the full mitigation cost. A proportionate share is justified when the level of service (LOS) at the study intersection or roadway segment is recorded as an unacceptable LOS without the addition of project trips. In this instance, the Tribe would be responsible for the impact that the added project trips generate. In most cases, full mitigation costs are applicable when the LOS at a study intersection or roadway segment is recorded as an acceptable LOS without the addition of project trips, but the addition of project trips results in an unacceptable LOS at the intersection or roadway segment. In this case the Tribe would be responsible for full payment of the costs to construct the mitigation measure.

In the instance that additional funds for proportionate contribution to an improvement are not available, the Tribe would be required to place its share of the funds in an escrow account, but if additional funds are not available the intersection/segment would remain at an unacceptable LOS (as before the project) unless the Tribe decided to voluntarily contribute the remaining funds for the improvement. Please see Response to Comment 2.11.6 regarding the Tribe's agreement to fund recommended Wilfred Avenue widening improvements.

Sizing of roadway facilities (without the project) in the traffic study was based on published information regarding planned projects by the county, cities, and Caltrans. As noted previously, the proposed Graton Rancheria Casino and Hotel was not anticipated in the Rohnert Park General Plan; therefore, intersections affected by casino/hotel traffic and their associated improvements are sometimes different than contained in the City's GP (and other published documents). Intersection and roadway improvements were identified that appear feasible but which sometimes may require additional right-of-way. The DEIS does not propose to widen Rohnert Park Expressway over the freeway to eight lanes for the very reason expressed by the commenter. In addition, Alternative A does not require widening Wilfred Avenue from Langner to Stony Point, nor require a traffic signal at the Wilfred/Langner intersection to meet established operational thresholds.

Widening of Wilfred Avenue through intersections of Dowdell and Labath are consistent with the Master Street Plan (Figure 4.1-1) of the Rohnert Park General Plan and the Northwest Specific Plan which indicates the roadway is to be ultimately constructed to 4-6 lanes to support future development in the surrounding area within the City's SOI. This widening is planned regardless of the casino project and will require additional public right-of-way. The EIS identifies that the widening is needed to support future development and benefits the Proposed Project. The proposed near-term mitigation to widen a portion of Wilfred Avenue to 3 lanes to support casino traffic could be constructed within the existing 40 feet of existing right-of-way without requiring displacement of existing homes or condemnation. In the event that Wilfred Avenue or other identified mitigation measures are not implemented, a significant traffic impact could result.

Improvements shown in DEIS **Table 5-4** of the EIS for 2008 indicate that they should be constructed at approximately the same time as the opening of the casino/hotel project or shortly after opening of the project. Improvements shown in **Table 5-4** of the EIS for 2020 are projected to be needed no earlier than 2020.

DEIS **Table 5-7** includes a summary of information from the traffic report prepared for the EIS. Although the table indicates levels of service with mitigation, the traffic control column of the table indicates whether the intersection is currently controlled by a traffic signal or stop sign, not the mitigated traffic control.

The DEIS conservatively assumed that patrons and employees would not use rail facilities to travel between the San Francisco ferry service and the proposed Rohnert Park SMART station. It was determined that because the SMART system will only operate during the AM and PM commute hours, there is little opportunity for casino employees or patrons to use service. If rail service is established that can be more conveniently used by casino patrons or employees, this could help reduce vehicle trips to the site.

In regard to traffic volumes shown in **Figure 4.8-3** of the DEIS, the figure is intended to show traffic volume assignments to study intersections without the proposed mitigation improvements, and therefore does not show the loop-off ramp mitigation at intersection #11.

In regard to developing a mass transit system to serve the casino/hotel, currently Sonoma County Transit and Golden Gate Transit do not provide service near the site and have indicated they have no plans to provide service. As stated in the traffic study, serving the casino and hotel site would require a large route deviation and would impact the transit agencies ability to timely manage their current service area. Furthermore, the density in the vicinity of the project site is considered too low for cost-effective service. Because no fixed route service will be available at the project site, the DEIS recommends that the casino/hotel provide a shuttle that serves the two Rohnert Park transfer stations. The casino should also sponsor charter buses from farther away destinations such as Marin County and the south Bay. The buses could serve specific groups such as senior citizens or social clubs, while reducing the number of single occupancy vehicles to the site. Preferential carpool or vanpool spaces should also be provided at the project site to encourage ridesharing by patrons and employees.

As stated in the traffic study and DEIS, there will be 600 to 800 employees on-site during construction and only half will be on the roadway during the peak hours. Construction material importation is recommended to be scheduled outside of the areawide commute peak hours. Additionally, deliveries, visits, and other activities may generate peak non-worker demand of up to another 50 trucks and autos. These volumes are much lower than the traffic volumes generated by the casino/hotel when completed. Therefore, the impacts of construction related employee traffic are considered less than significant. As noted in the traffic study in **Appendix O**, mitigations to reduce the impact of construction include the implementation of a construction traffic management plan for the duration of construction of the project and training for construction delivery vehicle operators. It is further recommended that construction material importation be scheduled outside of the areawide commute peak hours, debris along the truck route should be monitored daily and the roadways be cleaned as necessary, and that the tribe should provide flagging in consultation with CHP, Caltrans, and the County's Sheriff's Department to assist with traffic control, see DEIS **Section 5.2.7**, subheading Other Mitigation.

In regard to the potential for increased accidents caused by the casino/hotel, the purpose of the DEIS is to address the traffic and transportation effects of the proposed casino and hotel development. This includes mitigation improvements to restore traffic operations to levels within acceptable standards or to levels as good as or better than without the casino/hotel project. Any potential increases in accidents due to project-related traffic would be offset by the implementation of roadway improvements included as mitigation in the traffic study and DEIS. Therefore, if mitigations are implemented as proposed in this report, no significant increase in daytime or nighttime collisions is

expected. Timing of the construction of the mitigation will be in cooperation between the Tribe and the responsible public agency.

PM traffic conditions were evaluated in the DEIS because it represents the time period where the project will contribute to the greatest amount of congestion and potential mitigation. Other time periods that were considered included weekday AM, weekday late PM, and Saturday. During the weekday AM peak, the casino generates far fewer trips (than the PM) which when combined with AM background traffic results in a much lower combined volume. On weekday late evenings and Saturday evenings the casino facility will generate more trips than during the 4-6 PM weekdays, but the background traffic is lower, making the overall number of vehicles on the road lower as well. Therefore, the PM peak represents the worst case period to evaluate. Evaluation of other time periods was not expected to identify additional project mitigations.

The purpose of Table A5 in **Appendix O** is to identify mitigations needed to relieve traffic created by the casino/hotel. Timing of the construction of the mitigation will be in cooperation between the Tribe and the responsible public agency. Levels of service and vehicle queuing at the intersections, if the improvements are not in place at approximately the same time as the casino/hotel, are included in Table A2 and Table A4 of **Appendix O**.

Regarding enforcement of mitigation, please see Response to Comment 2.16.3.

Regarding comment B-27, please see Response to Comment 2.11.5.

Regarding NEPA's requirement to analyze a range of reasonable alternatives, please see Response to Comments 2.4.2 and 2.4.4. Note that the DEIS includes a wide range of alternatives with varied traffic impacts (see DEIS **Sections 2.0** and **4.8**). Please also see Response to Comment 2.4.12.

2.11.11 ALTERNATIVE F – AREA ROAD NETWORK

Summary of Comments: The City of Petaluma (G-14) stated that **Figure 3.8.5**, Alternative F Area Road Network, should include intersections within the City of Petaluma due to the proximity of the proposed development on the Lakeville site to Petaluma.

Response: Intersections at Lakeville Highway / US-101 NB Ramps and Lakeville Highway / US-101 SB Ramps and road segments Southbound Lakeville Highway between Pine View Way and SR-116, Southbound Lakeville Highway between US-101 and Pine View Way, Northbound Lakeville Highway between Frates Road and US-101, and Northbound Lakeville Highway between SR-116 and Frates Road are within the City of Petaluma were added to the FEIS and traffic study.

2.11.12 IMPROVEMENTS TO US-101

Summary of Comments: The City of Petaluma (G-14) stated that on page 4.8-5 of the DEIS the addition of HOV lanes on US-101 from Novato to Santa Rosa are expected to occur in 2008. However, according to the commenter many portions of these improvements are noted as occurring much later or possibly delayed. The commenter stated that improvements noted as occurring much later or those that are not fully funded should not be included as assumed improvements within the analysis of traffic impacts for the proposed alternatives. Commenter S-94 commented that the proposed development would negate the improvements to US 101.

Congresswoman Lynn Woolsey (G-30) stated that the widening project on Highway 101 in Sonoma County probably would not be completed until 2010 or later. According to the commenter, upon completion of this improvement project, the highway “will have ‘caught up’ with existing congestion relief needs, it will not have new capacity for future traffic.” Commenters G-30 and S-3 stated that the vehicle trips generated by the project would effectively negate the congestion relief of the Highway 101 widening project.

The City of Cotati submitted a comment letter (G-31) stated that there is a funding gap for the planned improvements to US-101 discussed in the DEIS. According to the commenter, the assumption that the improvements will be completed by 2008 is incorrect, and the reconstruction of the US-101/Wilfred Avenue interchange will not be complete until 2011. The commenter requested that the EIS analyze and provide mitigation for the impacts of casino traffic on US-101 after the HOV lanes are added.

Sonoma County (G-34) commented that the targeted US 101 projects have been identified for future funding by MTC and CTC. According to the commenter, “It is likely that Highway 101 projects will not be completed until at least 2012,” therefore, the commenter stated that the DEIS should include comments from the MTC and CTC on targeted completion dates for US 101 projects. Moreover, that the DEIS should revise its assumptions regarding improvements to US 101 to reflect recent decisions by MTC and CTC to fund some projects.

Response: Please see Response to Comment 2.11.3. Timing of the improvements including freeway and interchange projects was considered in the preparation of the traffic study associated with the DEIS. The traffic study specifically noted that construction of the Wilfred interchange would not begin until 2008 and that completion of HOV lanes south of Rohnert Park Expressway would not be completed until after the proposed opening of the casino/hotel.

Designs for US-101 carpool lanes, new interchanges and other improvements near the project were based on travel forecast information prepared by Caltrans in conjunction with adopted land uses for Sonoma County, Rohnert Park, and other surrounding cities. The roadway facilities were sized to

accommodate existing congestion and development consistent with the jurisdictions' general and local specific plans at levels of service acceptable to the state. Although the designs did not anticipate a casino located along Wilfred Avenue in or near Rohnert Park, they did account for the northwest specific plan development area, including development on the Wilfred Site under Alternatives A and H). Mitigation improvements are identified to maintain acceptable traffic operations or restore operations to pre-casino conditions (depending on the specific agency threshold requirements). Therefore, proposed development alternatives would not negate the planned improvements, particularly if mitigation improvements recommended in the traffic study and EIS are implemented. The only major roadway improvement assumed to be completed at approximately the same time as the casino (excluding recommended project mitigations) is the Wilfred Interchange and HOV lane project. Others were assumed to occur after the casino is completed.

Please see Responses to Comments 2.4.11 and 2.11.6.

2.11.13 CONSTRUCTION IMPACTS

Summary of Comments: The City of Petaluma (G-14) stated that little is mentioned in the DEIS about the specific locations of the borrow pits. According to the commenter, the location of these sites should be identified to estimate the impacts of the 46,000 trip ends for the import of fill under Alternative A. Additionally, the commenter noted that the location of quarry, cement and asphalt concrete batch plants should be noted to identify the specific impacts resulting from those trip ends. Emmons (I-148) noted, "the DEIS does not present a clear plan for mitigating traffic impacts during the construction phase of the project," and requests that such impacts be addressed with mitigation measures.

Sonoma County (G-34) commented that despite the conclusion in the DEIS, project construction traffic, "...would create a variety of significant traffic impacts, including increased congestion, vehicle accidents, and pavement degradation." Moreover, the commenter stated that, "The DEIS mentions two quarries being able to supply fill material (one of which is along Stony Point Road), but provides no evaluation regarding potential truck routes, or the roadways' ability to accommodate expected truck traffic." The commenter concluded that the DEIS offers no mitigation to ensure a structurally adequate and safe access roadway to the construction-site before grading begins, nor monitoring to replace pavement as it deteriorates due to the project. Therefore, the commenter stated that the DEIS must be revised to include this measure, "...signalization of the truck access road connection to Stony Point Road (if an improved Wilfred Avenue is selected as the truck route), and others before there is any truck traffic."

Sonoma County (G-34) commented that, "The DEIS needs to assess fully, the safety, road damage, and congestion aspects of generating 45,834 truck trips over a 5 month period, 6 days a week, 8 hours a day." Additionally, the commenter stated that truck routes should be identified and used in the

traffic impact analysis. Moreover, the commenter stated that two analyses are needed: 1) Assuming truck traffic is restricted to the Rohnert Park Expressway, the analysis must assume that there will be no traffic on Wilfred, Labath, Dowdell, Langner, Primrose, and Millbrae Avenues; 2) Assuming unrestricted access to local roads, information should be provided on the structural damage that would be sustained by roads due to construction truck traffic, the maintenance efforts needed to maintain a sufficient pavement surface during construction, and the road reconstruction needed at the completion of the hauling operations. Moreover the commenter stated that, the DEIS needs to assess the safety aspects of operations under both scenarios. Furthermore, the commenter stated that the indication in the DEIS that construction traffic impacts would be less than significant is incorrect.

The commenter stated that the project proponent should be responsible for restoring damaged roadways through reconstruction or other restoration methods agreeable to the County. Additionally, the commenter stated that the number of construction trips could alter the existing peak hour LOS, and that this should be addressed in the DEIS.

The commenter inquired about the queue lengths for construction trucks and worker vehicle traffic, noting that the DEIS should consider that traffic studies typically consider trucks as three vehicles and construction workers typically arrive within a narrow timeframe, which would greatly affect LOS.

Regarding peak hour congestion, the commenter stated that the DEIS indicated that the importation of materials would occur outside of peak hours, and that the hauling and import of fill material to the site would be an 8 hour-a-day operation. Therefore, the commenter inquired how peak hour congestion would be avoided, and stated that AM and PM peak hours should be defined so that construction specifications can include peak hour delivery restrictions.

In addition, the commenter stated that the closure of Wilfred Avenue should be anticipated because of underground utility work and road reconstruction, and that the use of Wilfred Avenue as a construction haul route would severely damage the structural capacity of the road increasing safety risks. Therefore, the commenter stated that construction access points to the casino site should be defined in the DEIS to use either Rohnert Park Expressway or Business Park Drive for construction traffic, and that Stony Point Road should not be used due to its high speed limit and traffic volumes.

Lloyd Iversen (I-168) stated, "Trucks traveling to Forestville for gravel will greatly increase traffic in the already traffic stressed community," and questioned, "What could be the worst case scenario of traffic on Stony Point Road should a convoy of trucks visit the Stony Point Quarry?"

Response: Construction employee traffic is analyzed in DEIS **Section 4.8**. Regarding potential impacts from fill importation, please see Response to Comment 2.10.36. Note that the analysis of potential impacts from fill importation has been updated in the FEIS to assume a more realistic 10

hour a day fill importation workday and to assume best estimated grading periods ranging from one to five months, depending on the alternative.

Note also that roadways in Rohnert Park, Sonoma County, Caltrans and other jurisdictions are designed in consideration of the type and amount of traffic expected to occur along the facility. Collectors, arterials and freeways are designed assuming large volumes of automobile and truck traffic will use the roadway. All trucks will comply with applicable Department of Transportation load limits.

2.11.14 FREEWAY/INTERCHANGE IMPROVEMENTS - US 101/WILFRED AVENUE

Summary of Comments: The Metropolitan Transportation Commission (MTC) (G-28) expressed concerns regarding the planned improvements to US-101 and Wilfred Avenue. The commenter stated that the currently planned improvements were based on projected land use and corresponding traffic demands that did not include the proposed casino/hotel project, which according to the commenter, is a potentially significant traffic generator. In addition, the commenter stated that the current design for the interchange project does not include freeway and intersection improvements recommended in the DEIS as traffic mitigation measures. According to the commenter, the Wilfred Avenue interchange project is fully funded and at a stage in design where changes cannot be made without schedule disruption and additional costs. The commenter recommended that the additional improvements stated in the DEIS should be done as follow-up mitigation, since the project would generate 1,384 trips in the AM peak hour and 2,287 trips in the PM peak hour. The commenter also stated that the high number of project trips could also significantly impact intersections around the Wilfred interchange during the AM, PM, and weekend peak hours. Thus, making the mitigation provided in the DEIS necessary as follow-up projects to the planned improvements.

Additionally, the commenter stated that the US-101/Wilfred Avenue Interchange project would not be completed until 2008. Moreover, if the casino/hotel project were completed by 2008, according to the commenter, a study horizon of 20 years after completion of construction should be used in the traffic analysis.

Sonoma County (G-34) commented that in the DEIS, the Wilfred Avenue/US 101 interchange would be completed in 2008, however; according to the commenter, the DEIS also stated that the completion is planned for 2011. Therefore, the commenter stated that the DEIS should be revised to clarify the inconsistencies, and to revise the analysis if needed.

Linda Long (I-177) stated that the traffic analyses of the “previous casino sites in the area” predict a LOS E at the Golf Course Drive/Commerce Boulevard intersection following the completion of Caltrans’ Wilfred Avenue Interchange Project. Long notes, “Since the new site, the Wilfred Site (A) is just .3 (3/10) of a mile from 101 freeway is it reasonable to assume that the LOS would be

downgraded to LOS F?” Long expressed her concern that the development of the Wilfred Site would effectively negate any benefits to local LOS that would result from the planned improvements to the Wilfred Avenue/Golf Course Drive and U.S. 101 interchange. The commenter stated, “It is necessary to do on-site assessments and analysis with regard to this interchange using universally accepted traffic engineers with working knowledge of our local roads, freeways and streets.”

William P. Adams (I-178, S-21, and S-112) referred to **Appendix O** Figure 3A, which showed northbound (NB) US-101 traffic turning onto Wilfred Avenue that is referred to as mitigated Intersection #12 in **Table A5**, by a NB loop off ramp that directs traffic onto westbound (WB) Wilfred Avenue. The commenter stated that Jonathan Lee, Caltrans District 4 Designer Engineer, informed him that, “...there is not enough room for the loop off ramp because of the lack of space east of the freeway at the Northwest Pacific Railroad track.” The commenter suggested a direct left fly over off ramp to direct traffic onto westbound Wilfred Avenue. Adams also suggested, “...the addition of a third loop off ramp at Expressway Avenue interchange that drops NB 101 traffic onto WB Expressway.” The commenter also recommended that, “It should be proposed to Graton Rancheria that it fund either of the mitigations, since Caltrans stated that the railroad track blocks the proposed NB loop off ramp that would drop traffic onto WB Wilfred (Table A5).”

Marilee Montgomery (B-33) stated that the planned improvements to US 101 were only to relieve existing congestion, and do not accommodate future development. She also stated that, “The Project DEIS fails to take into account the effect of casino traffic on future planned development nor does it consider the net cumulative impact on the region, including Marin County.”

Sonoma County (G-34) commented that, for mitigation for freeway segments and ramps on page 5-46, “The DEIS uses the word ‘shall’ in all of its recommendations, yet provides no specific cost contribution amounts or percentages. Overall, PM peak hour project traffic (inbound + outbound) uses up almost an entire freeway lane of capacity.”

Response: The DEIS recognizes that the Wilfred interchange is fully funded and the design is nearly completed. Therefore, any improvements identified in the EIS would be completed as follow-up mitigation to avoid schedule disruption and additional costs to the planned Caltrans project.

As noted in Response to Comment 2.11.6, the cumulative forecast is based on the year 2020 modeling which is consistent with the land use assumptions contained in the Sonoma County General Plan, Rohnert Park General Plan, and other applicable specific plans. Sub-consultant Kimley-Horn worked with SCTA to obtain base year and cumulative forecast year data for roadways in the study area. Forecasts for a longer horizon year as suggested by MTC were not available.

Traffic analysis followed accepted practices and methodology. The analysis identified that without the casino/hotel, the intersection of Golf Course Drive/Commerce Boulevard would degrade to level of service F by 2020. With the casino/hotel the intersection fails earlier. Therefore the DEIS identifies improvements necessary at the intersection which would mitigate the level of service to LOS C.

The recommendation by the commenter to build a “fly over ramp” at the Wilfred interchange was considered as an alternative but determined to be infeasible due to existing development. A third loop ramp at Rohnert Park Expressway interchange was also considered but determined to be unnecessary to address project impacts. The loop off ramp at the Wilfred interchange as identified in the DEIS would require right-of-way of privately-owned property and an easement to be within (i.e. under) the Northwest Pacific Railroad track ROW. The ramp appears feasible if right-of-way and easements can be secured. It would not affect rail operations and would reduce congestion at the existing railroad crossing on Golf Course Drive.

Each mitigation measure in the DEIS indicates whether the Tribe is responsible for paying for a proportionate share of the mitigation cost or the full mitigation cost. A “proportionate share”, sometimes referred to as a “fair share”, refers to that situation when multiple developments are projected to contribute to the need to expand a road or highway. It is standard practice among State transportation agencies and among traffic professionals to assign a share of the cost of the needed improvement proportional to the contribution made by the particular developer to the demand which has occasioned the improvement. A proportionate share is justified when the level of service (LOS) at the study intersection or roadway segment is recorded as an unacceptable LOS without the addition of project trips. In this instance, the Tribe would be responsible for the impact that the added project trips generate. In most cases, full mitigation costs are applicable when the LOS at a study intersection or roadway segment is recorded as an acceptable LOS without the addition of project trips, but the addition of project trips results in an unacceptable LOS at the intersection or roadway segment. In this case the Tribe would be responsible for full payment of the costs to construct the mitigation measure. The percentage of cost sharing would be determined in cooperation between the Tribe and the responsible public agency.

Planned improvements to US-101 were to relieve existing and future congestion. For example, planned improvement to the Wilfred Avenue interchange take into consideration existing and future growth in Rohnert Park and surrounding areas including development areas partially displaced by the proposed casino/hotel.

Traffic analysis and related mitigation was prepared that covered locations most likely to be adversely affected by the casino/hotel project. The DEIS notes that the Proposed Project would add to traffic already on the roadway network and identified several roadway improvements necessary to support

the additional trips generated by the project. When the improvements are implemented, traffic delays and congestion are projected to be better or at least the same as before the completion of the proposed casino/hotel project. Thus, after mitigation it is not expected that a sharp increase in congestion, accidents, or roadway deterioration will occur.

Mitigation measure outlined in **Section 5.2.7** of the FEIS are planned improvements that would alleviate traffic congestion on the road and at intersections within the project vicinity. **Section 4.12** analyzes impact in the year 2020. This analysis includes all foreseeable future projects within the project area.

2.11.15 CALTRANS LEVEL OF SERVICE (LOS) CRITERIA

Summary of Comments: The MTC (G-28) stated that level of service (LOS) D at signalized intersections and highways, and LOS E at freeway segments and ramps are not within the Caltrans satisfactory criteria. According to the commenter, Caltrans attempts to maintain target LOS at the transition between LOS C and D. The commenter continued by stating that if the state highway facility is already operating at LOS D or less, mitigation should be provided in the FEIS to maintain the No Project LOS conditions.

Linda Long (I-177) noted, “The casino/resort would cause a further decrease in level of service at the Golf Course Drive Commerce Blvd. intersection as indicated by Whitlock & Weinberger Transportation Inc., in the traffic analysis commissioned by the City of Rohnert Park which **included** the casino/resort. The level of service would be at level **E**. The road widening improvements on 101 and at the Wilfred Avenue Interchange Project were specifically **not** intended for new development and the casino/resort would cause the LOS at this interchange to remain at level E instead of raising them to **C** or **D** as planned and paid for by the residents of Sonoma County.” Long continues, “You note the LOS C is established as the criteria for satisfactory operation at intersections within the City of Rohnert Park, with the exception of Golf Course Drive/Commerce Boulevard (among others). Was this acceptable before or after the proposed freeway improvements? Won’t the traffic impact from the casino resort bring the LOS levels down to what they were before improvements are made?”

Caltrans (G-25) requested that the Final EIS note, “LOS D at signalized intersections and highways, and LOS E at freeway segments and ramps, are not within the Department’s satisfactory criteria.” According to the commenter, “The Department endeavors to maintain a target LOS at the transition between LOS C and LOS D. If the State highway facility is already operating at LOS D or less,” the commenter stated that, “mitigation measures should be provided to maintain the No Project condition LOS.

Sonoma County (G-34) commented that the according to the Caltrans Guide for the Preparation of Traffic Impact Studies, LOS C is the poorest acceptable operation on state facilities. Moreover, the

commenter stated that the DEIS, "...presents no quantitative criteria to determine the significance of impacts for Caltrans facilities that are already operating at unacceptable levels of service."

Response: The change to the LOS standard was contained in a Caltrans letter received during the scoping period of the project. Normally the standard would be LOS C or better for intersections (per Caltrans' Guide for the Preparation of Traffic Impact Studies) but in the letter, Caltrans indicated that a lower level of service was acceptable before mitigation would be required. The Caltrans letter stated that the Department would consider "traffic impacts that cause the LOS to deteriorate below LOS E for freeways and LOS D for highways and intersections" to require mitigation. If LOS is already below criteria, the existing LOS and related measure of effectiveness (MOE) are to be maintained. Mitigation measures were identified per these criteria. Mitigation will be required if freeway LOS deteriorates below LOS E and for highways or intersection LOS deteriorates below LOS D.

The EIS notes that the Proposed Project would add to traffic already on the roadway network and identified several roadway improvements necessary to support the additional trips generated by the project. When the improvements are implemented, traffic delays and congestion are projected to be better or at least the same as before the completion of the proposed casino/hotel project.

2.11.16 IMPACTS TO BICYCLE AND PEDESTRIAN CIRCULATION

Summary of Comments: The MTC (G-28) requested that the FEIS consider bicycle and pedestrian circulation in the design of the intersections and turning movements for the proposed development. In addition, adequate sidewalk facilities, striped crosswalks, and pedestrian countdown signals were requested for elderly and disabled citizens.

Caltrans (G25) commented that in the first paragraph on page 4.8-26 of the DEIS, additional traffic resulting from the proposed development may have, "...an adverse impact on the existing level of bicycle and pedestrian safety regardless of whether the project generated additional bicycle trips." In addition, the commenter stated that additional bicycle trips might be anticipated by the additional bike paths proposed for development near the project in both the Rohnert Park General Plan and the Sonoma County Transportation Plan. The commenter stated mitigation on page 5-11, intended to encourage transit shuttle service, would result in additional pedestrian trips between transit shops and the proposed development. Recommending that in order to better accommodate safe pedestrian travel, "... the project and other locations within ¼ to ½ mile of the project area, we recommend that mitigation measures J and K, proposed for Alternative E, also be considered for Preferred Alternative A." Furthermore, Caltrans recommended that, "...the project contribute development impact fees toward the completion of bicycle facilities likely to generate travel to and from the project location." According to the commenter, this would contribute to a reduction in auto trips and emissions. Lastly, Caltrans recommended that, "...bicycle and pedestrian circulation be considered in the design of

intersections and turning movements, and that adequate sidewalk facilities, striped crosswalks, and pedestrian countdown signals for elderly and disabled citizens be provided.”

Lloyd Iversen (I-168) inquired about promoting bicycle, pedestrian, and other forms of alternative transportation.

Response: As noted in the mitigation sections of the traffic study, roadway improvements will be consistent with design standards for local jurisdictions in providing facilities and amenities for bicycles and pedestrians, **Appendix O**.

As discussed in the traffic study, serving the casino and hotel site with transit would require a large route deviation and would impact the transit agencies ability to timely manage their current service area. Furthermore, the density in the vicinity of the Wilfred and Stony Point sites is considered too low for cost-effective service. Therefore, Sonoma County Transit and Golden Gate Transit currently do not provide service near the site and have indicated they have no plans to provide service.

Because no fixed route service will be available at the sites, the DEIS recommends that the casino/hotel provide a shuttle that serves the two Rohnert Park transfer stations. The casino should also sponsor charter buses from farther away destinations such as Marin County and the south Bay. The buses could serve specific groups such as senior citizens or social clubs, while reducing the number of single occupancy vehicles to the site. The site will be designed to accommodate on-site transit service including pedestrian amenities between the stop and the building entrance.

As stated in the Mitigations section of **Appendix O**, for each alternative in the traffic study, roadway improvements will be consistent with design standards for local jurisdictions in providing facilities and amenities for bicycles and pedestrians, thus promoting bicycle, pedestrian, and other forms of alternative transportation. Mitigation measures 5.2.3, L and M have been included in **Section 5.2.7** of the FEIS for all alternatives. Mitigation measures have been outlined in **Section 5.2.7** of the FEIS, which address the Tribes contribution to pedestrian and bicycle improvements and consider certain design elements.

Mitigation measures C, D, G, and N in **Section 5.2.7** of the DEIS are all designed to promote bicycle, pedestrian, and other forms of alternative transportation. These mitigation measures coupled with the existing bicycle and pedestrian infrastructure would promote alternative forms of transportation.

Furthermore, the traffic study was revised to include recommendations that the Tribe provide employee incentives such as: subsidized transit passes, flexible work schedules, the validation of transit tickets to provide free return trips, or subsidized shuttle services, see FEIS Section 5.2.7, other mitigation.

2.11.17 COORDINATION WITH LOCAL TRANSIT SERVICES

Summary of Comments: The MTC (G-28), Caltrans (G-25), and S-107 recommended that the Tribe partner with local transit agencies to coordinate transit services and stops near the proposed development site. In addition, commenters G-28 and G-25 noted that the site design should include transit facilities/amenities at transit access points, for public and private transit operations. Furthermore, commenters G-28 and G-25 stated that the street design should accommodate bus travel and maximize pedestrian access to transit stops. Caltrans also recommended that the Tribe provide employee incentives such as: subsidized transit passes, flexible work schedules, the validation of transit tickets to provide free return trips, or subsidized shuttle services. It was also recommended that the Tribe allow preferential parking for carpools/vanpools as well as loading and unloading facilities for transit and carpools/vanpools.

Lloyd Iversen (I-168) inquired about promoting public transportation and other forms of alternative transportation; and questioned whether the casino project would impact the existing public transportation system.

Response: As stated in the traffic study, although Sonoma County Transit and Golden Gate Transit have previously indicated that they do not plan to provide bus service to the casino sites, the project will include transit facilities/amenities at transit access points, for public and private transit operations (see DEIS **Section 5.0** and page 49 of the Traffic Impact Study). A mitigation measure has been added to **Section 5.2.7** of the FEIS, which provides for preferential parking for carpool participants. Because the project will not be served by public transit, no impacts will occur.

Several mitigation measures outlined in **Section 5.2.7** of the FEIS would promote alternative forms of transportation. Impacts to existing and future public transportation systems are shown in **Sections 3.8, 4.8, and 4.12** of the FEIS. Also, please see Response to Comment 2.11.16 regarding the discussion of shuttle services to transit stations.

2.11.18 GENERAL TRAFFIC IMPACTS

Summary of Comments: The County of Sonoma Teen Eagles (B-21) and local residents: S-87, S-90, S-91, S-96, S-110, S-112, I-107, I-108, I-125, I-136, I-143, I-157 and I-159 stated that the project would increase traffic. Roberta Walker (I-146) expressed concern that the Tribe's estimate of 18,000 more cars on Highway 101 and local roads every day would impact the infrastructure that is beyond capacity. In addition, she stated that the 18,000 cars is an average that does not include the additional cars that will be on the road during peak hours and peak days where there will be continual gridlock for the 40,000 residents of Rohnert Park and the surrounding communities.

Betty G. LeDonne (I-102) stated that there has been an increase in traffic on SR 116 in the last five years. Elaine L. Matheny (I-105) stated "increased traffic congestion will make it even worse than it

is now to get out on Rohnert Expressway.” Tim O’Brien notes in his comment letter (I-151), “Traffic is bad enough. Why not build this in, say, Graton?” Pamela Miller (I-167 and S-30) speculated that the increased casino traffic would result in “Drunk and/or disoriented drivers pulling into private driveways, destroying personal property, ripping down gates and fences, and parking on private property to drink, do drugs, or participate in prostitution.”

Marilee Montgomery (B-33) stated that the traffic analysis in the DEIS is incomplete.

The City of Cotati (G-31), expressed concern that traffic impacts may affect neighboring cities, and that mitigation agreements exist only with the City of Rohnert Park and the County of Sonoma.

Irene Collins (I-44) suggested shuttle buses to the proposed casino to reduce traffic impacts.

Sonoma County (G-34) indicated that the proposed development would have significant impacts to traffic. “The project is of such a magnitude that, if implemented as proposed, it would cripple the over-burdened transportation system relied upon by the County’s residents, visitors and regional commerce, and aggravate demands for health, safety, and other crucial public services.” Moreover, the commenter stated that the DEIS, “...fails to properly disclose, analyze, and mitigate these and other significant impacts.” In addition, “The DEIS fails to compare the Proposed Project’s traffic impacts against existing conditions, as required by NEPA, or even to a realistic set of conditions that are likely to exist when the Proposed Project can reasonably be expected to commence operations.”

According to the commenter, for the reasons stated above the DEIS, “...failed to take a ‘hard look’ at the Proposed Project’s traffic impacts, and failed to provide decisionmakers and the public with the full and fair information necessary to conduct a meaningful review of the Proposed Project. The commenter continued with the following reasons for a revised analysis that should be included in a recirculated DEIS:

- The DEIS should analyze project impacts against the baseline traffic conditions that existed at the time the NIGC issues the Notice of Preparation;
- The DEIS should further analyze project impacts against a 2011 or 2012 horizon. This analysis should only assume the construction of fully funded roadway improvements. This could also include any improvements that are currently partially funded but that the Tribe will guarantee to supply all remaining funding in a timeframe that will allow improvement completion before the project opens for operation.

The Roblar Area Property Owners Association (B-27) expressed concern that employees coming from outside Sonoma County would contribute to increased traffic congestion.

Lloyd Iversen (I-168) asked if the casino project could bring an additional 20,000 to 30,000 vehicles per day to the area; questioned what the increase in traffic would be over the next decade, and two and three decades; and inquired about mitigation for increased rush-hour traffic, and the economic cost of increased traffic congestion. Iversen (S-29) also stated, “The Sierra Club has taken a position against the casino project,” due in part to “reasons...related to...traffic.”

Commenter I-166 stated that the traffic study is limited, and excludes foreseeable traffic impacts to Petaluma Hill Road and all major arterial roads of Southwest Santa Rosa, Cotati, Penngrove and Sebastopol. Moreover, the commenter asked, “How will you prevent gridlock and excessive traffic on narrow country roads from an additional 10 to 20,000 vehicles? How will you protect the city of Rohnert Park from the traffic impacts of this project? How will you prevent highway 101 from traffic impacts of this project? How will you prevent the cost of road changes as a result of this project from being born by the taxpayer?”

Commenters S-38 and S-73, refuted the indications that the proposed development would have significant impacts to traffic by citing the mitigation the Tribe has committed to which would reduce impacts to traffic congestion, emergency response providers, limit the impacts of construction activities, coordinate with local entertainment venues to reduce impacts to peak hours, and limit the operational impacts.

Commenter S-93 expressed concern regarding traffic improvements and the funding for those improvements. According to the commenter, the funding should be in place prior to project approval.

Response: Section 4.8 and 4.12 of the DEIS discusses that an increase in traffic is expected in relation to the Proposed Project (including patron and employee traffic), many intersections will be affected, and mitigations will be required to meet established thresholds of acceptable operation. The DEIS evaluated existing traffic conditions based on data collected shortly after the Notice of Intent to prepare an EIS and public scoping meetings per NEPA. The 2008 condition is intended to provide an assessment of conditions that correspond with the estimated opening year of the casino/hotel. That date may ultimately change depending on the time needed to complete the NEPA process, obtain permits, complete construction, etc. Regardless of the actual opening date of the proposed casino/hotel, the traffic analysis evaluated a long-term cumulative 2020 condition which identifies impacts and mitigations for future cumulative conditions, including those identified for the opening year. Therefore, the EIS provides an assessment of cumulative traffic impacts for the project. The EIS also includes an evaluation of conditions without the Proposed Project to permit comparison between the effects of the casino and the conditions likely to existing if the project were not constructed.

