CHAPTER 3.0

RESPONSES TO COMMENTS

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Responses are organized below in two sections. General comments about the project, issues that were raised by multiple commenters, and comments that have resulted in substantial alterations to the Environmental Assessment (EA) are addressed first in **Section 3.1**. **Section 3.2** provides individual responses to each of the 28 comment letters. All of the comments, which have been bracketed for ease of reference, are provided in **Section 2.0** of this document. Refer to **Table 2-1** which provides an index of all of the comments received on the EA. Once an issue is addressed, either in the General Responses (**Section 3.1**) or in an individual response to a comment (**Section 3.2**), subsequent responses to similar comments reference the initial response. This format eliminates redundancy where multiple comments have been submitted on the same issue.

3.1 GENERAL RESPONSES

3.1.1 EXTENSION OF THE COMMENT PERIOD

SUMMARY OF COMMENTS (Comment Letters 1-5, 9, 11, 12, 15, 19, 25 and 27)

Several commenters requested an extension of the original comment period. The public comment period for the EA was open for 30 days, beginning on July 30, 2009 and ending on August 31, 2009.

RESPONSE

The public comment period was extended to October 9, 2009, more than doubling the original comment period. Since the public comment period, the Tribe has purchased an additional 32.12 acres (seven parcels) discussed in further detail in **Section 1.2** of the Final EA. These seven parcels were added to the fee-to-trust application and housing project site plan alternatives. Therefore, Alternative A (Proposed Project) consists of placing a 124.14-acre site (14 parcels) into Federal trust status for the Tribe, and construction of 147 residential units and associated facilities.

3.1.2 WATER/WASTEWATER SERVICE AND WASTEWATER DISCHARGE

SUMMARY OF COMMENTS (Comment Letters 8, 10, 11, 13, 16, 20)

Various comments were received stating that discharge from an on-site wastewater treatment plant would pose a threat to the local water quality. The Regional Water Quality Control Board (RWQCB) stated that

since the project is located within a watershed currently listed as impaired, the increase in wastewater discharged through project implementation would potentially increase off-site water quality impacts. Other commenters said that a connection to the Windsor sewer system should not be considered as an option for wastewater discharge. Additionally, concerns regarding connection to Town of Windsor water service were raised in the comment letters from the Town of Windsor, Sonoma County, and the Sonoma County Water Agency (SCWA).

RESPONSE

Existing conditions for the project site with regards to water resources and public services were fully described in the EA in **Sections 3.2** and **3.9**. Potential impacts of the proposed project resulting from these issue areas were fully described in **Sections 4.1.2** and **4.1.9** with proposed mitigation in **Sections 5.2** and **5.9**. Additionally, a water/ wastewater feasibility analysis for each alternative was provided as **Appendix B** in the EA. Since the publication of the EA, the Tribe has purchased an additional 32.12 acres (seven parcels) which are proposed for trust status and analyzed for environmental impacts in the Final EA. Connection to the Town of Windsor's water and sewer system is the Lytton Rancheria of California's (Tribe) preferred option (Alternative A) for water supply and wastewater disposal. This option would minimize impacts to the environment, as no on-site water supply or wastewater treatment facilities would need to be constructed and minimal facilities would be required beyond the distribution system components within the project site. The Town of Windsor would require backflow prevention facilities at the point of connection, and a meter at each connection would allow the Town to account for usage by the proposed project. Connecting to the municipal water system would also reduce potential impacts to other nearby groundwater users.

As noted in **Section 1.2** of the Final EA, five Assessor's Parcel Numbers (APNs) comprising 41.23 acres are located within the Town of Windsor's Sphere of Influence (SOI) and Urban Growth Boundary (UGB); APN 066-050-47 is the only parcel which is located within the Town of Windsor town limits. Should these parcels be taken into trust, they would no longer be under the jurisdiction of the Town of Windsor or Sonoma County. The Town of Windsor generally does not provide water and sewer services outside town limits pursuant to its General Plan; any additional service to areas outside the town limits may require town approval for the proposed connection. However, water and sewer service have been extended to areas outside the city limits in the past by the Town of Windsor, including APN 066-300-028 within the Proposed Project site. Several subdivision and commercial areas are served outside the existing service area for the Town of Windsor. These include the Airport service area, consisting primarily of commercial developments, and the Mayacama and Shiloh Estates subdivisions, located southeast of the town center. Mayacama and Shiloh service areas are served by a single connection point along East Shiloh Road (RMC, 2009). These areas are extensions of 3.5 miles or more from the town center, whereas the project site is within one mile of the town center along an existing service route.

Furthermore, connection to the Town of Windsor water and wastewater system is technically feasible. The primary water supply for the Windsor water system is a system of wells located near the Russian River to the northwest of the project site; one production well is located approximately one mile northwest of the project site (RMC, 2009). As noted in **Section 4.1.9** of the Final EA, water connection would occur at the existing 18-inch diameter main in Windsor River Road. Wastewater from the proposed project would be conveyed to the Town of Windsor Wastewater Treatment, Reclamation and Disposal Facility (WWTRDF) through the Town's existing municipal wastewater collection system. Sufficient capacity to serve the Proposed Project is currently available in the WWTRDF. A sewage pump station and approximately 3,200 feet of force main would be constructed to convey the project's wastewater to the Town's collection system. Connecting the proposed project to the WWTRDF is preferred, as it eliminates the creation of a small "stand alone" wastewater treatment facility on the project site.

As stated in the **Section 5.2** of the EA, the Tribe would be required to obtain a National Pollutant Discharge Elimination System (NPDES) permit under the federal Clean Water Act (CWA) for the proposed discharge of tertiary treated wastewater to one of two drainage locations (described in further detail in **Section 2.2.3** of the Final EA) under the surface water discharge option for Alternative B. The U.S. Environmental Protection Agency (USEPA) acts as the regulatory authority under the CWA for any discharge from a point source to a Water of the U.S. occurring on tribal trust lands. USEPA Region 9 would act as the responsible agency for issuing the NPDES permit to discharge. In a letter dated July 22, 2010 from David W. Smith, NPDES Permits Manager, Mr. Smith identified that the USEPA believes that the EA provides adequate assessment of the project alternatives and impacts (letter provided as **Appendix N** of the Final EA). Furthermore, a site visit with USEPA staff concurred with the EA's analysis for the need for the NPDES permit for proposed discharge to one of two drainages along the project site under the surface water discharge option for Alternative B. The USEPA will consider receiving water quality in determining the effluent limitations in the permit. The USEPA reiterated the need for a stream characterization and impact assessment to water and biological resources resulting from the proposed discharge. This Stream Characterization Report has been completed and is provided as **Appendix L** of the Final EA.

3.1.3 IMPACT TO ON-SITE OAK TREES

SUMMARY OF COMMENTS (Comment Letters 6, 10, 13, 21, 15-28)

Various commenters objected to impacts to on-site oak trees, the removal of which could have a significant impact on native wildlife dependent upon these trees. The various comments state that development on the site should avoid these trees, and if this avoidance is not feasible, then proper mitigation must be specified.

RESPONSE

Existing conditions for the project site with regards to biological resources and oak trees were fully described **Section 3.4** and in the Biological Assessment (**Appendix E**) for the EA. Potential impacts of the proposed project resulting from these issues were fully described in **Sections 4.1.4**, **4.2.4** and **4.3.4**, with proposed mitigation in **Section 5.4**. **Section 4.1.4** of the EA and Final EA state that "to the maximum extent possible, the Proposed Project has incorporated the mixed oak woodland, oak savannah, and riparian woodland habitats into the site design to minimize impacts to these habitats by adjusting the locations of lots and structures to avoid more pristine stands of woodlands and exceptionally large individual trees, maintain woodland corridors, and establish aesthetic woodland buffer regions around development areas." The following protective measures were proposed in **Section 2.1.9** of the EA:

1. All identified heritage trees would be preserved to the maximum extent feasible.
2. Native trees with greater than nine inches diameter at breast height (DBH) within the Sonoma County valley oak habitat (VOH) Combining District would be preserved to the maximum extent feasible.
3. Native trees with greater than nine inches DBH within mixed riparian habitats would be preserved to the maximum extent feasible.

The Final EA includes additional avoidance and minimization measures for the reduction of impacts to on-site oak trees. With the purchase of an additional 32.12 acres (seven parcels) proposed for trust status and analyzed for impacts under the Final EA, the site plans for each alternative have been modified. Site plan modifications occurred in consultation with Sonoma County to reduce impacts to on-site oak trees; approximately 25 homes were relocated from the mixed oak woodland areas in APN 066-300-023 in the site plans for Alternatives A, B and C analyzed under the Final EA. Arborist surveys were conducted of the project site between 2007 and 2009 to determine notable trees ("heritage" trees, exceeding 33 inches diameter at breast height [DBH] as defined by Sonoma County Code) and to thoroughly survey a subset of mixed oak woodland for species composition, tree density and overall health. The majority of the identified valley oaks within the County's VOH Combining District would be preserved, owing to project design and avoidance of these trees. Approximately 4,528 oak native oak trees over nine inches DBH are estimated to be located within the entire project site; of these, 1,717 trees are estimated to be impacted if construction of the largest footprint (Alternative B) would occur. Alternative B would result in the preservation of approximately 62% of oak trees within the project site. With the consideration of oak trees relative to realigned project site plans analyzed under the Final EA, approximately 292 fewer oak trees would be impacted under the Final EA (approximately 1,717 trees for Alternative B) compared to the EA (2,009 trees for Alternative B). Nonetheless, a mitigation measure has been added to Final EA **Section 5.4** that requires the re-planting of native oak trees permanently removed as a result of project construction at a 1:1 ratio. Replacement oak trees will be planted on Tribally-owned land and other parcels in the vicinity of the project site. To ensure the success of planted oak trees, the trees shall be monitored for five years, with a survival goal of 60 percent after the first three years. If determined after

the third year of monitoring that the 60 percent survival rate is not being met, additional trees shall be planted to ensure an 80 percent survival rate by the end of five years. Additionally, trees removed for construction shall be assessed by a qualified biologist to see if the removed tree would be suitable for replacement elsewhere.

An evaluation report titled "An evaluation of the effect that conversion of oak woodlands will have on the environment as a result of the proposed Lytton Residential Development" (Merenlender, 2009) was incorporated into many of the comment letters claiming that implementation of the project would produce significant impacts to oak stands and the environment and that mitigation is required for these tree losses. While this document provides a detailed outline for the evaluation of oak tree impacts under CEQA and oak woodland impacts within Sonoma County, its conclusions rely on analyses which are not fully explained, presented, or disclosed in the document for review and interpretation by the reader. In addition, a majority of the State, County and local codes referenced in the report do not apply to development on Tribal trust lands.

The Merenlender report fails to fully demonstrate the scientific criteria and methodologies relative to the impact analysis for the project as referenced in, "A Guide for Planner's to Determine Significant Impacts to Oaks as Required by SB 1334 (Public Resources Code 21083.4)." The report does not indicate that a site assessment was conducted by the author to determine the species and habitat quality onsite. Likely owing to its inclusion in the list of oak trees (*Quercus* sp.) considered protected under Sonoma County Code, Merenlender (2009) claims that Oregon white oak (*Quercus garryana*) was omitted from the botanical species list provided with the EA. Several years of biological surveys (including focused arborist surveys conducted by certified arborists and experienced botanists) did not detect this species within the project site; furthermore, the project site does not provide suitable habitat for Oregon white oak. Moreover, this report identifies the use of biological metrics for the analysis that are not presented in the document. In the determination of a significant local core area, the scientific basis and methodology for determining the "1,000 meter core area" is not provided, but rather, subjectively illustrated in Figure 1 of the report. The proposed mitigation for native trees in **Section 5.4.2** of the EA considers the overall health of the mixed oak woodland present within the project site. From an overall stand health perspective, the former grazing land use and lack of management has resulted in an overall fuel build-up because trees growing in overcrowded conditions form multiple boles, have an increased susceptibility to disease, insect infestations, and parasites (e.g., mistletoe), and have a higher incidence of storm and wind damage. These conditions are not ideal from a biological or aesthetic viewpoint.

Page 11 of the report under the heading "Magnitude of the Expected Impact to Woodlands (A-C)" indicates that "the proportion of woodland removal from the site needs quantification but appears to be over 80% of the site." This statement is speculative and inaccurate; quantification of impacts to individual trees exceeding nine inches diameter at breast height as well as overall impacts to oak woodlands was provided in the EA. As explicitly stated in **Table 4-7** of the Final EA, impacts to mixed

oak woodland are limited to 17.04 acres (32%) of the 53.59 acres total onsite; yielding a 48% error of assumption in the Merenlender report. If Merenlender (2009) assumes 80% conversion of the woodlands onsite, then the subsequent analysis of impacts and assumptions extrapolated from this determination are errant and invalid.

While many commenter's claim that the removal of oak woodlands onsite is a significant impact, a majority of the areas slated for housing are in the eastern area of the project site to avoid both woodland and slopes greater than 20 percent. To the maximum extent feasible, the project design was developed to reduce impacts to these habitats. In addition, each of the alternatives has been recently redesigned to further avoid impacts to oak trees, resulting in an approximately 10 percent reduction in impacts to oak trees compared to the EA, as described above and in **Table 4.8** of the Final EA. Nonetheless, the Tribe will replace impacted oak trees by planting replacement trees, as outlined in **Sections 5.3** and **5.4** of the Final EA.

3.1.4 TRAFFIC ISSUES

SUMMARY OF COMMENTS (Comment Letters 7, 10, 13, 16, 19, 20 and 26)

Caltrans stated that the use of the traffic model, Traffix, is inadequate. The Traffix model does not show appropriate green times or queue lengths at any of the project intersections. Caltrans further suggests that the Synchro files be included with the Final EA, including files for all alternatives in the Existing, Background, and Cumulative scenarios. Additional commenters, including Sonoma County, Town of Windsor and local residents stated that the traffic impacts analysis in the Traffic Impact Study (TIS) and EA was inadequate. Commenters stated that the TIS did not consider potential traffic impacts from increased traffic to local Town intersections, the non-residential facilities of the project site, potential safety issues, local transit, construction traffic impacts and non-vehicular traffic impacts.

RESPONSE

Existing conditions for the project site with regards to traffic and circulation were fully described in **Section 3.7** of the EA. Potential impacts of the proposed project resulting from these issues were fully described in **Section 4.1.7, 4.2.7** and **4.3.7** with proposed mitigation in **Section 5.7** of the EA. While Caltrans guidance for evaluating traffic impacts specifies the Highway Capacity Manual (on which the program Traffix is based), the traffic modeling has been expanded (see Final EA **Appendix G**) using the Synchro model at Caltrans-jurisdictional intersections as suggested. The new traffic modeling has resulted in the need for additional improvements at the Old Redwood Highway and northbound US-101 off-ramp to Lakewood Drive intersection, which include construction of an additional southbound left and right turn lanes and the re-striping of the northbound off-ramp to include a shared through-left lane. These improvements were not found to be warranted until cumulative 2030 conditions were applied, therefore they mitigate for cumulative traffic impacts. Mitigation measures in **Section 5.7** of the Final EA

have been updated to include these improvements. The Traffix model continues to be used for intersections outside of Caltrans' jurisdiction, as evident by Town of Windsor planning documents for existing plus cumulative traffic volumes (Tilton, pers. comm.). The traffic modeling files have been included in revised **Appendix G** of the Final EA.

An analysis of peak hour trips is most important to the analysis of worst case traffic-related impacts. The traffic model estimates were based on cumulative traffic data for the study area roadways and intersections provided by the Town of Windsor that considers cumulative development both within the Town of Windsor and in the surrounding areas, including Sonoma County. The traffic counts conducted would capture the effects of traffic using alternate local roads. Individual traffic impacts have been analyzed both for the near term and cumulative conditions in **Sections 4.1.7**, **4.2.7** and **4.3.7** of the EA. As noted in **Appendix G** of the EA, all residential units were assumed to generate traffic based on the rates for single-family dwellings. Events at the proposed community center would be infrequent enough that project-related increases in trips at local intersections for these events would be much less than 50 trips per intersection, and therefore do not warrant further study. Nonetheless, additional mitigation for events is included in **Section 5.9** of the Final EA to ensure a less than significant impact. An overall review of traffic operations and safety was conducted at all of the project driveways, including the two project site driveways to be located along Windsor River Road near Eastside Road. The review indicated the project would not result in any significant traffic safety or operational problems at any of these locations. Based on the proposed project, there is no evidence to suggest any particular need for a transit link or any impacts to local transit links from the proposed project. Language regarding potential impacts from construction traffic has been incorporated into **Section 4.1.7** of the Final EA. It is expected that the potential minor increase in pedestrian traffic along Windsor River Road would not justify creation of a sidewalk on the south side of Windsor River Road, considering the relatively long walk to any likely destinations and given that the existing sidewalk on the north side of Windsor River Road could be utilized. Pedestrians and bicycles alike can legally cross at any nearby intersection on Windsor River Road.

3.1.5 INADEQUATE PROJECT DESCRIPTION

SUMMARY OF COMMENTS (Comment Letters 10, 13 and 16)

Several commenters stated that the EA does not include adequate discussion regarding the incorporation of various components of alternatives including the proposed banquet hall, multi-purpose room, and other non-residential areas nor the foreseeable uses for these facilities. Citing the BIA's NEPA Handbook (59 IAM 3-H), the EA should state that "the discussion of the proposed action should clearly answer the questions: Who? What? Where? And When?"

RESPONSE

Since the EA public comment period, the Tribe has purchased an additional 32.12 acres (seven parcels) discussed in further detail in Volume II of the Final EA. These seven parcels were added to the fee-to-trust application and housing project site plan alternatives to provide additional flexibility for reclaimed water reuse and mitigation of potential impacts in response to comments and concerns raised during the EA public comment period. As stated in **Section 2.1.3** of both the EA and Final EA, the Proposed Project would include a Tribal community center, retreat, and a roundhouse. A detailed breakdown of each facility is contained in **Table 2-2** of the Final EA. As detailed in **Table 2-2**, the community center would include a 4,250 square foot (sf) banquet hall and three 625 sf multi-purpose rooms and the retreat would include a 1,000 sf banquet hall. The location of the community center, retreat, and roundhouse is shown in **Figures 2-1** through **2-3** of the Final EA. As clarified in **Section 1.3** of the Final EA, a principal goal of the fee-to-trust transfer is to provide central tribal housing as a home base for tribal members, which would reverse the current geographic dispersion of Tribal members. Additionally, taking the property into trust would allow the Tribe to foster its cultural identity, spiritual values, and traditional religion through construction of the roundhouse, retreat and community center. **Section 2.1.3** of the EA refers to these facilities as "Tribal" which implies that they would be open only to Tribal members. However, this section has been revised in the Final EA to clarify this point, and to provide additional details on how the facilities would be used. Gaming and public events are not proposed for the site, as described in more detail under **General Response 3.1.9** below. The site plan is clearly oriented to residential, cultural, and park/open space uses and is not suited for commercial uses, given its distance from the highway and lack of commercial infrastructure.

