

## **Record of Decision**

### **Secretarial Determination Pursuant to the Indian Gaming Regulatory Act and Trust Acquisition of 33 acres in the City of Beloit, Wisconsin, for the Ho-Chunk Nation of Wisconsin**

**U.S. Department of the Interior  
Bureau of Indian Affairs  
April 2020**

**Total Costs Associated with  
Developing and Producing this EIS: \$850,000**

## **U.S. Department of the Interior**

**Agency:** Bureau of Indian Affairs

**Action:** Record of Decision for the Secretarial Determination, pursuant to the Indian Gaming Regulatory Act, and trust transfer of the 33-acre proposed fee-to-trust property in the City of Beloit, Wisconsin, for the Ho-Chunk Nation of Wisconsin, for gaming and other purposes.

**Summary:** In 2012, the Ho-Chunk Nation of Wisconsin (Nation) submitted an application to the Bureau of Indian Affairs (BIA) requesting that the Department of the Interior (Department) transfer into trust approximately 33 acres of land in the City of Beloit, Rock County, Wisconsin, (Beloit Site) for gaming and other purposes. The Nation also requested that the Secretary of the Interior (Secretary) issue a Secretarial Determination pursuant to the Indian Gaming Regulatory Act (IGRA) determining whether the Beloit Site is eligible for gaming activities. The Nation proposes to develop a casino-hotel facility within the 33-acre parcel and retail and parking facilities on adjacent land owned in fee by the Nation (Proposed Project). The overall project site, including the 33-acre proposed trust parcel and adjacent fee land consists of 73.5 acres.

The BIA analyzed the proposed transfer of the Beloit Site into trust and Secretarial Determination (the Proposed Actions) in an Environmental Impact Statement (EIS) prepared pursuant to the National Environmental Policy Act under the direction and supervision of the BIA Midwest Regional Office. The BIA made the Draft EIS available for public review on November 9, 2018. The BIA issued the Final EIS on May 31, 2019, following a public hearing and comment period, and after considering and incorporating as appropriate the comments it received. The Draft and Final EISs evaluated a reasonable range of alternatives that would meet the purpose and need for the Proposed Actions, analyzed the potential effects of those alternatives, and identified feasible mitigation measures.

This Record of Decision (ROD) announces that the Department will implement Alternative A, the Preferred Alternative, as described in the Final EIS. The Department determined that the Preferred Alternative will best meet the purpose and need for the Proposed Actions by promoting the long-term tribal self-sufficiency, self-determination, and economic development of the Nation. Implementing the Preferred Alternative will provide the Nation with the best opportunity for attracting and maintaining a stable, long-term source of revenue. This revenue will enable the Nation to provide essential social, housing, educational, health, and welfare programs, thereby improving the quality of life for tribal members and their families.

The Department considered potential effects to the environment, including potential impacts to local governments and other tribes. The Department has adopted all practicable means to avoid or minimize environmental harm, and has determined that potentially significant effects will be adequately addressed by the mitigation measures described in this ROD.

With this ROD, the Department announces the issuance of the Secretary's Determination finding that a gaming establishment would be in the best interest of the Nation and its members, and not detrimental to the surrounding community. *See* U.S.C. § 2719 (b)(1)(A). The decision is based on the Department's thorough review and consideration of the Nation's fee-to-trust application; request for a Secretarial Determination and materials submitted pursuant to IGRA; applicable statutory and regulatory authorities governing acquisition of trust title to land and eligibility of land for gaming; Draft and Final EISs; administrative record; comments received from the public, federal, state, and local governmental agencies; and potentially affected Indian tribes. The Department will make a final determination on the Nation's fee-to-trust application pursuant to Section 5 of the Indian Reorganization Act, 25 U.S.C. § 5801, following receipt of the Governor's concurrence with the Secretary's Determination. *See* 25 U.S.C. § 2719 (b)(1)(A).

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## **1.0 INTRODUCTION**

### **1.1 Summary**

In 2012, the Ho-Chunk Nation of Wisconsin (Nation) submitted an application to the Bureau of Indian Affairs (BIA) requesting that the Department of the Interior (Department) transfer into trust approximately 33 acres of land in the City of Beloit, Rock County, Wisconsin, (Beloit Site) for gaming and other purposes. The Nation also requested that the Secretary of the Interior (Secretary) issue a Secretarial Determination determining whether the Beloit Site is eligible for gaming activities pursuant to the Indian Gaming Regulatory Act.

The BIA analyzed the potential environmental impacts of the proposed transfer of the Beloit Site into trust and the Secretarial Determination (Proposed Actions) in an Environmental Impact Statement (EIS) pursuant to the National Environmental Policy Act under the direction and supervision of the BIA Midwest Regional Office. The BIA made the Draft EIS available for public review on November 9, 2018, and the Final EIS on May 31, 2019. The BIA considered various alternatives in the Draft EIS and analyzed in detail the potential impacts of the reasonable alternatives.

The Department has determined that Alternative A is the Preferred Alternative because it would best meet the purpose and need for the Proposed Actions. Alternative A consists of the construction of an approximately 139,700 square foot (sf) casino, 300-room hotel, food and beverage facilities, convention center, water park, retail outlets, associated parking and infrastructure, and mitigation measures presented in **Section 6.0** of this Record of Decision (ROD). The Department's decision is based on the thorough review and consideration of the Nation's fee-to-trust application and materials submitted pursuant to the Indian Gaming Regulatory Act; the applicable statutory and regulatory authorities; the Draft and Final EISs; the administrative record; and comments received from the public, federal, state, and local governmental agencies, and potentially affected Indian tribes.