Note that the scope of the traffic analysis was based on the level of traffic impacts, not local jurisdictional boundaries. Roadway improvements assumed to be in place at the time casino is completed (other than EIS mitigation measures) only includes projects that are funded.

As shown in the traffic study, the casino is expected to generate roughly 18,000 trips per day which is equal to 9,000 vehicles. This volume of traffic is not expected to significantly change from year to year or decade to decade assuming that the size and program for the casino alternatives remains as described in the DEIS.

As mentioned above the traffic study and DEIS disclose that the casino/hotel project will generate large volumes of traffic that will use multiple roadways to reach the site; however, the comment that the project will cripple the street network is an overstatement. The traffic analysis was based on several conservative assumptions that should result in actual traffic volumes being lower than reported in the traffic study and level of service being better than reported.

For example, empirical data at other Native American casinos indicated that the PM peak hour trip rate for this project should be two trips per 1000 square feet of gross floor area. Although the data suggests a PM peak trip rate of 2/1000 s.f., it was determined that a higher and more conservative rate should be used in the EIS. Therefore, the PM trip rate used in the EIS was 4.95/1000 s.f. which represents a 148 percent increase over data from other gaming facilities.

In addition, the traffic study conservatively assumes that all trips generated would be new trips, even though it assumes that at least 15 percent of the trips generated would be pass-by or diverted-trips which are already driving on area roadways.

Each of these analysis decisions resulted in conservative conclusions and mitigations likely in excess to the actual impact that will be created by the Proposed Project.

Trip generation for the development alternatives includes employees, customers, deliveries, and other service vehicles. While it is possible that some employees may travel along roadways outside of Sonoma County, assessment of impacts of this traffic was evaluated at intersections and roadway segments most likely to be impacted by traffic.

Mitigation improvements identified in the EIS are to restore traffic operations to levels within acceptable standards or to levels as good as or better than without the casino/hotel project. The DEIS identifies that to the extent that the casino causes an increase in congestion, it will be responsible to pay the costs for mitigation. Funding for mitigation will be coordinated between the Tribe and the responsible public agency. If mitigations are implemented as proposed in the traffic report and DEIS, crippling levels of traffic congestion are not anticipated.

Regarding comment I-167, please see Response to Comment 2.10.24.

DEIS Mitigation Measure 5.2.3 C proposes that the Tribe support the use of shuttle bus, as well as, community transportation.

As noted above, the traffic measurements were taken when the NEPA process got underway, at the time the NOIs were issued and scoping undertaken, 2004-05. DEIS, **Appendices A and B**. As further noted above, a second set of data has been projected for 2008, the estimated opening date for the casino/hotel. A third projection has been made for 2020.

While it now appears the most probable opening may be delayed a year or two, that is not uncommon in the NEPA context and does not require redoing the EIS with new opening year dates. In the preparation of NEPA documents the sheer passage of time from the start of the process until its completion often means that the information used as the basis for analysis or the year that appeared to be the most appropriate baseline is in fact superseded by time. But to go back and do the analysis again would merely invite a repetition of the same sequence -- delay followed by assertion that the process should start once again with fresher data or a more recent baseline. The courts have declined to require such repetitious exercises.

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 [agency] 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 [agency] 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.” Village of Bensonville v. FAA, 457 F.3d 52, 71-72 (D.C. Cir. 2006).

In response to comments the modeling methodology has been changed to better account for local conditions (please see Response to Comment 2.11.1), resulting in only minor changes to traffic conclusions and no changes to significance after mitigation. No other changes to the baseline

modeling conditions have occurred which would result in the need to change the assumptions in traffic baseline growth through 2020. Thus, the traffic conclusions based on the existing assumptions remain accurate. Please also see Response to Comment 2.4.11 and 2.11.10.

One commenter (S-93) asserted that funding for mitigation should be in place prior to project approval. The obligations NEPA imposes with respect to mitigation are discussed in detail in Responses to Comments 2.6.4 and 2.16.3. In short, when an EIS (as distinct from an Environmental Assessment and Mitigated Finding of No Significant Impact) is prepared, NEPA imposes no requirement that mitigation be adopted. It follows that funding for mitigation need not be present. Note, however, that the FEIS has been revised to require traffic mitigation funds be placed in an escrow account for use by the governmental entity with jurisdiction over the road to be improved so that the entity may design, obtain approvals for, and construct the recommended road improvement.

2.11.19 AM, AM AND WEEKEND PEAK ANALYSIS

Summary of Comments: The MTC (G-28) stated that the DEIS does not include AM and weekend peak hour analysis, and therefore should be included in the FEIS. The commenter also stated that this analysis should be provided for comparison, as intersection-turning movements may be very different than during PM peaks. In addition, the commenter requested that the storage lengths of all turning movements be evaluated for potential impacts.

Caltrans (G-25) commented that, “The project will generate 1,384 trips in AM peak hour and 2,287 trips in PM peak hour as shown on page 52 of the TIS. This high number of projected trips could significantly impact intersections around the Wilfred interchange during the AM, PM, and weekend peak hours.” Although the commenter further noted that the traffic impact study includes PM peak hour analysis only. Thus the commenter recommended that, “An analysis of the AM and weekend peak should also be provided for comparison since intersection turning movements may be totally different than during the PM peaks.” Additionally, “The storage lengths of all turning movements should be evaluated for potential impacts as well.”

Sonoma County (G-34) commented that it is, “...highly unlikely that 70 percent of projected inbound traffic (almost 850 vehicles) will be fighting their way northbound from Marin County and the rest of the Bay Area on a U.S. 101 freeway that is already at stop-and-go conditions in many locations.

Moreover, the County commented that the DEIS, “...provides no AM peak hour analysis.” According to the commenter, “The DEIS incorrectly conducted AM traffic counts during the summer when schools are not in session and colleges are either not in session or at reduced student levels.” Therefore, the commenter stated that the DEIS preparers should, “...conduct an entirely new set of AM counts when schools are in session, and analyze AM peak traffic conditions at all locations. Due to differing flow patterns during AM commute versus the PM commute, the DEIS preparers should

find a somewhat different set of impacts and needed mitigations, even with lower project trip generation during this period.”

Lloyd Iversen (I-168) asked if the bulk of the traffic generated by the casino would occur at rush hour.

Loretta Smith (I-166) asked, “How many vehicle trips will this project generate per hour and per day, for the next 5 years? How does the projected traffic generated by this casino affect current projected traffic? How will the applicant mitigate the problems associated with increased traffic?”

Response: As stated in Response to Comment 2.11.10, PM traffic conditions were evaluated in this report because it represents the time period where the project will contribute to the greatest amount of congestion and potential mitigation. Other time periods that were considered included weekday AM, weekday late PM, and Saturday. During the weekday AM peak, the casino generates far fewer trips (than the PM) which when combined with AM background traffic results in a much lower combined volume. On weekday late evenings and Saturday evenings the casino facility will generate more trips than during the 4-6 PM weekdays, but the background traffic is lower, making the overall number of vehicles on the road lower as well. Therefore, the PM peak represents the worst case period to evaluate. While it is true that individual movements may be different than during the PM peak, the sum of traffic volumes for critical movements was not expected to be greater than in the PM; therefore, evaluation of other time periods was not expected to identify additional project mitigations. Storage lengths for turning movements were evaluated in the DEIS.

The comment that 70 percent of the project traffic will use US-101 from Marin County to the casino is in error. All of the alternatives in the DEIS assumed that some traffic would use alternate facilities to bypass congestion on the freeway. For the alternatives located on either the Wilfred or Stony Point sites and depending on the location of the casino and convenience of the alternate routes, between 15 and 50 percent of the casino traffic was routed off the freeway before the closest interchange to the casino and assigned to other less direct roadways including Gravenstein Highway, Stony Point Road, Millbrae Avenue, and parts of Rohnert Park Expressway as described in the traffic study. Diversion of casino trips to other roadway facilities as suggested by the commenter was considered to be minor so they were not included in the analysis.

School traffic typically affects AM and mid-afternoon traffic conditions but has little effect on PM peak traffic levels which is the time period evaluated in the TIS. In addition, when schools are in session there would not be a significant increase in traffic due to a high volume of linked trips. Linked trips result from parents dropping off children at school on the way to work or other destinations. Therefore, traffic counts are believed to accurately portray the existing condition during the PM peak period.

The bulk of trips generated by the project are generated outside the rush hour. The reader is directed to DEIS **Appendix O** for discussion on daily and peak hour trip generation.

2.11.20 GEOGRAPHIC SCOPE OF TRAFFIC STUDY

Summary of Comments: Linda Long (I-177) inquired as to the geographic scope of the Kimley-Horn traffic study for the Wilfred Site. Long requested that revised traffic analyses be conducted including the entire existing length of Golf Course Drive, especially the intersections of Golf Course Drive with Snyder Lane and Petaluma Hill Road. According to the commenter, this should be required in the EIS because of the proposed alterations to the Wilfred Avenue/Golf Course Drive and U.S. 101 interchange, in which Wilfred Avenue and Golf Course Drive will be connected into a single continuous road extending under U.S. 101. Long also requested that this analysis include “A residential parcel map of all of Rohnert Park, all of Petaluma Hill Road, 101, casino site A the Wilfred Site, and all streets back to and including Stony Point Road...to get a clear picture of all residents impacted by traffic as a result of this proposed casino/resort. This needs to be one map, all inclusive.” Moreover, the commenter also requested an analysis of potential traffic impacts on Petaluma Hill Road, which she notes is “a 101 alternate route.”

Long also requests additional analysis of “the significant, incremental, cumulative environmental impacts of your casino/resort traffic on Hahn Elementary School (1.8 miles from the casino/resort)...Honeybee Park (1.7 miles ‘from’ and on the path ‘to’ the casino/resort)...[and] Honeybee Pool.” The commenter stated that the analyses should be conducted by “**universally accepted** traffic engineers...with regard to the children, the air they breathe, the exposure to diesel fuel emissions, CO2 emissions, green house gases, traffic noise, the fuel emission scum on the pool water and grass and the kids with or a propensity for asthma and allergies.”

Susan Nurse (I-94) commented that the traffic study was inadequate and improperly done.

Sonoma County (G-34) commented that, “The critical capacity controlling locations along the U.S. 101 freeway in the project vicinity are the uphill grades between Rohnert Park and Petaluma. Since about 70 percent of project traffic is projected to use this section of the freeway (about 950 AM peak hour trips and 1,580 PM peak hour trips).” According to the commenter, the DEIS should analyze this segment of the freeway and include additional mitigation measures.

Chip Worthington of Stop the Casino 101 (B-29) stated that the traffic studies were narrowed to a quarter-mile or half-mile within the project site, and did not address daily traffic on arterials throughout the community of Rohnert Park.

Response: Traffic analysis along the entire length of Golf Course Drive was not included in the analysis because casino traffic was expected to be less than 25 vehicles per hour. Traffic increases of this magnitude are not considered to be significant enough to require analysis. Thus an area-wide map of this area is not justified.

Freeway analysis included segments US-101 from north of Rohnert Park to south of Rohnert park, including the segments between Rohnert Park and Petaluma.

Study intersections and roadway segments were included in the DEIS depending on the volume of casino traffic expected to travel on the facility. For facilities expected to carry high volumes of casino traffic, the study area extended two or more miles away. For many intersections in the city of Rohnert Park located east of US-101, casino traffic was expected very low so they were not included in the analysis.

Preparation of the traffic study for the EIS was prepared in harmony with accepted industry practice and documents impacts and mitigations at intersections and roadways most likely to be affected by casino traffic. Casino traffic near Hahn Elementary School, Honeybee Park, and Honeybee Pool was not identified to create a significant impact.

2.11.21 TRAFFIC TURNING VOLUME ANALYSIS

Summary of Comments: Linda Long (I-177) requested that the traffic turning volume analysis be redone “when the Junior College, High Schools are in session and when people are not on vacation.” The commenter also stated that the reported figures for school trips and linked trips are “guessing,” and need to be validated.

Sonoma County (G-34) commented that, “Table 3.8-8 indicates 1123 northbound and 422 southbound vehicles in PM peak hour. If Alternative A traffic of 2287 new trips is added to the proposed driveway entrance, significant improvements to Lakeville Road will be necessary to maintain a satisfactory LOS and to maintain traffic safety.” According to the commenter, the DEIS should include but not be limited to the following mitigation measures, additional lane capacity, a left turn lane for NB traffic, a right turn lane designed for PM extended queues based on signalized intersection and full deceleration within turn lane, and a NB merge lane with full acceleration for traffic leaving the Proposed Project.

The commenter also stated that a trucking route and signing plan should be developed based on industry standards. Moreover, “Restricting truck turning movements to right turn in and out will be required. Construction of deceleration and acceleration lanes will be required prior to site development.”

Response: Linked trips result from parents dropping off children at school on the way to work or other destinations. Trip linking varies from city to city; however, San Diego Association of Governments reports in *Traffic Generators*, April 2002 that trip linking represent 25 percent for elementary and middle school, 19 percent for high school, 7 percent for junior college, and 9 percent for universities. Therefore, traffic counts are believed to accurately portray the existing condition during the PM peak period as stated in the Existing Traffic Turning Movement Volumes section of the traffic study (DEIS **Appendix O**).

The traffic study recommends as mitigation (for Alternative F) to include exclusive right and left turns into the Lakeville site which would include deceleration and acceleration lanes per County standards. Identified improvements will allow the roadway to maintain a satisfactory LOS and to maintain traffic safety.

2.11.22 APPENDIX O – FORECASTING

Summary of Comments: Caltrans (G-25) commented that in **Appendix O**, page 52, **Table A1**, “Based on the ITE Trip Generation 7th Edition, the 300-room hotel should generate: $300 \pm 8.92/3 = 892$ daily trips; $300 \pm 0.67/3 = 67$ AM trips; $300 \pm 0.74/3 = 74$ PM trips.” According to the commenter, “The study used daily trips = 817; AM trips = 56; PM trips = 59.”

Response: Caltrans’ comment is based on trip generation rates of occupied rooms. Whereas the DEIS calculated trip generation using ITE trip generation rates based total rooms. Assuming the rooms are not 100 percent occupied each day, the number of hotel generated trips is roughly the same using either method. There is no error in the calculation of hotel trips.

2.11.23 INTERSECTION MITIGATION MEASURES

Summary of Comments: Caltrans (G-25) commented that the proposed mitigation on page 5-46 of the DEIS, which includes additional freeway and intersection improvements not previously planned for the interchange project will have to be done as follow up projects. According to the commenter, “The current design for the interchange project does not include the freeway and intersection improvements recommended in the Draft EIS as mitigation for the casino and hotel project impacts.”

Caltrans also commented on **Table 5-4**, Intersection Improvements Alternatives A-E, included in the table below:

2.11.1
COMMENTS ON TABLE 5-4, INTERSECTION IMPROVEMENTS ALTERNATIVES A-E

Intersection / Proposed Improvement	Comment
Intersection #7 – Add WB through and add EB through	Alternative A does not include adding WB through and EB through lanes on Wilfred Ave. The analysis shows large backup queues for project volume counts

Intersection #8 – Wilfred/US-101 SB Ramps	<p>in WB and EB directions.</p> <p>Any modifications to this ramp will require additional retaining walls between the mainline and the ramp.</p>
Intersections # 9 and 10	<p>The proposal to relocate the intersection closer to the railroad crossing was rejected by the Public Utilities Commission (PUC). As a result of this decision the design of the Wilfred Interchange Project did not allow the Golf Course Dr/Commerce Blvd Intersection to be aligned with Roberts Lake Dr. The current design keeps the existing intersection at Golf Course Dr/Commerce Blvd and extends Commerce Blvd north to Redwood Dr.</p>
Intersection #11- Add NB loop off-ramp that drops traffic onto WB Wilfred Ave	<p>Please clarify whether mitigation is proposed for the Golf Course Dr/Commerce Blvd and Golf Course Dr/Roberts Lake Rd intersections for Alternative A. Per Table 5-4, no mitigation is proposed for these intersections for Alternative A. The DEIS also states that there is no mitigation necessary for these two intersections. However, Table A-6, shows mitigation improvements for the two intersections. To clarify this inconsistency, provide diagrams that show lane configuration and peak hour volumes for all scenarios (No Project, With Project and With Project plus Mitigation). Clarify whether this intersection is proposed at-grade (as mentioned above, at grade intersection is not acceptable to the PUC) or whether a grade separation is proposed. Provide LOS summaries with the proposed improvement. Mitigations to the intersection are essential because, without improvements, the space between the Wilfred Ave/southbound ramps intersection and the Commerce Blvd/ Golf Course Dr intersection would not have adequate storage to handle peak hour traffic.</p> <p>It is essential that impacts at this intersection be mitigated, because the Traffic Impact Study conducted for the Tribe projected volume counts exceed the Wilfred Interchange project capacity based on 2030 forecasted volumes. However, we need to have a better understanding of the mitigation as proposed and its merits and implications on the Wilfred Ave Interchange project before we can make final comments.</p>

Sonoma County (G-34) commented that, under Alternatives A-E there would be significant traffic impacts along Wilfred Avenue, creating a need for the widening and reconstruction of Wilfred Avenue to address safety, maintenance, and congestion. Moreover, the commenter stated that a proportional share of the costs associated with the improvements is unacceptable, because any other

development of the size of the proposed casino would be required to widen and reconstruct the road. Additionally the commenter stated, “The DEIS needs to identify where non-project proponent proportional cost share funding would come from for improvements in unincorporated areas,” and that these share calculations should follow Caltrans methodologies for both state and local roads.

The commenter also stated that, “Any alternative using a driveway on Stony Point Road should include right turn ingress and egress land construction along the frontage between Rohnert Park Expressway and Wilfred Avenue. According to the commenter, the DEIS must be revised to include a queue analysis to determine the capacity adequacy of left turn channelization at Stony Point and Rohnert Park Expressway under full deceleration design.

Furthermore, the commenter inquired how far Alternative F widening improvements would extend to the north, presuming two lanes would extend to SR-37.

Commenter I-166 stated that the state is not funding road improvements to cover impacts associated with the proposed development.

Response: It is understood that the proposed mitigation improvements to US-101 and the Wilfred interchange would be in addition to projects already planned by Caltrans. Mitigation improvements would need to be completed after their projects to avoid delays to their schedules.

With regard to the Caltrans comments on Table 5-4, the following responses are provided:

- Alternative A mitigation does include funding an additional eastbound and westbound lane at intersection #7 which will mitigate the effect of the eastbound and westbound queues.
- It is understood that ramp modifications at the Wilfred/US-101 SB ramps will require additional retaining walls.
- The revised analysis using Synchro software for the FEIS does not propose to move the Golf Course/Commerce and the Golf Course/Roberts Lake intersections closer together for any alternative.
- As stated in the traffic study (DEIS **Appendix O**), the loop off ramp would be in the northeast quadrant of the Wilfred interchange. Northbound traffic exiting the freeway would have the option of turning onto Commerce Boulevard or entering a tunnel section that goes under the NB on-ramp and Golf Course Drive and then loops 270 degrees around to the right and drops traffic onto westbound Wilfred Avenue. The improvement would require demolition of the existing Chevron gas station and may require an easement from the railroad if the tunnel loop encroaches under the railroad right-of-way.

Each mitigation measure, including widening improvements along Wilfred Avenue, indicates whether the Tribe is responsible for paying for a proportionate share of the mitigation cost or the full mitigation cost. The percentage of cost sharing would be determined in cooperation between the

Tribe and the responsible public agency and could be near or at 100 percent based on a calculation methodology acceptable to the responsible agency. Non-project proponent proportional funding is assumed to come from other future development that also contributes to traffic congestion. For example, areas around Wilfred Avenue are expected to be developed for future retail, commercial, and residential uses the Rohnert Park General Plan and other Specific Plans. This development is assumed to be assessed impact or other development fees, as well as build frontage improvements to cover improvements not paid by the Tribe. Also, please see Response to Comment 2.11.10.

Alternatives taking access from Stony Point Road are proposed to operate with a traffic signal and exclusive northbound right turn lane, including deceleration and acceleration lengths consistent with the speed of the roadway, as stated in the traffic study. The access is approximately 1000 feet south of Wilfred Avenue, well outside the expected vehicle queuing from the adjacent intersections at Wilfred Avenue or Rohnert Park Expressway. The reader is directed to vehicle queuing tables for each alternative contained in **Appendix O**.

Widening of Lakeville Highway to two lanes in each direction would be from SR-37 to SR-116.

It is not assumed that the state would fund road improvement to cover impacts associated with the proposed development.

2.11.24 IMPACTS FROM MOTOR VEHICLE ACCIDENTS

Summary of Comments: Marilee Montgomery (B-33) expressed concern regarding casino related traffic impacting the rates of motor vehicle accidents. The commenter noted that Sonoma County is the motor vehicle accident (MVA) capitol of California, however, the DEIS does not address the potential impacts. She requested that the FEIS provide, "...complete and accurate traffic projections for this Project and the impact on Sonoma County's MVA rate," and inquired about the potential impacts from increased rates of MVAs on the County's healthcare system. She specifically asked what impacts to MVAs among high school and college students.

Sonoma County (G-34) commented that appropriate mitigation is necessary to address potential impacts from alcohol-related accidents. According to the commenter, mitigation should include but not limited to funding random CHP DUI checkpoints on a weekly basis as a means of deterring drunk driving.

Lloyd Iversen (I-168) inquired about public safety risks, particularly to children, that could result from traffic associated with the casino. While Loretta Smith (I-166) asked, "How will you prevent an increase in drunk drivers threatening the community? How will you prevent an increase in driving accidents from the fog and narrow roadways?"

Response:

Casino traffic is principally directed to freeways and state highways where children or other pedestrians are not typically present. Regardless, mitigation improvements are contained in the DEIS to restore traffic operations to levels within acceptable standards or to levels as good as or better than without the casino/hotel project. Any potential increases in accidents due to project-related traffic would be offset by the implementation of roadway improvements included as mitigation. Therefore, if mitigations are implemented as recommended in this report, no significant increase in daytime, nighttime, or foggy conditions collisions is expected.

Mitigation in **Section 5.2.8** of the DEIS addresses prevention of alcohol-related traffic accidents. Mitigation includes support of DUI checkpoints. Alcohol-related crimes are discussed further in Response to Comment 2.9.7.

2.11.25 IMPACTS TO STONY POINT ROAD

Summary of Comments: The Roblar Area Property Owners Association (B-27), stated, “The traffic study does not consider Stony Point Road South of 116 leading to the City of Petaluma North with multiple 101 connections.” According to the commenter, this route is the primary highway alternative for travelers from the Bay Area to Rohnert Park and the community’s primary transportation route. Furthermore, the commenter stated, the casino would impact this route and “delay an already inadequate and overburdened commute road system. The commenter asked the following questions with regard to Stony Point Road:

- “What is the expected total impact on this section of Stony Point Road from the Graton Casino including total vehicle trips and traffic delays during peak hours?”
- “Is there money set aside for the county for improvements on this section of Road and how does the casino expect to improve traffic delays and road degradation?”
- “Vernal pool land is set aside for endangered species protection along Stony Point Road. How does Graton Casino expect to improve traffic delays if Stony Point cannot be widened along this section?”
- “What are the impacts to the Roblar Road and Stony Point Road intersection? An intersection that is not lighted and has experienced many major traffic accidents.”
- “What is the expected traffic load on Stony Point from construction activities including waste disposal, large aggregate, cement, worker commutes, and materials?”

Sonoma County (G-34) commented that the DEIS fails to analyze potential project traffic on Stony Point Road to the south of Gravenstein Highway, “...even though about 70 percent of outbound project traffic is projected to travel south (to Petaluma and beyond) and the southbound U.S. 101 freeway is projected to be operating at total gridlock LOS F conditions in the southbound direction

before 2020, even with assumed widening of the freeway to six lanes.” According to the commenter, “This is a blatant underreporting of a potentially significant impact to County roadways, in particular to Stony Point Road.”

Additionally, the commenter stated that if mitigation for #12 in Figure A4 of **Appendix O**, then the LOS congestion would cause traffic to accumulate on alternate routes, specifically Stony Point Road. According to the commenter, more traffic would use the Wilfred Avenue eastbound casino access from Stony Point Road than is depicted in the figure. Therefore, the commenter stated that appropriate revisions need to be made to account for the use of Stony Point as an alternate route.

However, the commenter noted that a right-turn only egress on Stony Point Road would cause significant traffic to use Wilfred Avenue to reach Hwy 101 southbound via the Wilfred Avenue on-ramp. The commenter stated that the DEIS should consider locating the entrance of the proposed development on Stony Point Road to the south so that it does not conflict with the right turn bay at Wilfred Avenue. The commenter stated that the DEIS should assess signaling Stony Point Road similar to Alternative D.

Response: For the alternatives located on either the Wilfred or Stony Point Sites and depending on the location of the casino and convenience of the alternate routes, between 15 and 50 percent of the casino traffic was routed off the freeway before the closest interchange to the casino and assigned to other less direct roadways including Gravenstein Highway, Stony Point Road, Millbrae Avenue, and parts of Rohnert Park Expressway as shown in the traffic study and DEIS. Note that these distribution patterns were modified after consultation with local and state cooperating agencies, including Sonoma County and Caltrans. Figures are provided in **Appendix O** showing the expected traffic distribution along major corridors and figures also show traffic volume assignment at individual intersections during the peak hour. Please see Responses to Comments 2.11.3 and 2.11.5.

At Gravenstein Highway/Stony Point Road, average vehicle delay in 2020 without the casino is 39.9 seconds whereas average vehicle delay with the casino is 42.0 seconds with recommended mitigation.

Mitigation will be funded by the casino proportionate to their level of impact.

Impacts to Roblar Road/Stony Point Road were not evaluated in the DEIS because significant volumes of project traffic are not anticipated to use the intersection. If the intersection has a pre-existing collision issue, the County should be responsible for improvements including intersection lighting.

Construction workers and other building materials are expected to generally originate from US-101 rather than Stony Point Road so the impact to the roadway is less than expected during operation of

the casino/hotel. Some fill material for Alternatives B, C, D, and E may be transported along Stony Point but the source of the material had not been confirmed. If imports are restricted to outside the commute period, they would need to operate on a 7 hour day between 9 AM and 4 PM.

With the exception of fill material for the site, construction workers and other building materials are expected to generally originate from US-101 rather than Stony Point Road so the impact to the roadway is less than expected during operation of the casino/hotel. Some fill material may be transported along Stony Point but the source of the material had not been confirmed. If all the fill material is transported on Stony Point over a period of 5 months, with trucks operating at 6 days per week, 8 hours per day, this results in approximately 87 to 226 trucks on an average day and 11 to 29 trucks during any given hour (including potentially the peak hour) for Alternatives B, C, D, and E. Alternatives A and H do not require fill from an offsite location. If imports are restricted to outside the commute period, they would need to operate on a 7 hour per day schedule which would result on an average 13 to 33 trucks per hour between 9 AM and 4 PM.

Alternatives taking access from Stony Point Road are proposed to operate with a traffic signal and exclusive northbound right turn lane, including deceleration and acceleration lengths consistent with the speed of the roadway. The access is approximately 1000 feet south of Wilfred Avenue, well outside the expected vehicle queuing from the adjacent intersections at Wilfred Avenue or Rohnert Park Expressway.

Locations where most traffic may leave the US-101 freeway to use parallel routes include Rohnert Park Expressway and Gravenstein Highway. Note that these distribution patterns were modified after consultation with local and state cooperating agencies, including Sonoma County and Caltrans. Nominal amounts may divert using Stony Point Road south of SR-116; however, the farther away from the casino/hotel site the less likely traffic will divert from the freeway because of the longer travel path and the number of intersections and stops drivers will encounter on the alternate route.

The DEIS notes that the Proposed Project would add to traffic already on the roadway network and identified several roadway improvements, including US-101 improvements, necessary to support the additional trips generated by the project. When the improvements are implemented, traffic delays and congestion are projected to be better or at least the same as before the completion of the proposed casino/hotel project. Thus, after mitigation it is not expected that a sharp increase in congestion will occur.

2.11.26 ESTIMATED TRAFFIC FLOWS AND PROJECTED REVENUES

Summary of Comments: Tom Scott (S-33) commented that the traffic analysis when compared to the estimated revenues shows discrepancies. According to the commenter, “Supposing that only three-fourths of the estimated 2,400 employees work in a given 24-hour period, and generously

assuming most of them arrive to work at two to a car ...accounts for approximately a thousand cars, leaving 17,000 cars to generate the daily average revenue of 1.3 million dollars.” Moreover, the commenter stated that every non-employee driven car that comes to the casino must lose a minimum of 80 dollars, “...but that is before figuring in one cent of payouts by the casino on thousands of slot machines, or one dime given to any jackpot winner.” When the commenter took those payouts into consideration, he stated that the loss per car would have to be substantially higher or the number of cars significantly greater.” Therefore, the commenter stated that in order for the casino to reach its revenue goals, the traffic would have to be greater, which according to the commenter, is misrepresented or incompetently analyzed.

Response: The commenter’s analysis focuses on the average losses per car, but does not look at the number of players. Any car that travels to the casino is likely to have at least two persons per vehicle. In addition, tour buses bring 40 to 50 persons to the casino per trip. Thus, the amount that each person would need to spend would be much lower than the required \$80 per car from this analysis. We do not see a gap from a revenue perspective. The comment appears to overlook that vehicles at casinos frequently have two or more passengers and that other patrons may arrive via tour bus or some other mode of transportation. If the commenter wishes to make estimates of gambling losses, it is recommended that it be based on number of patrons, not vehicles.

2.11.27 IMPACTS TO THE SONOMA COUNTY SHERIFF’S DEPARTMENT FROM INCREASED TRAFFIC

Summary of Comments: Sonoma County (G-34) commented that traffic impacts associated with the alternative site locations would adversely impact the ability of the Sheriff’s Department to provide law enforcement services. “Given worsened traffic conditions, it is even more important to provide adequate funding to the Sheriff’s Department for increased staffing dedicated to the areas near the development site.” The commenter concluded that, “Without such additional resources, community residents will be adversely affected, and public safety issues will not be mitigated.”

Response: Traffic impacts were analyzed in **Section 4.8** of the DEIS. Mitigation improvements are identified in **Section 5.2.7** of the FEIS to restore traffic operations to levels within acceptable standards or to levels as good as or better than without the casino/hotel project. Any potential increases in response time by police vehicles due to project-related traffic would be offset by the implementation of roadway improvements included as mitigation. Therefore, if mitigations are implemented as proposed in this report, no significant increase in response time is expected. Impacts to the Sheriff’s Department are discussed in **Section 4.9** of the DEIS. The MOU with Sonoma County (**Appendix E**), provides for an intergovernmental agreement with the Tribe which would address significant impacts occurring within the County (according to the MOU).

2.11.28 IMPACTS TO SONOMA COUNTY'S DETENTION DIVISION/CORONER'S UNIT FROM INCREASED TRAFFIC ACCIDENTS

Summary of Comments: Sonoma County (G-34) commented that the DEIS failed to address the impacts of the proposed development on the Sheriff's Detention Division or Coroner Unit from increased traffic accidents involving patrons, and crimes exacerbated by the Proposed Project including; gang activity, narcotics, extortion, prostitution, identity theft, and domestic violence.

Response: The impact to the Detention Division and Coroner Unit are included in the fiscal impact assessment as discussed in **Section 4.7** of the **DEIS** and **Appendix N**. In regard to the potential for increased accidents caused by the casino/hotel, mitigation improvements are identified in **Section 5.2.7** of the FEIS to restore traffic operations to levels within acceptable standards or to levels as good as or better than without the casino/hotel project. Any potential increases in accidents due to project-related traffic would be offset by the implementation of roadway improvements included as mitigation. Therefore, if mitigations are implemented as proposed in this report, no significant increase in daytime or nighttime collisions is expected.

2.11.29 IMPACTS TO EMERGENCY RESPONSE TIMES

Summary of Comments: Sonoma County (G-34) commented that the DEIS provided no analysis of the impacts of increased casino related traffic on fire and emergency service providers. According to the commenter, "The Proposed Project would significantly increase vehicle trips and traffic congestion on both local roads and Highway 101, causing potentially significant impacts on regional response time." Therefore, the commenter stated that the DEIS should be revised to analyze these impacts, and require the applicant to provide funding sufficient to ensure that the proposed development would not decrease emergency response times. The County and individual commenters I-65 and S-19 stated that the impacts to emergency vehicle access during times of congestion are of concern if the casino were opened prior to construction of the traffic mitigation measures.

Response: Mitigation improvements are identified in **Section 5.2.7** of the FEIS to restore traffic operations to levels within acceptable standards or to levels as good as or better than without the casino/hotel project. Any potential increases in emergency response time due to project-related traffic would be offset by the implementation of roadway improvements included as mitigation. Therefore, if mitigations are implemented as proposed in this report, no significant increase in emergency response time is expected. Congestion caused prior to traffic mitigation completion is a temporary impact. As stated in **Section 5** mitigation, "the Tribe shall provide traffic control with appropriate signage and the presence of peak-hour traffic control staff." This will aid in the prevention of off-site parking and prevent impacts to emergency vehicles accessing the site. Also, as stated DEIS **Section 2.0**, the site would be staffed with security personnel trained in emergency response. The Tribe has also agreed in a MOU with the City of Rohnert Park (see DEIS **Section**

2.2.10 and **Appendix E**) to provide emergency medical training to members of the security staff and to provide emergency medical equipment, including defibrillators.

2.11.30 2008 TRAFFIC IMPROVEMENTS

Summary of Comments: Sonoma County (G-34) commented that, the DEIS stated the following proposed 2008 improvements would be complete by 2008, however the commenter stated that they would likely be in place by 2011 or 2012:

- The widening of the Old Redwood Highway interchange in Petaluma to the existing six-lane section north of Santa Rosa Avenue;
- The completion of the Wilfred Avenue-Golf Links interchange reconstruction; and,
- Intersection improvements planned but not necessarily funded in Rohnert Park.

The commenter concluded that the analysis of near-term traffic impacts for the proposed alternatives has been developed, "...against an unrealistically low set of background traffic conditions in conjunction with a unfounded or partially funded set of major roadway improvements that could never be in place by 2008. Therefore, the commenter recommended the following:

- The DEIS should analyze project impacts against the baseline traffic conditions that existed at the time the NIGC issued the Notice of Preparation; and,
- The DEIS should further analyze project impacts against a 2011 or 2012 horizon. This analysis should only assume the construction of only fully funded roadway improvements. This could also include any improvement measures that are currently partially funded that the Tribe will guarantee to supply all remaining funding in a timeframe that will allow improvement completion before the project is operational.

Sonoma County (G-34) commented that the DEIS and traffic study incorrectly assumes that the 2008 traffic volumes and estimated growth would occur in the near term. According to the commenter, "Major traffic impacts in the near term will be associated almost entirely with the proposed casino." Moreover, the commenter stated that the County is unaware of any scheduled improvements to roads in the immediate vicinity within the unincorporated area, in addition, the DEIS is flawed in its analysis. "The traffic report should address the most likely anticipated annexation and development schedules..." Therefore, the commenter stated that the NIGC should require the DEIS preparers to revise the DEIS to analyze near term traffic conditions based on the construction and operation of the proposed development, as being the first significant development to occur along Wilfred Avenue, and to impose 2008 traffic mitigation based on the casino traffic trip generation estimates. However, the commenter also stated that the traffic study should analyze the most likely anticipated annexation and development schedules.

In addition, the commenter stated that the project proponent should be responsible for the costs associated with traffic impacts, however, according to the commenter, “There is no cost-sharing partner within the unincorporated area.” Furthermore, the commenter stated that it is unlikely that the County would bear the cost or utilize traffic mitigation funds to construct the traffic mitigation improvements associated with the project.