3.1.6 IMPACTS TO WINDSOR UNIFIED SCHOOL DISTRICT

SUMMARY OF COMMENTS (Comment Letters 13 and 14)

The Windsor Unified School District (WUSD) and Town of Windsor request that additional analysis of impacts be included in the Final EA. These commenters claim that impacts to the WUSD from a significant number of new students, the loss of a property tax base, and cumulative impacts could potentially arise from project implementation.

RESPONSE

Existing conditions of the project site with regard to public services, including public schools, are described in **Section 3.9** of the Final EA, and potential impacts of the project are clarified in **Section 4.1.9** of the Final EA. **Sections 3.9**, **4.1.9** and **4.2.9** of the Final EA have been expanded to further clarify potential impacts of the Proposed Project to the WUSD.

As described in Final EA **Section 3.9.7**, enrollment in WUSD has increased by 30 percent over the past decade from 4,250 students in 2000/2001 to 5,515 students in 2008/2009. The average class size in the

WUSD has decreased over the past decade from 25.1 to 2000/2001 to 21.5 in 2008/2009, a 3.6 percent decrease. As identified in **Section 4.1.9**, potential impact to local schools could occur as a result of the development of 147 housing units under the Proposed Project if additional students are generated and if the schools lack capacity and staff to serve the additional students. As discussed in EA **Section 3.9.7**, the project site lies within the boundary of the WUSD. Schools within approximately one mile of the project site that are part of the WUSD include Cali Calmecac Charter School, Windsor High School, Windsor Oaks Academy, and Windsor Creek Elementary.

At the enrollment rates historically observed within the Town of Windsor (**Sections 3.9** and **4.1.9**), Alternative A is projected to result in approximately 89 new students requiring enrollment in WUSD upon completion of the project in 2015Given that any anticipated new students would be distributed across all grade levels between kindergarten through the continuation school, 89 new students would be a nominal impact to WUSD. Additionally, because children of the proposed housing would attend local schools, Title VIII of the U.S. Elementary and Secondary Education Act of 1965 avoids significant impacts to school districts impacted by federal acquisition of land by providing special funding from the U.S. Department of Education to school districts impacted by federal acquisition of land where certain thresholds are met. The potential increase in enrollment would not significantly affect the ability of WUSD to provide education services at existing levels; therefore, no mitigation measures are warranted.

3.1.7 VISUAL RESOURCES

SUMMARY OF COMMENTS (Comment Letters 10, 13, 16 and 18)

Sonoma County and others commented that the EA should provide a complete analysis of the potential visibility of the hilltop structures (roundhouse and western housing structures) from public roads using photographic simulation and the actual effects of topography and the trees that will be retained onsite. If these structures were to create a visual impact to vehicles along the adjacent roadway, then the EA must consider modifying the height, width, location, colors, texture or other design aspects of the proposed buildings to reduce their visibility.

RESPONSE

Existing conditions for the project site with regards to visual resources were fully described **Section 3.12** of the EA, with potential impacts identified in **Sections 4.1.12**, **4.2.12** and **4.3.12**. Photographic simulations of the development from off-site locations would not be helpful because the dense tree cover on-site and along nearby roadways blocks views of the site. The site plans for each alternative have been slightly modified from those in the EA to maximize conformance with Leadership in Energy and Environmental Design (LEED) criteria for home sizes, solar orientation and energy consumption. All homes would be designed for efficient use of energy and natural resources and would be sized below the

median standard based on LEED for Homes rating system. At least 75 percent of the residences built would be single story to minimize visual effects; the proposed retreat facility would also be single-story.

The proposed Tribal housing for the project site would be at lower densities than the existing tract housing northeast of the project site along Windsor River Road. This combined with the preservation of oak trees along public roadways would ensure the Tribal housing does not cause significant visual impacts. The proposed roundhouse would be located on a southwest-facing hillside and would be surrounded by mixed oak woodland forest. The proposed roundhouse is surrounded by an existing residence approximately 400 feet to the southwest, vineyards to the south and southeast, and proposed tribal housing to the west and north. This facility would not be visible from public roads, owing to topography and tree cover. The proposed retreat facility would be designed with the local community character and LEED standards in mind. Sample design features for the single-family residential houses, including sample floor plans and a demonstration of LEED features have been included in Final EA **Appendix K**. In addition, a photo-realistic architectural rendition of the proposed community center and retreat has also been added to Final EA **Appendix K**. Additional detail regarding proposed green building design has been summarized in **Section 2.1.9** of the Final EA.

3.1.8 CLIMATE CHANGE AND GREENHOUSE GASES

SUMMARY OF COMMENTS (Comment Letters 10, 13 and 20)

To comply with NEPA standards, the EA should include a complete analysis of greenhouse gases (GHG) and potential impacts to climate change from project implementation.

RESPONSE

Existing conditions for the project site with regards to air quality were fully described in **Section 3.3** of the EA. Potential impacts of the proposed project resulting from these issues were fully described in **Sections 4.1.3**, **4.2.3** and **4.3.3**, with proposed mitigation in **Section 5.3** of the EA. The global warming phenomenon is discussed in **Section 4.1.3** of the Final EA. Additional mitigation measures for potential air quality and global warming impacts have been included in **Section 5.3** of the Final EA. The emissions reduction that these mitigation measures provide are calculated and presented in **Table 5-1** of the Final EA.

The analysis of climate change impacts has been clarified in Final EA **Section 4.1.3** to be consistent with Council on Environmental Quality (CEQ) guidelines for climate change impact analysis. The CEQ issued draft guidance on the consideration of climate change in NEPA analyses in February 2010. This guidance does not identify a significance threshold, but recommends conducting an analysis of impacts to climate change should project greenhouse gas (GHG) emissions exceed 25,000 tons per year (tpy). The Bay Area Air Quality Management District (BAAQMD) has recently published local guidelines which

recommend a significance threshold of only 1,100 tpy, much lower than CEQ's threshold, which CEQ clearly states in not intended to be a significance threshold. Nonetheless, the Final EA includes additional consideration of local guidelines is provided under **Sections 3.3.3** and **4.1.3** of the Final EA based on the climate change analysis guidelines provided by the BAAQMD, which were adopted June 2, 2010. The analysis includes a revision of the regulatory framework discussion, including federal, State, and local regulations, as well as applicable court decisions. The revised analysis calculates project-related GHG emissions using emissions factors and equations provided in the BAAQMD guidelines. The threshold of significance has conservatively been revised to be consistent with the significance threshold provided in the BAAQMD guidelines, which, as noted above is much lower than the CEQ's threshold. Consistent with the BAAQMD guidelines, the revised climate change analysis does not consider biogenic emissions in the quantification of project-related GHG emissions. The BAAQMD guidelines define biogenic emissions as "Biogenic emissions are defined as carbon dioxide (CO_2) emissions resulting from materials that are derived from living cells, excluding fossil fuels, limestone and other materials that have been transformed by geological processes". Under the BAAQMD Guidelines the removal of trees from a project site should not be considered when determining the significance or environmental impacts of a project's impact to climate change. All GHG thresholds and methodologies from the draft guidelines were adopted without change. Additionally, the proposed building development plans have been improved from those in the EA to maximize conformance with LEED standards for proposed buildings including energy efficiency, solar orientation and green building practices. Please refer to **Section 2.1.9** of the Final EA that outlines these building standards.

3.1.9 POTENTIAL FOR FUTURE ON-SITE GAMING

SUMMARY OF COMMENTS (Comment Letters 10 and 24)

Comments were received including questions and concerns regarding the further use of the project site for gaming purposes. The EA does not state whether any of the on-site facilities construction under the Proposed Project would be used in the future for Class I, II, or III gaming.

RESPONSE

Please see **General Response 3.1.5**. The usage and square footage for the community facilities are clearly set forth in **Table 2-2** of the EA, making clear that no gaming is proposed. Gaming uses of the facility would not be reasonably foreseeable because the facilities are designed for residential, governmental and cultural purposes rather than commercial purposes. Moreover, use of newly acquired trust property for gaming purposes must either meet one of the exceptions under the Indian Gaming Regulatory Act (IGRA) Section 20 (25 U.S.C. 2719(a)), or achieve approval under the process identified under 25 U.S.C. 2719(b) (hereinafter "two-part process") which requires approval by the Secretary of the Interior and concurrence by the Governor of the State. Both such processes require further documentation, submissions and approvals which would be in addition to the current fee-to-trust

application process. In addition, under the current regulations, if a tribe is gaming on other lands, the restored lands exception to the Indian Gaming Regulatory Act (IGRA) is not available to that tribe. The Tribe would therefore have to submit a full request (and likely additional environmental documents) to the Secretary of the Interior seeking approval under the two-part process. Thus, gaming uses of the property could not be achieved by approval of the fee-to-trust application, but rather further submissions and documentation would be required in a separate process.

3.1.10 GROUNDWATER ISSUES

SUMMARY OF COMMENTS (Comment Letters 10, 13 and 16)

Various comment letters stated that the EA must include an assessment to compare project demands with groundwater capacity. This groundwater assessment should analyze the underlying aquifer for both short term and cumulative year impacts. The County questioned why a 57 gallons per minute (gpm) demand was used in analyzing potential impacts from the use of on-site wells.

RESPONSE

Existing conditions for the project site with regards to water resources and groundwater were fully described in **Section 3.2** of the EA. Potential impacts of the proposed project resulting from these issues were fully described in **Sections 4.1.2**, **4.2.2** and **4.3.2** with proposed mitigation in **Section 5.2** of the EA. Detailed information regarding the result of pump tests and groundwater level trends is contained in the water/ wastewater feasibility and hydrogeologic studies (**Appendices B** and **C** of the EA and Final EA). The capacity of the on-site test well is 75 gpm, as determined by the pump tests conducted on-site (**Appendix C**). The average demand for the Proposed Project is 57 gpm, as noted in **Section 4.2.2** of the Final EA and in **Appendix B**. **Section 2.1.9** of the Final EA has been revised to clarify that LEED and other water conservation standards at least equivalent to Sonoma County design standards would be implemented, with additional mitigation measures for water resources presented in **Section 5.2** of the Final EA. Additionally, the Sonoma County Water Agency (SCWA) has released a draft Low Impact Development (LID) Guidebook (June 2010; SCWA, 2010); the Tribe plans to review the LID documents for additional guidance on water efficient development standards.

Sections 4.2.2, **4.5.2**, and **Appendices B** and **C** of the Final EA provide an analysis of the impacts to groundwater and neighboring wells. As noted in **Appendix C**, the test well was installed and tested in December 2008, thus the results reflect the impacts of all current area groundwater users. The project site is located near the west edge of the northern portion of the Santa Rosa Plain Subbasin, and very close to its boundary with the Healdsburg Area Subbasin. For purposes of thoroughness, the hydrogeologic investigation report (**Appendix C**) provided a discussion of groundwater level trends in both subbasins. No local concerns related to overdraft situations in either subbasin have been identified, except for areas far to the south of the site and in upgradient regions. Information supporting this assessment is available

from both California Bulletin 118 (Department of Water Resources [DWR], 2004) and from data available on the DWR water data library.

The project site is located towards the northern end of the Santa Rosa Plain Subbasin. This subbasin trends north-northwesterly, is about 22 miles long, varies in width from less than one mile to about eight miles, and is slightly tilted to the west. Surface water collected by the subbasin's three main creeks towards its west side and then discharges to the Russian River. Groundwater near the project site would be expected to flow from recharge areas in the north and east to the south and west, while groundwater in the southern portion of the basin would flow to the north and west, suggesting different areas of groundwater recharge for the northern and southern regions of the Santa Rosa Plain, unless groundwater exploitation in one portion of the basin increased to the point that it affected distant portions of the subbasin. DWR reported in Groundwater Bulletin 118 (DWR, 2004) that groundwater levels were increasing in the northeast portion of the subbasin (closer to the site), while groundwater levels were decreasing to the south (more than 15 miles to the south of the Lytton site near Rohnert Park) where groundwater exploitation resulted in a localized groundwater overdraft.

From the perspective of the Santa Rosa Plain subbasin's overall storage capacity, the impact of the proposed project's groundwater pumping is insignificant. DWR (2004) calculated the subbasin's groundwater storage capacity at 4,313,000 acre-feet (af), with 3,910,000 af held in storage. Average annual natural recharge (for the period 1960 through 1975) was estimated to be about 29,300 af, while average annual pumping during the same period was approximately 29,700 af. Most groundwater pumping, and the areas of groundwater level declines, was reported for the southern portion of the subbasin, in areas many miles upgradient from the site. Data from a well located in the Town of Windsor, approximately one mile east of the project site, indicates a general rising trend of the water table from 1976 to 2002 (the most recent date of available data). For a well located approximately one mile southwest of the project site, a constant groundwater level has existed since 1992. Limited data from two other wells located immediately north and southeast of the site showed annual fluctuations, but no long term water level decline. Further, as described in DWR (2004), groundwater level trends in the northern Santa Rosa Plain Subbasin (in which the site is located) are "about in balance, with increased water level in the northeast (closer to where the site is located) contrasting with decreased ground water levels in the south."

The proposed supply well would produce 92 af annually, assuming an average groundwater extraction of 57 gpm to meet the anticipated average water supply demand of the project (**Appendix C** to the Final EA). The Lytton project would, therefore, annually pump approximately 0.002% (two one-thousandths of one percent) of the subbasin's groundwater in storage each year. For a system in dynamic equilibrium, recharge equals discharge. Consequently, the proposed project pumping rate would be approximately 0.3% of the natural discharge from the subbasin. From either of these perspectives, it would be virtually impossible to measure any affect on the aquifer as a whole from pumping this volume of groundwater.

For the Healdsburg Area Subbasin, DWR (2004) reported that there are insufficient data available in order to provide a water budget. Groundwater storage capacity for the basin was estimated at 489,000 af, while groundwater in storage for the year 1980 was estimated to be 390,000 af. The proposed project would pump approximately 0.002% of the groundwater in storage, an insignificant amount.

Furthermore, the Town of Windsor's General Plan does not identify any long-term water level declines in the area aquifers, nor does it identify any other deleterious cumulative impacts to them (Town of Windsor, 2005). Since analysis of the pumping test results indicate only minor effects to the closest area wells (even using conservative assumptions such as no annual recharge to the aquifer), no broader cumulative impacts to area groundwater are anticipated. Also, because some recharge to the aquifer occurs even during years of lower-than-normal precipitation, and area groundwater levels have been reported to be stable in DWR (2004), the calculations were likely overly conservative and actual interference drawdown would be less.

Finally, because the exploratory drilling program indicated that the aquifer in the vicinity of the project site is at least 300 feet thick, the amount of drawdown calculated as a result of groundwater extractions on the site represents a small proportion of the available drawdown in the aquifer, even at the closest wells. Whether an off-site well would experience a noticeable impact would depend on its depth, the depth of water in the well, and the depth of the pump. A review of area well logs indicates that most wells extend 50 to 100 feet below the water table, demonstrably shallower than the specific water-bearing strata targeted for development by the proposed project. As a result, drawdown in the aquifer would not reduce the usual and customary use of the resource, even for the closest wells.

3.1.11 INADEQUATE RANGE OF ALTERNATIVES

SUMMARY OF COMMENTS (Comment Letter 10, 13, 15, 20)

Commenters state that the EA should include an appropriate range of alternatives, as described in the BIA's NEPA Handbook (59 IAM 3-H). Sonoma County and other commenters state that the No-Action Alternative does not properly describe the reasonably foreseeable development that could occur, nor does Alternative A serve as a reasonable alternative. Additionally, County and Town of Windsor question the purpose and need for the Tribe to construct the proposed housing and community facilities within the project site. The County and Town of Windsor further state that an EIS should be required including the analysis of an off-site alternative as well as properly described on-site action and no-action alternatives.

RESPONSE

The EA and Final EA appropriately consider a reasonable range of alternatives that were determined with a consideration for each alternative's ability to meet the purpose and need (see **Section 1.3** of the Final

EA). As explained in **General Response 3.1.2**, connection to the Town of Windsor water and wastewater system from an existing service pipeline along Windsor River Road is feasible and the existing system would be able to accommodate the increase in demand. Additionally, Town of Windsor comment 13-139 states that "the proposed project will make unavailable for future development 92 acres of land adjacent to the Town of Windsor, part of which is within the Town's UGB and has Town services easily accessible," implying that connection to Town services, including water and wastewater is in fact a feasible option. Since the EA public comment period, the Tribe has purchased an additional 32.12 acres (seven parcels) discussed in further detail in Volume II of the Final EA. These seven parcels were added to the fee-to-trust application and housing project site plan alternatives to provide additional flexibility for reclaimed water reuse and mitigation of potential impacts in response to comments and concerns raised during the EA public comment period. Analysis of off-site alternatives was not considered under the EA because the Tribe does not own any other land which would be a viable option for fulfillment of the Tribe's current needs for housing and a stable community, nor are any appropriately sized parcels suitable for the proposed housing known to be available for purchase. As clarified in **Section 1.3** of the Final EA, a principal goal of the fee-to-trust transfer is to provide the land base necessary for tribal housing and to decrease the current geographic dispersion of Tribal members. Additionally, taking the project site into trust would allow the Tribe to foster its cultural identity, cultural values, and traditional religion through construction of the roundhouse, retreat and community center. The Tribe currently owns the Casino San Pablo in trust in the City of Richmond, but this area is already fully developed and proposed housing at this location is not possible.

Sonoma County commented that the No Action Alternative inappropriately describes the baseline scenario rather than a reasonably foreseeable development scenario in the absence of agency action. The commenter is correct that the No Action Alternative often includes "development that is reasonably foreseeable on the site if the proposed project never happens." It is not always reasonable foreseeable under NEPA that development will occur under the No Action Alternative, however. This is true even where the property in question is zoned for future development. The presence of development zoning is not enough to assume development will occur in the future under the No Action Alternative. Of course such development is possible, but it is not necessarily reasonably foreseeable.