The commenter also stated that, “All 2008 Condition-Build-Out Without Project estimated road improvements, whether local roads of Hwy 101; are off by a factor of 3 to 5 years.”

Response: Please see Response to Comment 2.11.18. The 2008 condition is intended to provide an assessment of conditions that correspond with the estimated opening year of the casino/hotel. That date may ultimately change depending on the time needed to complete the EIS process, obtain permits, complete construction, etc. Regardless of the actual opening date of the proposed casino/hotel, the traffic analysis evaluated a long-term cumulative 2020 condition which identifies impacts, including those identified for the opening year. Therefore, the EIS provides an assessment of cumulative traffic impacts for the project.

Currently some parts of Wilfred Avenue identified in the DEIS to be mitigated are under the jurisdiction of Sonoma County. A discussion is underway to annex into Rohnert Park the remaining parts of Wilfred Avenue within city’s SOI but a schedule of when it may be completed is unavailable. Regarding annexation and the Tribe’s commitment to fund Wilfred Avenue improvements, please see Response to Comment 2.11.6. Also note that the traffic study does not assume that widening would occur before project operation.

Each mitigation measure indicates whether the Tribe is responsible for paying for a proportionate share of the mitigation cost or the full mitigation cost. The percentage of cost sharing would be determined in cooperation between the Tribe and the responsible public agency and could be near or at 100 percent based on a calculation methodology acceptable to the responsible agency.

2.11.31 EXISTING CIRCULATION NETWORK – LAKEVILLE HIGHWAY

Summary of Comments: Sonoma County (G-34) commented that the County does not plan to widen the Lakeville Highway, despite the indication in the DEIS, according to the commenter, it is not included in the 5-year Capital Improvement Program, and there have been no long-range discussions regarding an expansion of the highway.

Response: The assumption that Lakeville Highway would be widened was based on information contained in the 2001 Countywide Transportation Plan for Sonoma County. Page 56 of the plan shows the need to widen the roadway from SR-37 to SR-116. It is recognized that the project is not funded or included in a CIP so was therefore assumed to be a long-term project that would be

completed by 2020. If the widening is not completed by that horizon year, the traffic study and FEIS have been revised in the long term lane geometry description to note that the casino/hotel project may need to construct some or all of the widening to achieve adequate levels of service on the highway segment.

2.11.32 EXISTING FREEWAY AND RAMP PERFORMANCE – LAKEVILLE SITE

Summary of Comments: Sonoma County (G-34) commented that, “Table 3.8-6 demonstrates the need for additional lane capacity for Lakeville Highway (Road) due to levels of service E and Measure of Effectiveness (MOE) of 90.8% (NB) and 86.0% (SB).” According to the commenter, the DEIS should include mitigation including, but not limited to, additional lane capacity, a left turn lane for NB traffic, a right turn lane designed for PM extended queues based on a signalized intersection and full deceleration within turn lane, and a NB merge lane with full acceleration for traffic leaving the Proposed Project.

Response: The DEIS includes mitigation to include exclusive right and left turns into the Lakeville Highway site which would include deceleration and acceleration lanes per County standards.

2.11.33 EXISTING PM PEAK HOUR INTERSECTION PERFORMANCE – LAKEVILLE SITE

Summary of Comments: Sonoma County (G-34) commented that, “Table 3.8-7 indicates current LOS problems even before adding in project peak hour(s) traffic impacts.” According to the commenter, the DEIS should require the construction and implementation of all proposed traffic mitigations prior to operation to maintain existing LOS.

Response: Implementation of mitigation improvements for each Alternative are identified for the near and long term. Depending on the specific mitigation it could be completed before, during, or after construction of the casino/hotel. The tribe will work with Sonoma County to determine the best timing for completion of mitigation improvements. Also see Response to Comment 2.11.18.

2.11.34 ROADWAY DESIGN CONSIDERATIONS

Summary of Comments: Sonoma County (G-34) commented that, “The design of intersections, left turn storage capacity, and structural section capacity need to be reflected in roadway design considerations. Likewise, the DEIS should acknowledge that traffic mitigation fees would be applied based on typical county requirements for development.”

Response: Design of intersection and roadway improvements will be consistent with design standards for local jurisdictions such as in providing left turn storage and structural capacity. **Section 5.2.7** of the FEIS has been revised to clarify that all local road improvements would occur only at the explicit approval of local jurisdictional agencies, which would either design the improvement or require that the improvement be designed to its satisfaction. Should the Wilfred Site be taken into

trust, the County's fee ordinance would not apply. The EIS' substantial mitigation requirements would be in effect, however, as would any requirements in the MOU negotiated between the Tribe and the County.

2.11.35 LAKEVILLE SITE ACCESS

Summary of Comments: Sonoma County (G-34) commented that the 'other' access mentioned on page 4.8-73 of the DEIS could be developed as an emergency vehicle access (EVA) or employee entrance with dedicated right turns in and out only. Furthermore, the commenter stated that lanes should be developed for full deceleration and acceleration.

Response: The "other" access is intended as an exit only but could be used for ingress in an emergency by fire, ambulance or law enforcement vehicles. It is not the desire of the Tribe to use it for ingress for customers or employees.

2.11.36 TRANSPORTATION/CIRCULATION – ALTERNATIVE G

Summary of Comments: Sonoma County (G-34) commented that there are no other land development projects scheduled in the near term, and that Northwest Specific Plan (NWSP) development projects would not be constructed until after the development of the casino. Therefore, the commenter stated that the project proponent should anticipate constructing the near term traffic mitigations identified under Alternative G.

Response: Alternative G is the no action alternative. It assumes that the Proposed Project would not be developed but that the NWSP would be developed (including a portion of the Wilfred site). Thus, mitigation identified under Alternative G would be needed for the NWSP development not the Proposed Project.

2.11.37 INTERSECTION LOS AFTER MITIGATION

Summary of Comments: Sonoma County (G-34) commented that the DEIS should discuss interconnecting signals on Wilfred Avenue to give priority to through traffic movement along Wilfred Avenue. According to the commenter, access to Stony Point Road should be a part of the mitigation to redistribute traffic away from Wilfred Avenue.

Response: Traffic signal interconnect and coordinated timing plans are included in the proposed traffic signals for Wilfred Avenue as described in the traffic study. Casino alternatives with access to Stony Point Road include a traffic signal as mitigation to allow traffic to exit the site to the south away from the Wilfred interchange.

2.11.38 FREEWAY SEGMENT AND RAMP MITIGATION

Summary of Comments: Sonoma County (G-34) stated that the DEIS should be revised to include proportional share costs for each freeway mitigation measure in terms of percentage and dollars. In addition, the commenter inquired, “Does Lakeville Highway refer to State Hwy 116, presuming Lakeville Road is addressed in Table 5-5?”

Response: The Tribe will coordinate with Caltrans to determine the mitigation percentage and dollar estimate for freeway improvements. Given that improvement designs have not been approved and the proportionate share percentages could vary based on traffic volume and proposed developments, it would be premature and speculative to try to estimate mitigation costs and percentages in the EIS. Lakeville Highway does not refer to SR-116; however they share the same alignment between SR-116 and US-101.

2.11.39 FREEWAY SEGMENT AND RAMP LOS AFTER MITIGATION

Summary of Comments: Sonoma County (G-34) commented that, “A comparison of Table 5-9 and 5-10 clearly shows Alternative F as the ‘after mitigation’ traffic superior alternative from an LOS standpoint.”

Response: Comment is noted.

2.11.40 APPENDIX O – PEAK HOUR TRAFFIC

Summary of Comments: Sonoma County (G-34) commented that the proposed casino may create peak traffic a few hours past traditional commute peak hours, the graph on page 47 of **Appendix O** shows significant contribution to traditional peak hour traffic as well. According to the commenter, the impacts to LOS are significant and need to be recognized and addressed.

Response: PM traffic conditions were evaluated in the DEIS because it represents the worst case time-period where the project will contribute to the greatest amount of congestion and potential mitigation, even though peak casino traffic occurs later in the evening. Other time-periods that were considered included weekday AM, weekday late PM, and Saturday. During the weekday AM peak, the casino generates far fewer trips (than the PM) which when combined with AM background traffic results in a much lower combined volume. On weekday late evenings and Saturday evenings the casino facility will generate more trips than during the 4-6 PM weekdays, but the background traffic is lower, making the overall number of vehicles on the road lower as well. Therefore, the PM peak represents the worst case period to evaluate. Evaluation of other time periods was not expected to identify additional project mitigations.

2.11.41 APPENDIX O - EXISTING CONDITIONS TRAFFIC SIGNAL WARRANT ANALYSIS

Summary of Comments: Sonoma County (G-34) commented, “Warrant #3 is not sufficient justification to construct traffic signals.” Additionally, the commenter stated that traffic signal analysis is based on Warrant #3 alone and not other traffic warrants that are typically combined to indicate the need for a traffic signal project. Therefore, the commenter stated that the DEIS should re-evaluate the assumptions and conclusions and make revisions as necessary.

The commenter noted on page 105 of **Appendix O**, Table 1C (#13) indicated a Two Way Stop Control (TWSC) for Stony Point/Project Driveway. The commenter asked if the DEIS is proposing to add a driveway onto Stony Point Road.

Response: According to the Manual on Uniform Traffic Control Devices, a traffic signal may be installed based satisfaction of one of more warrants and an engineering study. No revision of the signal analysis appears justified.

Intersection #13 is currently controlled by a stop sign. The DEIS recommends that a traffic signal be installed at the intersection to facilitate efficient and safe movement at the site driveway, which already exists along Stony Point Road.

2.11.42 APPENDIX O – NEAR TERM TRAFFIC VOLUMES

Summary of Comments: Sonoma County (G-34) commented that, the DEIS cites no specific development in the project area by 2008, therefore, the commenter stated that the DEIS should identify the Proposed Projects that it assumes would be in place by the estimated opening date of the proposed development. According to the commenter, the most likely conclusion is that the casino would be the first project constructed in the area, therefore this should be addressed and analyzed in the DEIS.

The commenter noted that Table 5 in **Appendix O**, page 32, and Figures 3, 4, and 5 are predicated on development that would not occur by 2008.

Response: Please see Response to Comment 2.11.18. To reflect the traffic levels anticipated to occur in the year 2008, Kimley-Horn obtained from SCTA base year and cumulative forecast year data for roadways in the study area. The prorated incremental increase in traffic volumes that reflects growth from 2005 to 2008 (from the forecast model) was added to existing traffic volumes to determine near-term cumulative volumes by intersection approach. The rate of increase per year differs based on the roadway segment and the proximity to anticipated development. On average, the increase in traffic volume is roughly 2 percent per year. Figure 5 in Appendix O shows the assumed increase in background traffic at the study intersections. These volumes represent anticipated traffic

levels in the year 2008, regardless of the proposed casino and hotel. Actual development in the near-term may be slightly higher or lower depending on timing of other specific development projects.

2.11.43 APPENDIX O – LONG TERM CUMULATIVE FORECAST

Summary of Comments: Sonoma County (G-34) commented that the near term conditions without the Proposed Project for 2008 are the same as existing conditions. According to the commenter, this suggests that no new significant development is planned for 2008. The commenter requested that the DEIS confirm what projects are presumed to be completed before or at the same time as the Proposed Project.

Response: Near term conditions are not the same as existing traffic volumes in the DEIS. On average, the increase in traffic volume is roughly 2 percent per year. Figure 5 in **Appendix O** shows the assumed increase in background traffic at the study intersections. Please also see Response to Comment 2.11.42.

2.11.44 REQUIRED PERMITS AND APPROVALS FOR TRAFFIC MITIGATION

Summary of Comments: Sonoma County (G-34) noted that in **Appendix O**, page 62 mitigation measures: #1, #5, #6, #7, and #12 require the acquisition of a right-of-way (ROW). According to the commenter, ROWs are generally required for environmental approval (most likely mitigation for impacts to wetlands and/or CTS habitat), therefore, the commenter stated that the DEIS should analyze how the above mitigation would be impacted by the potential increase in the length of time required to obtain environmental approvals in environmentally sensitive areas, like Wilfred Avenue. The commenter stated that the DEIS should be revised to require that mitigation measure #12 be completed prior to operation. In addition, that the DEIS be revised to provide a Proposed Project schedule showing an actual or reasonable (and supported) timeframe for completion of this mitigation measure. The commenter also requested that the DEIS be revised to explain why measure #12 for 2020 has some of the same mitigation measures as the 2008 mitigation measures.

The commenter stated that if off-site mitigation is not required, then this must be documented by communications with agencies having jurisdiction over those resources. If off-site mitigation is required, then the mitigation-sites must be identified. Additionally, the commenter noted that these sites and related impacts must be considered part of the project and undergo full environmental analysis. The commenter also stated that the project proponent should commit to undertaking subsequent protocol surveys or other requirements imposed by resource agencies prior to construction of the mitigation measures.

Furthermore, the commenter stated that the DEIS should be revised to disclose the project proponent's assumptions with regard to the participation of local government, both the City and County, in ROW acquisition, the environmental and permit processing, and the cost of construction.

Responses: Please see Responses to Comments 2.11.18 and 2.16.3. Note that all traffic mitigation measures are recommended in the EIS. The NIGC is then expected to include those measures in the ROD, at which time they become required by the NIGC. Note also that the traffic mitigation measures include requirements that the Tribe fully or partially fund roadway improvements (including all ROW, environmental, permitting, and construction costs). The design and construction of those improvements must be approved (and usually conducted) by the agency with jurisdiction over the roadway. Language clarifying this has been added to **Section 5.0** of the FEIS.

It is noted that the mitigation tables within the EIS, list mitigation required in 2008 and then for 2020 repeat the mitigation plus any additional required mitigation. Most traffic mitigation is off-site. Environmental analysis will be in accordance with applicable NEPA or CEQA requirements, as applicable.

2.11.45 WILFRED SITE ACCESS

Summary of Comments: Sonoma County (G-34) commented, “Wilfred Avenue cannot accommodate the Proposed Project’s traffic, would require major reconstruction and widening, and would deliver traffic to a Highway 101 interchange that will remain complex and confusing even with a future redesign.” Moreover, the commenter stated that the Rohnert Park Expressway should be designated as the major access route to the Wilfred site. Additionally, the commenter stated that the DEIS should require, “...the project proponent to direct traffic to the Rohnert Park Expressway (first priority) and Stony Point Road (second priority), both of which were designed to handle higher traffic volumes than Wilfred Avenue, and which would have dramatically less impact to surrounding rural neighborhoods.” According to the commenter, this plan would distribute traffic to the Highway 101/Rohnert Park Expressway interchange, while also directing traffic away from rural roads in close proximity to neighborhoods.

The commenter also stated that the DEIS does not fully address the impacts of improving Wilfred Avenue if it is planned for use by the proposed development. According to the commenter, “The DEIS incorrectly presumes ‘other’ development will occur between the Wilfred site and current City limits before the Proposed Project is constructed, and that the development would bear a significant portion of the cost of improving Wilfred Avenue...” Moreover, the commenter stated that, little to no development is planned to occur prior to the operation of the casino.

Response: Wilfred Avenue is currently a regional collector roadway, providing a fairly well traveled link between the US-101 corridor and Stony Point Road. The FEIS has been revised to note that Wilfred Avenue is classified as a Rural Major Collector within the City’s Sphere of Influence (which include the stretch of Wilfred Avenue providing access to the Wilfred site development area). Rohnert Park intends to widen Wilfred Avenue as the surrounding area develops to 4-6 lanes within

the city's sphere of influence. If it is constructed under the jurisdiction of the city, it must be annexed into Rohnert Park. Depending on the development alternative, 25-30 percent of project traffic is assumed to use Rohnert Park Expressway rather than Wilfred Avenue. The traffic study cannot dictate where traffic will occur based on the roadway design. Instead, the traffic study must anticipate the most likely paths that customers and employees would take when accessing the facility. No specific development projects were identified as being constructed by the year 2008; however, near-term traffic growth in the study area was prorated based on long-term traffic forecast information provided by Sonoma County Transportation Authority (SCTA). The assumed traffic growth included the Green Music Center and Northwest Specific Plan area east of the proposed casino for future high-density residential, industrial, business park, and regional commercial development as well as other developments. Growth volumes in these areas were prorated for the near term traffic forecast. If development occurs at a slower pace than assumed in the DEIS, then traffic conditions will be better than reported. Development fees will be collected by the city for other developments as they occur. Although fees can be used for roadway improvements such as to widen Wilfred Avenue, the traffic study does not assume Wilfred Avenue will be widened before the casino is open. It is noted that the Tribe has volunteered to pay the full costs of widening Wilfred Avenue if needed (see Response to Comment 2.11.6).

2.11.46 INTERSECTION IMPACTS

Summary of Comments: Commenter S-8 commented that the proposed development would "...impacts the intersections at Roblar Road, Stony Point, East Railroad and Stony Point, Jewitt Road and Stony Point, Pepper Road and Stony Point, and of course North Petaluma Hill Road." According to the commenter, the potential impacts to traffic need to be evaluated at those intersections.

Response: Study intersections and roadway segments were included in the DEIS depending on the volume of casino traffic expected to travel to the casino/hotel. For facilities expected to carry high volumes of casino traffic, the study area extended two or more miles away. Locations suggested by the commenter were not assumed to carry a significant volume of traffic and were therefore not included in the DEIS.

2.12 NOISE

2.12.1 ROHNERT PARK MUNICIPAL CODE AND PLANNING DOCUMENT COMPLIANCE

Summary of Comments: The City of Rohnert Park (G-4) stated that the Municipal Code requires that noise be less than 60 dB for residential uses in the daytime, and be less than 50 dB between 7:00 pm and 7:00 am. Therefore, according to the commenter the statement on page 4.10-3 regarding noise levels from residential properties close to the parking areas for Alternative A is inaccurate and should be revised and included in the FEIS to reflect the above mentioned requirements. In addition, according to the commenter, DEIS page 4.10-3 states that the maximum noise levels from truck

movements at the loading docks would be in the range of 48 to 53 dBA, and that this would be less than significant in terms of ambient noise levels. According to the commenter, this exceeds the Municipal Code noise level requirements making the statement inaccurate. In addition, the commenter stated that any noise exceeding 60 dB is considered a significant impact to residential properties by the Municipal Code, so levels exceeding these standards should be reflected in the table. Thus, the commenter stated that the noise analysis should be revised to reflect these standards.

The City of Rohnert Park (G-4) submitted a comment, which noted that the assumptions behind **Table 4.10-6** should be based on the Rohnert Park General Plan, and not the NWSP.

Response: The Rohnert Park Municipal Code, Chapter 9.44, regulates noise in the City of Rohnert Park. The standards do not apply directly to this project, but may be considered as possible standards of significance.

The Municipal Code defines a prima facie evidence of violation as:

“Any noise level exceeding the ambient base level at the property line of any property, or, if a condominium or apartment house, within any adjoining apartment by more than five decibels shall be deemed to be prima facie evidence of a violation of the provision of Section 9.44.050.”

The ambient base noise level is defined by the following table, and is related to the zoning of the affected land use.

Zone	Time	Sound Level A, Decibels Community Environment Classification
R1 and R2	10 p.m. to 7 a.m.	45
R1 and R2	7 p.m. to 10 p.m.	40
R1 and R2	7 a.m. to 7 p.m.	55
R3 and R4	10 p.m. to 7 a.m.	50
R3 and R4	7 a.m. to 10 p.m.	55
Commercial	10 p.m. to 7 a.m.	55
Commercial	7 a.m. to 10 p.m.	60
Limited industrial.	Anytime	70
General industrial.	Anytime	75

Further, the Municipal Code states that: “Ambient noise” is the all-encompassing noise associated with a given environment, being usually a composite of sounds from many sources near and far. For the purpose of this chapter, ambient noise level is the level obtained when the noise level is averaged

over a period of fifteen minutes without inclusion of noise from isolated identifiable sources, at the location and time of day near that at which a comparison is to be made.

Since the ordinance defines the ambient noise level in terms of an “average” noise level, it may be assumed that an alleged offensive noise source should also be defined in terms of the average noise level.

The City of Rohnert Park has indicated in their comment that the relevant standards for the Project are 60 dBA during daytime hours (7 a.m. to 10 p.m.), and 50 dBA during nighttime hours (10 p.m. to 7 a.m.). Based upon the above definition of the ambient base noise level standards, it is not clear what zoning category is being referred to by the City.

The commenter states that the predicted noise levels due to truck movements of 48 to 53 dBA would violate the Municipal Code standards. However, because the City noise standards are expressed in terms of the average noise level, rather than a maximum noise level, the commenter’s conclusions are incorrect. That is, occasional maximum noise levels in the range of 48 to 53 dBA would not be expected to result in an average noise level exceeding 50 dBA.

Similarly, occasional noise levels exceeding 60 dBA would not be expected to result in an average noise level exceeding 60 dBA.

Regarding Comment G-4, please see Response to Comment 2.13.3.

2.12.2 MILLBRAE NOISE LEVELS

Summary of Comments: The City of Rohnert Park (G-4) stated that **Table 4.10-2** shows the Millbrae noise levels going from 59.8 dB to 59.7 dB with the project. According to the commenter, it seems unlikely that the project will result in a reduction of noise levels along this segment. Therefore, the commenter requested that this be reanalyzed and corrected in the FEIS.

Response: Table 4.10-2 was revised in the BBA report and FEIS, to reflect the latest traffic volume predictions, and the discrepancy in predicted noise levels for Millbrae Avenue has been corrected.

2.12.3 OPERATIONAL NOISE LEVELS

Summary of Comments: The City of Rohnert Park (G-4) noted that the impacts stated on DEIS page 4.10-47 could be reduced further by moving Alternative E to the Wilfred site, as, according to the commenter, this type of business park development is anticipated in the General Plan for this site. Miller (I-167) posed the question, “How will you prevent/mitigate increased traffic noise?”

Sonoma County (G-34) noted that the key long-term impacts with the greatest potential to cause harm to public health would result from operational noise associated with the proposed development during evening/nighttime and weekend hours, when the commenter stated, they would be most sensitive. Therefore, the commenter stated that the DEIS should provide verifiable noise level projections, and implement mitigation that would address potential impacts.

Lloyd Iversen (I-168) inquired about noise pollution to be generated by the casino project, and how it would benefit the public.

Response: Comment G-4 is noted. Regarding the range of alternatives in the DEIS, please see Response to Comment 2.4.4. Regarding Comment Letter I-167, please see DEIS **Section 5.2.9**. Noise pollution is generally considered to be a negative environmental impact (and is treated as such in the DEIS) rather than a positive impact.

The DEIS addressed potential noise effects due to parking lot activity, HVAC systems, truck loading and unloading, tour buses, the waste water treatment plant, the central plant, and an amphitheatre. These discussions quantitatively addressed average and maximum noise levels that could be expected for each of these sources. The potential effects of those noise levels were weighed in the context of “normally acceptable” noise levels and ambient daytime and nighttime noise levels.

2.12.4 NOISE LEVEL COMPATIBILITY WITH SONOMA COUNTY GENERAL PLAN

Summary of Comments: Sonoma County (G-34) stated that the DEIS failed to disclose and employ stationary noise source standards set forth in Table NE-2 in the Sonoma County General Plan, in assessing the effects of non-transportation noise sources. Furthermore, the County noted that the DEIS failed to identify construction equipment, and the noise levels caused by each machine; and, noise levels at the nearest potentially affected receptors. According to the commenter, “Without this information and analysis, the EIS cannot support its claims that impacts will be less than significant,” in addition, the commenter stated that the DEIS must be revised to properly analyze project noise impacts against the Sonoma County General Plan requirements, disclose the project’s likely significant impacts, and impose additional mitigation measures.

Response: As noted above, the DEIS addresses potential noise effects due to parking lot activity, HVAC systems, truck loading and unloading, tour buses, the waste water treatment plant, the central plant, and an amphitheatre, and it quantitatively addressed average and maximum noise levels that could be expected for each of these sources. The potential effects of those noise levels were weighed in the context of “normally acceptable” noise levels and ambient daytime and nighttime noise levels. Although the Sonoma County noise standards were not specifically addressed in the DEIS, they are consistent with the concept of “normally acceptable” noise levels.

Construction noise levels were described in both general terms and in terms of the noise levels associated with typical construction equipment. Due to the temporary nature of project-related construction activities, it is not expected that construction noise, as proposed to be mitigated, would result in significant noise impacts to the nearest sensitive receivers.

2.12.5 GENERAL CONCERNS REGARDING NOISE IMPACTS

Summary of Comments: Individual commenters I-58, I-60, I-166, S-30, and S-106 expressed concerns about noise; commenter I-166 asked how noise impacts would be mitigated. Commenter I-90 outlined the measures that the Tribe has included in the DEIS to reduce noise impacts.

Lloyd Iversen (I-168) inquired about the short and long-term impacts of increased noise pollution, and expressed concern regarding the potential impacts to noise resulting from the eventual decommissioning of the project.

Response: Please see Response to Comment 2.12.3 regarding noise mitigation measures. Regarding the analysis of short-term and long-term noise impacts, please see DEIS **Sections 4.10** and **4.12**. Regarding the lifespan of the Proposed Project, please see Response to Comment 2.9.22.

2.12.6 NOISE ANALYSIS METHODOLOGY

Summary of Comments: For **Table 4.12-9**, the City of Rohnert Park (G-4) stated that noise impacts should be presented for both daytime and nighttime situations, as this would allow for a better assessment of these impacts. Emmons (I-148) notes that not all surrounding residences (on Langer Avenue, Hargrave, Primrose, and Dowdell) are specifically addressed as being subject to increased noise from the project, especially during events at the proposed entertainment venue.

Response: Traffic noise levels are described in the DEIS in terms of the Day-Night Level (a 24-hour metric), as is common practice. The traffic reports upon which the noise level calculations were based did not itemize traffic volumes in terms of daytime and nighttime traffic, but instead reported peak hour traffic volumes in the morning (a.m.) and evening (p.m.) periods. These values usually correspond to traffic expected during “rush hours”, typically 7-9 a.m. and 5-7 p.m. As a result, it is not possible to apply the traffic report data to predict daytime and nighttime noise levels. The Average Daily Traffic volumes were estimated from the p.m. peak hour traffic counts and turning movements, and generally represent a worst-case estimate of traffic noise exposures. The DEIS addresses potential noise effects due to parking lot activity, HVAC systems, truck loading and unloading, tour buses, the waste water treatment plant, the central plant, and an amphitheatre. These discussions quantitatively addressed average and maximum noise levels that could be expected for each of these sources at representative distances that could be compared to the locations of individual receiver locations. Sensitive receivers located farther from the noise sources than the nearest

receivers would experience lower noise exposures. If noise impacts are mitigated for the nearest receivers, no significant impacts would be expected for any receivers located farther away.

2.12.7 NOISE MITIGATION MEASURES

Summary of Comments: Sonoma County (G-34) stated that the noise mitigation measures are vague and inconclusive, and attributes this conclusion to the absence of appropriate significance thresholds in the DEIS. The County also stated that the Sonoma County General Plan's noise policies for stationary equipment must be used. According to the commenter, "Without knowing the specifics of mitigation measures with respect to building sound insulation treatments and the construction of berms or walls, it is impossible to know whether these are feasible mitigation measures that would result in a substantial reduction in noise, or whether they are reasonable to implement."

Marilee Montgomery (B-33) stated that mitigation offering to purchase double-paned windows to reduce noise related impacts would only be feasible if the residents were also provided air conditioning system. The commenter is concerned that the effects to surrounding residences are ignored in favor of profit. Commenter I-166 stated that dual pane windows only help with reducing heat loss, and asked what compensation would be provided for noise disturbances. Furthermore, the commenter requested the following information: what additional noise mitigation measures would be implemented to protect surrounding inhabitants from noise pollution; how will you measure the decibel level; who will enforce the mitigation; what radius will be used; and, will the radius include those people living on the surrounding hillsides.

The Roblar Area Property Owners Association (B-27) inquired as to how noise levels from the entertainment venue will be mitigated.

Response: Please see Response to Comment 2.16.3 regarding enforcement of mitigation.

The County makes reference to noise significance thresholds. However, when an EIS has been prepared under NEPA (unlike an EIR under CEQA), significance thresholds are not relevant or required. Generally under NEPA significance thresholds become relevant only in determining whether to prepare an EIS. NEPA 102(2)(C), 42 U.S.C. 4332(2)(C). But here NIGC determined in 2004 to prepare an EIS. See DEIS, **Appendix A**. That having happened, there is no longer a rationale for setting such thresholds. By way of contrast, if a mitigated FONSI had been prepared, the nonpreparation of an EIS would be conditioned on mitigating impacts below the level of significance requiring an EIS. But, again, here an EIS has been prepared. Moreover, when an EIS has been prepared under NEPA, whether or not mitigation is imposed does not (unlike CEQA) depend on whether the impact is "significant." CEQ, Forty Most Answered Questions Concerning CEQ's NEPA Regulations, Q. 19a, 46 Fed.Reg. 18026, 18031 (Mar. 23, 1981). Nonetheless, the FEIS **Sections 3.10** and **4.10** have been revised to clarify noise significance thresholds.

The recommended building sound insulation treatments, including acoustically-rated windows, are intended to provide an improvement in noise level reduction of at least 5 dB. Acoustically-rated windows need only be fitted to the facades facing the noise sources. Although it is necessary to close these windows to achieve the desired noise level reduction, it is possible to satisfy the demand for fresh air by opening other windows in the house, or by fitting a switch to the existing heating system to move air in the house by allowing use of the fan without the heater. Acoustically rated dual pane windows will indeed provide a noticeable improvement in noise level reduction over older-technology single- and double-pane windows by reducing air leakage and by providing an increased air space between panes or by using panes of different thicknesses.

Barriers would have to be designed to, at a minimum, block line of sight between the noise sources and the receivers, and would provide at least 5 dB insertion loss. In general, where the roadways and the receiving properties are at approximately the same grade, traffic noise barriers should be a minimum of 6 feet tall relative to the receiving property. This would provide an insertion loss of about 5 dB. To mitigate the predicted 5.9 dB increase in traffic noise levels along Wilfred Avenue, the recommended barrier height is 8 feet. The FEIS **Section 5.2.9** has been revised to recommend that barriers be at least 8 feet in height and to provide more specific design detail and consultation requirements.

Acoustically-rated windows need only be fitted to the facades facing the noise sources. Although it is necessary to close these windows to achieve the desired noise level reduction, it is possible to satisfy the demand for fresh air by opening other windows in the house, or by fitting a switch to the existing heating system to move air in the house by allowing use of the fan without the heater. Acoustically rated dual pane windows will indeed provide a noticeable improvement in noise level reduction over older-technology single- and double-pane windows by reducing air leakage and by providing an increased air space between panes.

Since the entertainment venue would not involve outdoor events, the resulting noise impacts would be associated with parking lots and tour buses; these impacts were addressed in the DEIS.

2.12.8 LOCATION OF SENSITIVE RECEPTORS

Summary of Comments: Sonoma County (G-34) stated that the DEIS should identify the representative locations of sensitive receptors, the locations of the most affected residential receptors north and east of the Stony Point and Wilfred sites that are referenced in the text, as well as, the Rancho Verde Mobile Home Park. The County also stated that the DEIS must be revised to identify these locations on **Figure 3.10-1**.

Moreover, the County stated that the distance from the wastewater treatment plant to the nearest sensitive receptor should be analyzed in the DEIS.

Response: The DEIS references **Figure 3.8-9**, which identifies land uses surrounding the Stony Point and Wilfred sites, including rural residential development to the north and east and the Rancho Verde Mobile Home Park. Nonetheless, sensitive receptors adjacent to the Stony Point and Wilfred sites have also been noted on FEIS **Figure 3.10-1**.

Regarding the wastewater treatment plant the DEIS notes that the proposed location of the wastewater treatment plant for all alternatives is “far from the nearest sensitive uses...” Given the limited noise that would be generated from an on-site wastewater treatment plant (largely limited to noise from the operation of exterior pumps), it is not necessary to be more specific in measuring the distance between the plant and the receptors. Note that the FEIS has been revised to note the limited noise producing nature of the proposed on-site wastewater treatment plant.

2.12.9 AMBIENT NOISE LEVELS AT SENSITIVE RECEPTOR LOCATIONS

Summary of Comments: Sonoma County (G-34) commented that the rationale for the ambient noise measurement locations and noise modeling is unsupported. In addition, the commenter stated that the proposed development would, “...dramatically increase ambient noise levels by imposing substantial additional traffic on neighbors and along principal traffic routes.” Furthermore, the commenter stated that, “From the information provided, it is impossible to determine ambient noise levels at sensitive receptor locations.” The County also commented that, “...it is not known whether ambient levels are based on actual field measurements at these particular locations or are estimated from other data,” and stated that if the levels were estimated, the calculations must be presented in the DEIS.

Response: The ambient noise measurement locations were established in the field to represent conditions typical of the project vicinity. At the Rohnert Park sites, the ambient noise measurement was made inside the site boundaries to minimize the effects of local traffic noise, and to represent the noise levels that would be experienced by nearby residents. At the Lakeville site, the only practical noise measurement location (from a security standpoint) was relatively close to Lakeville Road, so the measured noise levels were strongly influenced by local traffic. This condition is similar in terms of ambient noise sources to that experienced by the nearest residents, though the noise levels received at the measurement site were higher than would be experienced by the nearest residents.

Traffic noise impacts have been addressed in detail for the most-affected roadways.

Ambient noise levels at the nearest sensitive receivers were assumed to be about the same as the measured noise levels for the Rohnert Park sites. For the Lakeville site, it was assumed that ambient noise levels at the nearest receivers would be influenced by Lakeville Road traffic noise, though it

was further assumed that the nearest houses would be set back farther from that roadway, and would receive lower noise exposures. However, all of the impact assessments were based on the assumption that ambient noise levels at the nearest receivers were currently within acceptable limits, and no corrections or exceptions were applied when describing noise effects..

2.12.10 IMPACTS FROM CONSTRUCTION NOISE

Summary of Comments: Sonoma County (G-34) commented that although the DEIS correctly discloses that nighttime operations or equipment noise could annoy or cause sleep disturbances for nearby rural residences along Wilfred Avenue and to a lesser extent the Rancho Verde Mobile Home Park, it failed to estimate construction noise levels at the most affected sensitive receptors. Additionally the County noted that the DEIS failed to compare the levels to existing ambient levels and other appropriate criteria for speech, activity, or sleep disturbance. The County stated that the EIS must be revised to include this information and analysis.

Lloyd Iversen (I-168) mentioned the potential for local communities to be impacted by noise generated by gravel trucks.

Response: As noted above, it was assumed that ambient noise levels at the nearest receivers were currently within acceptable limits, and no corrections or exceptions were made when describing noise effects. The DEIS addresses potential noise effects due to parking lot activity, HVAC systems, truck loading and unloading, tour buses, the waste water treatment plant, and the central plant in terms of average and maximum noise levels that could be expected for each of these sources. The potential effects of those noise levels were weighed in the context of “normally acceptable” noise levels and ambient daytime and nighttime noise levels.

2.12.11 IMPACTS FROM TRAFFIC NOISE

Summary of Comments: Sonoma County (G-34) stated that the traffic noise impact analysis in the DEIS only evaluated changes in the 24-hour day/night average noise level (L_{dn}). “The DEIS fails to recognize the potential for traffic during the middle of the night (particularly buses) to cause an impact on the rural residents located along the access roads to the project site.” Therefore, the County stated that the EIS must be revised to analyze nighttime traffic noise impacts for all of the alternatives, using hourly average noise levels and L_{max} levels. Moreover, the County stated that the DEIS must disclose the hours in which the greatest effects would occur based on the expected distribution of project-generated nighttime traffic.

Response: The traffic reports upon which the noise level calculations were based did not itemize traffic volumes in terms of daytime and nighttime traffic, but instead reported peak hour traffic volumes in the morning (a.m.) and evening (p.m.) periods. These values usually correspond to traffic expected during “rush hours”, typically 7-9 a.m. and 5-7 p.m. As a result, it is not possible to apply

the traffic report data to predict daytime and nighttime noise levels. The Average Daily Traffic volumes were estimated from the p.m. peak hour traffic counts and turning movements, and the predicted Day-Night Levels generally represent a worst-case estimate of traffic noise exposures, including reasonable assumptions for truck and bus traffic. During the hours of reduced traffic volumes (other than peak hour), traffic noise levels would be correspondingly reduced. It is reasonable to assume that the noise impacts predicted in terms of the Day-Night Levels would also apply to hourly noise exposures.

As described in the DEIR, noise levels expressed in terms of the Day-Night Level (L_{dn}) are well correlated with the potential for annoyance, and are commonly used by state and federal officials to relate traffic noise levels to expected public reaction. Since the predicted L_{dn} is directly affected by the assumed percentage of nighttime traffic, and since the FHWA model accounts for the percentages of truck and bus traffic, the predicted L_{dn} values provide a reasonable measure of annoyance and public reaction due to the project-related traffic impacts, including trucks and busses during nighttime hours.

2.13 LAND USE

2.13.1 DESCRIPTION OF EXISTING CONDITION

Summary of Comments: Sonoma County (G-34) commented that the indication in the DEIS that Alternative A would take the place of development that would otherwise occur is inaccurate. Specifically, the commenter stated that, “The NIGC has a duty to disclose fully the impacts of the Proposed Project with regard to the existing environment.” According to the commenter, “Alternative G represents the alternative wherein the future development would occur under the City General Plan.”

Thomas Scott (I-98) expressed concerns regarding **Figure 4.12-3**. Scott stated that the DEIS identifies the location of some commercial businesses that might be affected by the development, but makes no effort to locate how close the casino would be to other institutions that may be impacted by the proposed development. The commenter continued by stating that the final report should include a map that would more accurately describe the surrounding land uses by identifying the number of, and location to, the following:

- Schools, and types of schools;
- Churches or places of worship;
- Parks;
- Hospitals;
- Police stations;
- Fire stations, and identify the number of full time and volunteer staff;
- Daycare centers;

- Colleges; and,
- Youth and after school recreation centers.

Emmons (I-148) noted that the DEIS misidentifies “developed suburban communities” as being uninhabited. Linda Long (I-177) stated that the DEIS does not acknowledge the “4300 homes, and the condos and apartments on and straddling Golf Course Drive, the road on which the proposed Wilfred Site Casino/resort would be located after the Caltrans punch-through linking Wilfred Avenue and Golf Course Drive as ‘one’ street.” Long also noted that the DEIS does not specifically acknowledge a large shopping center “3/10 of a mile northeast of the Wilfred Site...[that] includes a very profitable Home Depot (just blocks from the Wilfred Site), a Wal-Mart, a Chili’s, an Outback and many ancillary stores...vital to the character and the economy of our community.” The commenter requested that the EIS “represent, with maps, the residential parcels of the people who live near the proposed casino/resort including the (4300) residential parcels of people who live on and next to Golf Course Drive and the residential parcels of the 42,000 people who live in Rohnert Park and will be gravely affected by the proposed casino resort on the Wilfred Site.”

Response: It is reasonably foreseeable to assume that if neither Alternative A nor Alternative H are developed on the Wilfred site, that commercial/industrial/residential development will take place on the site consistent with the Northwest Specific Plan (see Alternative G – No Action). As noted in the DEIS, if Alternative A or H is developed on the Wilfred site it will take the place of the development that would otherwise occur under the Northwest Specific Plan. While it would not be correct, to assume that under cumulative conditions both Northwest Specific Plan development (on the Wilfred site) and the Proposed Project development would occur, the full impacts of Alternatives A and H are disclosed throughout the EIS.

In response to commenter I-98, **Figure 4.12-3** of the DEIS represents planned future development, based on information obtained from the City of Rohnert Park, in the immediate vicinity of the Wilfred and Stony Point sites. This figure is referenced in the text on page 4.12-4. **Figure 3.8-9** of the DEIS shows existing development surrounding the Wilfred and Stony Point sites, this figure clearly defines the types of businesses and residences that are in the immediate vicinity of the sites. As shown in the figure, there are no known schools, churches, hospitals, day care centers, colleges, and youth and after school recreation centers in the immediate vicinity of the Wilfred and Stony Point sites. The El Camino School visible on **Figures 3.8-11, 3.8-14, and 3.9-4** no longer operates as a high school. The DEIS has been revised on page 3.8-27 to elaborate the status of the facility not as a high school, but as the district office for the Cotati-Rohnert Park Unified School District. **Figure 3.9-4** shows the school district boundaries and identifies the types and locations of schools in Rohnert Park. **Figure 4.12-3** does show one park, which is at the center of the Rancho Verde Mobile Home Park, while more parks are identified in **Figure 3.9-4**. Police protection is discussed under **Section 3.9.5**, Public Health and Safety, and **Table 3.9-1** identifies the Rohnert Park police beat locations. The emergency

facilities that serve the vicinity of Rohnert Park are identified on page 3.9-19 of the DEIS. As noted in the DEIS, the hospital that would be used for emergency events at the sites would depend on the extent of the injuries, and the preference of the individual. The locations of fire stations in Rohnert Park are identified on **Figure 3.9-3** in the DEIS, while information regarding staffing is presented on page 3.9-14.

In response to commenter I-148, existing land uses are discussed in DEIS **Section 3.8.2**. The commenter did not identify what communities are developed suburban communities within the vicinity of the sites that are inaccurately identified in the DEIS. Therefore, it is difficult to adequately respond to the commenter. Moreover, in response to commenter I-177 **Figure 3.9.8** shows the existing land uses near the Wilfred and Stony Point sites, and specifically identifies the Wal-Mart and Home Depot. Moreover, **Figure 3.9.8** identifies a majority of the large retail stores located near the Wilfred and Stony Point sites including the Target, movie theater, and Burlington Coat Factory located on Rohnert Park Expressway south of the Wilfred and Stony Point sites. On Redwood Drive, a Cost-Co (identified on **Figure 3.9.8**), Budget and Ramada Inns are located to the east and southeast of the Wilfred and Stony Point sites. Furthermore, as identified by **Figure 3.9.8**, a Levitz, Good Nite Inn, Safeway, Home Depot and a Wal-Mart are located on Redwood Drive to the east of the Wilfred and Stony Point sites. The residences to the east of Redwood Drive are not identified individually; however, the DEIS acknowledges in many places throughout the document that the Wilfred and Stony Point sites are located adjacent to the City of Rohnert Park. Also, see DEIS **Figure 1-1**, which shows the alternative sites in relation to the City of Rohnert Park.

2.13.2 ROHNERT PARK GENERAL PLAN CONSISTENCY

Summary of Comments: The City of Rohnert Park (G-4) stated the following change should be made to the column regarding Alternative A in **Table 4.8-3** in the FEIS:

- Policy OS-4A: The project would remove the community separator in this area. The project should comply with the existing agreement between the City and the County regarding mitigation.

The commenter also stated that on the bottom of DEIS page 4.12-1, it should be included that the 2020 timeframe also corresponds to the City's General Plan. For Alternative E, the commenter noted that if it were developed on the Wilfred site, Rohnert Park municipal services would be available because the project would be within the City's SOI and urban growth boundary as designated by the General Plan. Therefore, the commenter stated that a revised analysis using the Wilfred site should be included in the FEIS including appropriate mitigation to address potential impacts.

Sonoma County (G-34) stated that the indication in the DEIS that Alternative A is consistent with the Rohnert Park General Plan is "misleading and irrelevant." According to the commenter, "The

property is not in the City of Rohnert Park, and consistency with the City's general plan is immaterial. The Wilfred site is in the unincorporated County, and the only relevant consistency determination is with respect to the County General Plan.”

Peter M. Callinan (I-165) stated that his concern regarding this proposed project is based on his years of professional service for the City of Rohnert Park. Callinan perceived that the proposed hotel and casino development will dwarf all previous development in the area and the project will run counter to the efforts of the City and County agencies and representatives to make Rohnert Park a family friendly community.

Chip Worthington of Stop the Casino 101 (B-29) expressed concern that the casino project is inconsistent with the Rohnert Park General Plan.

Response: Rohnert Park's Open Space Policy OS-4A states, “Only land within the Rohnert Park Planning Area is suitable for mitigating impacts to the Community Separator.” The policy also establishes priorities for land that is to remain open space. The 2001 agreement between the City of Rohnert Park and Sonoma County regarding the proposed update of Rohnert Park's sphere of influence establishes that for land that is planned for removal from Community Separator designation, Rohnert Park shall ensure that the required mitigation for the loss of open space lands and/or development rights within priority areas established in the agreement, or through a payment of an in lieu fee. The term sphere of influence is defined in the Rohnert Park General Plan as being, “The ultimate service area of the City of Rohnert Park as established by Sonoma County LAFCO¹” (City of Rohnert Park, 2000). This is important because any development planned within the designated sphere of influence would be subject to approval by the City, while development outside of the sphere of influence would be subject to approval by Sonoma County. Moreover the agreement states, “Whether the land is acquired by the developer or through fees paid to Rohnert Park by the developer, the acquisition of the open space land must be completed prior to Rohnert Park issuance of any grading or building permit within the Rohnert Park Community Separator area, as it exists on the date of this Agreement.” However, the MOU between the Tribe and Rohnert Park established under Section 2, Environmental Review which states that the City acknowledges and agrees that, “...the Project and other developments on the Reservation are not subject to City environmental review, design, land use or land development ordinances, plans, manuals or standards.” In conjunction with the agreement under Section 3, Mitigation and Impact Contributions, the Tribe has agreed to, “...either (i) contribute Two Million Seven Hundred Thousand Dollars (\$2,700,00) to be used by the City solely for the purpose of purchasing real property for use by the public (including by way of illustration and not limitation, a park) or (ii) purchase real property, subject to the approval of the

¹ Local Agency Formation Commission (LAFCO) is an independent agency established by California State Law, that is responsible for reviewing, approving, or disapproving changes in organization to cities and special districts including annexations, detachments, new formations and incorporations. (<http://www.sonoma-county.org/lafco/about.asp>, 2007)

City, for use by the public, with a purchase price of not less than Two Million Seven Hundred Thousand Dollars (\$2,700,000) and donate it to the City.” Therefore, the Tribe has met the requirements of the City and County agreement, through the agreements and contributions made in the MOU between the Tribe and the City.

The language has been added to page 4.12-1 of the FEIS in response to the comment regarding the City of Rohnert Park’s General Plan 2020 timeframe. In response to the comment regarding an analysis of Alternative E on the Wilfred site, comment noted. Please see Response to Comment 2.2.1 addressing expressions of opinion regarding the selection of a particular alternative and Response to Comment 2.4.4 regarding the range of reasonable alternatives in the DEIS.

In response to the County’s (G-34) comment, it is correct that the majority of the Wilfred site is currently located within the unincorporated County and that development on non-trust lands outside of the City of Rohnert Park located within the unincorporated County would be subject to County approval. However, as noted in the DEIS, a small portion of the Wilfred site is currently located within the City of Rohnert Park and that specific development area is located within the City’s sphere of influence. Note also that **Section 4.8** of the DEIS states that only federal or Tribal land use regulations would apply to lands that are taken into trust and trust acquisition of the project site is proposed for Alternatives A, B, C, D, F, and H. Therefore, it is assumed in this EIS that local land use plans or policies would no longer apply for the lands within the project site as defined for Alternatives A, B, C, D, F, and H. Moreover, in the analysis of the impacts to land use, the DEIS stated that although the Wilfred site is currently designated as a community separator by the County, this area has been planned for development by the City of Rohnert Park per the City’s existing plans as defined in the Northwest Specific Plan to annex the project site. Therefore, it is reasonable to assume that the indication in the DEIS is correct, in that, the Northwest Specific Plan development would have gone forward if the casino development on the Wilfred site was not proposed.

In response to Callinan (I-165), **Section 4.8** in the DEIS discusses land use impacts of the proposed development alternatives in **Table 4.8-3** where the specific Sonoma County and Rohnert Park land use elements are examined and inconsistencies are noted. As stated above, the inconsistencies would not result in any significant land use impacts; however, the Tribe has agreed to contributions to mitigate for the loss of open space. The size and scope of the proposed development alternatives is comparable to similar planned development projects in the area. Moreover, as stated under Response to Comment 2.15.1, **Section 4.12**, **Table 4.12-1**, and **Figures 4.12-1** and **4.12-3** have been revised to incorporate updated information regarding planned development projects.

Furthermore, the commenter’s perception that the proposed development would run counter to efforts of Sonoma County and the City of Rohnert Park to make these communities family-friendly is subjective, and therefore, a response cannot be provided.

In response to commenter B-29, as stated above and noted in **Table 4.8-3**, the proposed development under Alternative A and H would be consistent with the Rohnert Park General Plan, as shown in the **Table 4.8-4**, and discussed under **Section 4.8.2** of the EIS. However, Alternatives B-E would not be consistent with Rohnert Park's General Plan because the Stony Point site is located outside of the area planned for annexation, and would subject to the Sonoma County General Plan; however, the land would be taken into federal Trust, thus only federal or Tribal regulations would apply.

2.13.3 ASSUMPTIONS BASED ON NORTH WEST SPECIFIC PLAN (NWSP)

Summary of Comments: The City of Rohnert Park (G-4) stated that the DEIS assumes that the Southern Specific Plan for the NWSP has been adopted. According to the commenter, the Southern Specific Plan was not adopted; therefore, the Southern Specific Plan should not be used for comparison with the casino development. Instead, the commenter recommended that the analysis of the proposed alternatives in the FEIS use the existing General Plan designations for the NWSP.

The commenter also stated that **Figures 2-32** and **2-33** should use the existing land use designations from the Rohnert Park General Plan. The commenter included the following information as additional information for analysis in the FEIS:

- The General Plan shows the NWSP (north and south) as earmarked for 800-900 high-density residential units;
- 40-50 acres of commercial uses;
- 15-25 acres of office uses;
- 55-65 acres of industrial uses; and 2-4 acres of parks

Additionally, the commenter noted that on page 3.8-36, the discussion of the City of Rohnert Park, Northwest Specific Plan's Southern Area (Part B) is incorrect, for reasons discussed above. The commenter stated that the section should be revised to indicate that the current General Plan is in effect for this area. And the commenter also pointed out that the discussion of landslides and seismicity in **Section 4.2.7** should be based on the existing General Plan for the reasons discussed above. For page 4.3-5, the net impact to groundwater should be based on the General Plan, and not the NWSP, according to the commenter. For visual impacts, the commenter stated that the General Plan is in place to guide the visual development on the Wilfred site, not the NWSP, thus the above mentioned revisions should be made in the FEIS regarding visual impacts. Regarding estimated direct economic effects, the commenter stated that because the analysis was based on the assumption that the NWSP would be adopted for Alternative G, the FEIS should utilize the General Plan. Moreover, the commenter stated that the estimated costs and benefits associated with Alternative G presented on page 4.7-27 of the DEIS would be affected by a revised analysis. Other commenters (I-148) note that the viewshed analysis presented in the DEIS is based on the NWSP's assumption of a

light industrial complex in the Proposed Project location, and request a revised visual impact estimate.

Response: The DEIS assumes that the Southern Area Specific Plan for the NWSP would be implemented absent the Proposed Project (under the no action alternative). This is a reasonably foreseeable assumption given that this development was well into the permitting and development approval process when the Wilfred site was purchased for development of the Proposed Project. Given that this is the most recent plan considered on the southern area of the NWSP (which includes the development area on the Wilfred site), which according to the plan was developed based on the “refinement of plan concepts and incorporat(ing) feedback from the City’s representatives (see DEIS **Appendix X**),” it is most reasonable to assume that development in the southern Northwest Specific Plan area would most resemble the planned development in the recent Southern Area plan. Note also that the General Plan does not differ substantially from the development assumed to occur in DEIS **Section 2.8**. Note that the DEIS does assume that the northern area of the NWSP would be built under cumulative conditions (see DEIS **Section 4.12.2**), but the southern area, and particularly the area contained within the Wilfred site are focused on in **Section 2.8** and throughout the document for comparative purposes to the other development alternatives. As shown in **Table 4.12.1** and **Table 2-5**, the DEIS acknowledges that under cumulative conditions both the northern and southern areas of the NWSP would be built out resulting in 772-1,089 high density residential units, 54-80 acres of commercial uses, 21 acres of office uses, 0-24 acres of industrial uses, and 4 acres of parks. Note that these numbers are very similar to those quoted by the City in Comment Letter G-4, with the exception of more residential uses and less industrial uses proposed in the southern area. This is a reflection of market conditions which the DEIS reasonably assumes would continue should development be proposed on the Wilfred site in the future under the Northwest Specific Plan (see DEIS **Section 2.8** and **Appendix X**).

2.13.4 COMMUNITY SEPARATOR DESIGNATION

Summary of Comments: The City of Rohnert Park (G-4) mentioned that on page 3.8-32 there should be an additional bullet point added regarding the City’s agreement with the County on the subject of Community Separator mitigation. In addition, this mitigation should be discussed on **Section 4.8.2** of the FEIS.

Marilee Montgomery (B-33) stated that the following issue should be analyzed in more detail to address the impacts from the proposed development: The proposed trust lands designated as Community Separators appear to be planned for industrial use, for example, a wastewater treatment plant. The commenter stated that these types of uses would disrupt the viewshed of the mountains by creating an urban atmosphere, resulting in a potentially significant impact. Moreover, the commenter indicated that impacts to the viewshed is not adequately addressed in the DEIS, nor is the issue of removing the site from its Community Separator designation. In addition, the commenter stated that

these issues were raised in a comment letter submitted in October of 2005, but were not addressed in full in the DEIS.

Response: In response to the City of Rohnert Park (G-4), language has not been added to page 3.8-32 however; it was added to the EIS on page 3.2-36 to reflect the agreement between the City and County regarding community separator mitigation. Furthermore, language was not added to **Section 4.8** regarding the City and County agreement, because as stated under Alternative A the Wilfred site is planned for development, and therefore, would not remain as open space. In addition, as stated on page 4.8-9, “Sonoma County or City of Rohnert Park land use regulations would not apply to land that is taken into trust.” Therefore, adding the language is not necessary. As stated above in Response to Comment 2.13.2, in the MOU between the Tribe and the City, the Tribe has agreed to, “...either (i) contribute Two Million Seven Hundred Thousand Dollars (\$2,700,00) to be used by the City solely for the purpose of purchasing real property for use by the public (including by way of illustration and not limitation, a park) or (ii) purchase real property, subject to the approval of the City, for use by the public, with a purchase price of not less than Two Million Seven Hundred Thousand Dollars (\$2,700,000) and donate it to the City.” Therefore, the Tribe has met the requirements of the City and County agreement, through the agreements and contributions made in the MOU between the Tribe and the City.

In response to Montgomery (B-33) as stated above, the lands within the Wilfred site were planned for development and would not be maintained as open space, therefore, should Alternative A not be developed, the land would still be removed from it’s community separator status. The impacts of the proposed alternatives are discussed in **Section 4.8** while cumulative impacts to agricultural lands are discussed in **Section 4.12**. Moreover, the DEIS also states the contributions the Tribe has agreed to make towards the purchase of open space. Furthermore, cumulative impacts to visual resources are discussed in **Section 4.12**. The DEIS states that, “Development of Alternative A would be consistent with the visual goals of local land use regulations. The construction portion of the Wilfred site is not located in a scenic corridor or an area of high aesthetic value, commercial attraction notwithstanding. Substantial development is present to the east of the Wilfred site, with open space to the west. This development includes regional commercial and service centers.” In response to the commenter’s reference to a previous comment submitted during the scoping hearing comment period, please see Response to Comments 2.1.2.

2.13.5 CITY AND COUNTY ZONING DESIGNATIONS

Summary of Comments: The City of Rohnert Park (G-4), stated that the information in **Figures 3.8-12** and **4.12-3** regarding the City’s zoning designations and planned development is incorrect, and requested that the information be updated. A new zoning map for Rohnert Park was included with the comment letter.

Sonoma County (G-34) stated that the proposed development is inconsistent with the County's General Plan agricultural land use designation.

Response: In response to the City's comment (G-4), **Figure 3.8-12** is accurate in the DEIS. The zoning map included in the City's comment does not show a zoning designation for the area where the proposed development would occur on the Wilfred or Stony Point sites. As stated in **Section 3.8.2**, the, "...adopted General Plan designations for areas of the Wilfred site located within the City's sphere of influence are illustrated in **Figure 3.8-11**." Furthermore, the DEIS correctly identifies the land use designations presented in the figure provided by the City, and **Figure 3.8-11** correctly identifies the Rohnert Park General Plan land use designations. Nonetheless, the language in the Executive Summary Table has been revised to better reflect the differences in land use and agricultural impacts between the proposed alternatives.

The impacts of the proposed alternatives on local land use plans and zoning designations are discussed in **Section 4.8.2**. **Table 4.12-1** and Figures **4.12-1** and **4.12-3** have been updated with the information provided by the County regarding the status of future development in Rohnert Park.

In response to the County's comment regarding inconsistency with the County's General Plan agricultural land use designation, it is agreed that the proposed development would technically be inconsistent with existing county land use designations as described in **Section 3.8.1**, and discussed in **Section 4.8.2**. However, as discussed under **Section 4.8.8**, for Alternative G, the EIS assumes that current land uses would be retained on the Stony Point and Lakeville sites. The EIS states, "The northeastern portion of the Wilfred site would be developed with as intended under the Northwest Specific Plan, thereby converting approximately 63 acres of undeveloped land on the Wilfred site to commercial/residential uses."

2.13.6 LAND USE - ALTERNATIVE E

Summary of Comments: The City of Rohnert Park (G-4) submitted a letter in which the commenter stated that impacts to land use and agriculture would be reduced if the project were developed on the Wilfred site, rather than the Stony Point site. The commenter requested a revised analysis with Alternative E on the Wilfred site be included in the FEIS. According to the commenter, City services would be available because the project would be within the City's sphere of influence (SOI) and urban growth boundary as designated by the City's General Plan. The commenter requested a revised analysis using the Wilfred site be included in the FEIS.

Response: Comment noted. Please see Response to Comment 2.4.4 regarding the range of alternatives contained in the DEIS.

2.13.7 LAND OWNERSHIP

Summary of Comments: According to The State of California Department of Conservation, Division of Land Resource Protection (G-23), page 1-1 of the DEIS states that the Tribe has acquired the Wilfred Site, while page 1-3 states that the site is owned in fee by SC Sonoma Management.

The Roblar Area Property Owners (B-27) questioned what would happen if property owners refuse to sell their property to accommodate infrastructure renewal.

Response: In response to commenter G-23, the use of “acquired” is substantiated by the following sentence, “In order to acquire financing for the purchase of the Wilfred Site and to facilitate management of the casino-hotel resort, the Tribe has entered into a management contract with SC Sonoma Management, LLC.” Thus, on page 1-3 the reference to the ownership of the Wilfred site by SC Sonoma Management, LLC is correct.

In response to commenter B-27, the EIS/NIGC can only require that the Tribe pay their fair share of traffic mitigation measures, the actual implementation of roadway improvements must be approved by the agencies with jurisdiction.

2.13.8 STATUS OF STONY POINT AND LAKEVILLE SITES IF THE WILFRED SITE WERE DEVELOPED

Summary of Comments: One commenter (I-138) asked what would happen to the Stony Point and Lakeville sites if the Wilfred Site were developed.

Response: Please see DEIS **Section 2.8**, which stated that both the Stony Point and Lakeville sites “would remain in their current condition.”

2.13.9 SITE DEVELOPMENT

Summary of Comments: One commenter (I-138) wanted a guarantee that the 66 acres proposed for the development of Alternative A be the only portion of the Wilfred site that is developed. The commenter asked, “What guarantees will be in place to keep these lands undeveloped and natural,” and expressed concerns that because the land would be taken into trust, the Tribe would not have to comply with previous agreements to preserve open space. The commenter expressed concerns that the area is a sensitive biological habitat, and according to the commenter, if the area were developed, “...there would be a severe environmental impact.” And also that the area is, “an oasis that needs to be preserved.”

Marilee Montgomery (B-33) is concerned that the DEIS focuses on the 66-acre area proposed for development, but lacks a discussion on the remaining portion of the Wilfred and Stony Point sites. The commenter expressed that, “...the entire acreage proposed for trust acquisition is extremely sensitive, is home to endangered species, is necessary to Sonoma County’s agricultural industry, and

appears to be the location of the industrial applications (sewage and water treatment plants) from the Project.” The commenter stated that more analysis should be done in the FEIS to address impacts of the proposed development on the alternative sites in their entirety.

Several commenters, including B-27 and I-166 inquired about safeguards to ensure that the casino does not add land, space, and commercial and retail activity to its original purchase. I-166 commented that the public would have the right to know the potential amount of land that may be removed from the tax base, and how much is expected to be acquired in 5, 10, and 20 years. In addition, commenter I-166 wanted information regarding the acquisition of additional land by casinos, if there has been pressure to lower property values, and if the casinos have degraded the quality of life, from the pressure to remove property owners neighboring the casino.

Commenter S-74 stated that the proposed development is comparable in size to the Sonoma State campus. As the Wilfred site is 252 acres with 66 acres of proposed development compared to the Sonoma State Campus which the commenter notes is 269 acres that, “houses 1200 students, many more than would be staying in the planned hotel that has 300 rooms.” The commenter also stated that the site development would be less dense than the shopping areas adjacent to the Stony Point and Wilfred sites.

Response: Please see Response to Comments 2.9.6, 2.9.11, 2.10.24, and 2.20.2.

In response to commenter B-33, the Wilfred and Stony Point sites are analyzed in detail in **Section 3.8**. While in **Section 4** the impacts of the individual alternatives are addressed and discussed in detail. Mitigation measures for those impacts are included in **Section 5**. For impacts from on-site wastewater disposal, as stated above, “Impacts to biological resources will be mitigated as established in **Section 5.2.4** of the DEIS. Included in the mitigation are measures to conserve ecological resources in a portion of the affected site and to mitigate for impacts to special-status species habitat, wetlands, and other waters of the U.S.”

Concerns regarding future expansion are speculative, as no further trust acquisitions have been proposed beyond those analyzed in the DEIS (please see Response to Comment 2.10.24).

Consistent with the Tribe’s desire for its project to serve as a model tribal development, the Tribe has worked closely with Sonoma County and local communities to identify an appropriate location for its reservation and proposed resort. The Tribe, at considerable costs, has changed locations twice to avoid impacts on wetlands and open space, and agreed to wait for a stringent environmental review to be conducted before having the subject land taken into trust. Under the Tribe’s MOU with the City of Rohnert Park, the Tribe will contribute \$2.7 million for the purpose of purchasing land for public use,

such as a park, and pay an annual contribution of \$50,000 to improve storm water drainage on such lands after the park's opening.

With respect to the Tribe's project, while the Tribe proposes use of the northeast tract of the Wilfred Site (66 acres) for the development and operation of a gaming resort and hotel, the remaining two tracts will be used for environmental mitigation. One these tracts to be used for environmental mitigation includes the entire southwestern portion of the Wilfred Site comprised of four parcels totaling 181 acres, which is currently subject to a contract that restricts the primary use of the land to agricultural and compatible uses pursuant to the California Land Conservation Act of 1965 (commonly referred to as the "Williamson Act"), Cal. Gov't Code § 51200, et. seq. Currently, the 181 acres consists of partially irrigated pastureland that is leased to a farmer to commercially grow rye grass and other crops. See DEIS, Section 4. The 181 acres is also used to graze cattle. Section 4 of the DEIS contains a detailed analysis of the potential environmental impacts on agriculture under each of the alternatives. None of the alternatives in the DEIS contemplate the development and removal of this property from productive agricultural use. By avoiding development on the 181 acres, the Tribe is proposing a use for this property that is compatible and consistent with the terms under its Williamson Act contract and aimed at preserving the agricultural character of the 181 acres.

2.13.10 COUNTY JURISDICTION AND THE MOUS WITH ROHNERT PARK AND SONOMA COUNTY

Summary of Comments: Marilee Montgomery (B-32) included an article from the Press Democrat regarding the proposed development; specifically, the commenter noted that the article outlines, "Sonoma County's objections to the proposed Graton Rancheria Casino/Hotel project." "Of special note is the fact that the site and its alternatives are all within County jurisdiction, and thus, as the article states, 'No matter what agreement the casino has with the city of Rohnert Park, the Wilfred Avenue site lies in County jurisdiction.'" The commenter continued by stating that elected officials in Rohnert Park have misunderstood the agreements made in the MOU between the City and the Tribe. "Graton Rancheria has no agreement with the County, other than a very limited MOU that sets forth terms of future negotiations for mitigation. The County's comments clarify this point once and for all, and we hope there will be no more confusion on this pivotal issue of the MOU." The article quoted the following statements from Sonoma County Officials, "'The project would be the antithesis of the county's plan for this land, which includes only agricultural and scenic open space uses.'" The article also mentioned issues raised by County officials regarding increased traffic, impacts to biotic resources, and the importation of fill to reduce impacts from flooding.

Montgomery (B-33) stated that, "The FIGR does not have an MOU with the County of Sonoma, except for a limited MOU for the purpose of setting forth the terms of mitigation negotiations." Moreover, the commenter noted that, "This MOU was deemed necessary by the BOS because early negotiations attempted by the BOS with the FIGR were unproductive due to the FIGR's refusal to

cooperate in any meaningful fashion. The BOS was forced to withdraw from those first negotiations as a result.”

Sonoma County (G-34) commented that the DEIS improperly relies on the MOU, in which the Tribe agreed to contribute a fixed amount toward the City’s Wilfred Avenue construction costs. According to the commenter, “Unless the City annexes this area, most of this road remains under County jurisdiction and the MOU does not affect the county-maintained portion of Wilfred Avenue.” Moreover, the commenter stated that the DEIS does not acknowledge or address this issue.

Response: Commenter B-32’s concerns regarding the status of the Wilfred site under County jurisdiction and compliance with the County’s General Plan was addressed in the response below for 2.13.11. It is agreed that the County has an MOU with the Tribe, which is discussed in **Section 2.2.10**. This MOU established that the Tribe and the County would within 30 days of the publication of the DEIS to, “...’commence diligent and good faith negotiations’ towards executing an intergovernmental agreement.” For the commenter’s concerns regarding increased traffic, refer to the Response to Comment 2.11.18, for concerns regarding biotic resources please see Response to Comment 2.7.10, and for impacts from the importation of fill please see the Response to Comment 2.5.46.

Commenter B-33’s assertion that the County withdrew from early MOU negotiations because of an alleged refusal of the Tribe to cooperate is not relevant to the analysis of impacts under NEPA. Nonetheless, it should be noted that the Tribe claims that this assertion is untrue. According to the Tribe, in September 2003 the Tribe was engaged in good faith negotiations with the County and in fact had made an offer to the County, when the County withdrew from negotiations, stating that they had decided to wait until after environmental impacts had been determined pursuant to the NEPA process. The Tribe’s November 2004 MOU (see DEIS **Appendix E**) with the County supports the Tribe’s contention, stating that “the County and Tribe are willing to negotiate an Intergovernmental Agreement to mitigate off-Reservation impacts of the Gaming Project upon publication of the Draft EIS...” In addition, the County MOU states that “the County and Tribe are committed to continuing their efforts to establish a respectful, long-term government-to-government relationship by meeting and conferring in good faith on issues of concern regarding the Gaming project...”

In light of the County’s concerns with Wilfred Avenue, the Tribe, in a letter received by the NIGC on August 10, 2007, has agreed to pay for the full cost of road improvements to Wilfred Avenue specified in the final EIS which are within the jurisdiction of the County at the time the improvements are made. Such payments would include, but are not limited to, any required acquisitions for right of way, environmental studies, and road improvements. The Tribe has further agreed to include its commitment within the legally binding and enforceable intergovernmental agreement(s) which the Tribe will negotiate with the County pursuant to the terms of its Memorandum of Understanding with

the County dated November 1, 2004. For more on the County MOU, please see Response to Comment 2.10.28. Regarding annexation, please see Response to Comment 2.11.6.

2.13.11 SONOMA COUNTY GENERAL PLAN CONSISTENCY

Summary of Comments: The City of Rohnert Park (G-4) submitted a comment stating that the following changes should be made to **Table 4.8-3** in the FEIS:

- Policy LU-3c: This assumes that City water and sewer would be available to the project, which is inaccurate;
- Objective LU-5.1 and Policy LU-5c: The project would remove the community separator in this area without mitigation being offered, which is not consistent with the Sonoma County General Plan;
- Goal LU-9: Explain how the project is consistent with this goal and would have a significant effect on scenic features in this area;
- Goal OS-1- Explain how the project is consistent with this goal; and,
- Objectives OS-1.1 and OS-1.4 and Policy OS-1b: The project would remove the community separator in this area without mitigation being offered, which is not consistent with the County General Plan.

Sonoma County (G-34) commented on the indications in the DEIS that although Alternative A would be inconsistent with several local land use regulations, conflicts with surrounding uses are not expected. According to the commenter, “The DEIS thus appears to suggest that the County’s policies are not intended to prevent land use conflicts, or that a project can fundamentally conflict with our general plan without causing any physical impacts.” Furthermore, the commenter stated that the indication is not an impact determination under NEPA, and is irrelevant to the requirement for disclosure of the impacts of the Proposed Project. The commenter stated that, “Apparently, this conclusion is also the basis for the DEIS’s conclusion that land use impact mitigation measures are ‘not recommended’. This entire line of analysis fails to provide the information about each of the sites, the impacts of the project alternatives, reasonable mitigation measures to reduce the impacts, and the comparison of impacts among the alternatives.”

Sonoma County (G-34) also commented on **Table 4.8-3** in the DEIS regarding consistency with the County’s General Plan. The commenter stated the following comments:

- The table correctly stated that each of the alternatives would be inconsistent with Policy LU-5c, which calls for avoiding commercial land uses in community separators. Additionally, the table states that Alternative A would be consistent with Objective LU-5.1, which requires the retention of low intensity uses in those same community separators. Therefore the

commenter stated that the DEIS must be revised to acknowledge this significant inconsistency.

- The DEIS incorrectly claims Alternative A is consistent with Goal LU-8, which calls for the protection of agricultural lands (such as the Wilfred site) from non-agricultural uses. According to the commenter, the Wilfred site has agricultural land within the County's jurisdiction.
- The DEIS incorrectly claims Alternative A would be consistent with Goal LU-9, which calls for development consistent with scenic features. The Sonoma County General Plan designates the Wilfred site as a Community Separator to preserve its scenic features. The proposed development under Alternative A is inconsistent with the Community Separator designation, and therefore, is inconsistent with Goal LU-9.
- The DEIS does not explain why Alternative A would be inconsistent with Objective OS-1.4, which calls for the preservation of specimen trees and tree stands. The EIS must be revised to identify the specimen trees or tree stands that Alternative A would remove.

Sonoma County commented that in general, "The DEIS fails to address all the relevant goals, objectives, and policies of the General Plan Land Use Element. The EIS must be revised to analyze project consistency with sections 2.1.2, 2.1.3, 2.1.4, 2.1.5, 2.1.8, and 2.1.9 and the Land Use Map."

Sonoma County also noted that on page 4.10-21, "The DEIS uses the term 'Open Space – Agriculture and Resource Management Area.'" According to the commenter, this category is unknown to Sonoma County.

Commenters B-29 and I-166 expressed concern that the casino project is inconsistent with the Sonoma County General Plan 2020 Update, commenter I-166 asked how this would be prevented. The commenter also asked how the following would be prevented: the loss of the Proposed Project parcels as agricultural/open space; and how the Tribe would preserve and protect all of the land designated as open space.

Lloyd Iversen (I-168) questioned which topics of the Sonoma County General Plan 2020 update particularly relate to the casino project; whether or not the project conflicts with the intent of the General Plan; and whether the casino project and its applicant has been involved in the General Plan update process, and how it could be "more helpful and informative." The commenter suggested that the applicant review all verbal and written records of the General Plan update process; stated, "The County has made it clear that it doesn't want this site developed"; and questioned, "What does the Casino Project interpret the intent of the Sonoma County General Plan update to be?"