3.1.12 LOCAL GOVERNMENT LAND USE PLANS

SUMMARY OF COMMENTS (Comment Letters 10, 13, 16, 17, 18, 20, 24, 26, 28)

Several comments state that the EA fails to recognize and address the project's inconsistency with the Sonoma County and Town of Windsor General plans. Several commenters also reference paragraph five of the Stipulation for Entry of Judgment (No.C-86-3660-VRW), *Scotts Valley Band of Pomo Indians et al. V. the U.S., et al.* and a 2001 BIA letter as they pertain to the BIA processing land acquisitions in relation to consistency with Sonoma County land use and zoning designations.

RESPONSE

Existing conditions for the project site with regards to local government and land use plans were fully described **Section 3.8** of the EA. Potential impacts of the proposed project to land use designations have been clarified in **Section 4.1.8** of the Final EA. **Section 4.1.8** of the Final EA also correctly notes that local land use and zoning designations would no longer apply after the land is taken into trust. However, the EA appropriately analyzes potential environmental impacts that could result from land use conflicts or incompatible land uses. With the exception of the proposed slightly higher density of dwelling units exceeding Sonoma County zoning designation (147 housing units under Alternative A, compared to 143 units allowable under the Sonoma County General Plan and Town of Windsor General Plan), the project is generally compatible with both the Sonoma County and Town of Windsor land use designations and zoning. According to Sonoma County and Windsor zoning regulations (using Windsor zoning for parcels within the Town's Sphere of Influence), 143 housing units would be allowable on the project site. This is substantially similar to Alternative A and B's proposed 147 housing units and well above Alternative C's proposed 55 units. In addition, an inconsistency with local zoning regulations does not necessarily result in any environmental impacts distinct from those caused by the development itself, which are analyzed for each alternative throughout **Section 4.0** of the Final EA.

The Stipulation for Entry of Judgment in the *Scotts Valley* case (attached to the Tribe's fee-to-trust application as Exhibit J) does address future land acquisition at Provision 5. However, Provision 5(b) does not state that if the Tribe were to acquire property "***outside*** the boundaries of their former Rancheria property in Alexander Valley" that they would have to follow the County's General Plan (emphasis added). Rather, Provision 5(b) states:

> With respect to land ***within the exterior boundaries*** of the former Lytton Rancheria, a description and map of which is attached hereto as Exhibit B, the above-referenced policy and guidelines would preclude the Secretary from accepting such land in trust for any use that is inconsistent with the Sonoma County General Plan (emphasis added).

Since none of the land which is the subject of this Environmental Assessment or the Tribe's Fee-to-Trust Application is within the exterior boundaries of the former Rancheria, that provision of the stipulated agreement is not applicable.

Similarly, Provision 5(c) of the Stipulation, which addresses lands within Alexander Valley, is not applicable because the lands proposed to be acquired in trust are outside Alexander Valley, as clear from the map delimiting the Alexander Valley area attached as Exhibit C to the Stipulation. Also, with respect to comments on the land into trust process generally, the Indian Reorganization Act (IRA) (25 U.S.C. § 461 et seq.) provides the Secretary of the Interior with the discretion to acquire in trust title to land or interests in land. The Secretary bases the decision to make a trust acquisition on the evaluation of the criteria set forth in Title 25, Code of Federal Regulations (C.F.R.) Part 151 and any applicable policy. NEPA review is one of the prerequisites to trust acquisition. Thus, NEPA documents and findings are

considered by the Secretary in making a decision on trust acquisition. For the purpose of NEPA analysis it is assumed that the project site can be taken into trust should the Secretary decide to approve one of the alternatives in the EA that includes trust acquisition. However, it is acknowledged that the Secretary will undertake a detailed review of the Tribe's final application that considers NEPA as well as several other considerations prior to approving any trust acquisitions. The purpose of NEPA is to determine potential environmental impacts of such a trust acquisition, not to determine the Secretary's decision making process in deciding whether or not to take land into trust.

3.1.13 PUBLIC/ COUNTY SERVICES

SUMMARY OF COMMENTS (Comment Letters 10, 13, 16 and 26)

Various comments received during the comment period state that the EA failed to recognize and address the potential increase in demand of county services (police, fire, parks, and other service) and the decrease in County revenue through the removal of the property from the County tax rolls.

RESPONSE

Existing conditions for the project site with regards to county services were fully described in **Section 3.9** of the EA. Potential impacts to county services as a result of the proposed project were fully described in **Section 4.1.9**, **4.2.9** and **4.3.9**, with proposed mitigation in **Section 5.9** of the EA. **Appendix I** of the EA included the agreement between the BIA and the California Department of Forestry and Fire Protection (CAL FIRE) to provide services on tribal land. **Section 3.9.6** of the Final EA states that the nearest CAL FIRE station is located at 1745 Redwood Drive in Healdsburg, approximately 5.5 miles north of the project site. This seasonal fire station would provide wildfire protection to the project site during the summer months, when regional wildland fires most commonly occur. **Section 3.9.6** of the Final EA has been clarified to state that a year round staffed CAL FIRE station is located north on Highway 101 in the City of Cloverdale. With the implementation of the protective measures and mitigation measures described in **Section 5.9** of the Final EA, potential impacts to fire protection and emergency medical services would be no greater than other non-tribal developments.

As stated in **Section 3.9.5**, under Public Law 280, the Sonoma County Sheriff's Office would have partial jurisdiction of law enforcement on the project site. These potential calls for service would not be disproportionate to other residential or commercial development in the County, as the residential units within the Proposed Project are assumed to generate similar call rates as other County single-family dwellings.

The Tribe proposes to provide a park for alternatives A-C for Tribal use. As this park would be the closest to Tribal residences, it is reasonable to assume that this park would be the primary one utilized. Therefore use of local parks outside the proposed project would not be significant. Even so, the closest

Sonoma County Regional Park to the project site is Riverfront Park on Eastside Road along the Russian River. The park charges a user fee of $6 per vehicle, which would be charged to project residents and non-residents alike.

Please see EA **Section 4.1.6** for an analysis of potential impact from removing the subject parcels from local tax rolls. These impacts are appropriately noted to be less than significant based on context and intensity, a 0.02 percent impact to the County's overall tax revenue. These minimal effects due to the loss of local tax revenues as a result of transferring the land into trust could be offset by increased local, state and federal tax revenues resulting from construction of the Project. Taxes are paid in all other circumstances, including off-site sales tax revenue generated by tribal member purchases in the Town of Windsor and Sonoma County, as well as all activity generated during construction and operation of the Proposed Project ancillary facilities, such as potential jobs at the proposed wastewater treatment and reclamation facility (under Alternatives B and C).

3.1.14 CUMULATIVE ISSUES

SUMMARY OF COMMENTS (Comment Letters 10, 13, 16, 18, 20 and 26)

Various commenters state that the EA fails to consider past projects in the cumulative environment. Several commenters state that an EIS should disclose all applicable past, present and reasonably foreseeable projects, while fully analyzing and mitigating the resulting cumulative impacts. Commenters state that cumulative impacts for several environmental issues are understated for the full geographical zone that the impact could affect. Additional analysis should be undertaken regarding the potential for a new fire station and a new high school.

RESPONSE

Section 4.5 of the EA contains analysis of potential impacts from development of the proposed project "*… when added to other past, present, and reasonably foreseeable future actions regardless what agency (federal or non-federal) or person undertakes such other actions"*. NEPA does not require that a comprehensive listing of all past development projects be included in an EA or EIS, unless such information is necessary to describe the cumulative effects of all past actions combined. This would be extremely lengthy and would add little value to the NEPA analysis process. Instead, the EA includes a description of the general setting and various specific surveys which document the current environmental condition that is the result of past cumulative development.

Additional clarification has been added to **Section 4.5** of the Final EA to describe past land uses documenting the current environmental setting. As stated in **Section 4.5** of the EA, and additionally researched in January 2010, no building permits have recently been filed with the City of Windsor for development projects in the vicinity of the project site. Additionally, no significant development has been

proposed within unincorporated County in the vicinity of the proposed project. Marginal information regarding two projects listed in **Section 4.5** of the EA and Final EA, the Retail Tractor Facility and the Senior Citizen Community Complex was available in Town of Windsor documentation. Additional details regarding cumulative impacts from the Eastside Road Storage Project approved by the Town of Windsor in October 2008 have been added to **Section 4.5** of the Final EA. Regarding the cumulative fire protection environment; a new Windsor Fire Protection District fire station (Station #2) has been constructed at 8600 Windsor Road. The project site is within the five minute service range as required within the Windsor General Plan, and provides service to the west side of town.

Please see **General Response 3.1.6** regarding schools. If an area high school, specifically a school within the Windsor Unified School District, were to be constructed prior to the cumulative year, the potential for a negative impact from project implementation would decrease. As no plans for an additional high school are available for review, it is assumed that the project is not a foreseeable action, and therefore, not deemed necessary as an addition to the cumulative analysis.

3.1.15 NON-CIRCULATION OF APPENDICES F & J

SUMMARY OF COMMENTS (Comment Letters 3, 9, 12)

Comments state that the EA failed to provide **Appendix F** and **Appendix J** to the public during the comment period.

RESPONSE

Appendix F (Cultural Resources Study) was not included in the EA because it contains confidential information. It is the policy of the BIA to exclude this information from public review given the sensitive nature of cultural resources pursuant to Section 9 of the Archaeological Resources Protection Act (16 U.S.C. 470hh(a)). Nonetheless, the results of the cultural resources study and Addendum report are summarized in **Section 3.5** of the Final EA in sufficient detail for the public review of the environmental impact analysis.

In an attempt to streamline the lengthy EA for public review consistent with CEQ NEPA Regulations (40 C.F.R § 1500.4), the contents of **Appendix J** (Phase I Environmental Site Assessments) were noted in the Table of Contents as being "Bound Under Separate Cover" and were not included in the Appendix that was distributed to the public. The contents of **Appendix J** were available at the offices of the BIA upon request and the BIA provided copies of **Appendix J** to all those that requested a copy. A total of five copies of **Appendix J** were mailed out during the comment period. Note also that the findings and recommendations contained in **Appendix J** are summarized throughout the Final EA where applicable. In response to this comment, the contents of **Appendix J** have been added to the Final EA.

3.1.16 EXPRESSIONS OF OPINION/NON SUBSTANTIVE COMMENTS

SUMMARY OF COMMENTS

Many of the comments received were expressions of opinion either for or against the Proposed Project. Letters and emails formed the bulk of such comments. Many other comments were received which do not raise a substantive environmental issue.

RESPONSE

To warrant a response in the Final EA, comments must fulfill two minimum requirements: 1) the comments must raise a substantive environmental issue, and 2) they must be related to either the decisions to be made by the Lead Agency based on the EA, or to the expected result of these decisions. Responses are not required for comments failing to raise substantive environmental issues, such as comments merely expressing an opinion.

3.2 INDIVIDUAL RESPONSES

This section provides direct responses to individual comments received from public agencies, governmental bodies, organizations, as well as private citizens during the comment period. All of the comments, which have been bracketed and numbered for ease of reference, are provided in **Section 2.0** of this document.

RESPONSE TO COMMENT LETTER 1 – U.S. CONGRESS 1ST DISTRICT REPRESENTATIVE MIKE THOMPSON

1-1 Please see **General Response 3.1.1**. A separate response letter has also been sent to Representative Thompson, dated August 26, 2009, which provides additional responses.

RESPONSE TO COMMENT LETTER 2 – U.S. CONGRESS 6TH DISTRICT REPRESENTATIVE LYNN WOOLSEY

2-1 Please see **General Response 3.1.1** and **3.1.15**. A separate response letter has also been sent to Representative Woolsey, dated September 4, 2009, which provides additional responses.

RESPONSE TO COMMENT LETTER 3 – U.S. SENATOR DIANE FEINSTEIN

3-1 Please see **Responses to Comments 3-2** and **3-3** below for responses to specific issues raised in the letter forwarded by Senator Feinstein.

3-2 Please see **Response to Comment 3-3** for specific responses to this summary comment.

3-3 Please see **General Reponses 3.1.1** and **3.1.15**. A Notice of Availability (NOA) of the EA was published in both the Windsor Times and the Santa Rosa Press Democrat. A Notice of Completion (NOC) was provided to the State Clearinghouse. A separate response letter has also been sent to Senator Feinstein, dated August 28, 2009, which provides additional responses.

RESPONSE TO COMMENT LETTER 4 – CALIFORNIA GOVERNOR'S OFFICE

4-1 Please see **General Response 3.1.1** regarding extension of the comment period. A separate response letter has also been sent to the Governor's Office, dated August 10, 2009, which provides additional responses.

RESPONSE TO COMMENT LETTER 5 – CALIFORNIA GOVERNOR'S OFFICE OF PLANNING AND RESEARCH - STATE CLEARINGHOUSE

5-1 Comment noted.

RESPONSE TO COMMENT LETTER 6 – CALIFORNIA DEPARTMENT OF FISH AND GAME

6-1 Comment noted.

6-2 All of these concerns are fully addressed in the Biological Assessment (BA) prepared for the project presented as **Appendix E** of the EA. This BA addresses all Federally listed plant and animal species noted by the commenter with the potential to occur onsite. The analysis of impacts in the BA also fully addresses the requirements outlined in the Santa Rosa Plain Conservation Strategy (SRPCS). According to the SRPCS, the project site is located outside the known range of California Tiger Salamander (*Ambystoma californiense* - CTS) and outside of the proposed critical habitat for the species; in addition, there is no suitable breeding habitat for CTS within the project site. A letter initiating Section 7 consultation for the project was submitted by the BIA to the USFWS in August of 2009 along with the BA. The USFWS has yet to formally reply to this request for consultation.

Further, additional rare plant surveys occurred in spring 2010 pursuant to the SRPCS and the USFWS programmatic Biological Opinion for the California Tiger Salamander and three endangered plant species on the Santa Rosa Plain (USFWS, 2007). All botanical surveys conducted between 2007 and 2010 have yielded negative results, and are fully detailed in the Technical Memorandum for Botanical Surveys, provided as Attachment E to the BA. Mitigation for the federally listed plant species addressed in the SRPCS, if they were to be found during future botanical surveys, is outlined in **Section 5.4.3** of the Final EA. Please also refer to **Response to Comment 21-7**.

6-3 Please see **General Response 3.1.3**.

6-4 Mitigation measures in **Section 5.4.4** of the EA fully address impacts to migratory nesting birds. No Federally listed bat species were identified to occur in the vicinity of the project area. California Species of Special Concern are discussed for impacts under **Section 4.1.4** of the Final EA.

RESPONSE TO COMMENT LETTER 7 – CALIFORNIA DEPARTMENT OF TRANSPORTATION

7-1 Comment noted.

7-2 As noted in the Traffic Impact Study (**Appendix G** of the Final EA), the planned improvements include construction of an additional southbound left and right turn lanes and the re-striping of the northbound US-101 off-ramp to include a shared through-left lane. These improvements were not found to be warranted until cumulative 2030 conditions were applied (see **Appendix G** of the EA). Please see **General Response 3.1.4** for a discussion of the revised traffic modeling included in **Appendix G** of the Final EA. As explained in more detail in **Appendix G**, these improvements are currently planned but may not be fully funded by 2030. They are therefore not assumed as background conditions in the Traffic Impact Study and a proportionate share contribution to these improvements is included as a mitigation measure for cumulative 2030 impacts in **Section 5.7** of the EA.

7-3 The traffic counts were conducted in the third week of September in 2008. All counts were conducted on Tuesday, Wednesday and Thursday (the 16th through the 18th). Please see **General Response 3.1.4**.

7-4 Comment noted.

RESPONSE TO COMMENT LETTER 8 – CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD- NORTH COAST REGION

8-1 Comment noted. Please see **General Response 3.1.2** and Final EA **Section 1.2** regarding additional parcels that have been added to the site and analyzed for environmental impacts in the Final EA.

8-2 The EA did not identify any significant impacts after mitigation, thus, an EIS is not necessary. Please see **General Response 3.1.2** regarding the inclusion of an off-site sewer hookup alternative. In addition, a second on-site wastewater disposal option for Alternative Bhas been added to the Final EA which would allow the full development of the site without wastewater discharge to surface waters (please refer to **Section 2.2** of the Final EA).

8-3 The analysis of environmental impacts from stormwater both during and after construction is included for each alternative in **Section 4.1.2**, **4.2.2** and **4.3.2** of the Final EA. The analysis of

environmental impacts for wastewater discharge, including impacts to water resources and biological resources, is contained in **Sections 4.1.4**, **4.2.4** and **4.3.4** of the EA. Mitigation measures necessary to protect water quality are enforceable under the federal Clean Water Act (CWA). Assuming the commenter is referring to Best Management Practices (BMPs) necessary to protect water quality, monitoring of those BMPs would occur as required under the federal CWA. Please refer to **General Response 3.1.2** and the Final EA regarding analysis of impacts from the proposed discharge of tertiary treated water to one of two locations, as further detailed in the Stream Characterization, Lytton Residential Development (**Appendix L** of the Final EA). Language regarding the enforceability of mitigation measures has been added to **Section 5.0** of the Final EA.

8-4 Contrary to the contention of the commenter, Section 401 of the CWA is a federal requirement and would continue to apply on trust land. Federal laws equivalent to all of the state requirements noted by the commenter would also continue to apply on trust land. These include NEPA and storm water permitting under the federal CWA. Please see **Response to Comment 8-3** regarding enforceability and monitoring of mitigation. While it is correct that the California Regional Water Quality Control Board (Regional Water Board) would not possess jurisdiction over trust lands, the USEPA would maintain jurisdiction over the site. Even on trust lands the USEPA possesses the authority to enforce water quality objectives under the North Coast Region Water Quality Control Plan, monitor operations, conduct inspections, issue fines, and order that operations be curtailed or ceased. Please refer to **General Response 3.1.2** regarding USEPA concurrence with the Proposed Project.

8-5 Please see **General Response 3.1.2** regarding treated wastewater discharge to surface waters.

8-6 Stated compliance with federal requirements through adoption of BMPs is appropriately included as mitigation in the Final EA. A stormwater pollution prevention plan is required by the Final EA **Section 5.2** and the federal CWA. Please see **Response to Comment 8-3** regarding enforceability of mitigation and BMPs.