Commenter S-42 stated that the proposed development on the Wilfred site is consistent with the proposed updates to the Sonoma County General Plan.

Response: In response to the City of Rohnert Park’s (G-4) comment regarding **Table 4.8-3** of the DEIS, Policy LU-3c, the policy states, “Avoid extension of sewer or water services outside of a sphere of influence or urban service area, except to resolve an existing public health hazard, where a substantial overriding public benefit would result, or for property located within a water district boundary as of March 1989.” The indication in the DEIS that water and wastewater service for the project is within the Rohnert Park sphere of influence is correct (as shown in **Figure 3.8-11**), making it consistent with the language of the policy. However, according to the commenter a direct connection to the City’s sewer force main would not be permitted.

Regarding Objective LU-5.1 and Policy LU-5c, mitigation can be found on page 11 of the Tribe’s MOU with the City of Rohnert Park under Open Space Contributions (**Appendix E**). To mitigate the loss of open space and community separator areas, the Tribe has agreed to, “... either (i) contribute ... \$2,700,000 to be used by the City solely for the purpose of purchasing real property for use by the public ... or (ii) purchase real property, subject to approval of the City, for use by the public, with a purchase price of not less than ... \$2,700,000 and donate it to the City.” Goal LU-8 intends to, “Protect lands currently in agricultural production and lands with characteristics that make them potentially suitable for agricultural use. Retain large parcel sizes and avoid incompatible non-agricultural uses.” The proposed development would be technically inconsistent with Goal LU-8; however, this inconsistency would not result in a significant impact to land use compatibility as the project site would be taken into federal trust on the behalf of the Tribe; therefore, applicable local and state laws relating to land use development would no longer apply to the project site. The Final EIS (**Table 4.8-3**) has been revised accordingly to reflect the inconsistency with Goal LU-8. Furthermore, most of the land within the delineated boundary of the Proposed Project under Alternative A would be annexed by the City if the Proposed Project is not developed and thus, the County’s General Plan goals and policies would no longer regulate development on the project site (refer to **Section 4.8-3** for further discussion).

In addition, the four parcels totaling 181.7 acres in the southern portion of the Wilfred site are under Williamson Act contracts, therefore, Alternative A’s Option 2 and Option 3 for wastewater disposal use the eastern Williamson Act parcel as a spray field. The DEIS states, “This action would serve as an irrigation source for the parcel and would not require removing the land from agricultural use.” Furthermore, Option 2 and 3 of Alternative A would also include the development of a storage pond on the northeastern corner of the eastern Williamson Act parcel. This would be considered an allowable use under the Williamson Act, as the parcel would continue to be used primarily for agriculture. Therefore, the agricultural properties of the parcels within the boundaries of the project site under Williamson Act contracts would be retained and therefore, development on the project site would not impact the potential for agricultural production on the project site.

Goal LU-9 states, “Uses and intensities of any land development shall be consistent with preservation of important biotic resource areas and scenic features.” The commenter specifically stated that the impacts to scenic resources would be significant. As stated in **Section 4.10.1**, page 4.10-9, the area planned for the development of Alternative A is within the Northwest Specific Plan’s area planned for intensive development. Additionally, the appearance of the proposed development would be consistent with the commercial activities east of the Wilfred site, along Redwood Drive and US-101. Therefore, the statement that Alternative A is consistent with Goal LU-9 is correct.

Goal OS-1 states, “Preserve the visual identities of communities by maintaining open space areas between cities and communities.” As stated in the DEIS in **Section 4.10.1**, page 4.10-9, “Alternative A would encroach on the development within the Community Separator ... However, the Alternative A development area is also located within the Northwest Specific Plan area ... and is currently planned for intensive development.” Therefore, as stated above, the appearance of the proposed development under Alternative A would be consistent with planned future development, as well as, existing commercial businesses east of the Wilfred site along Redwood Drive and US-101. Please note, that as stated in **Section 4.8.2**, 66-acres of the Wilfred site would be developed, while the remaining land would retained as open space in the southern portion of the site. For further discussion please see Response to Comment 2.13.4 regarding impacts to the community separator designation as defined in Section 2.0 of the County’s General Plan Open Space Element.

For Objectives OS-1.1, Policy OS-1b, and Policy OS-4A, same as above response. The mitigation that is provided in the MOU with the City of Rohnert Park (Appendix E) under Open Space Contributions shows the Tribe has agreed to contribute \$2,700,000 in either monetary form for the City to purchase land for public use, or donate land of equal value to the City for public use. Further, the commenter requested clarification on the project’s inconsistency with Objective OS-1.4. The project’s impacts have been reviewed and it was found that the project would be consistent with this objective. **Table 4.8-3** in the Final EIS has been revised accordingly.

In response to the County’s comment regarding the perception that the DEIS suggests that conflicting with Sonoma County’s policies would not cause physical impacts, **Section 4.8** states that without the build out of the proposed alternatives the Wilfred site would be annexed by Rohnert Park, additionally, because the land would be taken into federal Trust, only federal or Tribal land use policies would be implemented. Note also that NEPA requires the analysis of environmental impacts. Inconsistency with local land use policies is sometimes evidence of an environmental impact, but inconsistency with a land use designation does not necessarily mean that there will be a negative environmental impact.

Moreover, the County’s comment regarding page 4.10-21 is accurate, therefore, the language on page 4.10-21, and language in **Section 3.10**, and was revised to reflect the current status of the Stony Point site under Sonoma County’s land use designations

In response to Commenters B-2 and I-166, because the General Plan 2020 Update has not been finalized, it would generally not be considered. Regarding the loss of the portions of the proposed development sites as open space please see Response to Comment 2.13.4.

In response to Commenter S-42, for reasons stated above under Response to Comment 2.13.5, the proposed development would be inconsistent with the Sonoma County General Plan, and as the land use designations for the Wilfred and Stony Point site parcels has not changed in the Planning Commission's recommended Draft General Plan 2020 Update, the proposed development would remain inconsistent.

2.13.12 LAND USE CONSISTENCY

Summary of Comments: Sonoma County (G-34) commented that, "The DEIS correctly identifies Alternative A as inconsistent with local land use regulations, but it includes no similar disclosure for the other alternatives. For example, Alternative G is consistent with local land use regulations." Therefore, the commenter stated that, "The DEIS must be revised to provide a clear statement of land use consistency so that the public and decisionmakers can properly compare alternatives."

Response: The EIS provides an accurate and detailed analysis of land use designations in **Section 3.8** and analyzes the land use impacts of the proposed alternatives in **Section 4.8**. Each alternative is analyzed with regards to its consistency with Sonoma County and the City of Rohnert Park's policies and regulations regulating land use in **Table 3.8-3** of the EIS.

For example, for Alternative G, the EIS is correct in stating that this alternative would be consistent with local land use regulations, due to its being the no-action alternative. Therefore, as stated in **Section 4.8.8**, "Under this alternative, current land uses would be retained on the Stony Point and Lakeville sites. The northeastern portion of the Wilfred site would be developed with as intended under the Northwest Specific Plan, thereby converting approximately 63 acres of undeveloped land on the Wilfred site to commercial/residential uses." Therefore, Alternative G would not result in local land use conflicts.

2.13.13 ALTERNATIVE A – LAND USE

Summary of Comments: Sonoma County (G-34) commented that the DEIS, "...incorrectly states that the Proposed Project would not result in any conflicts or preclusion of allowable uses." Additionally, the commenter stated that, "The Proposed Project would preclude the use of the site for agriculture and would inevitably result in conflicts between the people using the casino/hotel and surrounding agricultural and residential uses, particularly when the winds blow from the local dairies and cattle operations." The commenter noted that this would be a potentially significant impact.

Furthermore, the commenter stated that, "...the dollars being given to the City for Open Space do nothing for the County where the open space would be lost."

Response: As stated in **Section 4.8.2** of the EIS, parking areas and proposed roadways would provide a minimum 300 foot wide buffer to reduce the potential for conflicts between sensitive receptors in proposed outdoor activity areas and adjacent agricultural operations. Additionally, **Section 4.8** of the FEIS has been revised to clarify that the Sonoma County Right to Farm Ordinance will continue to protect neighboring farmers from nuisance suits brought by the Tribe and casino patrons regardless of whether the Tribe's land is in trust. Please refer to Response to Comment 2.20.6 and **Section 4.8** of the EIS for a discussion of the applicability of the Sonoma County Right to Farm Ordinance and land use compatibility effects with adjacent agricultural operations. For impacts to open space please see response under 2.22.11.

2.13.14 LAND USE COMPATIBILITY

Summary of Comments: Sonoma County (G-34) stated that, "The DEIS should be revised to include an assessment of the Proposed Project's compatibility with surrounding residential uses." Moreover, the commenter expressed that the indication in the DEIS that conflicts with surrounding land uses are not expected, is, "...an unsupported supposition at best, and at worst an improper dismissal of the thoughtful planning processes employed in the County to avoid or minimize land use conflicts and preserve the agricultural and scenic objectives of the General Plan."

Commenter I-166 stated that the traffic and population activity associated with the proposed development are incompatible with surrounding agricultural land uses.

Response: Please see Response to Comment 2.13.11.

2.13.15 THIRD-PARTY OVERSIGHT

Summary of Comments: Paul M. Larson (I-170) expressed opposition to "the total lack of third party oversight i.e. zoning, taxing etc."

Response: Comment noted. Note that trust land is held in trust for the Tribe by the federal government. Most federal laws and regulations, including many environmental protection laws such as the Clean Water Act and the Clean Air Act, continue to apply on trust land. Other oversight can occur in the Tribal-State Compact and in any agreements that the Tribe makes with local jurisdictions. The NIGC also retains oversight of Tribal gaming activities.

2.13.16 ANNEXATION OF THE WILFRED SITE

Summary of Comments: Sonoma County (G-34) commented that the DEIS stated a portion of the Wilfred site is planned for annexation into the City of Rohnert Park. The commenter requested the

estimated date for annexation. In addition the commenter stated that until this land is annexed to the City, the Wilfred site would be subject to the County's General Plan.

Response: It is agreed that a portion of the Wilfred site is planned for annexation into the City of Rohnert Park; however, the date of annexation is unknown. Under **Section 3.8.1**, the DEIS states, "The City has identified this portion of the Wilfred Site for future annexation into the city limits, and has designated it for inclusion within Southern Area (Part "B") of the Northwest Specific Plan." Upon the approval of the Sonoma County General Plan 2020 Update, the DEIS states that, "Adoption of the proposed Sonoma County General Plan update would amend the designated Urban Service Area identified within the County General Plan to include the entire 66-acre northeastern section of the Wilfred site." Furthermore, it is agreed that until the area is annexed or taken into trust, the Wilfred site would be subject to the County's General Plan, which is also discussed in **Section 3.8**. Also, please see Response to Comment 2.13.2.

2.14 INDIRECT AND GROWTH-INDUCING IMPACTS

2.14.1 GROWTH-INDUCING EFFECTS – ROADWAY IMPROVEMENTS

Summary of Comments: Sonoma County (G-34) stated that, "The DEIS fails to assess the growth-inducing effects of roadway capacity improvements to Wilfred Avenue and other rural roads in the project vicinity."

Response: As noted in DEIS **Section 4.11.1**, improvements to area roadways and intersections would serve to mitigate the impacts of the project alternatives, not to increase capacity of roadways to accommodate future unplanned growth. Traffic mitigation measures have been designed solely to mitigate traffic impacts to a less than significant level. In addition, regarding recommended roadway capacity improvements, with the exception of Wilfred Avenue, no other rural roadway capacity improvements are recommended (other recommended improvements in the vicinity are to local intersections). Wilfred Avenue is classified as a Major Arterial within Rohnert Park's sphere of influence and as a Rural Major Collector within the County, reflecting its use as a connector between the Highway 101 corridor and Stony Point Road, which is classified as a Rural Principal Arterial. Wilfred Avenue is already planned for expansion by the City of Rohnert Park. Widening from the City's sphere of influence to Stony Point Road (which can only occur after the approval of Sonoma County) would serve to more seamlessly integrate the various intersection improvements recommended along Wilfred Avenue. This improvement would also serve to remedy the existing substandard shoulder conditions along Wilfred Avenue. However, the EIS' recommendation to widen this stretch of road is not expected to induce growth for the reasons stated in the DEIS. In addition, no new access is being provided and restrictive land use designations along Wilfred would discourage future growth. Also, the widening that is recommended is minimal and limited to the inclusion of a continuous center turn lane – no additional through lanes in either direction would be

added to the segment. FEIS **Section 4.11.1** has been revised to note additional reasons for assuming no growth would occur after the expansion of Wilfred.

2.14.2 INDIRECT GROWTH-INDUCING EFFECTS - LAND SPECULATION

Summary of Comments: Sonoma County (G-34) commented that the DEIS fails to identify and address the indirect growth-inducing impacts of the proposed development on surrounding agricultural and low-density residential lands from, "...speculative investment associated with uses ancillary to the hotel/casino."

Response: Demand for commercial growth in the vicinity to serve traffic is discussed in DEIS **Section 4.11.1**. As discussed, due to the comprehensive nature of the development proposed on-site and the substantial existing development in place in the vicinity of the Wilfred site, no commercial growth is anticipated, resulting from land speculators or otherwise. Note that the DEIS does assume that land that is currently in rural residential and agricultural use north and east of the Wilfred site would be developed in the future consistent with the Northwest and Wilfred/Dowdell Specific Plans (see **Section 4.12**). It is possible that land speculators would purchase land in these areas in anticipation of future development in those areas, but such investment would be associated with already planned development, not with growth induced by the Proposed Project.

2.14.3 INDIRECT IMPACTS OF ROADWAY IMPROVEMENTS

Summary of Comments: The U.S. Army Corps of Engineers submitted a comment letter (G-32), stated that the NIGC has agreed to include in the EIS a higher level of analysis of indirect impacts of roadway improvements.

Response: In consultation with the U.S. Army Corps of Engineers, the analysis of indirect impacts of traffic mitigation has been expanded (see FEIS **Section 4.11**).

2.14.4 INDIRECT EFFECTS ON OPEN SPACE

Summary of Comments: Commenter I-166 asked, "How will you prevent this proposal from directly or indirectly inducing substantial growth and development to an area that the voters of Sonoma County voted to protect as open space?"

Response: Please see DEIS **Section 4.11** for an analysis of potential growth inducing impacts.

2.14.5 GENERAL INDIRECT EFFECTS

Summary of Comments: Loretta Smith (I-166) asked, "How will you prevent this project from having environmental effects which will either directly or indirectly cause adverse effects on humans?"

Response: The analysis of direct and indirect effects on the human environment is contained throughout the DEIS, **Section 4.0**. DEIS **Section 5.0** contains mitigation measures meant to reduce or eliminate environmental effects.

2.15 CUMULATIVE IMPACTS

2.15.1 ACCURACY OF THE DESCRIPTION OF PLANNED DEVELOPMENT PROJECTS

Summary of Comments: The City of Rohnert Park (G-4) requested that **Table 4.12-1** be revised to reflect the following:

- The Northeast Area Specific Plan’s hearings did not occur in 2004 and will likely occur in 2007-2008;
- The numbers shown for the NWSP are incorrect and are based on the withdrawn plan. This should be amended to reflect the assumptions in the City’s General Plan for this area;
- The University District Specific Plan is still in process and hearings will likely take place in 2007. The project allows up to 302,114 square feet of commercial space;
- The Stadium Area plan is in review and an EIR is being prepared. Hearings will likely take place in 2007. The project also shows the potential for 338 residential units;
- All of the projects listed as “Approved Projects (Under or Soon to Be Under Construction)” have been completed;
- Under “Projects Approved but Awaiting Building Permits,” the Arbors and Vineyards projects have been completed, the Circuit City project was withdrawn, the City Center Townhomes project is nearing completion, the School District warehouse is not being further pursued, and the Expressway Marketplace, Park Gardens Apartments, and Radius development are under construction; and,
- A “Status Report of Current Approved/Proposed Projects” is attached for clarification.

The commenter included a list of current approved/Proposed Projects and also requested a listing of current projects within the County on page 4.12-14 of the FEIS. On page 4.12-15, under “Wilfred-Dowdell Specific Plan Area” the commenter stated that it should be noted that the City is not in the early stages of preparing an EIR, but instead, a draft is expected to be released for comment in the near future. Additionally, under “NWSPA,” the Draft Specific Plan is not being reviewed, rather it was withdrawn after the sale of the Wilfred site to the Tribe. On page 4.12-16, the “Santa Rosa Kaiser Expansion project” is included in the discussion, but other major projects within Santa Rosa are not and should be (e.g., the Railroad Square Project) according to the commenter.

The City of Cotati (G-31) stated that there is a need for a list of current projects within the County of Sonoma.

Response: In response to the City of Rohnert Park’s comments (G-34), the text in **Section 4.12**, and **Table 4.12-1**, **Figures 4.12-1** and **4.12-3** have been updated with planned development information for the City of Rohnert Park, as well as the City of Santa Rosa. However, the information for the Northwest Specific Plan was not changed, due to reasons stated above under Response to Comment 2.13.3. The Railroad Square project is included in the Southwest Quadrant data.

In response to the City of Cotati’s comment (G-31), planned development in Sonoma County is identified in **Figure 4.12-1**.

2.15.2 CUMULATIVE EFFECTS FROM WASTEWATER

Summary of Comments: The City of Rohnert Park (G-4) stated that on page 4.12-17, under “Treated Effluent Discharge” the Subregional System’s EIR does indicate that there are significant impacts related to the project even after mitigation, so the statement that a connection to the system would be less than significant may not be accurate, according to the commenter. Therefore, it was requested that the FEIS be revised to analyze this issue.

The City of Santa Rosa (G-22) stated that the Tribe should consider cumulative impacts with the discharge of the current regional system, and that this data should be provided to the City of Santa Rosa as the Laguna Plant operator so that it might be included in the city’s monitoring of cumulative impacts.

Response: The comment from the City of Rohnert Park (G-4) assumes that all of the Subregional System EIR impacts are related to the project. The Project would only have a sewer connection to the City’s collection system under this scenario. The project is not the cause of the Subregional System EIR significant impacts, but rather it is the overall treatment and disposal capacity requirements of the Subregional system that has those impacts. By itself, the project does not cause the Laguna WWTP to expand or to add disposal capacity above what it currently has, and thus it results in is a less than significant impact. Also, DEIS page 4.12-18 includes the following quote from the Subregional System’s EIR: “It is presumed that the Rohnert Park cumulative project (the proposed casino/hotel resort project) will be allocated loads by the USEPA in a manner similar to the RWQCB as appropriate to prevent environmental degradation due to nitrogen and ammonia. Therefore the cumulative impact on established TMDLs will be less than significant and no further mitigation is required.”

Assuming that the Tribe treats wastewater on-site, we assume the Tribe would provide both formal and informal opportunities to share operational information between the Laguna Subregional WWTP and the Graton Rancheria WWTP.

2.15.3 HOUSING AVAILABILITY IN ROHNERT PARK

Summary of Comments: The City of Rohnert Park (G-4) stated that on page 4.12-29, the Sonoma County Economic Development Board predicts that permits for residential units would cause substantial growth in housing units to serve the expected increase in employment caused by the project. According to the commenter, there is no assurance that these units will be developed in the immediate vicinity of the project, nor is it assured that these units would be affordable enough to meet the needs of casino workers. The commenter requested further analysis in the FEIS, with the inclusion of revised impacts and mitigation.

The USEPA (G-29) stated that the cumulative impact assessment did not include the impacts from the planned 175-acre Sonoma Mountain Village project by the City of Rohnert Park. According to the commenter, “This development will include over 1800 housing units and substantial water use.” The commenter requested that the cumulative impacts assessment should be amended to include this development.

Response: Regarding housing availability for casino workers, please see Responses to Comments 2.9.4, 2.9.17, 2.9.27, and 2.9.31.

The water demand associated with specific plan developments planned by the City of Rohnert Park is discussed in an updated version of the Groundwater Study (FEIS **Appendix G**). Note that the groundwater demand associated with future development in these areas was considered in the City of Rohnert Park’s Water Supply Assessment (WSA) and Urban Water Management Plan. Thus, the projected future groundwater use in the Santa Rosa Valley Basin and near the site in the southern portion of the Santa Rosa Plain groundwater sub-basin that was discussed in the cumulative impacts analysis presented in the DEIS and Groundwater Study is not affected by these developments. The SCWA’s latest Urban Water Management Plan has recently been invalidated by the Sonoma County Superior Court (*Sonoma County Water Coalition, et al. v. Sonoma County Water Agency*, SCV 240367, Sonoma County Superior Ct., October 28, 2008). The court has required that SCWA prepare a revised Urban Water Management Plan that demonstrates sufficient water supplies through 2030. It is assumed that a revised Urban Water Management Plan will be prepared that demonstrates sufficient water supplies for regional water customers (including the City of Rohnert Park), as required by the Urban Water Management Planning Act (Water Code Section 10610 et seq.). The City of Rohnert Park has demonstrated a decreasing reliance on groundwater in recent years and is constrained by a settlement agreement capping groundwater pumping at 2.3 mgd. This constraint will be in place even should SCWA be unsuccessful in obtaining the water supply requested by the City of Rohnert Park in the future and will force the City to find methods other than increased groundwater pumping (such as increased conservation) to ensure adequate supplies.

The Sonoma Mountain Village (SMV) Project has been specifically added to the cumulative projects table in the FEIS. The addition of housing units associated with the SMV Project should further support the assumption in the DEIS that adequate housing should be available for project employees. The future water demand of the SMV Project was considered in the Groundwater Study prepared for the DEIS and in the analysis of groundwater impacts contained in the DEIS as part of projected future groundwater pumping for the City of Rohnert Park. The DEIR for Sonoma Mountain Village has not yet been released; however, the *Sonoma Mountain Village Water Plan* prepared by Coddington Enterprises, dated October 10, 2007, indicates that SMV's potable water demand will be less than existing allocations for the property. Potable water would be provided by the City of Rohnert Park, and projected demand for the SMV project is 274.4 afy. SMV plans to meet this demand through a combination of water conservation and use of reclaimed water, gray water and harvested rainwater. The potable water allocation for the SMV site was calculated as 287.1 afy using a City of Rohnert Park demand factor of 1.638 afy per acre. A portion of the water demand for SMV may come from groundwater pumped from the City's water supply wells.

City water supply for the SMV project would be provided in the context of the City's General Plan and the 2004 Water Policy Resolution. Two of the City's stated goals in the General Plan are that (1) reliance on groundwater should be reduced, and (2) groundwater withdrawal should not exceed safe yield (Dyett & Bhatia, 2000b). A stated policy was the monitoring of the municipal wellfield to ensure that production would not exceed recharge rates and result in a "substantial lowering of groundwater levels in the vicinity of the Urban Growth Boundary." Furthermore, it was intended that should any development outside the 1 July 2000 City limits be deemed likely to result in such a condition, the development would be disapproved or denied. This is consistent with a cap on City of Rohnert Park groundwater pumping specified in by the City's 2004 Water Policy Resolution (2.3 mgd, or 2,577 AFY). This total should include any future groundwater demand that would be associated with SMV.

2.15.4 CUMULATIVE EFFECTS OF FUTURE CASINO EXPANSION

Summary of Comments: Edward Emmons (I-148) expressed concern over the possibility for future expansion of the casino complex, and requests that the potential for expansion be acknowledged in the DEIS.

Lloyd Iversen (I-168) asked, "How many wells will be drilled in the Casino Project in the future?" and "What depth will additional wells likely be drilled to and what effect would that have on other wells in the same area," particularly during drought years?

Response: DEIS Section 2.2 describes the full development plans that have been proposed and that are reasonably foreseeable at this time. There are no plans for expansion or further on-site development. The proposed project is sized larger than most tribal casinos in northern California in

an attempt to accommodate the sizable San Francisco Bay Area market. The casino/hotel resort was designed by a gaming company with extensive experience in the Las Vegas and northern California markets. The proposed project is a full service resort with a large hotel, multiple restaurants, a large gaming floor, a back of house, entertainment facilities, and substantial parking and ancillary facilities. There is nothing to suggest that the proposed project is in any way undersized or lacking necessary components. Therefore, it is reasonable to assume that the proposed project was appropriately sized and that no future expansion would occur. Assuming that the proposed project will expand in the future would represent speculation (as to the timing, size, and nature of the expansion, in addition to whether or not such an expansion will occur), which NEPA does not require.

As noted in DEIS **Section 2.0**, a Tribal-State Compact (or similar secretarial procedures) would be required in order to conduct Class III gaming. All recent compacts between California and tribes has required a supplemental analysis of off-site environmental impacts for any proposed expansions of gaming on a site. Thus, in the event of a future expansion (which, as noted, is not expected at this time) an environmental analysis of off-site impacts would be required, including impacts to surrounding wells should additional wells be proposed.

2.15.5 GENERAL CONCERNS REGARDING CUMULATIVE IMPACTS

Summary of Comments: Marilee Montgomery (B-33) stated that cumulative impacts were not adequately addressed in the DEIS, and that there is no information on the impacts to future development projects.

Sonoma County (G-34) commented that the DEIS, "...misses the unprecedented, transformative impact the Proposed Project would have on the County and its communities. Therefore, the commenter stated that the DEIS needs to be revised to correct individual resource sections and undertake a full analysis of the cumulative impacts.

Lloyd Iversen (I-168) asked about the life span of the casino and "the plan for de-commissioning the project when the economic usefulness has been exhausted." The commenter also inquired about other development in the area that could occur as a result of the casino project and asked, "What is the likely cash flow if other Casinos are built in Petaluma or in other local areas?"

Loretta Smith (I-166) asked, "How will you prevent this project from achieving short-term goals to the disadvantage of long-term environmental goals? How will you prevent this project from having impacts that are cumulatively considerable?"

Commenter S-110 stated that the DEIS does not address the cumulative impact of multiple casinos in Sonoma County.

Response: The FEIS contains a comprehensive analysis of cumulative impacts, including a detailed list of future development projects in **Section 4.12**. Potential growth inducing impacts are discussed in DEIS **Section 4.11**. Mitigation measures that would reduce or eliminate environmental impacts, including “cumulatively considerable” impacts are contained in DEIS **Section 5.0**.

Regarding the lifespan of the Proposed Project, please see Response to Comment 2.9.22. Regarding the comment regarding other casinos, no reasonably foreseeable proposals for new tribal casinos are pending in the Sonoma County area. Regarding the possibility of a tribal casino in the Petaluma area, please see Response to Comment 2.9.22.

The DEIS acknowledges in many places the existence of the Dry Creek Tribe’s River Rock Casino in Sonoma County. The River Rock Casino is considered cumulatively along with other existing development in the County. For example, air quality and traffic baseline data include the effects from the River Rock Casino to the extent it is relevant to the cumulative analysis in the DEIS. **Section 4.7** of the DEIS and **Appendix N** show that the addition of a new casino will decrease revenues for those casinos located further from the population center, but that new casinos also tend to expand the market to induce more people to visit casinos. The analysis concludes that the addition of the Graton casino into the market would likely result in a net market expansion for the Twin Pines casino, but could result in lost revenues for the River Rock casino.

In response to the County’s comment (G-34), the DEIS has conducted an adequate analysis of the cumulative impacts as required by NEPA; however, at the request of some commenters, a revised list of planned developments in the cities of Santa Rosa and Rohnert Park has been included in the FEIS. The cumulative analysis has been revised, as necessary, to take these new developments into account.

2.15.6 CUMULATIVE IMPACTS FROM GLOBAL WARMING

Summary of Comments: Marilee Montgomery (B-33) stated that the cumulative effects from global warming were not adequately addressed in the DEIS, and that the FEIS should be revised accordingly.

Response: Please see Response to Comment 2.6.2.

2.15.7 CUMULATIVE EFFECTS TO BIOLOGICAL RESOURCES

Summary of Comments: Marilee Montgomery (B-33) expressed concerns regarding the cumulative impacts to biological resources including impacts to: fish populations, plant and animal communities, and rare or endangered species. The commenter stated these impacts were not adequately addressed in the DEIS.

Response: Cumulative impacts to biological resources, including wildlife, habitats, Federally-listed species, migratory birds, and waters of the U.S., are discussed in **Section 4.12.3** of the DEIS. Impacts are expected to be less than significant, provided that development scheduled for the area also implements mitigation and conservation measures for special-status species and completes the required CEQA/NEPA environmental review process.

2.15.8 CUMULATIVE IMPACTS TO LAW ENFORCEMENT – SONOMA COUNTY

Summary of Comments: Sonoma County (G-34) commented that, the cumulative effects for Alternative A in the DEIS would, "...generate a need for additional law enforcement resources, and through the anticipated MOU with the City of Rohnert Park, the Tribe would provide funding for impacts to law enforcement services." The commenter stated that this would not reflect law enforcement impacts on unincorporated areas in Sonoma County. Therefore, the commenter stated that the statement should be revised to read, "All alternatives would generate a need for additional law enforcement resources. The Tribe would provide funding through appropriate agreements for impacts to law enforcement agencies with jurisdiction in and around the Proposed Project." Furthermore, the commenter stated that this revised statement should be noted for all of the alternatives.

Response: The cumulative impact to law enforcement services is discussed in **Section 4.12**. **Section 4.12** has been revised in the FEIS to discuss impacts to jurisdictions surrounding the alternative sites. As the agreement for primary law enforcement services would include compensation for resources necessary to serve the project, it would not hinder the ability of the selected law enforcement agency to serve future developments.

2.15.9 CUMULATIVE EFFECTS TO VISUAL RESOURCES

Summary of Comments: The City of Cotati (G-31) stated that the project would have "a significant cumulative visual effect and should be represented as such." According to the commenter, the casino would be larger than other development in the area, and impacts could be reduced by decreasing the height of the structure.

Response: As described in DEIS **Section 4.12**, substantial development currently exists and is planned in the vicinity of the Wilfred site, including multiple story hotels and large retail stores (Home Depot and Wal-Mart). Thus, the analysis referring to similar nearby commercial development in DEIS **Section 4.10** is accurate.

2.15.10 CUMULATIVE EFFECTS TO TRAFFIC

Summary of Comments: The Roblar Area Property Owners (B-27) questioned, "In the Traffic Summary of Alternative A, how can the DEIS claim the same cumulative impact as Alternative D, an alternative of smaller size and scope?"

Response: As summarized in the DEIS **Executive Summary (ES.5)** and **Section 2.8**, it is assumed that if neither Alternative A nor H are developed on the northeast corner of the Wilfred site, it will be developed as planned under the Northwest Specific Plan. Thus, during the cumulative scenario, Alternative A development would take the place of development that will otherwise occur under the Northwest Specific Plan. If Alternative D (or any of the Stony Point site development alternatives) takes place it will not displace this Northwest Specific Plan development. Therefore, even though Alternative D is smaller in size and scope when compared to Alternative A, the cumulative traffic scenario is similar because additional traffic associated with the Northwest Specific Plan development would be present on area roadways. In addition, although generally trip generation for Alternative D is lower than Alternative A, Alternative D traffic remains sufficiently high to trigger many of the same or similar mitigations associated with Alternative A. Furthermore, Alternative D is farther from the freeway (near the intersection of Wilfred Avenue and Stony Point Road) than Alternative; therefore, Alternative D project traffic affects more study intersections and triggers some mitigation measures not identified for Alternative A.

2.15.11 CUMULATIVE EFFECTS TO OPEN SPACE

Summary of Comments: Lloyd Iversen (I-168) inquired about the amount of open space that would be impacted by development occurring because of the casino project.

Response: Please see DEIS **Section 2.0** for a description of the developed area proposed under each of the alternatives.

2.16 MITIGATION ADEQUACY AND ENFORCEABILITY

2.16.1 PERSONS RESPONSIBLE FOR MITIGATION IMPLEMENTATION

Summary of Comments: The City of Rohnert Park (G-4) commented that the person/agency responsible for implementing mitigation measures E and F on page 5-17 of the DEIS should be identified.

Response: Mitigation measures E and F could not be found on this page. Please see Response to Comment 2.16.3 regarding mitigation implementation generally.

2.16.2 FEASIBILITY OF MITIGATION MEASURES

Summary of Comments: Chip Worthington of Stop the Casino 101 (B-29) expressed concern that some mitigation measures may be in competition with one another. According to the commenter, the DEIS contains a mitigation measure that calls for darkening all exterior lights, and another that calls for substantial parking lot lighting.

Commenter S-87 stated that, “it is questionable whether these mitigating provisions would be sufficient to offset the projected harm to our environment.”

Response: There are no mitigation measures that call for “darkening all exterior lights.” There are lighting mitigation measures in DEIS **Section 5.2.9** that discourage uplighting, require downcast lighting, and to require that lighting be minimized after a certain hour. These are not in competition with the public health and safety mitigation measure that the parking areas be well lit (DEIS **Section 5.2.8**), as a well lit parking area can easily be achieved with downcast light fixtures and the lighting mitigation does not require that parking area lighting be minimized at any time.

2.16.3 ACCOUNTABILITY FOR MITIGATION ENFORCEMENT

Summary of Comments: Individual comment letters B-27, I-33, I-95, I-138, I-155, and I-161 were received that questioned the agency responsible for enforcing the implementation of the proposed mitigation measures, and the legal accountability of the Tribe in the event that the mitigation measures are not implemented or are inadequate to compensate for environmental damages. Edward Emmons (I-148) suggested that the NIGC make the proposed mitigation measures a requirement for taking the land into federal trust, rather than relying on the current non-binding language of the DEIS. The commenter noted that this is more of a concern to him because it will be Station Casinos, rather than the FIGR, who would be managing and overseeing the proposed development. Other commenters, including Long (I-177), questioned whether the FIGR would relinquish their status as a sovereign entity so that implementation of mitigation measures should become mandatory and enforceable under the federal, state, and local agencies that enforce such measures for other developments. Commenter I-166 asked who would enforce the Tribe’s measures to comply with; building inspections, before, during and after construction; if the Sonoma County health department would have the authority to inspect food safety standards; and if the Fire Department would have the authority to evaluate and enforce building code standards as they relate to fire safety.

Sonoma County (G-34) commented that the DEIS includes no commitment or guarantee that the project proponent would mitigate adverse impacts, or reduce them to a less than significant level. Furthermore, the commenter stated that the DEIS must be revised and recirculated to require actual implementation of all proposed mitigation measures, articulate a monitoring program to verify compliance, and identify enforcement steps that the NIGC would take to ensure mitigation compliance.

Chip Worthington of Stop the Casino 101 (B-29) expressed concern that no agency or individual is specified as being responsible for ensuring that mitigation measures are implemented; claimed that FIGR is legally accountable to few and is “under no enforceable legal obligation to implement a single mitigation;” and questioned, “What recourse does an adjacent property owner, an affected resident, the City of Rohnert Park or Sonoma County have if and as the Tribe just *shall* not or will *not*

complete a mitigation (inadequate as each mitigation is within the DEIS)? Will the tribe entirely waive its sovereign immunity and submit to the same level of accountability as ‘John Doe Developer?’”

Response: An entire section of the DEIS -- 60 pages long -- is devoted to mitigation (DEIS pp. 5-1 through 5-60). Literally dozens of mitigation measures are proposed to be adopted by the NIGC. Unsurprisingly, the precise mechanisms for the enforcement of them differ according to the nature of the mitigation measure, the ability of the NIGC or the Tribe directly to undertake the proposed measure, and the geographic location (on or off reservation) of the measure. By way of example, numerous mitigation measures are set out in the DEIS which would be implemented on the land which is proposed to be taken into trust. NIGC can enforce these measures directly. For instance, such measures include those to mitigate the impacts of development on expansive soils (DEIS, sec. 5.2.1.A, p. 5-2); limiting the use of fertilizer on trust lands so as to mitigate impacts on groundwater (sec. 5.2.2.B, p. 5-3); cover for the garbage bin area (sec. 5.2.2.E, p. 5-3); water conservation measures (sec. 5.2.2.G, p. 5-4, 5.2.2.P, p. 5-5, and 5.2.2.U, pg. 5-6); creation of a stormwater detention basin(s) (sec. 5.2.2.H, p. 5-4); abandoning and sealing existing on-site groundwater wells (sec. 5.2.2.O, p. 5-5); use of the Basic Control Measures and Enhanced Control Measures established by the Bay Area Air Quality Management District to mitigate construction-related air emissions (sec. 5.2.3.A., p. 5-9); facilitation measures to promote the use of public transit (sec. 5.2.3.C, p. 5-9); travel demand management measures (sec. 5.2.3.D, p. 5-9); compliance with the California Air Resources Board measures to limit commercial vehicle idling (sec. 5.2.3.E, p. 5-9); orientation of building to take advantage of solar heating and natural cooling (sec. 5.2.3.G, p. 5-10); provisions for odor control should a wastewater treatment plant be constructed (sec. 5.2.3.U, p. 5-15); establishment of smoke-free zones in the casino (sec. 5.2.3.FF, P. 5-16); development and implementation of a detailed plan to conserve ecological resources in the undeveloped portion of the site (sec. 5.2.4.C, p. 5-19); limitation of grading and clearing to six months of the year to minimize erosion (sec. 5.2.4.G, p. 5-22).