8-7 The referenced BMPs in EA page 2-6 are appropriately included in **Section 2.1.9** because they are protective measures incorporated into the project design. They are specifically referenced in **Section 5.2** of the Final EA. Please see **Response to Comment 8-3** regarding enforceability of mitigation and BMPs.

8-8 The applicable jurisdiction falls to the federal government on all lands held in federal trust by the United States. Thus, waters of the state are considered separately from waters of the U.S. in the EA. Nonetheless, impacts to all surface waters, groundwater, and species habitat, including waters of the state, are considered in EA **Sections 4.1.2**, **4.1.4**, **4.2.2**, **4.2.4**, **4.3.2**, and **4.3.4**.

8-9 Please see **Response to Comment 8-8** regarding analysis of waters of the state on trust lands.

8-10 Please see **Response to Comment 8-8** regarding analysis of waters of the state on trust lands. All potential wetlands are thoroughly discussed and evaluated in the wetland delineation conducted for the project site. All wetlands on-site are seasonal or intermittent in nature, and the majority of potential waters identified were ephemeral drainages, none of which support fish and very few aquatic invertebrates. These drainages are best classified according to the State Water Resources Control Board and the California Department of Forestry Stream Classification system as Class III streams (watercourses that have the capability of transporting sediment downstream to Class I or II waters and where no aquatic life is present). Recommended setbacks for these streams are 25 feet (slopes less than 30%) and 50 feet (when slopes exceed 30%) (CDF, 2008 and CDFG, NMFS, 2002). Slopes within the project site range from 5 to 30 percent, with the majority of proposed development planned in areas with slopes between 5 and 15 percent. Thus, the proposed setback of 50 feet from potential wetlands and drainages is sufficient and justified.

8-11 Please see **Response to Comment 8-5**.

8-12 Comment noted. Please see **General Response 3.1.2** regarding the inclusion of an off-site sewer hookup alternative as well as **General Response 3.1.11** pertaining to alternative locations to fulfill the Tribe's purpose and need.

8-13 Comment noted. Please see **Response to Comment 8-2**.

8-14 Comment noted.

8-15 Comment noted. Please see **Response to Comment 8-5**.

8-16 A requirement to include an energy dissipater to prevent erosion of the drainage ditch resulting from the discharge has been added to **Section 5.2** of the Final EA.

8-17 Please see **Response to Comment 8-5**. Also note that the McLaughlin pit was a gravel pit that was excavated into alluvial terraces in the Russian River flood plain. Numerous flooded gravel pits exist along this stretch of the river that were excavated up to 90 feet below the land surface. The pit lake west of the site is, at its closest point, only 160 feet from the river bank, and is separated from the river by a berm of un-mined gravel. The pit lakes result from mining below the water table, while the river exists because its channel is also deeper than the elevation of the water table. In this respect, they are both surface expressions of the water table elevation. During periods of high runoff, the river may temporarily have a higher elevation and river water would

flow towards the pit; alternatively, during dry periods, the pit water and aquifer may flow towards the river. In either case, the overall groundwater flow gradient would be in a downstream direction and mostly parallel the river. Because of this, water moving downgradient through the pit area would gradually commingle with other nearby water migrating through the aquifer materials, and eventually the river itself.

The City of Healdsburg has for some time discharged treated effluent to a similar flooded gravel pit located north of the site. The United States District Court ruled at that site that since the pond and the river overlie the same unconfined aquifer and the land separating the two is saturated below the water table, that the underground aquifer is in effect "a slow-moving, underground tributary of the river" and "the pond is an open way station on the underground tributary" (*Northern California River Watch v. Healdsburg,* Case No. 04-15442 [9th Cir. 2007]).

8-18 No reference to an effluent storage pond could be found on page 1-5 of the EA. Table 3-7 of the Final EA's **Appendix B** has been revised to correct the typographical error and now shows 23.36 million gallons of effluent generated per year. Table 3-7 of the revised **Appendix B** also contains sufficient and additional detail to demonstrate that the proposed effluent storage ponds for the first and section options for Alternative B and C as well as reclaimed water irrigation land area are adequately sized, including precipitation data, effluent generation, evapotranspiration, and irrigation efficiency.

8-19 Please see **Response to Comment 8-18**.

8-20 **Section 2.3.3** of the Final EA states that no surface water discharge would occur due to the use of seasonal reclaimed water irrigation for Alternatives B and C. However, the commenter correctly notes that the protective measures were not included to ensure no discharge occurs during the irrigation process. Thus, **Sections 2.2.6** and **5.3** of the Final EA have been revised to include appropriate measures.

8-21 Compliance with standards equivalent to the landscape irrigation standards in the State Water Resources Control Board (State Water Board) Recycled Water Policy (as referenced in State Water Board Resolution No. 2009-0011) has been added to **Sections 2.2.6** and **5.3** of the Final EA.

8-22 As noted in **Section 4.2.2** and **Appendix B** of the Final EA, the on-site wastewater treatment and Reclamation Facility (WTRF) effluent would be treated to meet or exceed Title 22 standards. **Sections 2.2.6** and **5.3** of the Final EA have been revised to include appropriate measures to control irrigation spray.

8-23 Please see **Responses to Comments 8-20** and **8-21**.

8-24 **Section 2.1.9** of the Final EA has been revised to clarify that water conservation standards at least equivalent to Sonoma County design standards would be implemented, and installation of low-flow water fixtures would be performed. Additionally, **Section 5.3** of the Final EA has been revised to ensure water conservation measures are implemented.

8-25 The referenced statement is based on the degraded biological condition found in the receiving water, which could be alleviated somewhat by the introduction of increased flows of high quality effluent. Nonetheless, mitigation measures have been added to **Section 5.3** of the Final EA to ensure that wastewater management programs would be implemented.

8-26 The salinity concentration effect resulting from effluent storage has been accounted for in EA **Appendix B** as reflected in the text of **Table 3-7**. As noted in **Table 3-7**, effluent TDS at the time that the effluent is land applied is estimated to be 468 mg/L based on the estimated groundwater TDS of 270 mg/L plus the difference in TDS of 198 mg/L between potable water and recycled water and dilution effect of infiltration and inflow (I/I), reported by the 2008 Water Quality Comparison Report (Town of Windsor, 2008).

An estimated "salt balance" for the site relative to the effluent reclamation aspect of this project has been added to the revised **Appendix B** of the Final EA. As shown, the salt balance is based on 1) the entire effluent TDS of 468 mg/L, not just the salinity, 2) average rainfall and ETo conditions for the Windsor area, 3) a native oak woodland ETo of 16"/year, 4) an average rainfall runoff coefficient of 0.25 for native vegetation and landscaped areas, and 0.30 for the overall suburban area developed, 5) no net salt uptake and removal by vegetation (i.e., lawn clippings and mulched, not removed), 6) soil dissolution occurs at a rate of 200 lb/Mgal of dissolution occurring in water percolating to groundwater, and 7) stormwater leaving the effluent reclamation at a TDS of 150 mg/L (compared to 64 mg/L for areas without salt addition from effluent).

As shown in the revised **Appendix B** of the Final EA, the TDS of percolate leaving the project site would increase as a result of both 1) irrigation of the property, and 1) recycling effluent to satisfy those irrigation needs. However, even with the increase, the percolate TDS would still be well below the 500 mg/L water quality objective.

Regarding anti-degradation, methods to reduce effluent salinity and/or percolate salinity include:

- Reduce effluent salinity by installing reverse osmosis (RO) treatment. RO treatment has not been shown to be a cost effective mitigation measure for small WWTPs such as the one proposed for the project, or used by Windsor.

- Reduce water conservation measures in homes. This does not change the mass of salt involved, but reduces its concentration. Reducing water conservation is contrary to State policy, and therefore, is not recommended.

- Reduce use of products in the home such as food, shampoo, cleaners, etc. This is a life style issue that is difficult to implement. Nonetheless, **Section 5.3** of the Final EA has been clarified to include public education programming to increase public awareness of salt issues to attempt to reduce effluent salinity.

- Reduce effluent irrigation efficiency so that a lower percentage of applied effluent is evapotranspirated to the atmosphere. This practice leaves more water with the effluent salt mass, and thereby reduces the salinity of the percolate. Reducing irrigation efficacy is possible, but runs contrary to State water conservation policy, and therefore, is not recommended as an anti-degradation measure.

In summary, the proposed project appears to include a reasonable balance of environmental and water resource preservation measures (as clarified in Sections **2.1.9**, **2.2.6** and **5.3** of the Final EA), including the following.

- Water conserving fixtures to reduce water use but not to an extreme extent causing very high contaminant concentration in the wastewater.

- Effluent reclamation to the extent feasible to reduce effluent discharges to surface waters, and to conserve freshwater for higher or better uses.

- High irrigation efficiency to maximize beneficial use of available water resources.

- Community education to reduce needless introduction of medicines and contaminants to the wastewater.

These project components are consistent with the requirements of State Board Resolution 68-16, the State's Anti-Degradation Policy.

8-27 Clarification to the proposed wastewater collection system is provided in the revised **Appendix B** and described in further detail in the Final EA **Section 2.0**. Under Alternatives B and C, the Lytton community would maintain and operate the entire wastewater treatment and reclamation system from house service through disposal on tribal land. This situation is different from the usual participants of STEP systems consisting of private property owners and a separate, independent utility. The Lytton community would act more like a privately-owned community in which the tribe has sole responsibilities for the utilities on tribal land. Regarding wastewater treatment and reclamation facility system design, operation, and maintenance, additional BMPs have been added to **Section 2.2.6** of the Final EA as recommended to minimize chances of

system failures. In addition, a mitigation measure has been added to Final EA **Section 5.2** that requires the development of a contingency plan to ensure untreated wastewater is not released to the environment in the event of a malfunction of the wastewater treatment and reclamation facility.

8-28 Comment noted. Additional BMPs regarding wastewater treatment and reclamation have been outlined in **Sections 2.2.6** and **5.3** of the Final EA.

8-29 This identified cleanup site is referenced in **Section 3.11** of the EA. No effect would occur as a result of this site, as cleanup of the site was ongoing at the time the Phase I Environmental Site Assessment was conducted.

8-30 Specific responses to this summary comment are provided above. Please refer to **General Response 3.1.11** regarding project alternatives.

RESPONSE TO COMMENT LETTER 9 – SONOMA COUNTY COUNSEL

9-1 Comment noted. Please see **General Response 3.1.1** regarding the extension of the comment period.

9-2 Comment noted. Please see **General Response** General Response **3.1.15** regarding **Appendices F** and **J**.

9-3 Comment noted. Please see **General Response** General Response **3.1.1** regarding the extension of the comment period.

9-4 Comment noted. Please see **General Response** General Response **3.1.1** regarding the extension of the comment period.

9-5 Comment noted. Please see **General Response** General Response **3.1.1** regarding the extension of the comment period.

9-6 Comment noted. Please see **General Response** General Response **3.1.1** regarding the extension of the comment period.

9-7 Comment noted. Please see **General Response** General Response **3.1.1** regarding the extension of the comment period.

RESPONSE TO COMMENT LETTER 10 – SONOMA COUNTY BOARD OF SUPERVISORS

10-1 As stated in the EA, no significant effects would occur after the implementation of mitigation measures stated in EA and revised in **Section 5.0** of the Final EA. Thus, an EIS is not warranted.

10-2 Please see **Response to Comment 10-1**. Specific responses are provided below to this summary comment.

10-3 Please see **General Response 3.1.5** regarding the intended uses of the proposed buildings.

10-4 Please see **General Response 3.1.4** regarding traffic modeling and **3.1.5** regarding the project description.

10-5 Please see **General Response 10-3**.

10-6 Please see **General Responses 3.1.5** regarding the project description, **3.1.11** regarding the range of project alternatives and **3.1.12** regarding local land use plans.

10-7 Please see **General Response 3.1.11**.

10-8 Please see **General Responses 3.1.2** and **3.1.11** regarding the feasibility of Alternative A.

10-9 Please see **General Response 3.1.11** regarding the range of project alternatives.

10-10 Please see **General Response 3.1.11** regarding the range of project alternatives.

10-11 Please see **General Responses 3.1.11** regarding the range of project alternatives and **3.1.12** regarding local land use plans.

10-12 Please see **General Response 3.1.3** regarding impacts to on-site oak trees.

10-13 Please see **General Response 3.1.3** and **Response to Comment 13-11** regarding analysis of impacts to biological resources.

10-14 Please see **General Response 3.1.3** regarding impacts to on-site oak trees.

10-15 As stated in Section 6.7 of the BA (**Appendix E** of the EA**)**, "If avoidance of the special-status plant habitat is not feasible, the Tribe must mitigate for impacts to the this habitat according to the mitigation ratios outlined in the Programmatic Consultation for USACE 404 Permitted Projects that May Affect Four Endangered Plant Species on the Santa Rosa Plain, California (File Number

223420N) (USFWS, 2007)." Floristic survey efforts were conducted according to the SRPCS Protocol (USFWS, 2005a) and occurred within the appropriate bloom periods for all potentially occurring special-status plant species. A more explicit description of the methodology and results of the floristic surveys that have been conducted within the project site to date are included in the Technical Botanical Memorandum listed as Attachment E of **Appendix B** of the Final EA. One additional year of protocol level surveys is required for some of the more recently acquired parcels. An update to the Technical Botanical Memorandum will be completed following these surveys. Focused botanical surveys also included the search for non-federal special-status plants. No state listed wildlife species were determined to have the potential to occur within the project area. It is appropriate that the EA focus on sensitive species in an attempt to determine the significance of impacts; no federally sensitive animal species were found to have potential to occur within the project site. Nonetheless, the **Section 3.4** of the Final EA and **Appendix E** contain a detailed description of the biological setting, including a notation of all wildlife observed on-site and a map illustrating terrestrial and aquatic habitat types. Please also refer to **Response to Comment 21-7**.

10-16 Comment noted. Please refer to Attachment B of the BA (**Appendix E** to the Final EA) for discussion and evaluation of critical habitats for salmonids. Furthermore, a Stream Characterization report was prepared for the project discussing the potential for salmonids to occur and is provided as **Appendix L** of the Final EA. In addition, the following regulations apply to all listed salmonids in the Russian River Watershed, as published in the Federal Register on Sept. 2, 2005 (70FR52488 - 52627):

> § 226.211 (d) Exclusion of Indian lands. Critical habitat does not include occupied habitat areas on Indian lands. The Indian lands specifically excluded from critical habitat are those defined in the Secretarial Order, including: (1) Lands held in trust by the United States for the benefit of any Indian tribe; (2) Land held in trust by the United States for any Indian Tribe or individual subject to restrictions by the United States against alienation; (3) Fee lands, either within or outside the reservation boundaries, owned by the tribal government; and (4) Fee lands within the reservation boundaries owned by individual Indians.

While the project site itself does not contain designated critical habitat, waters both upstream and downstream of this designated tribal land holding are designated critical habitat.

10-17 Comment noted. While the site is located within a historic range for the California red-legged frog (*Rana draytonii*- CRLF), there are no documented CNDDB occurrences of CRLF within five miles of the project site. There is no suitable breeding habitat onsite based upon the wetland delineation and characterization of the aquatic features onsite (please refer to **Appendices E** and

L of the Final EA). There is no critical habitat designated in the project site; the closest critical habitat unit is SOL-1, approximately 15 miles southeast of the project site. In addition, the USFWS does not consider CRLF in its Biological Opinion for the SRPCS (USFWS, 2007), therefore it has been concluded that CRLF does not have the potential to occur onsite.

10-18 The EA determined that the referenced species do not have the potential to occur within the project site; nonetheless, further clarification regarding potential for the referenced species to occur is provided in Attachment B to **Appendix E** of the Final EA. The commenter notes a "rocky perennial stream environment" when in fact fine sediments (<0.06 millimeters [mm]) were the most dominant substrate observed, composing 73% of the (n=105) random observations during the Regional Water Quality Control Board (RWQCB) Surface Water Ambient Monitoring Protocol (SWAMP) survey of the stream (Stream Characterization: **Appendix L** of the Final EA). In addition, fine gravels (2-16 mm) constituted 17 percent of the substrate observations; woody debris (<0.03 meters) constituted five percent of the substrate observations; sand (0.06-2 mm) comprised four percent of the observations; while two observations of coarse gravels constituted one percent of the observations made within the unnamed tributary to Windsor Creek. The commenter's claim that suitable habitat exists for the noted species is not supported by actual field conditions and observations. In addition, the results from this Stream Characterization and assessment indicated that instream habitat complexity was lacking and that most instream habitat attributes such as large woody debris (>0.3 meters), undercut banks, and boulders were completely absent from the unnamed tributary; while overhanging vegetation, emergent vegetation, filamentous algae, and live tree roots were sparsely (<10 percent) observed in the study reach. The results from this survey are indicative of a low quality stream habitat that would not be suitable for the presence of the noted species. Further, none of these species were observed during numerous biological site surveys covering over a three year period.

10-19 Within the project site, the Unnamed Stream tributary to Windsor Creek does not provide the threshold habitat requirements (flow volume and duration, substrates, instream habitat complexity, dissolved oxygen, benthic diversity or temperature) for spawning, rearing or a migration corridor for salmonids (BA: **Appendix E**; Stream Characterization: **Appendix L** to Final EA). In addition, it is stated in **Section 4.1.4** that "to the maximum extent possible, the Proposed Project has incorporated the mixed oak woodland, oak savannah, and riparian woodland habitats into the site design to minimize impacts to these habitats by adjusting the locations of lots and structures to avoid more pristine stands of woodlands and exceptionally large individual trees, maintain woodland corridors, and establish aesthetic woodland buffer regions around development areas." Also, please see **General Response 3.1.3** regarding potential impacts to on-site oak trees.

10-20 Please see **Response to Comment 8-10** regarding setback requirements.

10-21 Please see **Responses to Comments 8-1** through **8-30** from the RWQCB comment letter. The on-site irrigation and storage areas have been appropriately sized according to the water balances, and detailed monthly balance data with consideration of precipitation ETo, irrigation efficiency and irrigation demand, as demonstrated in the revised **Appendix B** of the Final EA.

10-22 Please see **Response to Comment 10-21**. Table 3-7 in **Appendix B** of the Final EA has been revised to utilize Windsor evapotranspiration data.

10-23 The commenter appears to be referencing Section 1.6.1 of **Appendix B** of the EA. The reference to Sonoma County, 2007 is included in the references section (Section 5) of **Appendix B**. According to the references section, this is a reference to "Permit and Resource Management Department, Policy and Procedure, Regulations for Design, Construction, Repair and Operation of Non-standard Sewage Disposal Systems Pursuant to Sonoma County Code Chapters 7 and 24."