Other proposed mitigation measures will take place off the trust lands but are within the authority of the Tribe to implement (and the NIGC to enforce), such as compensation for neighboring well owners should that prove necessary (sec. 5.2.2.AA, pp. 5-7 to 5-8); purchase of offset air quality credits to reduce direct and indirect emissions from the project (sec. 5.2.3.I, p. 5-12); conduct of an air quality conformity determination for NO_x and CO (sec. 5.2.3.R, p. 5-13).

Further mitigation measures involve the Tribe working with other governmental entities to achieve a common benefit. The Tribe’s participation may be enforced by the NIGC, but the cooperation of the other governments cannot. NIGC, by way of example, cannot tell a City or a County what to do. Examples of this sort of mitigation include a requirement for the Tribe to contribute financially to the current study of the groundwater basin being conducted by SCWA and USGS (sec. 5.2.2.S, p. 5-6);

negotiation of a MOU with County requiring payment of specified amounts by the Tribe to the County to mitigate specific socioeconomic impacts (sec. 5.2.6.A, p. 5-26, sec. 5.2.6.D, p. 5-27, sec. 5.2.6.H, p. 5-27).

Still other mitigation measures involve the Tribe's applying to another agency for a permit or authorization. The Tribe's application can be enforced by NIGC, but action on the application is dependent upon the permitting agency. Examples include: application to the Corps of Engineers for a permit concerning impact to wetlands (sec. 5.2.4.A, p. 5-18); application to USEPA for Clean Water Act sec. 401 water quality certification (sec. 5.2.4.A, p. 5-18); implementation of cultural resource and paleontological resource measures concurred in by the State Historic Preservation Office (sec. 5.2.5.A., p. 5-25).

Yet another category of mitigation measures involves proposed actions which are on property belonging to other governmental entities -- the State, the County, or the City. Here the Tribe is obligated to make offers of specified financial contributions, which can be enforced by the NIGC, but the agency which owns the property where mitigation is to occur (typically a highway or road) has the final say as to whether the Tribe's offer is accepted. By way of numerous examples, see the intersection improvements set out in Tables 5-4 and 5-5, set out at pp. 5-29 through 5-45 of the DEIS (including such specific measures as road widening, signalization, adding or extending turn lanes, payment of proportionate shares of improvements being undertaken by the agencies which own the freeway or roadway, such as contributing to construction of an additional traffic lane along portions of US-101 (sec. 5.2.7, pp. 5-28 to 5-52)).

By way of legal authority, NEPA's obligations with respect to mitigation flow from the text of NEPA itself, the CEQ NEPA Regulations which implement the Act, and subsequent court decisions, including the leading case on mitigation, the United States Supreme Court's decision in Robertson v. Methow Valley Citizens Council, 490 US 322 (1989), and the Court of Appeals for the Ninth Circuit's decision in Tyler v. Cisneros, 136 F.3d 603 (9th Cir. 1998).

NEPA itself requires not only the scrutiny in an EIS of the "environmental impact" of a proposed major Federal action (§ 102(2)(C)(i), 42 USC §4332(2)(C)(i)), but also the disclosure of "any adverse environmental effect which cannot be avoided should the proposal be implemented" (§ 102(2)(C)(ii), 42 USC § 4332(2)(C)(ii)). While NEPA never uses the term "mitigation", the difference between the proposal's impacts and those that cannot be avoided (i.e., those that can be avoided) is mitigation.

The CEQ NEPA Regulations then define mitigation (40 CFR § 1508.20) and require that possible mitigation measures be discussed in defining the scope of the EIS (40 CFR §1508.25(b)) and in the EIS itself (40 CFR §§ 1502.14(f) and 1502.16 (h)). The agency must explain how it factored in mitigation in its Record of Decision (ROD) (40 CFR § 1505.2(c)).

It is the function of the EIS to propose mitigation measures for public and agency comment, but it is the ROD at the end of the NEPA process which actually imposes the mitigation. (40 CFR § 1502.2; see 40 CFR § 1505.3.) The provisions of the ROD and of the associated agreements can be enforced (subject to the varying circumstances described above) by the NIGC. Tyler v. Cisneros, *supra*. In other words, as a general statement, if the NIGC imposes mitigation within the ROD, it can enforce it (unless, as described above, what is involved is an authorization from or the property of or under the control of another agency).

NIGC, in proposing to adopt and make enforceable the mitigation outlined in the DEIS, examples of which are set out above, is going well beyond what the United States Supreme Court has required. That Court in the Robertson case made clear precisely what is (Robertson at 351-52) and what is not (Id. at 352-53) required with respect to the mitigation that has been identified. “There is a fundamental distinction,” said the Court, “between a requirement that mitigation be discussed in sufficient detail to ensure that environmental consequences have been fairly evaluated . . . and a substantive requirement that a complete mitigation plan be actually formulated and adopted, . . .” Id. at 352. It “would be inconsistent with NEPA’s reliance on procedural mechanisms -- as opposed to substantive, result-based standards -- to demand the presence of a fully developed plan that will mitigate environmental harm before an agency can act.” Id. at 353. Here the NIGC, to repeat, has gone well beyond what NEPA and the Supreme Court require and intends to adopt a full mitigation plan as outlined in the DEIS (at pp. 5-1 to 5-60).

As discussed above, there is one category of mitigation measures -- involving situations where another governmental agency (here the State, the County, or the City) owns or controls the property that is the subject of the proposed mitigation -- where the Tribe can offer to contribute (and NIGC can require it to do so) but the Federal agency cannot compel the nonfederal agency to accept the offer. In Robertson the Supreme Court spoke to precisely that situation -- where the effectiveness of certain mitigation measures is dependant upon the actions of others -- where the impacts “cannot be mitigated unless nonfederal government agencies take appropriate action.” Id. at 352. As the Court put it, “Since it is those state and local government agencies that have jurisdiction over the area in which the adverse effects need to be addressed and since they have the authority to mitigate them, it would be incongruous to conclude that the [Federal agency] has no power to act until the local agencies have reached a final conclusion on what mitigating measures they consider necessary.” Id. at 352-53. Emphasizing the point, the Supreme Court in its unanimous decision went on to say:

Because NEPA imposes no substantive requirement that mitigations measures actually be taken, it should not be read to require agencies to obtain an assurance that third parties will implement particular measures.

Id. at 353, n. 16.

Note that in this case, since Congress has mandated that DOI take an action there is no federal agency has discretion over the transfer of land into trust (see DEIS **Section 1.0**). Thus, that action cannot be conditioned like one of the commenters suggests.

Note also that the enforcement authority for mitigation measures is the NIGC, which is authorized by Congress to carry out its functions on Indian Reservations, so a waiver of sovereign immunity is not necessary for NIGC to enforce the mitigation measures which it decides to adopt.

Section 4.9 of the DEIS addressed public health and safety issues related to building inspections and food safety. As discussed in **Section 2.2**, the Tribe would enter into a Tribal-State Compact, as required by the Indian Gaming Regulatory Act to govern the conduct of Class III gaming activities, or comply with procedures established by the Secretary of the Interior (pursuant to IGRA and 25 C.F.R. 291) in the event that the State and the Tribe are unable to agree to a compact. Recent compacts have required inspections for fire safety and life safety in which a State designated agency must be notified and entitled to attend. The Compacts have required further that tribes allow inspection of food and beverage services by State, county or city health inspectors, as applicable, during normal hours of operation, to assess compliance with these standards, unless inspections are routinely made by an agency of the United States government to ensure compliance with equivalent standards of the United States Public Health Service. Additionally, it is anticipated that the existing MOU with Rohnert Park would be renegotiated to apply to the Wilfred Site with similar provisions. The MOU included commitments to building codes and inspection as discussed in **Section 2.2**. Terms of the Compact and MOU would be enforceable by the State and City of Rohnert Park, respectively.

2.16.4 ADEQUACY OF COMPENSATORY AGREEMENTS

Summary of Comments: The City of Cotati (G-31), stated that mitigation may be inadequate, because mitigation agreements exist with the City of Rohnert Park and the County of Sonoma, but not with other jurisdictions, particularly the City of Cotati and the City of Petaluma. The commenter requests that this issue be studied in the FEIS.

Response: Regarding the role of MOUs in the NEPA process, please see Response to Comment 2.10.4. The DEIS acknowledges that MOUs currently exist only with the City of Rohnert Park and Sonoma County (see **Section 2.0**). The DEIS considered this fact throughout, including the analysis of impacts in **Section 4.0**.

2.17 EIS FORMATTING

2.17.1 MANIPULATION OF FIGURES TO DE-EMPHASIZE EXISTING SURROUNDING LAND USE

Summary of Comments: Thomas Scott (I-98) submitted a comment in which he stated that the DEIS preparers purposefully manipulated the following figures, aerial photos, and land use maps listed in **Table 2.17.1** to minimize the proximity of the proposed development from existing housing and communities.

TABLE 2.17.1
COMMENTS ON DEIS FIGURES

Figure	Comment
Figure 1-3	Cropped close to the right edge to cut out residential housing in Rohnert Park. Shot from too high of an altitude to pick up detached single dwellings along Wilfred Avenue and adjacent areas to the west.
Figure 1-4	Same as Figure 1-3
Figure 1-6	Same as Figure 1-3
Figure 1-7	Same as Figure 1-3
Figure 2-1	Presented as if proposed development existed without existing structures around it.
Figure 2-8	Same as Figure 2-1
Figure 2-9	Shows only 1 structure, a barn. This photo purposefully does not show that there are numerous other buildings, businesses and residences on either side of the barn and on the hills behind it. The proposed site will negatively affect all of them.
Figure 2-11	Crops out homes and businesses on left and bottom edges of the photo.
Figure 2-16	Same as Figure 2-11.
Figure 2-32	Same as 1-3. In addition, desaturated colors mask houses in the north. Color overlays mask the buildings.
Figure 2-33	Same as Figure 2-32.
Figure 3.5-5	Same as Figure 1-3.
Figure 3.8-9	Desaturated color used to de-emphasize large tracts of Rohnert Park residential housing east of proposed casino as well as numerous houses and buildings west and north of the site.
Figure 3.8-18	Same as Figure 1-3.
Figure 3.9-2	Same as Figure 1-3.
Figure 3.10-1	Same as Figure 1-3.

- Figures 3.10-6 – 3.10-11 All of these photographs are taken from angles to emphasize undeveloped land. The FEIS should contain photos taken from the exact locations then at 90 degree angles for 360 degrees from where the photographer stood to take the first photographs. Houses, outbuildings, and other businesses adjacent to this site would be visible.
- Figure 4.12-3 Same as Figure 3.8-9. The commenter felt that this was an attempt to disguise how close this project is to residential housing. According to the commenter, sites north and west of the proposed casino are dismissively labeled private homes and small farms to make them sound sparsely populated. While to the east, the commenter argued, large residential tracts are not labeled at all.
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Commenter I-167 also noted that the photos in the DEIS “have been taken from angles and levels that would appear to support the notion that this proposed casino site is located in a ‘sparsely populated area used mostly for agricultural purposes.’” Betty Fredericks (I-172) notes that the figures included with the DEIS “may have failed to adequately show the relationship of the Proposed Project to our schools, parks, homes of approximately 45,000 residents, and Sonoma State University, most of which are on the east side of U.S. 101.”

Response: In response to commenter I-98, the figures mentioned from DEIS have not been manipulated as suggested by the commenter. The figures presented in the document have all been designed to meet a particular purpose or to highlight a specific impact or potential impact, which may not always allow for the depiction of surrounding land uses. For example, **Figures 2-1**, represents specific plans for the proposed development on-site that was relied on in the DEIS. This figure would become unusable (or at least poorly suited) to show the proposed development on-site if surrounding development were shown as well. Furthermore, the surrounding land uses are shown in detail and discussed in **Section 3.8**.

TABLE 2.17.2
RESPONSES TO COMMENTS ON DEIS FIGURES

Figure	Response
Figure 1-3	This figure represents the Wilfred site, the text in the DEIS referencing this figure refers to the Wilfred site being adjacent to the western boundary of the City of Rohnert Park. Figure 3.8-9 - Existing Development Surrounding the Wilfred and Stony Point Sites, shows the sparse rural residential housing in the immediate vicinity of the sites. Section 3.8 of the DEIS discusses existing land use near the Wilfred and Stony Point sites. Specifically, the residences near the Wilfred site, described on page 3.8-27 and residences near the Stony Point site, described on page 3.8-37.
Figure 1-4	Figure 1-4 , Wilfred Site – Parcel Map, shows the Sonoma County assessor parcel numbers for the parcels within the Wilfred site. The DEIS refers to this figure in the context of further explaining the setting of and providing background information for the Wilfred site. As stated above, Section 3.8 of the DEIS

discusses existing land uses near the Wilfred and Stony Point sites.

- Figure 1-6 Same as above, **Figure 1-6** is an aerial photograph of the Stony Point site. Moreover, the figure is referenced in the document on page 1-4 to explain the location of the Stony Point site.
- Figure 1-7 Same as **Figure 1-4**, in that it shows the assessors parcel numbers for the parcels within the Stony Point site.
- Figure 2-1 **Figure 2-1** – Alternative A, Site Plan shows the site plan for Alternative A with supporting facilities. A discussion of existing development surrounding the Wilfred site is described in **Section 3.8** of the DEIS.
- Figure 2-8 **Figure 2-8** – Alternative B, Site Plan, is the Site Plan for the proposed development under Alternative B on the Stony Point site. An analysis of the existing land uses surrounding the Stony Point site can be found in **Section 3.8** of the DEIS.
- Figure 2-9 **Figure 2-9** is a photograph of the northwestern Stony Point site. The photograph features a barn and associated structures that would be removed, after the site has been taken into Trust, during the construction of Alternative B.
- Figure 2-11 **Figure 2-11** shows the planned stormwater detention basin for the Stony Point site. Housing and businesses surrounding the stormwater detention basin on the Stony Point site are shown in **Figure 3.8-9**.
- Figure 2-16 As described for **Figure 2-11**, **Figure 2-16** shows the stormwater detention plan for the Stony Point site Alternative C. Again, existing housing and businesses near the Stony Point site are shown in **Figure 3.8-9**.
- Figure 2-32 **Figure 2-32** shows boundaries of the Northwest Specific Plan both north and south areas, which a portion of the Wilfred site overlaps. The purpose of this figure is to map the location of Northwest Specific Plan area and the Wilfred and Stony Point sites in reference to one another. Furthermore, by desaturating the background helps to emphasize the location of the sites and the Northwest Specific Plan area.
- Figure 2-33 **Figure 2-33**, Northwest Specific Plan – Southern Area Land Use shows planned development under Alternative G. The purpose of this figure is to highlight the southern area land use for the Southern Specific Plan, as stated above, the desaturated color overlays emphasize the location of the sites and the Northwest Specific Plan area.
- Figure 3.5-5 **Figure 3.5-5**, Locations of Special-status Plan Populations – Stony Point Site and Vicinity is discussed in the DEIS in **Section 3.5**, Biological Resources. The figure shows how potential for the occurrence of special-status plant species on the Stony Point site. As stated above, existing land use surrounding the Stony Point site is discussed in **Section 3.8**.
- Figure 3.8-9 **Figure 3.8-9** shows the existing commercial development surrounding the Wilfred and Stony Point sites. The desaturated colors are used in this figure to emphasize the existing commercial development near the Wilfred site. The rural residences and farmhouses to the west, south, and north of the site are identified in the figure. This figure is intended for the aiding in the description of the Wilfred and Stony Point sites in relation to existing development, in addition, a description of the surrounding uses is provided in on page 3.8-27 to complement

Figure 3.8-9.

- Figure 3.8-18 **Figure 3.8-18** shows the parcels on the Wilfred and Stony Point site that are currently under Williamson Act contracts. As stated above, the desaturated colors are used to emphasize the sites, as well as, the Williamson Act parcels.
- Figure 3.9-2 **Figure 3.9-2** shows the area well locations and the status near the Wilfred and Stony Point sites. The color overlays are to show the Wilfred site in its entirety, while also identifying the wells, whereas the dashed line represents the boundaries of the Stony Point site.
- Figure 3.10-1 **Figure 3.10-1**, Ambient Noise Measurement Location – Wilfred and Stony Point Sites, identifies the noise measurement location that was used in the analysis of the effected environment. As previously stated, the color overlays in addition to the dashed line emphasize the boundaries of the proposed Wilfred and Stony Point sites.
- Figures 3.10-6 – 3.10-11 **Figures 3.10-6 – 3.10-11** are designed to show the view of the Proposed Project sites pre-development build-out. The figures provided in the DEIS serve the function of allowing an accurate analysis of viewshed impacts. Furthermore, the aforementioned figures show either up close or at a distance, existing development that can be seen from the Wilfred and Stony Point sites. If the commenter were correct in his perception that all of the figures were taken from angles to emphasize undeveloped land then the figures would have been cropped to eliminate the existing development that is seen in all of the figures. Nonetheless, additional context photos showing additional areas surrounding the Wilfred and Stony Point sites have been added to FEIS **Section 3.10**.
- Figure 4.12-3 **Figure 4.12-3**, Planned Development Surrounding the Wilfred and Stony Point Sites, is not intended to emphasize existing land uses as **Figure 3.8-9** does. Moreover, the figure is illustrating the City of Rohnert Park’s planned development projects. The figure does not identify the housing to the east of the proposed development because that housing is east of US-101, and therefore is not in the immediate vicinity of the sites.
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In response to commenter I-167, the regional location including existing development that surrounds the proposed alternative sites can be seen in various figures including, **Figures 1-2, 1-3, 1-5, 1-6, 1-8, and 1-9**. Moreover, as presented in **Section 3.10**, the site photographs taken from different angles on the Wilfred and Stony Point sites (**Figures 3.10-6 through 3.10-11**) show the above-mentioned development. Therefore, the perception of the commenter that the various figures and photographs provided in the DEIS have been presented to indicate that the alternative sites are located in a rural area utilized mainly for agriculture is inaccurate. Nonetheless, additional context photos showing additional areas surrounding the Wilfred and Stony Point sites have been added to FEIS **Section 3.10**. In **Section 3.8** of the DEIS the existing land uses are outlined in detail. In response to commenter I-172 please see Response to Comment 2.13.1.

2.17.2 REFERENCING OF FIGURES

Summary of Comments: The City of Rohnert Park (G-4) noted that **Figure 3.5-5** is referenced as showing the Wilfred site, however, the figure represents the Stony Point site. The commenter noted

that this should be corrected. In addition, the commenter stated that **Figure 3.5-5** is not representing the site referenced on page 3.5-18 of the DEIS.

Response: **Figure 3.5-5** in the DEIS references only the Stony Point Site; however, it shows the only population of Sonoma sunshine that was observed in the Wilfred or Stony Point Sites.

2.17.3 BLURRY FIGURES

Summary of Comments: The City of Rohnert Park (G-4) submitted a general comment regarding the traffic figures presented in **Section 3.8**. The commenter specifically mentioned **Figure 3.8-2**, where it was noted that the figures are presented at an unreadable scale.

Response: The traffic figures in DEIS **Sections 3.8** and **4.8** were originally designed by Kimley Horn and Associates for **Appendix O** and are the very best quality they can be. Some of the turning movements are small but can be read. Alternatively, the electronic figures on the CD can be zoomed in to gain better clarity.

2.17.4 CLARITY OF FIGURES

Summary of Comments: The City of Rohnert Park (G-4) stated that **Figure 2-24** does not give an adequate representation of how this option could appear, given that it is a sketch. The City noted that the colored lines representing “Drainage Ditches” for **Figure 3.5.1** are difficult to make out, and should be given greater prominence. Additionally, the commenter stated that the information presented in **Figures 3.8-4, 4.8-1, and 4.8-2** is difficult to read.

Response: The design shown in Figure 2-24 is the best available depiction that could be obtained from the architect at this time, given that all plans in the DEIS are in their preliminary form and have not been carried forward to a construction level of detail. Drainage Ditches were not clearly shown in **Figure 3.5-1** of the DEIS. **Figure 3.5-1** has been revised in the FEIS to clearly represent Drainage Ditches. Regarding the clarity of figures in **Sections 3.8** and **4.8**, please see Response to Comment 2.17.3.

2.17.5 DEIS DIGITAL DISTRIBUTION

Summary of Comments: The O.W.L. Foundation (B-26 and S-46) commented that many features of the electronic version of the DEIS were disabled in the disk distribution, including content copying, page extraction, and commenting functions in the PDF document, making the document “unnecessarily opaque.” In addition, because individual chapters and figures were broken up into separate files, global searches of the entire document were cumbersome.

Maurice Fredericks (B-34) stated that the DEIS CD did not contain a search engine increasing the time needed to search the DEIS for references to the MOU. Furthermore the commenter stated that

the, “Burden of finding and specifying other mitigating aspects that do not rely upon the MOU is placed on the firm producing the draft, as it appears that the failure to include a useable search engine leads [sic] credence to a claim of bias on the part of its drafters, who were undoubtedly (sic) hired by the proponents of the casino project.”

Paul Stutrud (I-150) commented that the DEIS CD he received did not work in his computer. According to the commenter, he requested a printed version of the DEIS and was sent another CD. Thus, the commenter stated that, “...even if I had received the printed copies when I first made the request, I believe it would have been impossible for the ordinary citizen to read all of the manuals before the hearing dates of the 4th and 5th of April 2007.” Moreover, the commenter stated that, “Having to read these documents while carrying on a regular job and other responsibilities is beyond what ordinary interested people should have to attain.”

Response: Please see response to comment 2.1.3 regarding protected files as well as combining the document to one file. Each PDF file does have the capability to search but only within each individual file at a time. Please see response to comment 2.1.3 regarding global compiling of the document. Please see Response to Comment 2.1.1 regarding the extension of the comment period.

2.17.6 PRESENTATION OF RAMP JUNCTION AND FREEWAY SEGMENTS IN APPENDIX O

Summary of Comments: Caltrans (G-25) commented that in **Appendix O**, Table 6 (page 34), Table A3 (page 57), and Table A7 (page 66) should be revised in the FEIS to be more understandable. “It is very confusing to put ramp junction and freeway segment LOS in one table. Ramp junction LOS results should be shown on a separate table.” According to the commenter, “It appears that the freeway roadway segment LOS analysis does not consider bottleneck effects.” Recommending that, “Freeway LOS analysis should consider any bottlenecks and their associated congestion in the study area. Freeway/ramp volumes and capacities should be included in these tables.”

Response: Although the results appear in the same table, the table clearly indicates whether the location is a freeway ramp or a segment.

Freeway analysis included consideration of freeway bottlenecks. The segment analysis was based on extensive traffic data collected to determine mainline travel speeds during the peak hour that reflect the effect of existing bottlenecks. This information was incorporated into the segment analyses.

2.18 SPELLING AND GRAMMATICAL COMMENTS

Summary of Comments: The City of Rohnert Park (G-4) submitted the following comments related to spelling and grammatical errors in the DEIS:

- Page ES-5 Rohnert Park Safety Department (RPSD) should read Rohnert Park Department of Public Safety (RPDPS)
- Page 3.8-5 Rhonert Park should be changed to Rohnert Park;
- Page 3.9-16 the station address should read City “Center” Drive;
- Page 4.5-2 affect should be changed to effect;
- Page 4.6-2 effect should be changed to affect;
- Page 4.12-4 it should be noted that the Luther Burbank Center is now known as the Wells Fargo Center;
- Page 5-59 there are two mitigation measures lettered “T” and thus should be reordered.
- Page 6-3 the City of Rohnert Park staff contacts should be updated. Also, the Department of Public Safety contacts should be listed.

A comment received on the behalf of the Rancho Verde Mobile Home Park (B-24) stated on page 2-24 of the FEIS, the last sentence of the first paragraph under the heading of, “Recurring Contributions” should say, “...the Tribe has agreed to make an annual contribution of \$50,000 to the City...” as it is stated in the MOU according to the commenter.

Sonoma County (G-34) commented on the following perceived factual errors in the DEIS:

- The Sheriff’s Department employs 900 people (not 638);
- The Administrative Division (capitalization needed) does not include the patrol captain; and,
- The list of substations is incorrect. It should be revised to say, “The Sheriff’s Department has substations in multiple locations throughout the County, none of which are currently in close proximity to any of the proposed development sites.”
- The references to the Rincon Valley Fire District, should actually read, Rincon Valley Fire Protection District.
- “North Branch of the Laguna de Santa Rosa” is not the name of the SCWA channel, according to the commenter; Bellevue-Wilfred Channel is the official name of the channel. The commenter requested that all references to the North Branch be removed and replaced with Bellevue-Wilfred Channel.

Response: In response to the City of Rohnert Park’s comments (G-4), bullet points 1-7 have been made. However, the final bullet point regarding the list of contacts in **Section 6**, was not updated and the Department of Public Safety contacts were not listed because **Section 6** is a list of the people that were contacted during the process of drafting the DEIS. It is not a list of contacts for general information for the public.

In response to commenter B-24, the EIS has been revised accordingly.

The factual errors discussed by Sonoma County have been revised in the Executive Summary and **Sections 3.9** and **4.9** of the FEIS.

2.19 LAND RESOURCES

2.19.1 IMPACTS TO EROSION

Summary of Comments: Marilee Montgomery (B-33) stated concerns regarding impacts from erosion during grading activities. According to the commenter, the DEIS minimizes the effects of increased turbidity, recharge of shallow aquifers which rely on the percolation of stormwater, and soils being exposed to wind erosion.

Response: The DEIS addresses impacts from erosion during construction activities in a number of ways, including through the implementation of the proposed mitigation measures, compliance with the Clean Water Act and development of a construction and operation facility Storm Water Pollution Prevention Plan in support of the General Construction and General Industry Storm Water Discharge NPDES permits. In **Section 5.2.2**, the DEIS states that for all of the Alternatives:

- A storm water sampling and monitoring program shall be developed and implemented to assess the quality of surface water entering and leaving development sites. At a minimum, sampling sites shall include: a location upstream at an elevation above all proposed development; and a location downstream of all development, yet at an interception point prior to surface waters entering the Laguna de Santa Rosa. Analyses shall include total suspended solids (TSS), oils and grease.
- If the on-site wastewater treatment option is operated and discharge is to be made into the Bellevue-Wilfred Channel or Laguna de Santa Rosa, construction of the discharge's outfall structure shall be undertaken during the dry season under permit from the Department of the Army, Corps of Engineers, if required. Bioengineered rip-rap and habitat restoration of the agricultural ditch is proposed to offset construction impacts to existing bank vegetation. The ditch is currently vegetated with non-native weeds and grasses.

In **Section 5.2.3**, Air Quality the Tribe has agreed to comply with the following mitigation measures to decrease impacts from wind erosion:

Basic Control Measures include the following:

- Water all active construction areas at least twice daily.
- Cover all truckloads hauling soil, sand, and other loose materials or require all truckloads to maintain at least two feet of freeboard.

- Pave, apply water three times daily, or apply (non-toxic) soil stabilizers to all unpaved access roads, parking areas and staging areas at construction-sites.
- Sweep daily (with water sweepers) all paved access roads, parking areas and staging areas at construction-sites.
- Sweep streets daily (with water sweepers) if visible soil material is carried onto adjacent public streets.

Enhanced Control Measures include the following:

- Hydroseed or apply (non-toxic) soil stabilizers to inactive construction areas (previously graded areas inactive for ten days or more).
- Enclose, cover, water twice daily or apply (non-toxic) soil binders to exposed stockpiles (dirt, sand, etc.)
- Limit traffic speeds on unpaved roads to 15 mph.
- Install sandbags or other erosion control measures to prevent silt runoff to public roadways.
- Replant vegetation in disturbed areas as quickly as possible.
- Use of construction entrances to reduce soil/dust transport off the site.
- Time-staged construction shall be used to avoid dust/open soils.

Furthermore, in **Section 5.2.4**, Biological Resources, the following mitigation would be implemented to reduce impacts to soils from wind erosion:

- All grading and clearing shall be conducted after April 15 and before October 15 of any year, depending on rainfall and/or site conditions to minimize erosion. Access roads and routes will be limited, as well as the construction staging area, to the minimum size required to achieve the goals of the project. A speed limit of 15 mph on dirt roads shall be maintained. These practices will limit erosion and dust borne particles.
- During construction, vegetation shall only be cleared from the permitted construction footprint and necessary lay-down and assembly areas. Areas cleared of vegetation, pavement, or other substrates shall be stabilized as quickly as possible and Best Management Practices (BMP's) applied (erosion fencing, straw and other material applied to soils) to prevent erosion and runoff that could affect steelhead fish in the Laguna de Santa Rosa.

In terms of the Project's effect on the recharge of shallow aquifers, **Appendices D and G** note that the near surface soils in the site area are generally of relatively low permeability, which decreases the amount of storm water that can naturally percolate in to the shallow aquifer under pre-development

conditions. In addition, the following mitigation measures will tend to enhance groundwater recharge to the shallow aquifer (**Section 6.6.3, Appendix G**):

- BMPs that enhance the infiltration of storm water such as routing runoff to landscaped areas where feasible, conveying storm water via vegetated swales instead of concrete channels, and constructing a storm water detention basin;
- Recharge from on-site application of recycled wastewater for irrigation purposes; and
- Spray field disposal of treated wastewater.

2.19.2 IMPACTS TO PUBLIC SAFETY DURING AN EARTHQUAKE

Summary of Comments: Thomas Scott (I-98), expressed his concerns about seismic hazards in the Proposed Project area, and requested that information be provided to casino/hotel patrons on seismic hazards.

Marilee Montgomery (B-33) expressed concerns that the proposed development could interfere with emergency responders in the event of an earthquake.

Response: In response to commenter I-98, as stated in the DEIS, the potential for risks caused by seismic events for all of the proposed alternatives would be significant pre-mitigation. However, the mitigation measures presented in Section 5.2.1 would require that the construction of the proposed development would adhere to 1997 Uniform Building Code (UBC) standards. Moreover, Division IV of the UBC, "...covers earthquake design, which has provisions to safeguard against major structural failures and loss of life." Moreover, the DEIS states that, "Use of the 1997 UBC would allow for ground shaking-related hazards to be managed from a geologic, geotechnical, and structural standpoint such that risks to the health and safety of workers or member of the public would be reduced to a less than significant level." Therefore, it is not necessary to distribute information to casino patrons regarding the seismic hazards of the region.

The project would not interfere with emergency providers more than any other business in the event of an earthquake. Mitigation includes that the Tribe would have an agreement for law enforcement, fire protection and emergency medical services. In an emergency such as an earthquake, the primary law enforcement and fire suppression/emergency medical providers would be the same as those under non-emergency circumstances. Tribal security would be trained in certain emergency procedures.

Section 2 states that certain members of security staff would be trained to operate emergency generators and use emergency medical equipment, including defibrillators. **Section 2** of the FEIS has been revised to state that security staff will be trained for natural disaster response.

2.19.3 ADEQUACY OF ANALYSIS OF REGIONAL EARTHQUAKE FAULTS

Summary of Comments: Thomas Scott (I-98) stated that the DEIS does not mention the August 2006 earthquake that occurred on a previously unknown fault near Glen Ellen running perpendicular to the Rogers Creek fault, due to apparent hazards of several unknown faults along the Rodgers Creek fault. Scott requested additional analysis to be included in the FEIS regarding the possibility of faults along the Rodgers Creek fault, as well as, information regarding the August 2006 earthquake.

Response: In response to commenter I-98, seismic hazards for the alternative sites are discussed in **Section 3.2**, while impacts of the proposed development alternatives are analyzed in **Section 4.2**. The Rodgers Creek fault is addressed in the DEIS under **Sections 3.2.2** and **3.2.3**. As stated in **Section 4.2**, the associated structural damage and resulting in a hazard to public safety from seismic events would result in a potentially significant impact. Mitigation included in **Section 5.2.2** would require the Tribe to develop structures to Uniform Building Code standards, thus reducing impacts from seismic hazards to a less than significant level. The DEIS presents an adequate and detailed analysis of regional earthquake faults and seismic risks, therefore, the August 2006 earthquake need not be included in the FEIS.

2.19.4 WILFRED SITE GEOTECHNICAL STUDY

Summary of Comments: The City of Rohnert Park (G-4) stated that the text on 4.2-1 indicates that the geotechnical study for a portion of the Wilfred site was conducted by “Blackman Consulting” in 2005. According to the commenter, this company was the project proponent for the NWSP (south) and not the preparer of this study, thus this should be corrected in the FEIS.

Sonoma County (G-34) commented that in the DEIS, “...the geotechnical consultant did not analyze Alternative A, but relied on other studies that overlapped portions of the Wilfred site, but apparently do not coincide with the entire project.” Furthermore the commenter stated that it is unclear what portions of the proposed development have and have not been analyzed, thus, the commenter stated that the DEIS should be revised to provide a full analysis and fair assessment of baseline and future conditions.

Response: In response to the City’s comment (G-4), the reference on page 4.2-1 to the Blackman study is correct; however, the text states that the study was conducted by Blackman Consulting when it was actually conducted for Blackman Consulting by Michelucci and Associates, Inc. The language in the FEIS has been revised to read, “A geotechnical study of the northeastern portion of the Wilfred site was conducted for Blackman Consulting by Michelucci and Associates, Inc. in 2005 (included in **Appendix F**).”

In response to the County’s comment (G-34), the study conducted by Michelucci and Associates Inc., analyzed the area within the Northwest Specific Plan Area south of Wilfred Avenue and west of

Dowdell Avenue as shown in Figure 1 of the Michelucci study (**Appendix F**). This area reflects the proposed development area on the Wilfred site. Moreover, as stated on page 4.2-1 of the DEIS, “The NWSP area therefore shares considerable overlap with the northeast portion of the Wilfred site.” In addition, the DEIS states that the southwest portion of the Wilfred site overlaps with the Stony Point site, thus, “the Wilfred site, the NWSP area and the Stony Point site are substantially similar in soil and geomorphic makeup,” as shown in the geotechnical studies provided in **Appendix F** and in soil maps provided by the National Resource Conservation Service (NRCS). Therefore, the DEIS is accurate in its geotechnical analysis of the proposed development sites.

Moreover, in response to the perception that the DEIS is unclear in what portions of the proposed alternative sites have been analyzed, the geotechnical studies included in Appendix F include a description of the area studied. For the geotechnical study conducted by GEOCON for the Stony Point site, the Vicinity Map provided in Appendix A of the study in **Appendix F** shows the area studied, which reflects the footprint of the Stony Point site. The geotechnical study of the Lakeville site was also conducted by GEOCON shows the area of study in the Vicinity Map included as Figure 1 in Appendix A. The study area shown in Figure 1 is larger than the area proposed for development on the Lakeville site. The area studied for the Wilfred site development by Michelucci and Associates Inc., is described on page 1 of the study as being south of Wilfred Avenue, and west of Dowdell Avenue. This area reflects the footprint of proposed development alternatives on the Wilfred site. Therefore, the DEIS correctly provided a full analysis of the proposed development sites in **Appendix F**, where the areas of study are clearly outlined and presented in full in the geotechnical studies conducted by GEOCON and Michelucci and Associates Inc.

2.19.5 AREAS OF CONTROVERSY

Summary of Comments: Sonoma County (G-34) stated that in the Executive Summary, page ES.4 the issues regarding land use, impacts to agriculture, and visual impacts should be included.

Response: Comment has been addressed as suggested.

2.19.6 IMPACTS FROM SEISMIC ACTIVITY

Summary of Comments: Sonoma County (G-34) commented that the DEIS neither discloses nor analyzes groundshaking impacts. According to the commenter, “The Association of Bay Area Governments (ABAG) has published maps showing areas subject to groundshaking. Much of Sonoma County, including the Wilfred site, may be impacted...” Therefore, the commenter stated that the DEIS must be revised to analyze impacts resulting from groundshaking during an earthquake, and the consequences for all of the alternatives.

Response: In response to the County’s comment, please refer to the Response to Comment 2.19.3, which discussed the DEIS’s analysis of groundshaking impacts. In addition, the DEIS includes

Figures 3.2-6 and 3.2-9 which identify areas of susceptibility for liquefaction on the Wilfred and Stony Point sites, a similar figure for the Lakeville site was not included due to its low susceptibility to liquefaction as identified by GEOCON in **Appendix F**.

2.19.7 MINERAL RESOURCES

Summary of Comments: Commenter (B-27), asked the following questions with regard to rock:

- “What type of rock will be used as fill at the Casino project site?”
- “Where is the rock coming from that will be used as fill at the Casino project site?”
- “How much rock will you need to raise the site 5” and pave the site?”

Lloyd Iversen (I-168) asked where the gravel required for construction would come from, and requested the following: a list of “every gravel source in the subject area and the available inventories of materials;” an analysis of how the casino project would deplete these inventories; a description of “all likely uses of gravel,” and the impacts of “increased gravel prices and lower gravel availability for other uses in the county besides a casino;” and details on “all rock, soil, soil amendments, sands, fill materials, and any significant materials to be trucked into the Casino Site.”

Response: The construction of the southern detention basin removes the need to import fill to raise the Alternate A site. Adequate material will be generated with the basin excavation to balance the earthwork.

The aggregate base and asphalt to pave the site is approximately 88,000 tons of aggregate base and 25,000 tons of asphalt. This material is currently available locally as stated in the DEIS **Appendix C**. A specific reference to local Syar, Bodean, Canyon Rock and Stony Point Quarries has been added to FEIS **Appendix C**. In addition, recycle material may be available to supplement these sources. This volume falls within the normal production runs for these quarries.

2.19.8 SOIL STABILITY

Summary of Comments: Lloyd Iversen (I-168) stated that there are unstable soils in the project area and that liquefaction and expansive soils can cause broken pipes, cracked tanks, and damaged foundations.

Response: Impacts of the proposed alternatives on land resources including, impacts from liquefaction and expansive soils, is discussed in **Section 4.2**. Mitigation measures are provided in **Section 5.2.1** to reduce these impacts to a less than significant level.

2.20 AGRICULTURE

2.20.1 CUMULATIVE LOSS OF AGRICULTURAL LANDS FROM GROWTH INDUCEMENT

Summary of Comments: According to The State of California Department of Conservation, Division of Land Resource Protection (G-23), the DEIS does not appear to address the impacts on agriculture in the surrounding area of the alternative sites. According to the commenter, “given the acknowledgement that the project will increase population, housing, traffic, commercial development and related services, the DEIS should evaluate the potential for decreased agricultural production on adjacent farmland...and the potential for further conversion of farmland.”

Marilee Montgomery (B-33) stated that the project would convert land designated as locally important farmland, and “would create urban uses that could threaten agricultural activity on adjacent properties.” The commenter asked “What would the net cumulative effect of the loss of this farmland be on county agriculture and food supplies?”

Response: Indirect and growth inducing effects of the project are discussed in detail in **Section 4.11** of the EIS. As discussed in this section, it was determined that implementation of the Proposed Action would not result in development on adjacent lands or otherwise induce growth. The new employment opportunities created by the project alternatives are expected to be absorbed by the existing labor pool and housing stock, and increased local expenditures due to increased personal income would be absorbed by existing retail facilities, which would benefit from increased sales volume. Demand for growth of commercial facilities to serve the increase traffic in the area would be accommodated through the proposed on-site retail and restaurant facilities. Thus, because no additional housing or commercial growth is expected to result from the project alternatives, further conversion of farmland and decreased agricultural production on adjacent lands would not occur. Direct effects to agriculture resources resulting from the Proposed Action are discussed in detail in **Section 3.8** of the EIS, and effects to locally important farmland are addressed in Response to Comment 2.20.5 below. Please see **Section 4.12** of the DEIS and Response to Comment 20.20.4 below for a discussion of cumulative effects to agricultural resources.

2.20.2 CALIFORNIA LAND CONSERVATION (WILLIAMSON) ACT

Summary of Comments: The State of California Department of Conservation, Division of Land Resource Protection (G-23) stated that the Wilfred site contains four parcels totaling approximately 182 acres that are under a Williamson Act Contract. According to the commenter, “the project proposal does not involve development of the contracted land, but rather its use as a wastewater spray field and continued agriculture...none of the alternatives involve development of contracted land, which would remain in agricultural use.”

The Department of Conservation (G-23) is “concerned about the enforceability of the Williamson Act contract after the land is taken into trust and recommends the contracted land not be accepted into trust while the Williamson Act is in effect.” The commenter presents the following options in this regard: non-renewal, cancellation, and granting a waiver of sovereign immunity for the limited purpose of enforcing the terms and conditions of the contract. According to the commenter, if the Tribe waives its sovereign immunity for the limited purpose of Williamson Act contract enforcement, there would be no jurisdictional issues and mitigation would not be warranted, as the property would continue to be farmed.

Moreover, the commenter stated, (G-23) Williamson Act contract restrictions will not be voided by the mere acceptance of title into trust by the federal government under federal law or state law...because no land is being acquired by or in lieu of eminent domain...(and) since a Williamson Act contract is a voluntarily accepted contractual restriction.” The commenter stated that Williamson Act contracts are enforceable restrictions on title under both the California Constitution and state statute. According to the commenter, “state and local legislative authority regarding the implementation of the Williamson Act is constrained by the constitutional requirement that the contracts are enforceable as conservation restrictions.”

According to the Department of Conservation (G-23), the contracted land must be removed from Williamson Act contract before it is accepted into trust, in order to avoid jurisdictional issues. The commenter considers premature termination of a Williamson Act contract a significant project impact, as it “undermines the public purpose of the Williamson Act in preserving agricultural land,” and recommends that the loss of contracted land be mitigated with agricultural conservation easements on land of at least equal quality and size. According to the commenter, mitigation can be implemented by either purchasing easements or donating mitigation fees to an organization whose purpose includes the acquisition and stewardship of agricultural conservation easements. In addition, the conversion of agricultural land constitutes an impact of “at least regional significance,” and the search for compensatory land should not be limited to lands within the vicinity of the project.

Sonoma County (G-34) commented that, “The DEIS does not clearly state, for any hotel/casino alternative, whether the hotel/casino would be located on lands under Williamson Act contracts.” However, the County noted that, “...the site’s Williamson Act contract may not allow a wastewater storage pond for the hotel and casino.” Moreover, the County recommended that the State Department of Conservation be consulted, and that its response is included in the DEIS.

Response: **Figure 3.8-18** of the EIS illustrates the area of the Wilfred and Stony Point Sites that is currently subject to Williamson Act contracts. This area is located in the southern portion of each site, and is not proposed for development under any of the alternatives, with the exception of 7.2 acres that could be used for construction of a seasonal wastewater storage basin under Alternative A,

Options 2 and 3. As described in **Section 4.8** of the DEIS, the Tribe's proposed use of the 181 Acre southern portion of the Wilfred and Stony Point sites is consistent with the terms of the existing Williamson Act contract on the property. The proposed seasonal storage basin under Alternative A, Options 2 and 3 for wastewater treatment, would be considered an allowable use under the Williamson Act as it would aid in irrigation of the land and the primary use of the parcel would remain agricultural. Because the land will remain in agricultural use consistent with the contract terms, no mitigation requiring the purchase of other agriculture lands is necessary for any of the proposed alternatives.

Jurisdictional concerns regarding the enforceability of a Williamson Act contract on Indian trust lands can be resolved by agreement, if necessary. Section 3.1(b) of the MOU between the tribe and Sonoma County (**Appendix E** of the DEIS) expressly requires the Tribe to enter into a binding and enforceable agreement with the County "regarding any loss of open space, community separator, and Williamson Act issues." Based on this provision, it is expected that the Intergovernmental Agreement to be negotiated between the County and the Tribe pursuant to the MOU will provide the County with an enforceable right to ensure that the land is used in a manner consistent with the terms of the Williamson Act contract. This has been clarified in **Section 4.8** of the FEIS.

With regards to the County's direction to consult with the State Department of Conservation, a copy of the agency's comment letter on the DEIS is included within the FEIS as Log Number G-23, and responses to the agency's comments are provided within this document.

Section 4 of the DEIS contains a detailed analysis of the potential environmental impacts on agriculture under each of the Proposed Project alternatives, none of which contemplate the development or removal of the 181 acres currently subject to a Williamson Act contract from productive agricultural use. The California Department of Conservation submitted detailed comments (G-23) to the DEIS on its Williamson Act concerns, to which a Response has been provided herein. Comments submitted by the Department of Conservation note that none of the proposed alternatives involve development of contracted lands.

Under Alternative A, wastewater from the project will be treated either (i) off-site at the Laguna Subregional Treatment Plant local wastewater facility or (ii) on-site using an immersed membrane bioreactor system at a facility constructed on the Northeast tract of the Sonoma Property outside the 181 acres. If wastewater is treated at the Laguna Plant, then there will be little or no change from the current use and the 181 acres will continued to be used for agricultural purposes as long as the Williamson Act contract is in effect. If wastewater is treated on-site, then a portion of the 181 acres would be used for storage ponds and the irrigation of spray fields at agronomic rates. Here again, however, the 181 acres will continued to be used for agricultural purposes as long as the Williamson Act contract is in effect. The DEIS affirms that the proposed usage will not require removing the 181

acres from agricultural use nor will it significantly interfere with its current use for farming and grazing purposes.

County laws governing agricultural preserves permit the current usage of the 181 acres for commercial farming and to support grazing of cattle as a permitted agricultural use. Moreover, spray fields and storage ponds built for purposes of enhanced irrigation of the 181 acres and to support permissible discharge of treated wastewater do not appear to be prohibited under the subject Williamson Act contract or any applicable County regulations or ordinances, especially where such water-related facilities serve to facilitate and enhance existing farming and grazing on the 181 acres.

The Tribe is committed towards maintaining the 181 acres for existing agricultural and compatible uses and does not intend uses that would result in clearly prohibited conversion of productive agricultural lands. In terms of potential future use of the 181 acres, spray fields and storage ponds proposed under the DEIS are compatible and permitted uses under applicable state and local laws, and will help preserve the agricultural character of the Tribe's 181 acres. If the Tribe utilizes off-site wastewater treatment, then neither spray fields nor storage ponds would be erected on the 181 acres.

2.20.3 FARMLAND RATING

Summary of Comments: According to The State of California Department of Conservation, Division of Land Resource Protection (G-23), the DEIS discusses the LESA rating system, but does not appear to use the LESA to evaluate the impacts of farmland conversion. The commenter recommends that the FEIS include the LESA rating for the various sites, preferably the California version, which is available from the Department of Conservation.

Response: The impacts of the Proposed Project associated with conversion of farmland have been assessed in accordance with the requirements of the Farmland Protection Policy Act (FPPA). Because the Proposed Project represents a federal action, it is not required, nor is it appropriate, to use state and locally developed LESA programs to assess potential impacts to agricultural resources. As discussed in **Section 3.8** of the DEIS, the Proposed Project was evaluated using the land evaluation and site assessment (LESA) system developed by the USDA, which establishes a farmland conversion impact rating score on proposed sites of Federally funded and assisted projects (NRCS, 2007 - <http://www.nrcs.usda.gov/programs/fppa/>, accessed July 3, 2007). This score is used as an indicator for federal agencies to consider alternative sites if the potential adverse impacts on the farmland exceed the recommended allowable level. **Section 3.8** of the FEIS has been clarified to ensure that the distinction between the federal LESA system and state and local programs is apparent.

2.20.4 LOSS OF AGRICULTURAL LANDS FROM CUMULATIVE DEVELOPMENT

Summary of Comments: Sonoma County (G-34) commented that, “The DEIS fails to identify and address the cumulative loss of agricultural land resulting from each of the alternatives in combination with all of the cumulative development identified...” in **Section 4.12**.

Response: An expanded discussion of the cumulative loss of agricultural lands has been provided in **Section 4.12** of the FEIS. The projects contribution to conversion of agricultural land in Sonoma County is considered less than significant given the poor quality of soils on the sites, the relatively low value of existing agricultural uses on the site (unirrigated pasture lands), and the relatively small cumulative percentage of land converted. Impacts to farmland of local importance are discussed in Response 2.20.5.

2.20.5 IMPACTS TO FARMLAND OF LOCAL IMPORTANCE

Summary of Comments: Sonoma County (G-34) commented on the National Resource Conservation Service (NRCS) rating of the Wilfred site soils. According to the commenter, “The DEIS implies that because the agricultural lands are not considered important, there would be no significant effect on other agricultural resources. These statements ignore the local significance of these agricultural lands, including the loss of agriculture on the Wilfred site as well as the pressure on surrounding agricultural land resulting from development of a huge project.” Furthermore the commenter stated that the DEIS incorrectly concludes that soils are severely limited for agricultural use because of the NRCS classification of III and IV. “Some of the best vineyard class soils in Sonoma County are classified by NRCS as III, IV, and even VI. The misunderstanding of local agriculture presented in the DEIS is a serious flaw, and undermines the document’s conclusion that agricultural impacts would be less than significant.” The commenter stated that the DEIS must acknowledge the significance of agriculture in Sonoma County and compare alternatives based on an adequate understanding of the value of local agricultural lands. “Local agricultural organizations and/or the UC Extension could offer a better perspective on the value of local agricultural lands that goes beyond mere generalizations the arise of limiting discussion to soil class.” Instead, Sonoma County commented that, “Value, climate, moisture conditions, and other characteristics make up economically viable agricultural land in the County.”

The County (G-34) stated that the DEIS should be revised to require the project applicant to mitigate the loss of locally important farmland and open space. Mitigation could include the acquisition and/or protection of open space and agricultural lands around the project.

In addition, Sonoma County (G-34) stated that the, “...DEIS fails to properly describe the project’s impacts on agriculture.” According to the commenter, “The DEIS claims that the Proposed Project would have a les than significant impact on agriculture because the land is not classified as important farmland. This conclusion ignores the fact that it is locally important farmland.”

Response: An expanded discussion of the significance of agriculture with Sonoma County’s local economy has been added to **Section 3.8**. While it is acknowledged that high value crops, such as wine grapes, may be grown on soils with NRCS classifications similar to those present on the sites, typically these soils require intensive management practices to achieve the productivity necessary for desired crop yields. It should also be emphasized that the Wilfred Site, Stony Point Site, and Lakeville Site are currently utilized for non-irrigated pasturelands, and there is no prior history of intensive agriculture practices for high value crop production at these locations. It is projected that, while it may be possible to achieve such yields on the sites, the local conditions make each of the sites undesirable for such uses.

Soil qualities, the productive agricultural capability of the site, and effects to local economies are the key concerns when assessing effects to agricultural resources. Based on an assessment of the on-site soils and the existing agricultural uses on the site and in Sonoma County, effects to agricultural resources were determined to be less than significant (see DEIS **Section 4.8**).

2.20.6 AGRICULTURAL MITIGATION

Summary of Comments: Sonoma County (G-34) commented that the agricultural mitigation measure in **Section 5.2.7** is not sufficient to mitigate the proposed development’s agricultural impacts. The commenter stated that, “The DEIS states that the Sonoma County Right to Farm Ordinance, which provides that agricultural operations shall not be considered a nuisance to proposed development, would not apply to the Proposed Project because the land would be in trust.” Additionally the commenter noted that, “The DEIS stated that buffering would ‘minimize the likelihood that the Tribe would seek to curtail nearby agricultural activities due to nuisance concerns.’” Therefore the County stated that, the DEIS should disclose whether it means that the Tribe would not complain to the County or other authorities about neighboring agricultural practices, for example, odors which can be noticeable at a considerable distance. Moreover, the DEIS should address how complaints from hotel/casino patrons would be addressed by the Tribe. The County stated that the Tribe should agree to abide by the Right to Farm Ordinance.

Response: Generally speaking, the Sonoma County Right to Farm Ordinance protects farmers from suits for nuisance brought by neighbors where the alleged nuisance is for odors, noises, and other nuisances generated in the ordinary pursuit of agricultural activities. The assertion in the Draft EIS that once the land is brought into trust the Sonoma County Right to Farm Ordinance would no longer protect adjacent farmers from nuisance suits is incorrect. In fact, the Sonoma County Right to Farm Ordinance will continue to protect neighboring farmers from nuisance suits brought by the Tribe or any other neighboring property owners regardless of whether the Tribe’s land is in trust. This is because the status of the Tribe’s land has nothing to do with the ability of neighboring agricultural owners to assert the Ordinance as a defense to the nuisance action brought in State court by the Tribe

(or possibly a casino or hotel patron). As a result, the proposed mitigation to “enact a Right to Farm Ordinance” would only function to protect agricultural operations occurring on trust land, and would not be necessary to reduce potential effects to adjacent agricultural operations. Clarification has been added to Section 4.8 of Final EIS, and previously recommended mitigation to enact a right to farm ordinance has been eliminated from Section 5.2.7.

2.20.7 GENERAL AGRICULTURE CONCERNS

Summary of Comments: Fred and Peggy Soares (I-169) stated that a project of this magnitude would be devastating to farmland.

The Roblar Area Property Owners Association (B-27) inquired, “What are the expected impacts socially and economically to our agricultural community from the enormous scale of the project including traffic delays, public avoidance due to traffic delays, crime, and unforeseen consequences.”

Lloyd Iversen (I-168) stated that his long-term goal of sustainable agriculture would be “severely compromised” by the project; questioned what the cost to local organic farms and dairies would be if air, water, and land become more polluted as a result of the casino project; and expressed concern regarding the introduction of genetically modified plants and the associated impact on the natural gene pool.

Commenter I-166 inquired how the Tribe would prevent the following: the loss of the Proposed Project parcels as agricultural land being developed, how the Tribe would be prevented from disrupting surrounding agricultural uses. The commenter also asked, “How will the farm animals be impacted by the traffic, noise and pollution accompanying this project?”

Commenter S-83 outlined the efforts made by the Tribe to reduce impacts to agriculture.

Response: Social and economic effects to the local agricultural community are addressed in the discussion of impacts to land values in Response to Comment 2.9.11, and the discussion of impacts to regional and local economies described under Response 2.9.15.

Reasonably foreseeable impacts associated with traffic (**Section 4.8**), air quality (**Section 4.4**), water resources (**Section 4.3**), and land resources (**Section 4.2**), have been addressed within the applicable sections of the EIS. Noticeable impacts to the agricultural community or to sustainable agriculture are not expected. Please see DEIS **Section 4.8** for a discussion of impacts to agriculture. Interference with adjacent agricultural operations would be avoided through implementation of recommended mitigation measures. Please refer to the discussion of agricultural mitigation in Response to Comment 2.20.6. None of the alternatives plan to alter agricultural activities that remain on the site (although non-developed areas may be in agriculture or open space). Thus, the use of new genetically

modified plants are not expected. Please see to Response to Comment 2.7.4 regarding effects to native plant species.

Adverse effects to farm animals resulting from noise and pollution are expected to be similar to effects that would be experienced by other sensitive receptors, and are addressed in the appropriate issue specific section of the DEIS.

2.21 HAZARDS AND HAZARDOUS MATERIALS

2.21.1 USE OF HAZARDOUS MATERIALS DURING CONSTRUCTION

Summary of Comments: Marilee Montgomery (B-33) stated that the DEIS does not include a full inventory and assessment of all hazardous materials associated with the proposed development.

Response: Fuel storage practices were included in **Section 2.2.9** of the DEIS including types and size of the self-contained diesel fuel tanks. Additionally, hazardous materials that will be used during operation of Alternatives A through F are discussed in **Section 4.10** of the DEIS. The small quantities of hazardous materials that would be utilized for the operation and maintenance of the casino, emergency generators, and other project facilities are common to commercial facilities and do not pose unusual handling and storage requirements. DEIS **Section 5.2.9** states that industrial strength cleaners, waxes, floor strippers, degreasers, and other toxic material will only be used if a non-toxic organic alternative is not available. Additionally Material Safety Data Sheets (MSDS) will be available to casino and emergency personnel and janitors that identify emergency procedures, safe handling and storage practices, as stated in **Section 5.2.9**. As discussed in **Section 4.10**, sodium hypochlorite (bleach) and citric acid will be utilized in the operation of the WWTP. These materials will be stored within containment areas that would contain any incidental spills. Chemicals associated with the WWTP will be addressed in a Hazardous Materials Business Plan (MHBP) or equivalent document that addresses emergency response and employee training in first aide, in the event a spill were to occur that compromises the containment vessels. The FEIS has been updated to include recommended mitigation for a HMBP for the WWTP.

Construction BMPs will reduce any the likelihood of a hazardous material release to occur during project construction. The BMPs will be required in order to comply with the General Permit for construction activities that will be issued by the EPA. The construction BMPs will be part of the Storm Water Pollution Prevention Plan (SWPPP) that will be prepared prior to project construction; preparation of the SWPPP is included as mitigation in DEIS **Section 5.2.2**.

2.21.2 USE OF HAZARDOUS MATERIALS DURING CASINO/HOTEL OPERATION

Summary of Comments: Crystal Brody (I-89) suggested that the FEIS include a study of the benefits from using non-toxic cleaners and garden care products, and that the FEIS include a list of

both cleaners and garden care products that would be used during the operation of the proposed development.

Marilee Montgomery (B-33) stated that the DEIS does not include information on whether the Tribe plans to handle or sell explosives, store materials like liquid propane, gasoline, or other storage tanks either above or below ground. The commenter stated that, she had requested that this information be included in the DEIS, however, it was not.

Response: As stated in **Section 5.2.9**, under **mitigation measure Q**, the least toxic material capable of achieving the intended result shall be used to the extent practicable. This includes garden care products and non-toxic, organic cleaners. Therefore, **Section 5.2.9, mitigation measure Q**, has been revised to read “The non-toxic alternative will include garden care products and non-toxic, organic cleaners when practicable.”

The Tribe does not plan on handling or selling explosives. See Response to Comment **2.21.1** for information regarding fuel storage practices on the site.

2.21.3 GENERAL CONCERNS REGARDING HAZARDS AND HAZARDOUS MATERIALS

Summary of Comments: Lloyd Iversen (I-168 and S-91) questioned, “How much fill material has been placed on this site over time?”; “How would this hamper the location of hazards?”; and “Was it clean or polluted when placed there?” The commenter also requested information regarding environmental disaster plans, for the proposed casino project and other Station Casinos projects, to respond to “ground water contamination, flooding, chemical spills, sewage spills, sewage treatment plant break down, fire, attack, terrorists, bomb threat, electrical failure, earthquake, severe weather, or any other emergency situation that might arise.” The commenter stated, “local spoken wisdom has it that there are at least two missing diesel tanks with a capacity of thousands of gallons...at or near the casino project,” and questioned how the casino project would mitigate diesel contamination. According to the commenter, “These tanks need to be found, inspected, and issues addressed in compliance with the Regional Water Quality Control Board standards, the EPA, and the Super Fund.”

Loretta Smith (I-166) asked, “How will you determine that no hazardous materials, contaminated groundwater, or dangerous situations are present to harm those on that site or those living near it?”

Commenter S-34 expressed concerns regarding the clean up of toxic materials on the Wilfred site; while commenter S-8 expressed concern regarding a contaminated site near a proposed quarry site.

Response: According to historical documents and analysis of historical aerial photos going back to 1953, no fill materials have been brought onto the project site. Comment I-168 and S-91 is noted and

made part of the public record. **Section 2** of the FEIS has been revised to state that security staff will be trained for natural disaster response.

Groundwater contamination within the project area, although not likely according to hydrological studies and hazardous materials assessments, is dealt with according to accepted EPA protocols. The protocols do not require an environmental disaster plan. Accepted protocols include groundwater extraction and treatment systems, hydrological assessments and delineation of source contamination, and possible human health risk assessments. Depending on the nature of contamination, several technologies are available for treating affected ground water. These include thermal oxidizers and scrubbing systems and granular activated carbon (GAC) filters that remove halogenated volatile organics, solvents, and filtering systems. Mitigation included in **Section 5.2.2** includes a ground water monitoring program to assess impacts to ground water.

The commenter is referred to the Federal Emergency Management Agency (FEMA) for regional flood disaster plans. **Section 2** of the FEIS has been revised to state that security staff will be trained for natural disaster response.

No bulk chemicals will be stored within the Casino facility; therefore, it is not prudent to prepare a disaster plan that would address chemical spills within the Casino. For the proposed wastewater treatment plant (WWTP), a weak (5% strength) solution of sodium hypochlorite would be used to clean or inhibit biogrowth in the immersed membranes used to filter out solids. Sodium hypochlorite would be stored in a 55-gallon drum, within a chemical spill containment area inside the wastewater treatment plant building. Citric acid is purchased in dry form in 40-pound sacks. A 50-gallon mixing tank inside the wastewater treatment plant would be used to prepare the liquid citric acid solution. Both the sodium hypochlorite and the citric acid are pumped directly to a chemical dip tank when required for use. Chemicals associated with the WWTP will be addressed in a Hazardous Materials Business Plan (HMBP) or equivalent document that addresses emergency response and employee training in first aide, in the event a spill were to occur that compromises the containment vessels that the chemicals are stored in. The presence of these chemicals does not pose a risk to the public that would warrant the preparation of a disaster plan. If a breakdown of the WWTP occurs, a release of raw sewage would not occur because of the design and redundancy of the WWTP. A WWTP Contingency Plan will be prepared to analyze any possible failures to the system and describe the containment measures that will be part of the WWTP design. The FEIS has been updated to include recommended mitigation for a HMBP and Contingency Plan for the WWTP. Comment I-168 and S-91 is noted and made part of the public record.

In an emergency such as a fire, attack, terrorists, bomb threat, electrical failure, earthquake, severe weather, the primary law enforcement and fire suppression/emergency medical providers would be the same as those under non-emergency circumstances. Tribal security would be trained in certain

emergency procedures. **Section 2** states that certain members of security staff would be trained to operate emergency generators and use emergency medical equipment, including defibrillators. **Section 2** of the FEIS has been revised to state that security staff will be trained for natural disaster response.

As stated in **Section 2.2.5**, standards no less stringent than those set forth in the Uniform Building Code, including all Uniform Fire, Plumbing, Electrical, Mechanical, and related Building Codes, as adopted, amended, and incorporated into the Rohnert Park Municipal Code shall be incorporated in the building design. Adherence to building codes would reduce the risk of harm to individuals during an earthquake, fire, or severe weather. Disaster plans for terrorist attacks; bomb threats and electrical failure are not within the realm of potential environmental impacts that would be evaluated through the NEPA process. Please see Response to Comment 2.10.24.

Locations of missing tanks and toxic materials have never been disclosed or identified within the alternative sites. If USTs are found on-site during either construction or operation of the Proposed Project, the USTs will be removed through regulatory oversight of the USEPA and the RWQCB. Diesel fuels from 1945 would have degraded in the 60 years since the Cotati Airfield was active through natural attenuation. The area of the former Cotati Airfield does not include the project site. Tanks were never identified on the site and an investigation into the presence of such tanks and other hazardous materials revealed no evidence of underground tanks or other hazardous materials (see **DEIS Appendix S**).

The DEIS analyzed the potential for the adjacent former Naval Auxiliary Air Station Outer Landing Field Cotati (NAAS OLFC) to have an adverse impact on development of the proposed casino and the alternative developments on the Wilfred and Stony Point Sites. Part of the information that was used for this analysis was the Records Research Report (RRR) prepared on behalf of the U.S. Army Corps of Engineers (USACE). The purpose of the RRR is to support the Defense Environmental Restoration Program (DERP) for Formerly Used Defense Sites (FUDS) for the Former Naval Auxiliary Air Station Outer Landing Field Cotati, California (hereafter referred to as “Former NAAS OLF Cotati”). The RRR found no records of fuels, solvents, and ordinance being stored on the NAAS OLFC. Additionally, no records were found that would indicate the possibility of gross contamination on the NAAS OLFC. As a result, no additional investigations were recommended by the USACE. Prior to the former NAAS OLFC being developed Phase I and Phase II Environmental Site Assessments were performed on various portions of the NAAS OLFC property. All of the previous Phase I and Phase II investigations are included in **Appendix S** of the DEIS. These previous investigations were reviewed during preparation of the DEIS and the conclusions were used to evaluate the existing environment. None of these investigations revealed evidence that a release of fuels occurred because of operations at the NAAS OLFC. As a result, the properties that were part of the NAAS OLFC were developed. Furthermore, any undiscovered fuels that would have been

released 62 years ago because of operations at the former Navy airfield would have likely degraded through natural attenuation.

The process that is used to determine if hazardous materials contamination, contaminated groundwater, or other dangerous situations are present on the site include regulatory agency file reviews, site visits by hazardous materials specialists, review of historical information including historical aerial photos, and interviews of property owners and tenants. Phase I and Phase II site assessments for adjacent properties were performed prior to development. Additionally, Phase I site assessments were performed on the site. No records of a release of hazardous materials on the site were found during preparation of the Phase Is. Additionally, no physical indications of hazardous materials were found on the site (see DEIS **Appendix S**).

2.21.4 HAZARDOUS MATERIALS CLEAN-UP

Summary of Comments: Annette Elder-Evins (G-27) requested that the Tribe consider cleaning up possible contaminants from the previous munitions dump near the proposed development on the Wilfred and Stony Point sites.

Marilee Montgomery (B-33) stated that there are unresolved hazardous materials issues at the proposed site, and that the Department of Defense could be determined to be the responsible party for clean up. According to Montgomery, these concerns were shared by the Department of Toxic Substances Control (DTSC), and were not addressed in the DEIS per her request in a previous letter submitted during the scoping process.

Marc Seeley (I-84) expressed concern with the lack of proper address towards the plume of contaminated groundwater in the area, and the possibility of contaminants from previous military actions in the area.

Lloyd Iversen (I-168 and S-91) requested the following: a spreadsheet describing the costs associated with MTBE cleanup; information regarding “what other communities have spent cleaning up MTBE or military pollution which the proposed site seems to have;” a detailed description of “the relationship between MTBE, other chemicals, and the feasibility of ever being able to completely clean it up;” analyses of the groundwater and soil systems in other locations of MTBE pollution, examining the similarities and differences as compared to the groundwater and soil systems in the project area; a list of “all zoetrope’s of MTBE and water;” and an explanation of how MTBE could change the balance of the ecosystem.

Response: There are no records of a munitions dump on or near the Wilfred or Stony Point sites. According to historical information, a firing range was present on the NAAS OLFC. The firing range was used temporarily to sight airplane machine guns during the 2 years that the NAAS OLFC was

operational. No records of explosive ordinances being stored on NAAS OLFC were found during the preparation of the USACE Records Research Report (RRR). The RRR was reviewed during the preparation of the DEIS. No records of fuels being stored on the NAAS OLFC were found during the preparation of the DEIS. Additionally, no ammunitions dumps were identified. Soil sampling was performed in the area of the sites where incidental casings and bullets from the airplane firing range might have be located. The results of the soil sampling are included in **Section 3.10.2**. Of all the constituents that were sampled for, none were above a regulatory threshold that requires further investigations.

A cost analysis of MTBE clean up has no merit in this FEIS. So far, MTBE contamination at the gas stations on Redwood Avenue has been limited to those sites and not the project site. There is no evidence that any MTBE has migrated towards the project site. A detailed hydrological study has been prepared that included groundwater quality analysis. During project development if undiscovered contamination is found under the site, all work will stop and the appropriate regulatory agency will be contacted to define a proper course of action. Stopping work in the event that undiscovered contamination is found is included as mitigation in **Section 5.2.9** Mitigation Measure M in the DEIS.

2.21.5 CONCERNS OF STATE AGENCIES

Summary of Comments: Eunice Edgington (I-100) stated, “The concerns of Cal/EPA, Department of Toxic Substances Control, are not addressed in the DEIS.”

Response: No comment letters were received from Cal EPA Department of Toxic Substances Control during the comment period; therefore, the concerns of the commenter cannot be addressed.

2.21.6 CONCERNS REGARDING COTATI MILITARY BASE

Summary of Comments: Lloyd Iversen (I-168 and S-91) questioned whether there is “a possibility of spent or un-spent weapons or hazardous waste on the Casino Project site,” and how such hazards would be mitigated; and stated, “A complete study of all the related information to the military activity needs to be undertaken.”

Commenter S-34 stated that two letters from the Department of Toxic Substances indicated the possibility of toxic waste on the Wilfred site.

Response: Please see Responses to Comments 2.12.3 and 2.21.5.

2.21.7 ROCK QUARRY HAZARDOUS MATERIALS IMPACTS

Summary of Comments: Commenter S-8 commented on the importation of rock to the proposed development site, according to the commenter a potential rock quarry that would be utilized for the development is near a toxic landfill site, “We know it has tremendous poisons in it, it has carcinogens in it and they are registered.” The commenter stated that the issues associated with this need to be addressed

Responses: The Stony Point Quarry is located within several miles of a sanitary landfill site. There is no record of a “toxic landfill site” adjacent to any of the proposed material suppliers. Any earthen materials that would be imported onto the site during construction will be analyzed to ensure no contaminated soils are imported onto the site.

2.22 VISUAL RESOURCES

2.22.1 HEIGHT OF STRUCTURES

Summary of Comments: The City of Rohnert Park (G-4) recommended that additional parking structures and the height of the proposed hotel should be considered to better allow use of surface areas (e.g. landscaping, and stormwater detention). The commenter also noted that Alternative A would be larger than existing or anticipated structures near the Proposed Project area and would constitute a significant cumulative impact. Therefore, according to the commenter, the conclusion on page 4.10-9 is incorrect and the conclusion should be revised to reflect the above statement. In addition, the commenter noted that reducing the height of the proposed structures would reduce potential impacts.

Response: As noted in the DEIS, Alternative A includes a detention basin that has been sized appropriately to reduce stormwater flows to pre-project levels. Also, additional flood storage has been added in the southern open space portion of the Wilfred site to further reduce flooding impacts (please see Response to Comment 2.5.2). In fact, more than half of the Wilfred site is slated for open space, habitat preservation/creation, vegetated detention basin, or agricultural use under the Proposed Project. Also, additional parking structures or increasing the height of the parking structures may result in additional negative visual impacts due to increased visual massings on-site. Regarding the regional visual appearance, we agree that the Proposed Project would be larger than any single commercial building in the vicinity. However, as noted in the DEIS, the commercial development in the area is extensive, including several hotels, several large “big box” retail stores (Target, Wal Mart, Home Depot), and numerous smaller retail, restaurant, and business park facilities. Thus, the placement of a large commercial establishment and hotel would be consistent in visual appearance with the existing development in the area, as stated in the DEIS. Finally, a full analysis of Alternative H has been added to the FEIS. Alternative H is a reduced intensity version of Alternative A on the Wilfred site, which includes a reduced height hotel.

2.22.2 COMPATIBILITY WITH SURROUNDING AREA

Summary of Comments: Judith Ann Nader (I-107) expressed concerned that the general appearance of the proposed casino site will look dilapidated and impoverished like Nevada and Reno. Emmons (I-148) requested a revised estimate of the visual impacts of the proposed “largest Las Vegas style gaming facility in all of California,” because, he stated, the guiding land use document (the Rohnert Park Northwest Specific Plan) was written with commercial and light industrial property uses in mind. Loretta Smith (I-166) commented that, “The scope of this development is so great as to be invasive to the rural, country, quiet, and scenic area.”