10-24 The commenter appears to be referencing Section 1.6.2 of **Appendix B** of the EA. Please see **Response to Comment 10-23**.

10-25 The design occupancy estimated in Tables 3-1 and 3-2 in EA **Appendix B** is 636 for Alternatives A and B, and 246 for Alternative C. These estimates of design occupancy in the community were developed from two separate approaches that yield similar results:

- Estimated Quantities of Sewage Flow - Using County flow generation standards, total development peak day wastewater flows are estimated to be 63,600 gpd (Alt A & B) and 24,600 gpd (Alt C). If estimated overall wastewater flow is 100 gpd/capita including flow allowances for common facilities, the peak day "occupancy" estimates are 636 people (63,600 gpd ÷ 100 gpd/capita = 636 capita) and 246 people (24,600 gpd ÷ 100 gpd/capita = 246 capita).

- Per Dwelling Population Allowance - Occupancy of newer developments is often a little over four capita/EDU, even though overall community occupancy may be around 3.2 capita/EDU. This is because typical "newer developments" attract families. The high capita/EDU figure for newer developments, then, decreases over time as the children leave home. The Lytton housing project is not a typical "newer development" attracting families, it is planned to serve a specific community from young to old. The number of people who will reside in the planned 2 to 4 bedroom homes will change over the life of the project. However, as a worst-case estimate, using 147 EDUs (Alt A & B) and 57 EDUs (Alt C) and 4.2 capita/EDU results in estimated occupancies of 617 people (Alts A & B) and 240 people (Alt C), plus possibly some day workers using community facilities.

The larger results from these approaches are used as the design occupancy for this analysis.

10-26 **Section 2.2** of the Final EA has been expanded to discuss the proposed WTRF as well as each wastewater alternatives, including those that maximize on-site storage and reuse. Revised **Appendix B** of the Final EA contains detailed information on the proposed WTRF, including the proposed treatment technology, and the number and size of components. Please see **General Response 3.1.2** regarding treated wastewater discharge to surface waters.

10-27 Please refer to the Stream Characterization report prepared for the Final EA (**Appendix L**) regarding potential impacts to nearby surface water features. Please see **General Response 3.1.10**. The test well installed at the project site was designed to produce water from a deeper, semi-confined portion of the aquifer that is isolated from a shallower groundwater zone by a thick clay or mudstone horizon. As described in EA **Appendix C**, the shallow monitoring well, which is screened above the clay horizon, showed no measureable response during the pumping test, and only responded to small changes in barometric pressure. Creeks in the project area flow mostly in response to precipitation events, so their source of water is unrelated to that which would be produced from a production well at the site. Since the evaluation used conservative assumptions such a no annual aquifer recharge, the influence on the unconfined aquifer in the area of the shallow creek would likely be less.

Similarly, the Russian River and McLaughlin Pond represent the water table and are developed in shallow deposits of sand and gravel that have very high permeability. It is uncertain if the stratigraphy identified in the Lytton test wells extends laterally under the river and pond area, or if the shallow fluvial aquifer materials are isolated from the deeper strata. Either way, because of the high permeability and unconfined conditions near the river, there would likely be no measureable response in the aquifer to pumping from a production well at the Lytton site.

Although the Lytton production well would draw in water radially from all directions, two no-flow aquifer boundaries were identified in the analysis of the pumping test data. These boundaries are likely faults or other lateral discontinuities that restrict the lateral movement of groundwater. As described in the report, the exact location and orientation of the boundaries are unknown, but a reasonable location for one boundary would be the northwest-trending ravine that exists to the southwest of the well site. This feature parallels many other regional faults and would tend to hydraulically isolate the well site from the river valley directly west of the site. Because the eastern margin of the river valley begins about 1,000 feet to the west of the site, in the absence of a barrier, the interference analysis provided for impacts to shallow wells would apply. This analysis predicted approximately 2.5 to three feet of drawdown at that distance, again in the absence of recharge. This restriction is particularly unlikely in the Russian River valley

aquifer, because it is in direct hydraulic connection to the river and receives some annual recharge from the river.

10-28 Please see **Response to Comment 10-27** above as well as **General Response 3.1.10** regarding groundwater issues.

10-29 For all alternatives evaluated, potable water would not generally be used for common area landscape irrigation. As stated in the revised **Appendix B** of the Final EA, if common area landscaping irrigation is required under Alternatives B and C it would be supplied with reclaimed water from the on-site wastewater treatment plant. **Section 2.1.5** of the Final EA has been revised to clarify that the Tribe proposes to utilize Town of Windsor reclaimed water for its landscape irrigation needs. Irrigation land requirements for worst case conditions are stated in **Table 4-12** in **Section 4.2.2** of the Final EA, as well as in **Appendix B**, **Table 3-7** of the Final EA.

10-30 Please see **General Response 3.1.10** regarding groundwater issues and the revised **Appendices B** and **C** of the Final EA regarding water demand estimates.

10-31 Please see **General Response 3.1.10** regarding groundwater issues and the revised **Appendices B** and **C** of the Final EA regarding water demand estimates. All hydrogeologic test data is provided in **Appendix C** of the Final EA. The test well at the site was constructed to a depth of 420 feet below the ground surface (bgs) and the initial static water level was measured at 126.4 feet bgs. The static water level in the shallow monitoring well was measure at 102.27 feet bgs. The test well was subjected to both a step test and a constant-discharge test. The step test included four, one-hour-duration tests at rates of up to 272.8 gpm. Drawdown at the end of that test was 27.39 feet. A 72-hour constant-discharge test was then completed at a rate of 150.3 gpm. Drawdown at the end of that test was 25.7 feet. Modeling of the test results indicated that a production well at the site could sustain continuous pumping of 75 gpm for a period of one year without drawing the water level down below the top of the recommended well screen. This amount of drawdown is not considered excessive because it amounts to about 10% of the aquifer thickness and because drawdown would be maintained above the screen interval. The continuous rate was calculated at 57 gpm.

10-32 Please see **General Response 3.1.10** regarding groundwater issues and **Response to Comment 10-31** above.

10-33 Please see **General Response 3.1.10** regarding groundwater issues. A complete description of the methods used to estimate drawdown at various distances and screen depths is provided in the Hydrogeologic Investigation Report, **Appendix C** of the Final EA.

10-34 Please see **General Response 3.1.10**. The appendices to the Hydrogeologic Investigation Report have been provided to Sonoma County as requested, and are available in the revised **Appendix C** of the Final EA.

10-35 Please see **General Response 3.1.10** regarding groundwater issues and implementation of Low Impact Development (LID) features.

10-36 Although not required by NEPA, the Tribe has agreed to make the well utilized for monitoring during the hydrogeologic investigation available for use in the ongoing regional monitoring program. A mitigation measure has been added to this effect in **Section 5.2** of the Final EA.

10-37 Please see **General Response 3.1.8** regarding greenhouse gas emissions and climate change and revised **Sections 3.3**, **4.0** and **5.3** of the Final EA.

10-38 Please see **General Response 3.1.8** regarding greenhouse gas emissions and climate change and revised **Sections 3.3**, **4.0** and **5.3** of the Final EA.

10-39 Please see **General Response 3.1.8** regarding greenhouse gas emissions and climate change and **General Response 3.1.3** regarding impacts to on-site oak trees.

10-40 Please see **General Response 3.1.8** regarding greenhouse gas emissions and climate change and revised **Sections 3.3**, **4.0** and **5.3** of the Final EA.

10-41 Please see **General Response 3.1.8** regarding greenhouse gas emissions and climate change and revised **Sections 3.3**, **4.1.3**, **4.2.3**, **4.3.3** and **5.3** of the Final EA.

10-42 Please see **General Response 3.1.8** regarding greenhouse gas emissions and climate change and revised **Sections 3.3**, **4.1.3**, **4.2.3**, **4.3.3** and **5.3** of the Final EA.

10-43 Please see **General Response 3.1.5** and **Comment 10-1**. It is not known the specific number of members that would use the community facilities. However, the use of on-site facilities for tribal gatherings and events would not be a frequent occurrence. When such gatherings occur, a large proportion of the attendees would travel only a short distance from their residences on-site, or from other locations within the County.

10-44 The EA includes a comprehensive analysis of air quality impacts that is consistent with the requirements of NEPA.

10-45 As stated in **Section 2.0** of the Final EA, the community center, round house, and retreat would only be open to Tribal members and their guests; therefore, no vehicle trips were assigned to these facilities. Please refer to the revised **Appendix G** of the Final EA. Because no trips were assigned to these facilities, they were not included in the URBEMIS air quality model. The community center, round house, and retreat would not generate substantial criteria pollutants or GHGs.

10-46 The project site is partially in the San Francisco Bay Area Air Basin (SFBAAB) and partially in the North Coast Air Basin (NCAB). The SFBAAB is under the jurisdiction of the BAAQMD, while the southern portion of the NCAB is under the jurisdiction of the Northern Sonoma County Air Pollution Control District (NSCAPCD). **Section 3.3** of the Final EA has clarified the location of the project site with regards to the air basin and air quality management district. It should be noted that once the project site is taken in to trust it would no longer be under the jurisdiction of the NSCAPCD and BAAQMD, but rather under the jurisdiction of the USEPA.

10-47 Please see **Responses to Comments 10-1** and **10-44**. The recommended additional fugitive dust mitigation measures have been added to **Section 5.3** of the Final EA. The federal designation for particulate matter ($PM_{2.5}$) has changed from attainment to nonattainment in the SFBAAB. Due to this change, the Final EA has been revised to include an analysis of $PM_{2.5}$ in **Section 4.1.3**.

10-48 Please see **Responses to Comments 10-1** and **10-44**. The air quality impact analysis provided in **Section 4.1.3** includes a comprehensive analysis of ozone impacts consistent with NEPA. Impacts due to project-related ozone emissions on the ambient air quality in the SFBAAB were determined to be less than significant.

10-49 Please see **Responses to Comments 10-1**. **Section 3.3.6** of the Final EA has been revised to note the nearest sensitive receptors to the project site with the inclusion of seven new parcels, as well as the reference receptors, located 50 feet from the site. Appropriate changes have been made to **Section 4.1.3**, **4.2.3** and **4.3.3** of the Final EA based on this information.

10-50 Please see **Response to Comment 10-44**.

10-51 As noted in the **Section 4.1.3** of the EA, conformity would be in question only for ozone emissions. Therefore, particulate matter 10 microns in size and carbon monoxide emissions were included in the URBEMIS model results in **Appendix D** but not included in the main text of the EA. Please refer to **Response to Comment 10-47** regarding the analysis of particulate matter 2.5 microns in size in the Final EA. In addition, operational emissions would be primarily associated with motor vehicle use, for which ozone precursors are the primary emissions. Particulate matter emissions would be far below federal *de minimus* levels, even assuming a nonattainment

designation. Carbon monoxide emissions are localized and would not require comprehensive analysis unless the project results in a significant unavoidable traffic impact, which it does not.

10-52 Pre and post construction hydrology maps and calculations were prepared to compare flows at known and similar release points at the perimeter of the project site. With this analysis structure in place, the capacity/adequacy of the proposed storm drain infrastructure could be analyzed. The hydrology maps and calculations have been modified in **Appendix A** of the Final EA to include additional areas on-site that drain to the northwest.

10-53 Sonoma County Standard Urban Stormwater Mitigation Plan (SUSMP) guidelines allow for a choice of either flow based or volume based treatment. As noted in **Response to Comment 10-52**, the project's pre vs. post calculations were based on a flow based treatment method. The calculations have been updated in **Appendix A** of the Final EA based on volume-based treatment methods to be consistent with Chapter 11 and 11a of the newly adopted County Grading Ordinance. As a part of the volume based treatment method, flow paths have been added to each tributary area and time of concentrations have been calculated for the upper-most watersheds. Use of bio retention ponds, bio swales, and rain gardens would detain and reduce the velocity of storm runoff, resulting in stormwater discharges that approximate pre-development conditions (Final EA **Appendix A**). Post construction hydrology maps have been enlarged in **Appendix A** of the Final EA as requested.

10-54 The slopes of the tributary areas range between 3 and 20 percent. With an assumed average slope of 8 percent, the pre construction runoff coefficient would decrease from 0.50 to 0.38. The added increase in the difference between pre and post construction would be accounted for by the bio retention ponds, bio swales, and rain gardens noted in **Response to Comment 10-53**.

10-55 As noted in EA **Appendix G**, the study intersections were chosen based on their proximity to the site, Caltrans guidelines, and their potential to be impacted by the project. The project-related increase in trips at the intersections noted by the commenter would be much less than 50 trips per intersection and therefore do not warrant further study. Please see **General Response 3.1.4**.

10-56 There is no evidence to suggest any particular need for a transit link. As noted in **Appendix G** of the Final EA, all residential units were assumed to generate traffic based on the rates for single-family dwellings. In the absence of an applicable traffic mitigation fee, individual impacts have been analyzed both for the near term and cumulative conditions in **Sections 4.1.7**, **4.2.7**, **4.3.7**, and **4.5.7** of the EA. Mitigation measures are included in **Section 5.7** of the EA that would ensure a less than significant impact.

10-57 Please see **Response to Comment 10-56**. **Section 3.7.1** of the EA and **Appendix G** describe the local transit network, including Sonoma County Transit Routes 60 and 66.

10-58 Please see **Response to Comment 10-1**. References to the 2020 General Plan would not affect the analysis of impacts in any way that would result in new significant impacts; thus no change to impacts has been made, but the reference to the 2020 General Plan was updated.

10-59 Please see **Response to Comment 10-49**. **Section 3.10.3** of the Final EA has been revised to note that the nearest sensitive receptor is located 50 feet from the site. Additional noise mitigation measures have also been added to **Section 5.10** of the Final EA.

10-60 Please see **Response to Comment 10-59**.

10-61 An increase in traffic noise that is not noticeable is not a significant increase. Thus, it is not necessary to perform the additional analysis suggested by the commenter.

10-62 The referenced General Plan standards are noted in **Section 3.10.2** of the EA. However, the reference to 65 decibels (dBA) in **Section 4.0** of the EA is to the Federal Highway Administration (FHWA) guidelines. Nonetheless, even were a standard of 60 dBA used, the significance conclusion would not change.

10-63 Potential noise impacts from the water treatment facility are analyzed in **Sections 4.2.10** and **4.3.10** of the EA. Additional analysis has been added to these sections and an additional mitigation measure regarding this impact has been added to **Section 5.10** of the Final EA.

10-64 Please see **General Response 3.1.13** regarding county services.

10-65 Please see **General Response 3.1.5** regarding the project description. Additional mitigation regarding coordination with the local Sheriff's office during events has been added to **Section 5.9** of the Final EA.

10-66 The recommended wording change from Sonoma County Sherriff's Department to Sonoma County Sheriff's Office has been made throughout the Final EA.

10-67 Mitigation measures have been added to **Section 5.9** of the Final EA requiring development generally consistent with Sonoma County Fire Safe Standards and requiring the preparation of a vegetation management plan. Please see **General Response 3.1.13** regarding public services.

10-68 As noted in **Appendix B** of the EA, water facilities would be designed to ensure a fire flow of 2,500 gpm with a 400,000 gallon storage tank. An additional mitigation measure has been added to **Section 5.9** of the Final EA consistent with the recommendation for fire hydrant spacing.

10-69 The word "Uniform" has been removed from **Section 2.1.9** of the Final EA to ensure the measure refers to the code adopted in Sonoma County.

10-70 The recommended requirement for fire alarm and suppression systems has been added as a mitigation measure to **Section 5.9** of the Final EA.

10-71 Propane would be delivered to the buildings through individual contracts as needed, similar to the existing arrangement with rural homeowners and businesses not served by natural gas. All standard safety measures regarding propane use would be implemented by the propane providers.

10-72 Please see **Response to Comment 10-67**.

10-73 **Sections 4.2.11** and **4.3.11** of the EA analyze potential impacts from on-site hazardous materials storage. Mitigation measures in **Section 5.11** of the EA would ensure a less than significant impact.

10-74 Please see **General Responses 3.1.6** regarding potential impacts to the Windsor Unified School District and **3.1.13** regarding county services.

10-75 The paragraph has been revised as recommended, and additional revisions were also made due to the additional parcels which have been added to the project site.

10-76 **Section 3.0** has been revised to describe the accurate number of existing residences within the project site.

10-77 General Plan and Zoning designations are graphically shown in **Figure 3-6** of the EA and are consistent with the designations displayed by the commenter. **Section 3.8** of the Final EA has been revised to clarify the permitted uses under the land use and zoning designations.

10-78 Please see **Response to Comment 10-1** and **General Responses 3.1.6** and **3.1.13**. The noted General Plan policies are directed to the County but are not binding on Indian tribes or on federal trust land.

10-79 The land use and zoning designations, as well as the extent of Windsor jurisdiction has been clarified in **Section 3.8** of the Final EA. Town of Windsor land use designations are clearly shown in **Figure 3-7** of the EA and are consistent with the designations displayed by the commenter.

10-80 For a description of the soils on-site, please refer to **Section 3.1** of the EA. For a description of the agricultural setting, please see **Section 3.8.3** of the EA.

10-81 Please see **General Response 3.1.12** regarding local government and land use plans.

10-82 As the County General Plan defines densities as dwelling units, so were the densities calculated for the project site. Please see **General Response 3.1.12** regarding local government and land use plans.

10-83 Please see **Response to Comment 10-1** and **General Responses 3.1.2** regarding water and wastewater discharge and **3.1.12** regarding local government land use plans.

10-84 Please see **General Response 3.1.12** regarding local government and land use plans.

10-85 The requested edit has been made to **Section 3.12** of the Final EA.

10-86 The General Plan objectives described in detail by the commenter are currently summarized in **Section 3.12** of the EA. This summary is adequate for the analysis of impacts in **Section 4.0** of the EA.

10-87 Please see **General Response 3.1.12** regarding local government and land use plans and **3.1.7** regarding visual resources. There are no homes proposed to be constructed within the designated Scenic Landscape Unit (APNs 066-300-028 and 066-300-033).

10-88 Please see **General Response 3.1.12** regarding local government and land use plans and **3.1.7** regarding visual resources.

10-89 Please see **General Response 3.1.12** regarding local government and land use plans and **3.1.7** regarding visual resources.

10-90 Please see **General Response 3.1.14** regarding cumulative issues.