Response: In response to Nader (I-107) the cumulative visual impacts are discussed in **Section 4.12**. The DEIS states that while substantial development occurs to the east of the Wilfred site, “The Proposed Project would be attractively designed as a resort facility and, in combination with other nearby development, would not constitute a significant cumulative visual effect to an already semi-developed environment.” Furthermore, the design of the proposed alternatives is presented in **Section 2.0**.

In response to Commenter I-148, a gaming facility is by definition a commercial land use. Given that Class III gaming is not legal for non-Tribal developers to undertaking, it is unlikely that a jurisdiction will have zoned land for use specifically as a tribal casino. However, the visual analysis has attempted to assess the Proposed Project in light of the extensive development in the vicinity of the Wilfred site as well as the City of Rohnert Park’s plans for intensive commercial/industrial/residential development on the site.

In response to Smith (I-166), the proposed Wilfred and Stony Point site alternatives would be developed adjacent to, and at the edge of, surrounding development in Rohnert Park (see **Figure 3.8-9**), including a Home Depot, a WalMart, a Target, a movie theatre, several hotels, a business park with several large light industrial operations, and dozens of other commercial establishments. Moreover, as stated under Alternative G, if Alternative G is to go forward, the planned development under the NWSP (**Table 2-5**) would occur. Therefore, the analysis of compatibility of surrounding land uses for the proposed development correctly identifies the planned development if the proposed development does not go forward, leading to the conclusion that the proposed development would not have a significant impact to surrounding land uses. Noise impacts are analyzed in the DEIS in **Section 3.10** and the impacts are identified in **Section 4.10**; in addition, an environmental noise analysis report is included in **Appendix R**. As stated in **Section 4.10.1** of the DEIS, construction noise would be temporary in nature, typically occurring during normal daylight hours, and therefore, would result in a less than significant impact. However, mitigation is recommended in **Section 5.2.9** to reduce impacts from construction and operational activities.

2.22.3 LIGHT AND GLARE

Summary of Comments: Sonoma County (G-34) stated that there is no assessment in the DEIS of the impacts from lighting and glare at night, when the commenter stated, "...the most significant light intrusion will occur for any of the alternatives." Furthermore, the County stated that the mitigation provided to address those impacts are inadequate and lack the commitment necessary to assure that all off-site light is minimized, including signs for advertising. The commenter stated that a plan showing, "...light intensity levels at the edge of the property should be included to demonstrate that off-property light and glare would be at acceptable levels. The lighting conditions described in the plan should be at minimum standard to which the project proponent commits." Additionally the commenter stated that, "Photographs of similar hotels/casinos should be provided that show how the project lighting will look and how mitigation measures would reduce the impact."

Sonoma County (G-34) also stated that, "Mitigation measures presented for addressing light and glare are inadequate and vague. The DEIS should be revised to provide specific and enforceable measures."

Sonoma County (G-34) commented that the mitigation for impacts from lighting and glare are inadequate. The commenter stated that, "For analysis, the DEIS should include simulations showing nighttime views from offsite. To offset impacts, a specific lighting plan should be prepared that shows light intensity at the site perimeter. It should identify lighting in parking areas and explain how the site would be designed to minimize off site light spillage." Additionally the commenter suggested that, "A palette of allowable colors for exterior surfaces should be developed and presented as a means of reducing visual intrusions. Type of signage, signage and building lighting, and the types of illumination devices should be specified. Use of flashing or intermittent lighting signs should be prohibited. Mobile signs should be prohibited."

Sonoma County also noted that, "The DEIS provides no assessment of the lighting and glare impacts at night, when the most significant light intrusion will occur for any of the alternatives. The use of light and glare measurements does not provide the public or decisionmakers with an understanding of the magnitude of the changes in light and glare that would be caused by the illumination of an eight-story building all night, every night of the year."

Commenter I-164 noted concerns regarding the increase in light pollution from the proposed development, according to the commenters, this "Las Vegas" style lighting would diminish the nighttime dark skies that are notable in Sonoma County according to the international publication *Sky and Telescope*. The commenter noted that Sonoma County is home to the Robert Ferguson public Observatory, as well as, Timothy Ferris, a nationally acclaimed Astronomy writer. The commenter noted that area parks are used by Astronomy educators, and the Sonoma Striking Sparks program,

which gives telescopes to area children. They feel that the casino would, “deteriorate the observing conditions over a very wide and extended radius past the City of Rohnert Park premises.”

Connie Martin (I-13) is concerned with the “light pollution” to western edge neighbors and surrounding rural areas.

Response: Hotel windows are typically heavily tinted in California, substantially reducing light spillage from the hotel windows at night. Existing mitigation measures have been clarified regarding on-site lighting. A new mitigation measure has been added regarding signage that prohibits neon or flashing light signs.

2.22.4 THE AMOUNT OF OPEN SPACE ON PROPOSED DEVELOPMENT

Summary of Comments: A comment received from Lynn Cominsky (B-14), supported the proposed development and compared the amount of land (252 acres, 66 acres of which would be developed) that is proposed for development on the Wilfred site, against the amount of developed land on Sonoma State University’s campus (269 acres total), which, according to the commenter, is touted for its beauty. According to Cominsky, approximately 25 percent of the Wilfred site would consist of developed land, while Sonoma State University’s campus is approximately 50 percent developed.

Response: Comment noted.

2.22.5 IMPACTS TO THE WILFRED SITE VIEWSHED

Summary of Comments: According to a comment received from the City of Rohnert Park (G-4), the proposed development would result in an unattractive view of the casino/hotel from the south, particularly the wastewater treatment plant. The commenter continued by stating that retaining walls shown in Section C and elsewhere should be landscaped with plants to soften their appearance from outside the site and to discourage graffiti from being done on the retaining walls. **Figures 4.10-4 and 4.10-5**, according to the commenter, emphasize the visual impacts from the proposed development. Therefore, the commenter stated that an alternative design should be offered, and the FEIS should be revised to reflect the alternative including the identification of potential impacts, and mitigation provided.

It was also noted by the commenter that if Alternative E were developed on the Wilfred site, then impacts to the viewshed would be reduced, as similar development was anticipated for this area in the Rohnert Park General Plan.

Response: The wastewater treatment plant may not be unattractive to all – it may serve as a showpiece for state-of-the-art wastewater treatment facilities. For the Wilfred site, the WWTP was

located in a corner of the available land in an area that is less trafficked than other areas and the closest off-site land uses to the wastewater treatment facilities are light industrial.

Should it be desired by the Tribe to shield the wastewater treatment plant from view, portions of the plant could either be enclosed in a building, surrounded by fencing or walls, or otherwise having the view of the plant obstructed from the surrounding areas.

Regarding Alternative E, please see Response to Comment 2.4.4.

2.22.6 ROHNERT PARK MUNICIPAL CODE COMPLIANCE

Summary of Comments: The City of Rohnert Park (G-4) expressed concerns about the height of the proposed structures, and compliance with Rohnert Park's Municipal Building Codes (the City allows a maximum of 65 feet). The commenter stated that the proposed height of the hotel would not provide an appropriate visual transition between urban development to the east and rural uses to the west.

Response: As noted in the DEIS, the City's building codes would not apply on trust land. Although the visual transition would indeed be abrupt in views of the Proposed Project from the west, so would views of the planned Northwest Specific Plan commercial/industrial/residential development, even were a 65 foot height limit imposed for that development. On the other hand, the Proposed Project blends in more with existing commercial development when viewed from the east (as shown in views from US-101 added to the FEIS), rising just slightly above existing commercial development along US-101.

2.22.7 LOSS OF PRIVACY FOR NEARBY RESIDENCES

Summary of Comments: Diane Nelson of Rohnert Park (I-173) noted that the proposed casino complex would include a building more than 65 feet high, creating a possible invasion of local residents' privacy by casino/hotel guests. Nelson asked:

- Exactly how many windows will the casino have, at what elevations, in what directions will they face and how large will they be? Will the windows open?
- Exactly what homes will have their privacy invaded and to what extent? Will the casino guests be able to see entire backyards and into the homes themselves?
- What studies will the casino conduct to determine the extent of the invasion of privacy?
- How will the residents be involved in those studies?
- What mitigation does the casino propose in order to maintain residents' privacy?
- How will the residents be included in the type of mitigation to be completed?
- What will the casino do if the residents do not approve of the type of mitigation proposed by the casino?

- Who will pay for the project?
- Who will pay to upkeep and repair the project over time?
- If the windows on the casino building can open, what is to stop guests from hurling objects into the yards of the residents?
- If the type of mitigation is to be built on the residents' property, will the Graton Rancheria carry insurance in case someone is hurt involving that mitigation?
- If the mitigations are agreed upon, who and how will they be enforced if the casino fails to complete them?
- How will the tribe determine the loss in property value due to the invasion of privacy? How will the tribe determine the loss of property value due to the mitigation itself?
- What if the residents do not agree with the tribe's findings on the loss of value?
- How will the residents be compensated for their loss of property value? How will they be immediately compensated? How will they be compensated if they should sell their property?
- Is the Graton Tribe ready to relinquish, fully and completely, their right to sovereignty? Will the Tribe obey all state, local, and federal laws and regulations?

Response: As shown in the DEIS, the Proposed Project's hotel tower would be located a substantial distance away from any residences, much too far to "hurl" anything onto neighboring properties. Thus, even if privacy can be termed an environmental impact subject to NEPA, it should not be an issue for the Proposed Project. The Tribe will pay for the project with the assistance of its development partner, SC Sonoma Development. The Tribe will pay, and has every incentive to, upkeep and repair the project over time. Regarding the enforceability of mitigation measures, please see Response to Comment 2.16.3. Regarding impacts to property values, please see Response to Comment 2.9.11.

2.22.8 GENERAL CONCERNS REGARDING IMPACTS TO VISUAL RESOURCES

Summary of Comments: Sonoma County (G-34) submitted the following general concerns regarding the potential impacts of the proposed development on visual resources.

- The DEIS does not provide a reasonable analysis of lighting and glare that discloses the impacts to off-site locations. The commenter stated that, as a result, the DEIS fails to explore or provide necessary mitigation measures.
- The visual impacts of the Proposed Project, including its size, mass, design, lighting and glare, signage, are major problems that will affect the surrounding community. The project would be visible from local streets, road, and residences over a large area, as well as, US 101. According to the commenter, the size of the structure alone would dominate any existing or future development both the rural and urban community surrounding the proposed development.

- The proposed development would not remotely resemble the existing commercial development in the area or what is likely to occur in the future without the casino.
- In some of the figures provided in the DEIS the proposed development appears relatively small and at a considerable distance from the viewpoint in the figure. However, the commenter noted that in others, the proposed development is very dominant and overshadows everything else in the vicinity. Yet, the commenter stated, the DEIS fails to describe these differences in a way that allows alternatives to be compared. The commenter stated that, “Since the building design in the photographs lacks any design sensitivity, it would be appropriate for the Tribe to agree to submit its building plans to the County Design Review Committee, or to the City if the property is annexed to Rohnert Park.”

The County also stated that the DEIS is, “...virtually devoid of any cumulative visual impact analysis,” which the commenter stated is important when considering existing and future commercial development in the City. The commenter noted that, “This is a problem that runs throughout the visual section there is no meaningful analysis.”

The City of Cotati (G-31) stated with regard to **Figures 4.10-1 and 4.10-5**, “These photo simulations emphasize the fact that the Proposed Project would have a large visual impact, and this should be recognized in the DEIS.” The commenter requests that an alternative design be offered, and that associated impacts and mitigation should be presented in the EIS.

Individual commenter I-90 noted the design elements the Tribe has agreed to reduce impacts to visual resources.

Lloyd Iversen (I-168) questioned how “visual value” might be diminished by the casino project.

Loretta Smith (I-166) asked, “How will you maintain the quiet, rural, country open space aesthetics? How will you protect the area from the disturbing glare of lights 24 hours a day?”

Commenter S-9 expressed concerns of views of the proposed development from his property.

Response: Lighting and glare mitigation measures attempt to eliminate off-site light spillage. Thus, impacts to off-site locations are taken into consideration in the DEIS. Views of the Proposed Project from US-101 have been added to the FEIS to provide additional analysis and perspective. As shown in these views and DEIS views, the Proposed Project does resemble existing commercial development in the area. The DEIS provides 25 viewshed photos of the various alternatives from viewpoints close to and far from development areas in order to provide the perspective and comparative aspects that the commenter claims is lacking. All viewshed photos are keyed to a master figure that shows the exact location from which the photo was taken allowing the reader to make

his/her own conclusions about the relative size of the Proposed Project given the distance from the view point. Rough renderings are provided in **Section 2.0**. Construction level of detail is typically not provided during NEPA environmental review, nor is it necessary to assess environmental impacts. The cumulative section includes many references to existing and planned cumulative development in the area, which were utilized in assessing the cumulative visual fit of the Proposed Project.

In response to the City of Cotati's comments (G-31), the visual impacts of each alternative has been fully disclosed in the DEIS. An alternative design (Alternative H) has been fully analyzed in the FEIS.

2.22.9 DESCRIPTION OF THE VISUAL IMPACTS OF THE ALTERNATIVES FROM THE PROPOSED DEVELOPMENT

Summary of Comments: Sonoma County (G-34) commented that the EIS must provide a better description of the differences of the various alternatives, rather than make overly broad statements about the significance of the impacts. "For example, the view of Alternative A from Wilfred Avenue depicts a large and dominant structure that overwhelms the view. The same alternative, when viewed from the Southwest, is entirely different. Similarly, the smaller structures in the business park alternative result in a different visual impact than the alternatives with taller structures when compared from the same viewpoints." The County stated that accurate simulations from key viewpoints off-site should be provided, showing with and without project conditions.

Response: The differences between the alternatives can be clearly discerned by a comparison of the figures in DEIS **Section 4.10**. The reason for the different distance views is to provide perspective from different view points. For example, Figure 4.10-1 shows a fairly close up view of Alternative A from Wilfred Avenue. Figure 4.10-7 similarly shows a fairly close up view of Alternative B from Wilfred Avenue. Other figures show more distant views of these alternatives. A detailed visual comparison of the alternatives can be gained by viewing the various viewshed figures. Different alternatives are shown in different locations in **Section 4.10**. Thus, it is not possible for them to all be presented at the same scale from surrounding viewpoints – to do so would distort the view of the various alternatives.

2.22.10 VISUAL IMPACTS FROM THE EXPANSION OF EXISTING ROADWAYS

Summary of Comments: Sonoma County (G-34) commented that the discussion of visual impacts from the expansion of existing roadways on page ES-100 does not describe or analyze those impacts. According to the commenter, the DEIS should be revised to specify the impacts and describe required mitigation measures.

Response: As described in the DEIS on page ES-100 and in **Section 4.11.2**, expanded roadways would conform to modern design standards and would be landscaped to suit the settings. Thus a less than significant effect would occur.

2.22.11 COMPATIBILITY WITH SONOMA COUNTY'S LAND USE REGULATIONS

Summary of Comments: Sonoma County (G-34) stated that the proposed development under Alternative A is inconsistent with Sonoma County's land use regulations and any visual regulations that may apply. According to the commenter, "The height and bulk of the Proposed Project far exceeds anything that has been or would likely be build [sic] in the area."

Response: The discussion of the regulatory setting for land use and zoning designations surrounding the Wilfred and Stony Point sites in **Section 3.8** accurately describes the relationship between the proposed development in addition to applicable land use goals and policies. As stated in **Section 3.8**, approximately 182 acres in the southwestern portion of the Wilfred and overlapping a portion of the Stony Point site are outside of the Rohnert Park sphere of influence. However, as stated in **Section 3.8**, the portion of the Wilfred site that would be developed is planned for annexation into the City of Rohnert Park.

This area has a community separator land use designation which has two goals established by the County that apply to this designation. The proposed development is consistent with the two applicable goals, Goal LU-5 and OS-1, and therefore the proposed Wilfred site development would comply with the land use regulations and visual regulations applicable to the community separator designation (for a detailed discussion of the compliance of the proposed alternatives with the Sonoma County General Plan see **Table 4.8-3**). The applicable zoning districts for the Wilfred site are described in **Section 3.8**. Also, please see Response to Comment 2.13.2. Furthermore, Sonoma County visual regulations would not apply to the proposed development under Alternative A due to reasons stated above.

The statement made by the County that the "height and bulk of the proposed development far exceeds anything that has been or would likely be built in the area" is subjective and inaccurate. As stated above, the EIS assumes in **Section 3.8**, that the Sonoma County General Plan, Sonoma County Zoning Regulations, City of Rohnert Park General Plan and Northwest Specific Plan comprise the regulatory framework for analysis of the visual impacts.

As stated in **Section 4.10** regarding the consistency of the proposed building design components with the Sonoma County General Plan, "The Open Space element identifies the need to preserve the visual identities of communities by maintaining open space areas between cities and communities. Alternative A would encroach development within the Community Separator in seeming contradiction of this need. However, the Alternative A development area is also located within the

Northwest Specific Plan area, within the City of Rohnert Park's sphere of influence, and is currently planned for intensive development." The EIS also states, "In addition, the visual appearance of a regional commercial activity would be consistent with the regional commercial activities just east of the Wilfred site, along Redwood Drive and US-101." Thus, Alternative A would result in a less than significant impact to visual resources.

The EIS also addresses the cumulative impacts of the proposed development when compared to planned future development projects in **Section 4.12**. Of those projects, the proposed Sonoma Mountain Village Project (approximately 175 acres of planned development) designates 74.2 acres for Mixed Use development, that would include 892 residential units, and 18,750 sq. ft. of retail space; and, 42.1 acres of High Density Mixed Use, with 601 housing units, 289,000 sq. ft. of office space and 82,500 sq. ft. of retail space; moreover this development has designated 25,000 sq. ft. of space for entertainment venues. Additionally, a large hotel is being developed near the Wilfred/Dowdell area on Redwood Drive. As indicated in **Section 4.10** and re-stated above, the proposed development would be consistent in its visual appearance and analysis of cumulative regional commercial activity, and would be consistent with regional commercial activities east of the Wilfred site along Redwood Drive and US-101.

2.22.12 AESTHETIC VALUE OF THE ALTERNATIVE SITES

Summary of Comments: Sonoma County (G-34) commented that the DEIS falsely stated the aesthetic value of the Wilfred site. However, according to the commenter, the Sonoma County General Plan designated the site as a significant Scenic Resource. The commenter continued, "The DEIS makes similar incorrect statements regarding the other alternatives. These failures preclude a meaningful analysis and comparison of the visual impacts among the alternatives."

Response: A reference to the Wilfred site as a significant Scenic Resource has not been found in the Sonoma County General Plan. Section 2.1 of the County Open Space General Plan Element does state that community separator lands, "may not necessarily be highly scenic in their own right, but provide visual relief from continuous urbanization and are a special type of scenic border..." Section 2.1 continues with further discussion about the Rohnert Park/Santa Rosa separator: "Rural development now limits the visual separation, but urban development along this corridor would block views of the mountains and create a more intense urban form." Additional language regarding the Rohnert Park/Santa Rosa Community Separator has been added to FEIS **Section 3.10**. In response to comments, views from US-101, which does have scenic status, have been added to the FEIS. It is difficult to respond to the unspecific claims regarding other incorrect statements. Should the County alert us to an incorrect statement, it will be corrected in the FEIS.

2.22.13 VISUAL RESOURCE IMPACT ANALYSIS CRITERIA

Summary of Comments: Sonoma County (G-34) stated that, “The DEIS’ visual resource analysis identifies four criteria for use in assessing the impact of the project and its alternatives, but then fails to apply these criteria in the analyses.” The commenter continued, “Each alternative should be described in terms of its visual impact based upon the criteria and then compared to each of the alternatives using the same criteria.”

Response: These criteria were applied throughout the DEIS visual analysis and discussed where relevant. The FEIS has been revised to include additional references to these criteria in the analysis.

*Attachment 1- Correspondence Regarding the
Request for a Restored Lands Determination*



OFFICE OF THE GOVERNOR

May 1, 2006

Via Facsimile (202) 632-7066 and U.S. Mail

Ms. Andrea Lord, Staff Attorney
National Indian Gaming Commission
1441 L Street NW, Suite 9100
Washington, D.C. 20005

Re: Federated Indians of Graton Rancheria's Request for Restored Lands Determination

Dear Ms. Lord:

I am responding to your letter requesting the State's assistance in determining whether land near Rohnert Park in Sonoma County, California constitutes "restored lands" of the Federated Indians of Graton Rancheria (Tribe) pursuant to Title 25 United States Code section 2719(b)(1)(B)(iii) in the Indian Gaming Regulatory Act (IGRA). Thank you for extending the State's time to comment until May 1, 2006.¹

We do not dispute that pursuant to the Graton Rancheria Restoration Act of 2000 (25 U.S.C. § 1300n et seq.; Restoration Act), Congress restored federal recognition for the Tribe, and all rights and privileges of its members that were diminished or lost under the California Rancheria Act of 1958 (Pub.L. No. 85-671, 72 Stat. 619). (25 U.S.C. § 1300n-2(a)-(b).) Also, the Restoration Act's mandatory land acquisition language (see 25 U.S.C. § 1300n-3(a)) supports a conclusion that establishing a reservation in Marin or Sonoma Counties is part of the Tribe's restoration process and, accordingly, such lands become the Tribe's "restored lands" within the meaning of IGRA. The Restoration Act, however, clearly limits the lands eligible for restoration.

¹ The State is currently awaiting responses from various federal agencies to requests for records under the Freedom of Information Act (FOIA) (5 U.S.C. § 552 et seq.) that are relevant to this analysis. The State reserves the right to submit supplemental comments or supporting material as additional information becomes available.

Ms. Andrea Lord, Staff Attorney
May 1, 2006
Page 2

Specifically, the Restoration Act restricts eligible lands to unencumbered "Indian owned fee land" held by distributees or dependent members identified in the 1959 distribution plan, or those persons' heirs or successors in interest. (25 U.S.C. § 1300n-3(a)-(b).) County records indicate the land is currently owned in part by SC Sonoma Development LLC, a subsidiary of Station Casinos and the Tribe's gaming development investor, and Redwood Equities Investment LLC. Therefore, the subject land does not appear to be immediately eligible for mandatory trust acquisition under the Restoration Act.

Additionally, we note that large portions of the proposed trust acquisition are subject to land use restrictions set forth in the California Land Conservation Act (Govt. Code, § 51200 et seq.), otherwise known as the Williamson Act. It appears the portion of the property on which the Tribe proposes to build the gaming facility is not subject to a Williamson Act contract, but the remaining portion, which the Tribe indicates it will use for environmental mitigation purposes, is subject to the Act. The State has recently been provided a copy of the Tribe's fee-to-trust application, but has not had a chance to review it to determine whether the Williamson Act contract restrictions have been addressed. During the fee-to-trust application process, the State would appreciate the opportunity to comment on this matter to the Bureau of Indian Affairs.

Thank you for considering our comments on the matter.

Sincerely,


ANDREA LYNN HOGG
Legal Affairs Secretary

cc: Penny Coleman, Acting General Counsel, NIGC
Philip Hogen, Chairman, NIGC
Clay Gregory, Regional Director, BIA
Greg Sarris, Chairperson, Federated Indians of Graton Rancheria
John Maier, Esq.

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May 24, 2006

Via Facsimile (202) 632-7066 and U.S. Mail

Ms. Andrea Lord, Staff Attorney
National Indian Gaming Commission
1441 "I." Street NW, Suite 9100
Washington, DC 20005

Re: Federated Indians of Graton Rancheria's Request for Restored Lands
Determination

Dear Ms. Lord:

On behalf of the Federated Indians of Graton Rancheria ("Tribe"), we are responding to the May 1, 2006, letter from the California Governor's Office to you concerning the above-referenced matter. While we agree with the Governor's Office that the Graton Rancheria Restoration Act, PL 106-568 ("Graton Restoration Act"), which restored the Tribe's federally recognized status, grants the Tribe the right to re-establish a reservation in Marin or Sonoma Counties and that these "restored lands" would thus be eligible for gaming under the Indian Gaming Regulatory Act, we take exception to the third paragraph of the May 1 letter. Although, the practical effect on the Tribe is negligible, we nevertheless feel compelled to respond.

In particular, the third paragraph posits the proposition that the Act requires that any land taken into trust on behalf of the Tribe, at the time the transfer occurs, must be land whose fee title is held by "distributees or dependent members identified in the 1959 distribution plan, or those persons' heirs or successors." While the Tribe has tribal members who are in this class of persons and who would readily accept title to the land, and then immediately transfer such title to the United States to hold the land in trust for the benefit of the Tribe, there is no reason in law or reason why the transfer must follow these steps. The transfer may be effectuated directly from the owner of the property, whomever that may be, directly to the United States.

The Tribe's position is supported by a plain reading of the Graton Act and the legislative history of the Auburn Indian Restoration Act, P.L. 103-434, which contains, in all relevant aspects, identical language to the later-enacted Graton Restoration Act, as well as court decisions that support a plain reading of the Act.

We address each of these contentions below:

1. Plain Reading of the Act

Section 1405 of the Graton Restoration Act contains three sub-sections, (a) (b) and (c). Subsection (a) provides:

(a) **LANDS TO BE TAKEN INTO TRUST.** -- Upon application by the Tribe, the Secretary shall accept into trust for the benefit of the Tribe any real property located in Marin or Sonoma County, California, for the benefit of the Tribe after the property is conveyed or otherwise transferred to the Secretary and if, at the time of such conveyance or transfer, there are no adverse legal claims to such property, including outstanding liens, mortgages, or taxes.¹

The only terms of limitation contained in subsection(a) require that the property transferred or conveyed may not have outstanding liens, mortgages, taxes owing or adverse legal claims. Subsection (a) does not require that the title holder, at the time of conveyance or transfer to the Secretary, be the Tribe, a tribal member, or any other named person or entity.

Subsection (b), which appears to be the source of confusion, provides a mechanism whereby lands that were distributed to individual members when the original reservation was terminated can be returned to trust by those Indians who were distributees, or their dependents, heirs or successors in interest, and provides:

(b) **FORMER TRUST LANDS OF THE GRATON RANCHERIA.**-- **Subject to the conditions specified in this section,** real property eligible for trust status under this section shall include Indian owned fee land held by persons listed as distributees or dependent members in the distribution plan approved by the Secretary on September 17, 1959, or such distributees' or dependent members' Indian heirs or successors in interest.² (emphasis added)

Subsection (b) allows lands that were formerly distributed pursuant to the Tribe's termination (i.e. the former Graton Rancheria lands) to be returned to trust status if those lands are held by the limited class of persons described in subsection (b). However, the provisions of subsection (b) are subject to the conditions of the entire section, which would include the conditions set forth in subsection (a). Those conditions require that the former Rancheria lands be free of liens, mortgages, taxes and adverse legal claims. Arguably, the provision that the former Rancheria lands be located in either Sonoma or Marin Counties may also be viewed as a term of limitation on subsection (b). However, whether or not that phrase is a term of limitation operating on subsection (b) is of little

¹ Section 1405(a), 25 U.S.C. § 1300n-3(a).

² Section 1405(a), 25 U.S.C. § 1300n-3(b).

moment because the tiny, former 15.5-acre Graton Rancheria was entirely located within Sonoma County, and subsection (b), by its own terms is limited to former Rancheria lands.

Somehow, without support or authority, the Governor's Office has completely turned subsections(a) and (b) around, and has read into subsection (a) the requirement that the lands transferred or conveyed pursuant to that subsection are subject to the limitations of subsection (b). Yet there is no language anywhere in the Act that supports this interpretation. Certainly, if subsection (a) contained the subsection (b) phrase, "subject to the conditions of this section," there might be some justification for the Governor's Office's reading of the Act, but subsection (a) contains no such language and stands on its own. Instead, subsection (a) simply provides that the Secretary, upon application by the Tribe, and only the Tribe, shall take any land located in Sonoma or Marin Counties into trust if it is not subject to liens, mortgages, taxes, or adverse legal claims. Thus, even if title to the land was held by a member of the class of persons described in subsection (b), it still would require the Tribe to make that request of the Secretary. There simply is no support for reading into subsection (a) the requirements of subsection (b).

The strained reading of the Graton Restoration Act by the Governor's Office, requiring a meaningless pass-through of title through a member of subsection (b) class, also contradicts the canons of construction that are applied to statutes enacted for the benefit of Indians and Indian tribes. It is well settled that such statutes are to be construed liberally in favor of Indians or Indian tribes. Because the Graton Restoration Act was enacted to right a historical wrong for the benefit of the Tribe, the Indian canons of construction require the Act to be construed liberally in favor of the Tribe. See City of Roseville v. Norton, 348 F.3d 1020, 1034 (D.C. Cir. 2003) as discussed below.

2. Indirect Legislative History

In all relevant aspects, the land restoration provisions of the original Auburn Indian Restoration Act³ are identical to Section 1405 of the Graton Act, and provide as follows:

§ 13001-2. Transfer of land to be held in trust

(a) LANDS TO BE TAKEN IN TRUST.--The Secretary shall accept any real property located in Placer County, California, for the benefit of the Tribe if conveyed or otherwise transferred to the Secretary if, at the time of such conveyance or transfer, there are no adverse legal claims on such property, including outstanding liens, mortgages, or taxes owed. The Secretary may accept any additional

³ Pub.L. 103-434, Title II, § 202, Oct. 31, 1994, 108 Stat. 4533, 25 U.S.C. § 13001.

acreage in the Tribe's service area pursuant to the authority of the Secretary under the Act of June 18, 1934 (25 U.S.C. 461 et seq.).⁴

(b) FORMER TRUST LANDS OF THE AUBURN RANCHERIA.--Subject to the conditions specified in this section, real property eligible for trust status under this section shall include fee land held by the White Oak Ridge Association, Indian owned fee land held communally pursuant to the distribution plan prepared and approved by the Bureau of Indian Affairs on August 13, 1959, and Indian owned fee land held by persons listed as distributees or dependent members in such distribution plan or such distributees' or dependent members' Indian heirs or successors in interest.

(c) LANDS TO BE PART OF THE RESERVATION.--Subject to the conditions imposed by this section, any real property conveyed or transferred under this section shall be taken in the name of the United States in trust for the Tribe or, as applicable, an individual member of the Tribe, and shall be part of the Tribe's reservation.

The only differences between the Graton Restoration Act and the earlier Auburn Indian Restoration Act, are that, under subsection(a), the Auburn tribe may also take lands into trust under the provisions of the Indian Reorganization Act, and, under subsection(b), the Auburn Act allows Indian owned fee land held communally through the White Oak Ridge Association to be returned to trust as well. No such provision is included in the Graton Restoration Act because no communally held Indian lands existed on the Graton Rancheria post-termination.

The House Report, accompanying the Auburn Indian Restoration Act, is considerably more detailed than the House Report accompanying the later-enacted Graton Restoration Act, and unequivocally states:

The Committee notes that **the tribe** is authorized to acquire land and to have it placed in federal trust status.⁵ (emphasis added)

The report goes on to discuss that **new** lands can be acquired by the Tribe, not by individuals, and put into trust, and that distributees have an independent right to return their former trust lands, now held in fee lands to individual trust status. Of course, this was the intent of Congress in enacting restoration legislation, and the language Congress used in both the Graton and the Auburn Restoration Acts.

⁴ A 1996 amendment to subsection substituted "may" for "shall." Public Law 104-122.

⁵ H.R. Rep. 103-812, p. 22.

3. Court Decisions

In City of Roseville v. Norton, 219 F. Supp.2d 130 (2002), *affirmed by City of Roseville v. Norton*, 348 F.3d 1020 (D.C. Cir. 2003), the City of Roseville and others sued the Secretary for deciding to take fee lands into trust for the Auburn Rancheria pursuant to subparagraph(a) of the Auburn Indian Restoration Act. In rejecting the plaintiffs' claims, the court wrote:

Plaintiffs argue that subsection (b), by its terms, must be read as defining the full extent of any restored lands. Subsection (b) governs the acceptance into trust of "former trust lands of the Auburn Rancheria." 25 U.S.C. § 13001 -2(b). It directs the Secretary to take in trust any lands owned in fee by the White Oak Ridge Association, by "distributees," their dependents and successors in interest, or held communally.

However, the Court has determined that "restoration of lands" denotes a restitution to the Tribe of a land base. The Court looks to the Auburn Indian Restoration Act as a guide in determining what lands Congress intended should be considered as lands sufficient to restore the UAIC to its previous position. Subsection (b) can hardly be read as a provision reestablishing a land base for the UAIC.⁹

The clear intent of subsection (a) is to restore a land base to the Tribe, and the Court looks to this subsection to identify the scope of the "restoration of lands" to the UAIC.

⁹ The Court need not reach the Tribe's argument that subsection (b) applies only to the Secretary's ability to hold lands in trust in the name of individual members of the Tribe, and not to her ability to accept lands in trust for the Tribe. Subsection (b), by itself, is clearly insufficient to satisfy the Congressional goal of restoring a land base to the Tribe.

City of Roseville, 219 F. Supp.2d at 161.

In upholding the lower court's decision, the D.C. Circuit Court held:

Finally, were there any remaining doubt that Congress intended IGRA's "restoration of lands" exception to be read broadly, to encompass more than a tribe's former reservation as of the date of the termination of its federal recognition, the Cities appear to appreciate that their interpretation would not prevail. The Indian Canon of statutory construction would resolve any doubt. The Supreme Court has on numerous occasions noted that ambiguities in federal statutes are to be read liberally in favor of the

Letter to Andrea Lord

May 24, 2006

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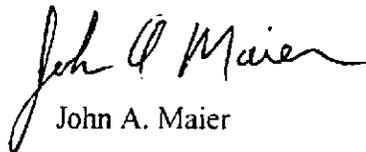
Indians. See generally County of Yakima v. Confederated Tribes & Bands of Yakima Indian Nation, 502 U.S. 251, 269, 112 S.Ct. 683, 693-94, 116 L.Ed.2d 687 (1992); Montana v. Blackfeet Tribe, 471 U.S. 759, 766, 105 S.Ct. 2399, 2404, 85 L.Ed.2d 753 (1985). IGRA is designed to promote the economic viability of Indian Tribes, and AIRA [the Auburn Indian Restoration Act] focuses on ensuring the same for the Auburn Tribe. In this context, the Indian canon requires the court to resolve any doubt in favor of the tribe.

City of Roseville v. Norton, 348 F.3d 1020, 1032.

The same considerations, nearly exactly the same language and the same result must follow when interpreting the Graton Restoration Act.

For the reasons stated above, the Commission must also follow the plain reading of the Act and, to the extent it is relevant, not follow the State's suggestion that subparagraph (a) is limited in any fashion by subparagraph (b) of the Graton Restoration Act. Please contact me with any questions or concerns.

Sincerely,



John A. Maier

cc: Ms. Andrea Hoch, Legal Affairs Secretary, Office of the Governor (California)
Penny Coleman, Acting General Counsel, NIGC
Philip Hogan, Chairman, NIGC
Clay Gregory, Regional Director, BIA
Greg Sarris, Chairperson, Federated Indians of Graton Rancheria

Attachment 2- Individual Responses



July 25, 2007

The Honorable Lynn Woolsey
U.S. House of Representatives
2263 Rayburn House Office Building
Washington, DC 20515

Dear Representative Woolsey:

On June 5, 2007, the National Indian Gaming Commission (NIGC) received your correspondence of May 31, 2007 regarding the Federated Indians of Graton Rancheria (Graton Rancheria) Casino and Hotel Project Draft Environmental Statement (DEIS). This letter serves as the requested response.

Your letter pointed out several concerns about the pending DEIS for the Graton Rancheria project in your district. Many of your comments and concerns regarding water supply, flooding, endangered species and traffic impacts have been voiced by other individuals during the several months this project has been moving forward. Be assured, all comments are being considered and will be responded to in the Final EIS.

Thank you for contacting the NIGC with your comments. We appreciate knowing your input.

Sincerely,

A handwritten signature in black ink that reads "Shawn D. Pensoneau". The signature is written in a cursive style with a large, looping initial "S".

Shawn D. Pensoneau
Director of Congressional Affairs