10-91 Please see above specific responses to this summary comment.

RESPONSE TO COMMENT LETTER 11 – TOWN OF WINDSOR PLANNING ADMINISTRATIVE SPECIALIST

11-1 Please see **General Response 3.1.1** regarding extension of the comment period.

RESPONSE TO COMMENT LETTER 12 – RICHARD RUDNANSKY, WINDSOR TOWN ATTORNEY & WINDSOR WATER DISTRICT GENERAL COUNSEL

12-1 Please see **General Response 3.1.1** regarding extension of the comment period and **3.1.15** regarding non-circulation of Appendices F and J.

RESPONSE TO COMMENT LETTER 13 – WINDSOR TOWN MANAGER

13-1 Please see **General Response 3.1.1** regarding extension of the comment period. Specific responses are provided below to this summary comment.

13-2 Comment noted.

13-3 Please see **General Response 3.1.5** regarding the project description and **3.1.11** regarding the range of project alternatives. The purpose and need statement in **Section 1.3** of the EA notes the need for a long-term, viable, and sustainable solution to the Tribe's lack of a land base.

13-4 Please see **General Response 3.1.11** regarding project alternatives.

13-5 Attempting to develop the property without taking the land into trust would not meet the Tribe's need to develop a Tribal land base. Please see **General Response 3.1.11** regarding project alternatives and **3.1.12** regarding local government and land use plans.

13-6 Please see **General Response 3.1.11** regarding project alternatives.

13-7 Please see **General Response 3.1.8** regarding climate change and greenhouse gases. Additional water conservation, LEED standards and disabled persons accessibility BMPs have been added to **Section 2.0** of the Final EA. **Section 2.0** of the EA contains a BMP stating that the Tribe would comply with design standards equivalent to all building codes adopted in Sonoma County. Note, however that the purpose of the BMPs in **Section 2.0** is not to ensure that all impacts are mitigated, but to note the BMPs that would be followed as part of each alternative development. Please see **Sections 4.0** and **5.0** of the EA for an analysis of potential impacts and for a description of mitigation measures necessary to ensure a less than significant impact.

13-8 Please see **General Response 3.1.2** regarding water/wastewater service from the Town of Windsor.

13-9 Comment noted. Please see **General Response 3.1.1** regarding extension of the comment period.

13-10 The biodiversity document noted by the commenter was issued as guidance and explicitly states that;

> *"The report does not establish new requirements for such analyses. It is not, and should not be viewed as, formal CEQ guidance on this matter, nor are the recommendations in the report intended to be legally binding. The report does not mean to suggest that biodiversity analyses should be included in every NEPA document, without regard to the degree of potential impact on biodiversity of the action under review."*

As stated in **Section 3.4.3** of the EA; State and/or California Native Plant Society (CNPS)-listed species typically do not receive specific protection on trust lands and are not necessarily afforded protection under the FESA. However, State and CNPS listed species were evaluated in terms of their overall contribution to the biodiversity of the project site and for the purpose of providing general information that is pertinent to the Proposed Project. The U.S. Fish and Wildlife Service (USFWS), California Natural Diversity Database (CNDDB) and CNPS database research lists of regionally occurring special-status species are included for reference purposes in the BA (EA **Appendix E**), with an overall evaluation of the potential for State and CNPS-listed species to occur within the project site provided in Attachment B to the BA. In addition, please see **Response to Comment 21-7** with reference to the evaluation of Federal, State and CNPS listed species.

13-11 The commenter implies, but does not substantiate their claim, that the Description of the Effected Environment and Environmental Consequences sections of the EA fail to meet the requirements set forth in the BIA NEPA handbook; Sections 4.4 E (4) and 4.4 F (as referenced in **Comment 13-10**). **Section 3.4** of the EA sufficiently details the effected environment to the level of detail required in Section 4.4 E (4 a-d) of the BIA NEPA handbook as all terrestrial and aquatic habitats, federally threatened or endangered species and State or CNPS-listed species were evaluated in terms of their overall contribution to the biodiversity of the project site and for the purpose of providing general information that is pertinent to the Proposed Project. Impacts discussion for non-federal special status species has been expanded in **Section 4.1.4** of the Final EA. The USFWS, CNDDB, and CNPS database research lists of regionally occurring special-status species are included for reference purposes in the BA (EA **Appendix E**), with an overall evaluation of the potential for State and CNPS-listed species to occur within the project site provided in Attachment B to the BA.

In addition, the significance criteria used in the EA (as referenced by the commenter) evaluates all habitats and biological communities onsite including oak woodlands, wetlands as well as all regionally occurring special status species and migratory birds. Further, **Section 3.4.4** of the EA (discussion of special status species) clearly does not limit the evaluation of potentially occurring

species to only federally listed species (**Table 3-9**), as noted in **Table 3-10** - *Regionally Occurring Non-Federal Special Status Species*. Therefore, the analysis of biological resources was not limited to only federally protected species or habitats as suggested by the commenter. Please see **Response to Comment 10-15**.

13-12 The commenter incorrectly references the text from **Section 3.4.3**, p. 3-22 of the EA which reads;

> *"State and/or CNPS-listed species typically do not receive specific protection on Indian trust lands and are not necessarily afforded protection under the FESA. However, State and CNPS listed species were evaluated in terms of their overall contribution to the biodiversity of the project site and for the purpose of providing general information that is pertinent to the Proposed Project."*

In addition, please refer to **Responses to Comments 13-10, 13-11, 13-12** and **21-7** related to biological impact analyses and significance criteria used in the EA.

13-13 Comments noted. It is accepted that potential offsite project related impacts may be pursuant to State, County and local regulations. The commenter implies that pollutants will be discharged from the project to downstream receiving waters which will impact fisheries resources and federally-designated Critical Habitat in the Russian River. The commenter fails to identify the source or constituents of these "pollutants," therefore a detailed response cannot be offered. Please refer to **Responses to Comments 10-16**, **10-18** and **10-19** regarding potential impacts to salmonids. Additionally, please refer to the Stream Characterization report provided as **Appendix L** of the Final EA, which addresses all potential impacts to aquatic resources of the waters downstream of the project site relative to tertiary treated wastewater disposal to onsite surface waters.

13-14 Please refer to the Stream Characterization report provided as **Appendix L** of the Final EA, which addresses all potential impacts to aquatic resources of the waters downstream of the project site relative to tertiary treated wastewater disposal to onsite surface waters. USEPA NPDES permits in the Russian River watershed typically adhere to the water quality standards set forth in the North Coast Basin Plan. This ensures that the design of the treatment facility will meet these standards, therefore no significant impact would occur. Please also see **Response to Comment 8-5**.

13-15 Please see **General Response 3.1.3** regarding impacts to on-site oak trees.

13-16 Comment noted. Development of the project will require a USEPA general construction permit and the development of a Storm Water Pollution Prevention Plan as described in **Sections 2.1.9**

and **5.2** of the EA. In addition, the Grading and Drainage Report provided as **Appendix A** of the EA details the effects of the development on stormwater flows both pre and post construction for alternatives A-C. The implementation of the measures outlined in the sections of the EA noted above will ensure that potential impacts associated with sediment transport in storm flows are reduced to less than significant. **Sections 4.1.2**, **4.2.2**, and **4.3.2** of the Final EA includes an analysis of the impacts of stormwater runoff on surface water quality. Mitigation measures contained in Final EA **Section 5.2** would ensure impacts to stormwater runoff are less than significant.

13-17 Please see **General Response 3.1.8** regarding climate change and greenhouse gases.

13-18 Please see **General Response 3.1.8** regarding climate change and greenhouse gases.

13-19 Please see **General Response 3.1.3** regarding impacts to on-site oak trees. Impacts to trees exceeding nine inches diameter at breast height were evaluated, as detailed in **Section 4.1.4** and **Table 4-8** of the Final EA.

13-20 Please see **General Response 3.1.3** regarding impacts to on-site oak trees. As the proposed project is surrounded to the north and south by agriculture (primarily vineyards) and on the east by the Town of Windsor, wildlife movement is presumed to be concentrated along the western end of the project site towards the Russian River riparian corridor. As the proposed developments for all alternatives is focused on the central and eastern portions of the project site (little development is proposed on the western-most portion of the site), impacts to habitat corridors and wildlife movement would be less than significant. Please refer to **General Response 3.1.2** regarding potential impacts to surface waters and **Response to Comment 13-13** regarding potential impacts to watersheds.

13-21 Comment noted. Please see **General Response 3.1.4** regarding traffic impacts and modeling.

13-22 Please see **General Response 3.1.5** regarding the project description, **3.1.4** regarding traffic issues and **Response to Comment 10-43**.

13-23 As stated in **Appendix G** of the EA, "It should also be noted that an overall review of traffic operations and safety was conducted at all of the project driveways including the two minor driveways that would be located near the intersection of Windsor River Road and Eastside Road. The review indicated the project would not result in any significant traffic safety or operational problems at any of these locations." Please see **General Response 3.1.4** regarding traffic impacts and modeling.

13-24 There would not be enough pedestrian traffic to justify additional sidewalks given the relatively long walk to any likely destinations and given that the existing sidewalk on the north side of Windsor River Road could be utilized. Pedestrians can legally cross at any nearby intersection on Windsor River Road.

13-25 It is common that cycle lengths are adjusted as traffic volumes at an intersection increase or decrease given that cycle length timing is a relatively easy way to optimize intersection operations. Thus, it is reasonable and common for traffic studies to assume that cycle lengths will be optimized in analyzing intersection operations. Please see **General Response 3.1.4** regarding traffic impacts and modeling.

13-26 Please see **Response to Comment 13-23**. The referenced safety evaluation included a line of sight analysis which revealed no line of sight issues. **Appendix G** of the Final EA has been modified to clarify that the safety analysis included a line of sight analysis.

13-27 Please see **Response to Comment 13-23**. **Appendix G** of the Final EA has been modified to specifically note that left-turn pockets are not required.

13-28 Comment noted regarding the minor typographical errors in **Appendix G** of the EA, which do not result in any errors in the analysis. Nonetheless, the referenced error has been corrected throughout the Final EA as suggested.

13-29 Please see **General Response 3.1.2** regarding water and wastewater service.

13-30 Please see **General Responses 3.1.10** regarding groundwater issues and **3.1.14** regarding cumulative issues.

13-31 Please see **General Response 3.1.10** regarding groundwater issues and **Responses to Comments 8-24** and **10-21**. Should the project be connected to the Town of Windsor water system, the Town would have the ability to enforce water conservation measures through the control of the water supply to the project subject to the agreement for services between the Town and the Tribe.

13-32 Please see **General Response 3.1.10** regarding groundwater issues and **Responses to Comments 8-4**, **8-24**, and **10-21**.

13-33 Please see **General Response 3.1.2** regarding wastewater discharge and **Responses to Comments 8-5** and **8-6** regarding enforceability of the USEPA-issued NPDES permit, which would take into consideration potential erosional impacts to adjacent roads. As stated in **Section 4.1.2** of the EA, the proposed effluent discharge would not have any significant stormwater or

flooding impacts especially considering the BMPs that would ensure pre-project level drainage from the site (see **Appendix A** of the EA). Nonetheless, an additional mitigation measure has been added to **Section 5.2** of the Final EA to require that wastewater discharges be reduced or eliminated during the issuance of an urban and small stream flood advisory by the National Weather Service.

13-34 Please see **Response to Comment 13-33**.

13-35 Please see **Responses to Comments 13-32** and **13-33**.

13-36 Please see **Responses to Comments 13-31**, **13-32**, and **13-33**.

13-37 As refined in **Section 2.2** of the Final EA, reclamation and reuse will be a portion of any project that includes on-site wastewater treatment. Please see **Responses to Comments 8-8** and **13-32**.

13-38 Please see above responses to this summary comment, **General Response 3.1.2** regarding water/wastewater service, as well as **Response to Comment 8-2**.

13-39 Please see **General Responses 3.1.11** regarding project alternatives and **3.1.12** regarding local governmental land use plans.

13-40 Please see **General Responses 3.1.12** regarding local governmental land use plans and **3.1.12** regarding county services.

13-41 Please see **General Response 3.1.12** regarding local governmental land use plans and **3.1.7** regarding visual resources.

13-42 Please see **General Responses 3.1.10** regarding groundwater and **3.1.12** regarding local governmental land use plans, as well as **Responses to Comments 7-2**, **10-56**, and **13-33**.

13-43 Please see **General Response 3.1.12**. As clarified in **Section 4.1.8** of the Final EA, the development would be generally compatible but not specifically consistent with surrounding land uses, which are largely residential with a mixture of agricultural and open space land uses.

13-44 Comment noted. Specific responses are provided below to this summary comment; please see **General Response 3.1.13** regarding public services..

13-45 **Section 4.1.9** of the EA includes an estimate of solid waste that would be generated on a regular basis by the project components, including the community center. NEPA does not require

speculation on solid waste that would be generated infrequently from unknown events or gatherings. **Section 4.1.9** of the EA states that most Tribal members that would be project residents and employees already are expected to already live within the County. The EA does not claim that Tribal members reside solely in Sonoma County.

13-46 Contrary to the contention of the commenter, **Section 4.1.9** of the EA states only that the solid waste would be sent to landfills used by Windsor Refuse and Recycling. Please see **Response to Comment 13-45**. Windsor Refuse and Recycling collection trucks hold 25 cubic yards of waste or around 10 tons (20,000 pounds) of compressed waste. Using information provided in **Section 4.1.9** of the EA (Alternative A contains the highest amount of solid waste production), the project could produce approximately 8,700 pounds per week. This waste would amount to less than half of one collection truck trip per week. An additional truck trip of no more than one truck per week would not result in any new significant environmental impacts.

Section 3.9.3 of the EA contains a discussion of the affected environment. It does not purport to contain any impact analysis. Such analysis is confined to **Section 4.0**. Nonetheless, although AB 939 requirements would technically not apply on trust land, Windsor Refuse and Recycling would have the ability to enforce solid waste reduction measures through the control of solid waste collection, subject to the agreement for services with the Tribe. In any case, the development would not affect diversion goals as waste from tribal land is classified as out-of-state waste and is not calculated in local waste diversion statistics.

13-47 **Section 4.1.9** of the EA correctly states that the project would include recreation areas and multi-use trails and not that Windsor parks would not be used, but that no adverse impacts would occur at local parks.

13-48 Comment noted. Please see **Response to Comment 13-47**.

13-49 Comment noted. Please see **Response to Comment 13-47**.

13-50 Please see **Response to Comment 13-47**. Tribal members residing outside of the Town of Windsor city limits would be subject to the same restrictions on uses (or additional fees) that the Town has the ability to impose on non-tribal members residing outside of the city limits.

13-51 Please see **General Response 3.1.12** regarding local government and land use plans and **Response to Comment 13-47**.

13-52 Comment noted. Please see **Response to Comment 13-47**.

13-53 Comment noted. Please see **Responses to Comments 13-47** and **13-50**.

13-54 Please see above for specific responses to this general comment on parks and recreation. Regarding law enforcement services, **Section 3.9.5** of the EA correctly notes the extent of Public Law 280 jurisdiction, which does not extend to civil law authority. U.S. Marshals may provide support for areas of law enforcement not subject to Public Law 280 jurisdiction. An analysis of law enforcement services impacts is contained in **Section 4.1.9** of the EA. Also, see **Response to Comment 13-47**.

13-55 The California Department of Forestry and Fire Protection (CAL FIRE) is the local agency that would provide service to the site and would therefore be impacted most directly by the project. Thus, reimbursement for services under the agreement attached as **Appendix I** of the EA would ensure no significant impacts to fire protection services.

13-56 **Section 4.1.9** of the Final EA further notes that several ambulance companies provide services in the area. Furthermore, ambulance services are generally privately funded. Thus, ambulance companies are able to respond to increases in demand with additional resources.

13-57 Please see **General Response 3.1.6** regarding impacts to local schools.

13-58 As noted in **Section 5.12** of the EA, no visual resources mitigation measures are required for the EA. Please see **General Response 3.1.7** regarding visual resources.

13-59 High-density residential zoning is contained elsewhere within the Town of Windsor UGB northeast of the project site. Language has been revised to reference low-density residential zoning in **Section 3.6.1** and **3.8** of the Final EA. Please see **Section 4.1.6** of the Final EA for an analysis of property tax impacts, which are appropriately noted to be less than significant based on context and intensity. The fact that Sonoma County does not keep all of the property taxes collected only further supports a conclusion that the impact is less than significant given that the amounts collected are diffused through several divisions of government. Statements of demographic trends, lifestyles, and community infrastructure and impacts to the same are discussed throughout **Sections 3.0** and **4.0** of the EA as relevant to the analysis of environmental impacts required by NEPA. Please also see **General Response 3.1.11** regarding project alternatives and **3.1.12** regarding local government land use plans.

13-60 Please see **Response to Comment 8-3** regarding responsible entity and enforceability of mitigation measures.

13-61 Please see **General Response 3.1.8** regarding climate change and greenhouse gases.

13-62 Please see **General Response 3.1.8** regarding climate change and greenhouse gases.

13-63 Please see **General Response 3.1.8** regarding climate change and greenhouse gases.

13-64 Please see **General Response 3.1.8** and **Response to Comment 8-2**.

13-65 Comment noted.

13-66 Please see **General Response 3.1.14** regarding cumulative issues.

13-67 Comment noted. Please see **General Response 3.1.14** regarding cumulative issues. Many impacts to resources, including water resources, traffic, noise, and air quality are by nature cumulative in analysis. Thus, cumulative analysis is contained in other portions of **Section 4.0** of the EA besides **Section 4.5**. For example, rather than attempting to analyze traffic impacts as compared to isolated standards of significance based on project trips generated, impacts to cumulative intersection traffic were considered. Cumulative air impacts are further discussed in **Section 4.5.3** but reference cumulative discussion elsewhere in **Section 4.0** of the Final EA.

13-68 Please see **General Response 3.1.14** regarding cumulative issues and **Response to Comments 10-15**, **10-19** and **13-20**. Please see revised **Sections 4.1.4** and **4.5.4** of the Final EA for an analysis of biological impacts in the area due to cumulative development.

13-69 Please see **General Response 3.1.14** regarding cumulative issues and **Response to Comment 8-2**.

13-70 As noted in **Section 4.6.1** of the EA and further discussed in **General Response 3.1.2** regarding water/ wastewater service, utility infrastructure would not be significantly improved or expanded to increase service availability to any areas surrounding the project site. In addition, the areas within Town of Windsor UGB and Sonoma County General Plan jurisdiction would not be required to adjust their plans. Thus, there would be no significant growth inducing impacts.

13-71 Please see specific responses above to this summary comment.

RESPONSE TO COMMENT LETTER 14 – WINDSOR UNIFIED SCHOOL DISTRICT

14-1 Comment noted. Please see **Responses to Comments 14-4** through **14-11** below.

14-2 Comment noted. The project site has been expanded, as described in **Section 1.0** of the Final EA. Since the public comment period, the Tribe has purchased an additional 32.12 acres (seven

parcels) discussed in further detail in **Section 2.0** of the Final EA. These seven parcels were added to the fee-to-trust application and housing project site plan alternatives. Therefore, Alternative A consists of placing a 124.14-acre site (14 parcels) into Federal trust status for the Tribe, and construction of 147 residential units and associated facilities (**Section 2.0**).

14-3 Comment noted. Please see **General Response 3.1.6**. Please see **Responses to Comments 14-4** through **14-11** below.

14-4 As stated in **Section 3.6.2** of the Draft EA, "statistical information for the Lytton Rancheria was obtained from the Bureau of Indian Affairs' Population and Labor Force Report, 2005 (U.S. Department of the Interior, 2005)," which represents the most recent tribal demographic data available. The Bureau of Indian Affairs' Population and Labor Force Report does not include an estimation of the number of school-aged children within the Tribe. **Section 4.1.9** of the Final EA has been expanded to further clarify the number of students anticipated to enroll in the Windsor Unified School District (WUSD) as a result of the Proposed Project. At the enrollment rates historically observed within the Town of Windsor, the Proposed Project is anticipated to result in approximately 89 new students requiring enrollment in WUSD upon completion of the project in 2015; however, because some of the residents may be relocating from within the Town of Windsor, this is considered a worst-case estimate of potential impacts to enrollment (Final EA **Section 4.1.9**). Please see **General Response 3.1.6** for further discussion of potential impacts to the WUSD.

14-5 Please see **General Response 3.1.6** regarding potential impacts to the WUSD.

14-6 As stated in **Section 3.6.2** of the Draft EA, there were 123 individuals under the age of 16 in 2005, which may include individuals too young to attend school. As discussed in **Response to Comment 14-4**, a more accurate estimate of the number of school-age children in the Tribe is not available. At the enrollment rates historically observed within the Town of Windsor described in **Section 4.1.9** of the Final EA, the Proposed Project is anticipated to result in approximately 89 new students requiring enrollment in WUSD upon completion of the project in 2015; however, because some of the residents may be relocating from within the Town of Windsor, this is considered a worst-case estimate of potential impacts to enrollment (**Section 4.1.9**; Final EA). Given that any anticipated new students would be distributed across all grade levels between kindergarten through the continuation school as well as across several schools within the WUSD; 89 new students would be a nominal impact to WUSD. The potential increase in enrollment would not significantly affect the ability of WUSD to provide education services at existing levels. Please see **General Response 3.1.6** for further discussion of potential impacts to the WUSD.

The Commenter cites a projected increase in enrollment that is based off of information in the Facilities Utilization Master Plan (FUMP) for 2006-2011, which has since been revised and updated with more recent information. According to the WUSD's most recent FUMP (2011 through 2015), 1,236 new housing units were identified as proposed new development projects as of October 1, 2010 (WUSD, 2010a). According to recent correspondence with the WUSD, only permitted projects are included in these estimates; projects in the planning phase, without a permit allocation by the Town of Windsor, have not been included (WUSD, 2010b). However, as acknowledged in the 2011-2015 FUMP, there may be additional development beyond the number of housing units identified. As stated by the WUSD, California Basic Educational Data System (CBEDS) data depicting recent trends in WUSD enrollment was used to forecast the number of students through the 2019/2020 school year (WUSD, 2010b). In order to accommodate the sustained growth in enrollment that is projected in the FUMP, it must be assumed that there will be other development projects that are currently unpermitted but will be constructed in Windsor prior to 2020. Therefore, currently unpermitted development projects, such as the Proposed Project, have been indirectly accounted for in the FUMP in order to sustain the projections contained therein.

14-7 Please see **General Response 3.1.6**. As stated in **Section 1.4** of the EA, an EA is used to determine whether the Proposed Action will result in adverse effects to the environment. Under NEPA, the Affected Environment is defined as the existing environment to be affected by a proposed action (40 CFR 1502.15). Therefore, in compliance with NEPA, the EA serves to analyze potential impacts to the environment compared to the conditions prior to the project's construction.

14-8 Please see **Response to Comment 14-7** regarding the analysis of existing conditions in the EA. Additionally, the market value for each of the 147 projected housing units has not been estimated; the market value for the units would vary relative to the size and features of each unit.

14-9 Please see **General Response 3.1.6**, and **Response to Comment 14-7** regarding the analysis of existing conditions in the EA.

14-10 Please see **General Response 3.1.6** and **Response to Comment 14-6**. As concluded in **Section 4.1.9** of the Final EA, the potential increase in enrollment in the WUSD would not be anticipated to significantly affect the ability of WUSD to provide education services at existing levels; therefore, no mitigation is necessary. There are no plans for expansion or additional development in the near or distant future. Although future development is possible, it is not reasonably foreseeable under NEPA. NEPA does not require speculation on the type and scope of development which may or may not occur at some point in the future.

14-11 Please see **Response to Comment 14-10**.

14-12 Comment noted. Please see **Responses to Comments 14-4** through **14-11** above.

RESPONSE TO COMMENT LETTER 15 – BILL MCCORMICK

15-1 Please see **General Response 3.1.1** regarding extension of the comment period.

RESPONSE TO COMMENT LETTER 16 – BILL MCCORMICK, WINDSOR WEST RESIDENTS COMMITTEE

16-1 Please see below for specific responses to this summary comment.

16-2 Comment noted. Long term, cumulative impacts are analyzed in **Section 4.5** of the EA. Please see **General Responses 3.1.1** regarding extension of the comment period and **3.1.16** regarding expressions of opinions, as well as **Response to Comment 3-3**. Electronic copies and a limited number of paper copies of the EA were distributed to the public upon request at no cost. In addition, paper copies of the EA were available for public review at the Lytton Rancheria Tribal Administration Office in Santa Rosa and at the Windsor Public Library in Windsor. Finally, the EA was published on the internet on the AES website.

16-3 NEPA does not require the analysis of purely economic impacts. Nonetheless, please see the analysis of socioeconomic and land use impacts for each alternative in **Sections 4.1.6** and **4.1.8** of the EA. As noted in the EA, no significant socioeconomic impacts or land use conflicts would occur under any of the development alternatives. Effects on property values are difficult to determine without speculation, which NEPA does not require. It is possible that the introduction of a new, attractively designed housing development would increase the value of neighboring properties attracting buyers preferring to live in an upscale residential neighborhood or attracting investors intending to subdivide larger parcels to develop properties for rural residential purposes, consistent with land use regulations. Another possibility is that the development will both detract and attract prospective buyers of neighboring properties, tending to neutralize the effect on property values.

16-4 Please see **Response to Comment 8-2** and **General Response 3.1.5** regarding the project description.

16-5 Please see **Responses to Comments 10-75** and **10-76**.

16-6 Please see **General Response 3.1.2** regarding water/ wastewater service**.**

16-7 Please see **Responses to Comments 13-23** and **13-26** regarding traffic on Windsor River Road and line of sight.

16-8 Please see **General Response 3.1.3** regarding impacts to on-site oak trees.

16-9 An analysis of impacts to visual resources is contained in **Sections 4.1.12, 4.2.12** and **4.3.12** of the EA.

16-10 Please see **Responses to Comment Letter 8** for responses to the RWQCB's comments on the EA. Please also see **General Response 3.1.2** regarding wastewater discharge.

16-11 Please see **Response to Comment 10-73**.

16-12 Please see **Response to Comment 8-18**. As noted in **Appendix B** of the EA, the on-site seasonal storage basin has been sized to accommodate flows consistent with 100-year annual rainfall conditions, with an additional two feet of available freeboard during such a year. Thus, even during winters with well above normal precipitation (more than double the normal annual rainfall) there would be more than enough capacity to ensure that overflow does not occur.

16-13 Comment noted.

16-14 Comment noted. Impacts to groundwater and surface water from Alternatives B and C would be less than significant with incorporation of mitigation measures detailed in **Section 5.2** of the EA.

16-15 Comment noted.

16-16 Please see **General Response 3.1.12** regarding local governmental land use plans.

16-17 Comment noted. Please refer to **General Responses 3.1.6** regarding impacts to local school and **3.1.13** regarding public services.

16-18 Please see **Response to Comment 16-9**.

16-19 As noted in **Section 3.1** of the EA, a geologic/geotechnical investigation and report was performed for the EA. This report has been provided as **Appendix M** of the Final EA. Contrary to the contention of the commenter, the report was conducted on the 62 acre upland portion of the site, which was subjected to more detailed geotechnical review due to the varied topography and proposed housing and road alignments.

16-20 As noted in **Section 3.1.4** of the EA, soil types on site and surrounding the site were largely found by the U.S. Department of Agriculture, Natural Resources Conservation Service soil survey to have "moderately high" hydraulic conductivity. Only one soil type on the site (Alluvial Land-Clayey approximately two percent of the site) was found to have "very high" hydraulic conductivity. In addition, BMPs required by **Section 5.1** of the EA will ensure focused on-site testing will occur prior to construction.

16-21 As described in **Section 3.1.4** of the EA, sufficient data is available to determine the risk of liquefaction is low without conducting several subsurface explorations throughout the site. Although the reference to the USGS landslide potential assessment is made in **Section 3.1.4** of the EA, the EA goes on to describe two specific landslides that have occurred on-site. Thus, the EA does not rely wholly on the USGS landslide potential assessment.

16-22 Please see **Response to Comment 13-33**.

16-23 Please see **Response to Comment 13-33**. Potential impacts to flooding are analyzed under **Sections 4.1.2**, **4.2.2**, and **4.3.2** of the EA.

16-24 Please see EA **Sections 4.1.2**, **4.2.2**, and **4.3.2** and the Stream Characterization report (**Appendix L** of the Final EA) for an analysis of impacts to surface water quality. Additionally, please refer to **General Response 3.1.2** regarding wastewater discharge.

16-25 **Appendix B** of the EA notes that treatment to remove arsenic and manganese would be required before on-site water sources could be used for drinking water and to comply with drinking water standards. **Section 2.2.2** of the Final EA has been revised to discuss this treatment facility.

16-26 Please see **Response to Comment 10-49**. The number of sensitive receptors fitting this description has been revised in **Section 3.0** of the Final EA in response to comments and the addition of seven parcels to the fee-to-trust application.

16-27 Comment noted. Please refer to **Response to Comment 6-2**.

16-28 Please refer to **Responses to Comments 13-10, 13-11, 13-12 and 21-7** with reference to the current botanical survey results outlined in Attachment E to the BA (**Appendix B** to the Final EA) for the evaluation of State and CNPS listed plant species.

16-29 Please refer to **Responses to Comments 16-28** above. Please also see Responses to Comments **8-3**, **10-16**, **10-18, 10-19** and **13-13** regarding analysis of impacts to aquatic species. The commenter has misinterpreted the text from the EA document. The commenter's quote of the EA

text reads "there is not enough habitat complexity to support aquatic organisms", when in fact the text in the document reads "As detailed in the BA (**Appendix E**), the aquatic habitats onsite do not provide enough habitat complexity to support a diverse assemblage of aquatic organisms." The Biological Assessment is a document prepared for consultation with the USFWS strictly for federally listed species with the potential to occur onsite; no federally listed bat species were identified to have the potential to occur onsite.

16-30 Comment noted. The purpose of the EA cultural resources analysis is to analyze the potential for impacts to existing cultural resources, not to determine the Tribe's historic or prehistoric connection to the land.

16-31 Comment Noted. The commenter is correct in that the project area may be underlain by the Glen Ellen geological formation, which has the potential to contain fossils. A search of the UCMP database shows that of the 503 localities that contain paleontological remains in Sonoma County only one locality of the Glen Ellen formation produced fossils. Field reconnaissance surveys of the project area that took place between 2007,and 2010 did not reveal the presence of any paleontological resources within the project area. It remains unlikely that excavation for the Project, which includes shallow surface grading and trenching for utilities, will reach a depth as to impact paleontological resources. If paleontological resources are unearthed during ground disturbing activities, mitigation measures included in **Section 5.5** will reduce the project's impacts to a less than a significant level.

16-32 The information in the EA is correct in its statement that "Densities for development in Rural Residential (RR) areas range from 1 to 20 acres per dwelling (SCZC, 1993a)." This statement in the EA does not directly state the project site has a one to 20 housing to acreage ratio. Zoning density for RR, under Sonoma County, on the project site is designated at 1 dwelling per 5 acres. Please refer to **General Response 3.1.12** regarding local government and land use plans.

Five parcels are within the Windsor UGB and four are designated as an "Agricultural Buffer" with on-site storm water detention. However, as stated in the Town of Windsor General Plan 2015 *Policy B.2.2,* "If however, the existing agricultural property lies inside the Urban Growth Boundary and is anticipated to be converted to another non-agricultural use designation according to the General Plan, then the buffer would be temporary. When the interim agricultural area is converted to the non-agricultural use designation, the intermediate buffer area may convert to its underlying land use designation."

16-33 Use of the Farmland Conversion Impact Rating form (**Appendix H** of the EA) is an integral part of the Farmland Protection Policy Act's purpose to minimize the impact of federal programs on farmland. The lack of a local site assessment does not invalidate the results of the rating. The

updated rating form with the addition of seven parcels totaling 124.12 acres is provided in **Appendix H** of the Final EA.

16-34 Please see **Section 4.5.10** of the EA for an analysis of cumulative noise impacts. The noise generated on-site would not significantly increase in the future. Please see **Section 4.1.10** of the EA for an analysis of expected on-site noise generation.

16-35 Please see **Section 4.1.12** of the EA for an analysis of impacts to visual resources, and **General Response 3.1.7** pertaining to visual resources. Please also refer to **Responses to Comments 10-87** and **16-9**.

16-36 Please see **Response to Comment 16-35**.

16-37 Please see **Responses to Comment Letter 14** for responses to comments from the WUSD. Please also **General Response 3.1.6**.

16-38 A robust 72-hour step drawdown test was conducted as detailed in **Appendix C** of the EA. A 72-hour test is more than sufficient to characterize the effect of proposed water supply wells on the water table. Please also refer to **General Response 3.1.10** regarding groundwater issues.

16-39 Please see **Response to Comment 8-2** and **General Response 3.1.2** regarding wastewater discharge.

16-40 Please refer to **Response to Comment 8-26**. As noted elsewhere in **Section 4.2.2** and in **Section 5.0** of the EA, proper treatment and application of wastewater would occur, ensuring no significant impacts to groundwater quality.

16-41 Please see **Sections 4.2.3** and **4.3.3** of the EA for an analysis of odor impacts from the proposed WTRF, concluding that the proposed use of an odor control system would ensure the minimal release of odors.

16-42 As noted in **Appendix B** of the EA, dewatered biosolids will be hauled off-site to a landfill.

16-43 Please see **Section 4.0** of the EA for an analysis of potential impacts to fire protection services, as well as **General Response 3.1.13** pertaining to public services. Please also see **Responses to Comments 10-64, 10-68**, **10-72** and **13-55**.

16-44 An analysis of peak hour trips is most important to the analysis of worst case traffic-related impacts. Please see **Sections 4.1.10**, **4.2.10**, and **4.3.10** of the EA for an analysis of noise impacts

due to increased traffic on local roadways. Please also see **Responses to Comments 10-56**, **13-23** and **13-26**.

16-45 Comment noted. Please see above specific responses to this summary comment.

RESPONSE TO COMMENT LETTER 17 – ROBERT E. CRAWFORD, MEMBER OF WINDSOR WEST RESIDENTS COMMITTEE

17-1 Please see **General Response 3.1.1** regarding extension of the comment period.

17-2 Comment noted. It is not possible to respond to this comment without further information regarding the reasons behind the commenter's statement that the Tribe's application and EA are fatally flawed.

17-3 Please see **General Response 3.1.12** regarding local government land use plans. Further, the Final EA provides that fire alarm and suppression systems installed shall conform to design standards equivalent to the requirements of the California Building and Fire Codes as amended and adopted by Sonoma County, that on-site development shall be generally consistent with Sonoma County Fire Safe Standards Sections 13-54 through 13-59, and that all structures would be constructed in accordance with design standards equivalent to all Building Codes, as adopted or supplemented by Sonoma County (Final EA **Sections 2.1.7**, **2.1.9**, **4.1**, **4.2.9**, **4.3.8**, **5.9**).

17-4 Comment noted. Please see **General Response 3.1.11** regarding project alternatives and purpose and need of the Tribe.

17-5 Please see **General Response 3.1.1** regarding extension of the comment period.

17-6 Please see **General Response 3.1.3** regarding impacts to on-site oak trees.

17-7 Please see **General Response 3.1.1** regarding extension of the comment period.

17-8 Please see **General Response 3.1.2** regarding water and wastewater service.

17-9 Please see **General Response 3.1.11** regarding project alternatives.

17-10 Please see **General Response 3.1.1** regarding extension of the comment period.

RESPONSE TO COMMENT LETTER 18 – ROBERT AND DONNA CRAWFORD, WINDSOR WEST RESIDENTS COMMITTEE

18-1 Comment noted. Please see **General Response 3.1.12** regarding local government and land use plans.

18-2 Please see **General Response 3.1.12** regarding local government land use plans and **Response to Comment 17-3** regarding local building and fire codes.

18-3 Impacts from both the construction and operation phase of the proposed project are fully discussed throughout **Section 4.0** of the EA. Mitigation measures for both the construction and operation phase are discussed to fully mitigate impacts to less than significant levels in **Section 5.0** of the EA.

18-4 Please see **Response to Comment 13-33** and **General Response 3.1.2** regarding wastewater discharge.

18-5 **Section 4.0** of the EA contains a thorough and accurate analysis of potential impacts to visual resources, including impacts to local residents.

18-6 Please see **Responses to Comments 10-59, 10-61** and **16-34**.

18-7 Please see revised **Section 4.1.8** of the Final EA for an analysis of potential conflicts between residential and agricultural land uses. As noted in **Section 4.1.8**, the Sonoma County Right-to-Farm Ordinance would continue to protect neighboring farmers from potential nuisance lawsuits.

18-8 An analysis of wetland impacts, both on-site and potential off-site indirect impacts, is contained in and clarified in **Section 4.1.4** of the Final EA. Mitigation measures described in **Section 5.4.1** of the Final EA would ensure impacts to wetlands are less than significant.

18-9 Please refer to **Responses to Comments 13-10, 13-11, 13-12 and 21-7** with reference to the current botanical survey results outlined in Attachment E to the BA (**Appendix B** to the Final EA) for the evaluation of State and CNPS listed plant species. Potential impacts to protected species are discussed in further detail in **Section 4.1.4** of the Final EA. **Section 5.4** of the EA contains mitigation measures to reduce or eliminate impacts to these species.

18-10 Please see **General Response 3.1.3** regarding impacts to on-site oak trees.

18-11 Comment noted. Please see **General Responses 3.1.11** regarding project alternatives and **3.1.12** regarding local government and land use plans. Please also refer to **Section 4.0** of the EA for an

analysis of potential impacts related to the community center, access, and local agencies and **Response to Comment 13-3**.

18-12 Please see **General Responses 3.1.2** regarding water and wastewater service, and **3.1.11** regarding project alternatives.

18-13 Please see **General Response 3.1.2** regarding water and wastewater service and **Response to Comment 13-70**.

18-14 Please see above specific responses to this summary comment, as well as **General Response 3.1.12** regarding local government and land use plans. Please also see **Response to Comment 8-2**.

RESPONSE TO COMMENT LETTER 19 – DENISE AND JANE KRAL

19-1 Please see **Sections 4.1.7**, **4.1.10**, **4.2.7**, **4.2.10**, **4.3.7**, and **4.3.10** of the EA for a thorough analysis of traffic and noise impacts. Please refer to **General Response 3.1.4** regarding traffic modeling, and **Responses to Comments 10-59** and **16-34** regarding noise impacts

19-2 Please see **General Response 3.1.6** regarding impacts to local schools.

19-3 Please see **General Response 3.1.3** regarding impacts to on-site oak trees.

19-4 Please see **General Response 3.1.2** regarding wastewater discharge, **Responses to Comment Letter 8** from the RWQCB, and **Responses to Comments 10-16** and **10-18**.

19-5 Please see **Sections 4.1.4**, **4.2.4**, and **4.3.4** of the EA for an analysis of impacts to wildlife. Please also refer to **General Response 3.1.3** regarding impacts to on-site oak trees, and **Responses to Comments 6-2**, **10-15**, **13-11** and **13-12**.

19-6 Comment noted. Please see **Sections 4.1.10**, **4.2.10**, and **4.3.10** of the EA for an analysis of impacts to noise, which would be less than significant after the implementation of mitigation measures in **Section 5.10 of the EA**. Please also see **Response to Comment 19-1** and **General Response 3.1.1** regarding extension of the comment period.

RESPONSE TO COMMENT LETTER 20 – LAW OFFICE OF ROSE M. ZOIA (ON BEHALF OF THE WINDSOR WEST RESIDENTS COMMITTEE)

20-1 Comment noted. Please see below specific responses to this summary comment.

20-2 Please see **General Response 3.1.12** regarding local government land use plans.

20-3 Comment noted. Please see **Response to Comment 8-2**.

20-4 Please refer to **Responses to Comment Letters 10**, **13**, **16**, **24**, and **26** for responses to the comments submitted by Sonoma County and Sonoma County Water Agency, the Town of Windsor, Bruce Coston, William McCormick, and Deborah and Michael Bailey.

20-5 Please see **General Response 3.1.2** regarding water service.

20-6 Please see **General Response 3.1.2** regarding wastewater service. Also, please see **Section 4.1.2** of the Final EA for a revised analysis with clarification of details of potential impacts from an on-site WTRF.

20-7 Please see **General Response 3.1.8** regarding climate change and greenhouse gases.

20-8 Please see **General Response 3.1.3** regarding impacts to on-site oak trees. Please also refer to **Sections 4.1.4**, **4.2.4**, and **4.3.4** of the Final EA and **Responses to Comments 6-2**, **10-15**, **13-11** and **13-12** regarding analysis of impacts to biological resources**.**

20-9 Please refer to **Responses to Comments 6-2**, **10-15**, **13-11** and **13-12** regarding analysis of impacts to special-status plant species, as well as biological resources. Additionally, please see **Response to Comment 21-7** detailing the special status plant surveys conducted onsite to determine presence/absence (and results outlined in the updated Attachment E to the BA: **Appendix E** to the Final EA).

20-10 Please see **General Response 3.1.6** regarding impacts to school and revised impacts analysis in **Section 4.1.9** of the Final EA.

20-11 **Sections 4.1.7**, **4.2.7**, **4.3.7** and revised **Appendix G** of the Final EA conclude that impacts to intersections are significant but can be mitigated. Please see **General Response 3.1.4** regarding traffic and traffic modeling. Mitigation measures are clarified in **Section 5.7** of the Final EA.

20-12 We agree with the commenter that the cited intersection of Windsor River Road and US-101 Northbound off-ramp should be and was included in **Appendix G** of the EA, analyzed as intersection number nine. Further clarifications on impact analysis have been made regarding this intersection in **Sections 4.1.7**, **4.2.7**, and **4.3.7** of the Final EA. Please see **General Response 3.1.4** regarding traffic and traffic modeling.

20-13 The traffic model estimates were based on cumulative traffic data for the study area roadways and intersections provided by the Town of Windsor that considers cumulative development both within the Town of Windsor and in the surrounding areas, including Sonoma County. The traffic counts conducted would capture the effects of traffic using alternate local roads. Please refer to **General Response 3.1.4** regarding traffic and traffic modeling, as well as **Responses to Comments 7-2** and **13-23**.

20-14 Mitigation measures have been clarified in **Section 5.7** of the Final EA that would ensure impacts to the cited intersection are less than significant.

20-15 Language regarding potential impacts from construction traffic has been incorporated into **Section 4.1.7** of the Final EA. Please also refer to **Response to Comment 18-3**.

20-16 Please see **Response to Comment 20-13**.

20-17 Please see **General Response 3.1.12** regarding local government and land use plans. The threat of nuisance lawsuits is a common complaint and potential impact on agricultural operations after the introduction of additional nearby residential housing. This impact is analyzed in **Section 4.1.8** of the EA. No other potentially impacts on neighboring agricultural operations are expected (nor are any suggested by the commenter). Please also refer to **Response to Comment 18-7**.

20-18 Please see **General Response 3.1.12** regarding local government and land use plans.

20-19 The analysis of impacts to farmland was conducted in a manner consistent with the Farmland Protection Policy Act, as described in **Sections 3.8.3**, **4.1.8**, **4.2.8**, and **4.3.8** of the EA. The "acres irrigated" section of part II in the farmland conversion impact rating form found in **Appendix H** of the EA refers to the total acreage irrigated in the region (78,265 acres), not the amount irrigated on the site. Please also refer to **Response to Comment 16-33**.

20-20 Please see above specific responses to this summary comment. Please refer to **Response to Comment 20-8** and **General Responses 3.1.2**, **3.1.3**, **3.1.4**, **3.1.6**, **3.1.8**, and **3.1.12**.

20-21 Please see **General Response 3.1.14** regarding cumulative analysis, as well as **Responses to Comments 7-2** and **13-67**.

20-22 Federal conformity criteria upon which future cumulative emissions were measured account for the cumulative condition of air basins. Please see clarifications on air cumulative analysis **Section 4.5** of the Final EA as well as **Response to Comment 13-67**.

20-23 As described in **Section 4.5.4** of the EA, cumulative biological and visual impacts would be less than significant. This analysis considers both likely impacts from cumulative development as well as the project's contribution to this impact. Please refer to **Responses to Comments 6-2**, **10-15**, **13-11**, **13-12** and **21-7**.

20-24 Please see **General Response 3.1.14** regarding cumulative analysis, as well as **Responses to Comments 7-2** and **13-67**. Please also see **Response to Comment 20-13**.

20-25 The project's cumulative contribution to loss of significant farmland would be minimal as analyzed in **Section 4.5.8** of the EA. Please see **General Response 3.1.14** regarding cumulative analysis, as well as **Response to Comment 20-19**.

20-26 The referenced analysis properly considers both likely impacts from cumulative development as well as the project's contribution to these impacts. Please see **General Response 3.1.14** regarding cumulative analysis, as well as **Responses to Comments 7-2** and **13-67**.

20-27 **Section 4.5.10** of the Final EA has been revised to provide more detail to the cumulative noise analysis presented in the EA. Please also see **Response to Comment 13-67**.

20-28 Please see **General Response 3.1.11** regarding project alternatives.

RESPONSE TO COMMENT LETTER 21 – CALIFORNIA NATIVE PLANT SOCLETY

21-1 Comment noted.

21-2 The commenter does not identify the stated evidence to substantiate his claim that the project would have significant adverse impacts to the natural environment. In addition, the unmitigable impacts claimed by the commenter are not identified; therefore, no substantive responses can be given to address these claims. Please refer to **General Response 3.1.3** regarding impacts to on-site oak trees, as well as **Responses to Comments 6-2**, **10-15**, **13-11**, **13-12** and **21-7** regarding impacts to biological resources.

21-3 A detailed BA was included as **Appendix E** of the EA which addresses biological, ecological and hydrologic impacts to plants and wildlife. Provided as Attachment E to the BA, the Technical Memorandum outlining years of surveys consistent with SRPCS and USFWS plant survey protocols did not identify the presence of federally listed plant species within the project site. In addition, this report addresses all the species noted in the CDFG comment letter and in the SRPCS programmatic biological opinion (USFWS, 2007). Please refer to **General Response 3.1.3** regarding impacts to on-site oak trees, as well as **Responses to Comments 6-2**, **10-15**, **13-11**, **13-12** and **21-7** regarding impacts to biological resources.

21-4 Comment noted. The current document under review is the EA. There is no such requirement for a third party contract to prepare an EA.

21-5 Comment noted. The commenter relies on information that has not been fully validated; please refer to **General Response 3.1.3** regarding impacts to on-site oak trees.

21-6 Comment noted. As the commenter insinuates "destruction of the oak woodland" and "replacement of the entire habitat", please refer to **General Responses 3.1.3** regarding impacts to on-site oak trees, and **3.1.11** regarding project alternatives.

21-7 Comment noted. A Technical Memorandum outlining the results of years of focused botanical surveys was provided as Attachment E to the BA (**Appendix B** of the EA). This report has been updated based on the acquisition of seven additional parcels as well as recent bloom-period surveys in spring and summer 2010. Section 4.4 of this Technical Memorandum details that:

For the purposes of this report, special-status is defined as those plant species that are of management concern to state and/or federal resource agencies, and includes those plant species that are:

- Listed as endangered, threatened, or candidate for listing under the FESA;
- Listed as endangered, threatened, rare, or proposed for listing, under the CESA;
- Designated as endangered or rare, pursuant to California Fish and Game Code (Section 1901);
- Designated as fully protected, pursuant to California Fish and Game Code (Section 3511, Section 4700, or Section 5050);
- Designated as species of special concern by CDFG; and
- Plants that meet the definitions of rare, threatened, or endangered under CEQA, including plants listed by CNPS to be "rare, threatened, or endangered in California" (Lists 1A, 1B, and 2). Local or regional agencies may consider plant species that CNPS believes require additional information (List 3) and plant species that have been placed on a watch list (List 4) by CNPS.

In this technical memorandum AES staff determined that the project site contains suitable habitat for ten special-status plant species (federal, state and CNPS listed species). Based upon the results from botanical surveys spanning four years (2007-2010), none of these species have been documented to occur onsite. Therefore, all special status plant species with the potential to occur onsite were evaluated for presence or absence, with the results being negative.

Please also refer to **Responses to Comments 6-2**, **10-15**, **13-11** and **13-12** regarding impacts to biological resources.

21-8 Comments noted. The commenter is inaccurate in stating that vernal pools are present onsite. For all other wetlands identified onsite the requirements as outlined in the SRPCS Programmatic Biological Opinion (USFWS, 2007) have been adhered to, while the avoidance, minimization and mitigation of impacts will be consistent with this guidance as well as the guidance provided by the USACE with regards to the fill of wetlands under Sections 404 and 401 of the CWA. Therefore, in accordance with these requirements, impacts to wetlands will be reduced to less than significant levels. Please also see **General Response 3.1.3** regarding impacts to on-site oak trees, **Response to Comment 21-7** above regarding impacts to biological resources and **Responses to Comment**s **10-19** and **13-20** regarding habitat connectivity and wildlife corridors.

21-9 Provided with the Technical Memorandum (Attachment E to the BA; **Appendix B** of the EA) are the qualifications for personnel conducting the focused plant surveys. Please see **General Response 3.1.16** regarding non-substantive comments.

RESPONSE TO COMMENT LETTER 22 – DEBORAH AND MICHEAL BAILEY

22-1 Please see **General Responses 3.1.1** regarding extension of the comment period and **3.1.15** regarding non-circulation of Appendices F and J.

RESPONSE TO COMMENT LETTER 23 – DEBORAH AND MICHEAL BAILEY

23-1 The provided address was added to the distribution list as requested.

RESPONSE TO COMMENT LETTER 24 – DEBORAH AND MICHEAL BAILEY

24-1 Comment noted.

24-2 Please see **General Responses 3.1.1** regarding extension of the comment period and **3.1.15** regarding non-circulation of Appendices F and J.

24-3 - 24-5 Please see **General Response 3.1.12** regarding local government and land use plans.

24-6 Please see **General Response 3.1.12** regarding local government and land use plans. The Lytton Band of Pomo Indians regained its status as a federally recognized Tribe in 1991.

24-7 Contrary to the commenter's claim, the Casino San Pablo site was never the "home reservation" of the Tribe. Please see **General Response 3.1.12** regarding local government and land use plans. Please also refer to **General Response 3.1.16** regarding non-substantive comments.

24-8 Please see **Section 4.0** of the EA for an analysis of noise impacts. Mitigation measures are clarified in **Section 5.10** of the Final EA that would ensure noise impacts are less than significant. Please also refer to **Responses to Comments 10-59, 10-63** and **16-34**.

24-9 Please see **Responses to Comments 13-16** and **13-23**. BMPs would ensure pre-project level drainage conditions from the site during operation of the proposed project (please refer to **Appendix A** of the EA).

24-10 Please see **General Response 3.1.2** regarding water and wastewater service.

24-11 Please see **General Response 3.1.10** regarding groundwater issues.

24-12 Please refer to **General Response 3.1.2** regarding wastewater discharge, as well as **Response to Comment 3-3**. Please see **Responses to Comment Letter 8** from the RWQCB. Finally, please also refer to **Section 6.0** of the EA for a list of agencies consulted during the NEPA process.

24-13 As noted in **Appendix B** of the EA, the reclaimed water would not percolate into the soil, but would be distributed on-site for irrigation purposes. Nonetheless, hydraulic conductivity of soils onsite was assessed; please see **Responses to Comments 8-18, 8-26** and **16-20**.

24-14 Please see **General Response 3.1.3** regarding impacts to on-site oak trees, **Responses to Comments 21-7** and **18-9** regarding impacts to biological resources and **Responses to Comment**s **10-19** and **13-20** regarding habitat connectivity and wildlife corridors.

24-15 Please see **General Response 3.1.3** regarding impacts to on-site oak trees.

24-16 Please see **Response to Comment 8-2**.

RESPONSE TO COMMENT LETTER 25 – MARGARET AND BRUCE COSTON

25-1 Please see **General Response 3.1.1** regarding extension of the comment period.

RESPONSE TO COMMENT LETTER 26 – BRUCE COSTON

26-1 Please see below specific responses to this summary comment. Please also refer to **Response to Comment 16-3**, as well a**s General Response 3.1.12** regarding local government land use plans.

26-2 Comment noted. Please see **General Response 3.1.1** regarding extension of the comment period.

26-3 Comment noted. If the plant species in question are not identified to occur onsite based upon extensive protocol level surveys as required by the SRPCS, mitigation would not be required. The listing of potential habitat onsite for these SRPCS species precludes the findings of the completed rare plant surveys. As a separate action by moving to take the land intro trust, Section 7 consultation was initiated by the BIA with the USFWS in August of 2009. While this Federal action requires Section 7 consultation outside of the scope of programmatic BO, the surveys used to determine presence/absence were congruent with these strategies for consistency. Please also refer to **Responses to Comments 6-2**, **10-15**, **13-11**, **13-12** and **21-7** regarding impacts to biological resources.

26-4 Please see **Response to Comment 21-9**.

26-5 Please see **General Response 3.1.6** regarding potential impacts to local schools.

26-6 Please see **General Response 3.1.13** and **Response to Comment 13-59**. Possible minimal increases in tax revenues in the future would not change the analysis of impacts in the EA. Note that updated tax records are assessed in **Sections 4.1.6** and **4.2.6** of the Final EA.

26-7 Please see **Responses to Comments 24-9** and **24-13**.

26-8 Please see **Section 4.0** of the EA for a thorough analysis of traffic and noise impacts. Please refer to **General Response 3.1.4** regarding traffic modeling, and **Responses to Comments 10-59, 10-63** and **16-34** regarding noise impacts.

26-9 Please see **Response to Comment 8-2**.

RESPONSE TO COMMENT LETTER 27 – BLAINE HUNT

27-1 Comment noted. Improvements to reduce vehicle speed as recommended by the commenter were not determined to be necessary to reduce environmental impacts, as analyzed in **Sections 4.1.7**, **4.2.7**, and **4.3.7** of the EA. Please also refer to **Response to Comment 13-23**.

RESPONSE TO COMMENT LETTER 28 – ROBERT CRAWFORD, WINDSOR WEST RESIDENTS COMMITTEE

28-1 A separate fee-to-trust application to be processed by the BIA has been prepared, for which this EA is the accompanying NEPA environmental document. The fee-to-trust application will be

revised with the proposed addition of another seven parcels (32.12 acres) for a total acquisition of 124.12 acres.

28-2 Please see **General Response 3.1.12** regarding local government land use plans.

28-3 Please see **General Response 3.1.12** regarding local government land use plans.

28-4 Please see **General Response 3.1.3** regarding impacts to on-site oak trees and **3.1.1** regarding addition of new parcels for full consideration of environmental impacts under the Final EA.

28-5 Comment noted. Please see **Responses to Comment Letter 13** for responses to comments submitted by the Town of Windsor.