### **1.2 Description of the Proposed Actions**

The Proposed Actions are the transfer into trust of the Beloit Site pursuant to the Indian Reorganization Act (IRA), 25 U.S.C. § 5108, and the issuance of a Secretarial Determination pursuant to Section 2719 of the Indian Gaming Regulatory Act (IGRA), 25 U.S.C. § 2719 (b)(1)(A).

### **1.3 Purpose and Need**

The purpose of the Proposed Actions is to facilitate tribal self-sufficiency, self-determination, and economic development, thus satisfying both the Department's land acquisition policy as articulated in the Department's trust land regulations at 25 C.F.R. Part 151, and the principal goal of IGRA as articulated in 25 U.S.C. § 2701. The need for the Department to act on the Nation's application is established by the Department's regulations at 25 C.F.R. §§ 151.10(h) and 151.12, and the Department's regulations implementing Section 2719 of IGRA at 25 C.F.R. §§ 292.18 and 292.21.

## 1.4 Procedural Background

The Proposed Actions require compliance with the National Environmental Policy Act (NEPA), 42 U.S.C. § 4321 *et seq.* Accordingly, the BIA published a Notice of Intent (NOI) to prepare an EIS in the *Federal Register* on November 26, 2012 (77 FR 70460) describing the Proposed Actions, announcing the BIA's intent to prepare an EIS for the Proposed Actions, and inviting public and agency comments. The BIA also published the NOI in *The Daily News*, *The Janesville Gazette*, and *The Rockford Register Star*. The comment period ran through December 26, 2012. The BIA held a scoping meeting in the City of Beloit on December 13, 2012, and issued a report outlining the results of scoping on January 31, 2013. The scoping report summarized the major issues and concerns identified during the scoping process. The BIA considered scoping comments in developing the project alternatives and analytical methodologies presented in the EIS. During the NEPA process, the BIA identified and invited five Cooperating Agencies: the Nation, the City of Beloit, Rock County, the U.S. Environmental Protection Agency (USEPA), and the Wisconsin Department of Transportation (WisDOT). All accepted the invitation to be a Cooperating Agency, except for Rock County, which declined.

The BIA circulated an administrative version of the Draft EIS to the Cooperating Agencies in September 2013 for review and comment. The BIA considered the comments and made revisions as appropriate prior to public release of the Draft EIS. In November 2018, the BIA made the Draft EIS available to federal, tribal, state, local agencies, and other interested parties for review and comment. The BIA published the Notice of Availability (NOA) for the Draft EIS in the *Federal Register* on November 9, 2018, (83 FR 56096) initiating a 45-day public review period. The BIA also published the NOA in *The Daily News*, *The Janesville Gazette*, and *The Rockford Register Star* on November 9, 2018. The NOA provided information concerning the Proposed Actions, public comment period, and the time and location of the public hearing where the BIA would receive public comments. The BIA held a public hearing at the Aldrich Middle School in Beloit, Wisconsin, on December 11, 2018. The comment period on the Draft EIS ran through December 24, 2018.

The BIA considered public and agency comments on the Draft EIS including those submitted or recorded at the public hearing. The BIA provided responses to the comments in Volume I of the Final EIS, and revised relevant information in Volume II of the Final EIS as appropriate to address those comments. The BIA considered all comments from Cooperating Agencies and made changes to the Final EIS as appropriate. The BIA published the NOA for the Final EIS in the *Federal Register* on May 31, 2019 (84 FR 25302). The BIA also published the NOA for the Final EIS in local and regional newspapers, including *The Daily News*, *The Janesville Gazette*, and *The Rockford Register Star*. The 30-day waiting period ended on June 30, 2019.

During the 30-day waiting period following publication of EPA's NOA of the Final EIS, the BIA received 29 comment letters from agencies and interested parties. The BIA reviewed and considered all comment letters on the Final EIS. Specific responses to these representative comment letters are included in the Supplemental Response to Comments document, which is included as **Attachment 3** to this ROD.

## 2.0 ANALYSIS OF ALTERNATIVES

The BIA considered a range of possible alternatives in the EIS to meet the purpose and need for the Proposed Actions, including a reduced casino/commercial development alternative and a non-casino alternative. The BIA screened alternatives, other than the No Action/No Development Alternative, based on four criteria: 1) extent to which they meet the purpose and need for the Proposed Actions, 2) feasibility, 3) ability to reduce environmental impacts, and 4) ability to contribute to a reasonable range of alternatives.

The Draft EIS and Final EIS evaluated the following reasonable alternatives and the mandatory No Action Alternative in detail.

### 2.1 Alternative A – Proposed Project

Alternative A, the Nation's Proposed Project, consists of the following components: (1) the transfer of the approximately 33-acre Beloit Site into trust; (2) the issuance of a Secretarial Determination; (3) development of the Beloit Site and adjacent fee land owned by the Nation totaling 73.5 acres with a variety of uses. The Components of Alternative A are described below.

*Casino-Hotel Facility:* Alternative A will result in the development of a casino-hotel, consisting of an approximately 139,700 sf casino, 300-room hotel, food and beverage facilities, convention center, water park, retail outlets, and associated parking and infrastructure on the Beloit Site. The proposed hotel would be an approximately 180-foot tall, 13-story building with a gross footprint of approximately 257,150 sf. The hotel would also feature a pool area, spa/wellness center, and fitness center.

*Intergovernmental Agreement:* The Nation, City of Beloit, and Rock County executed an Intergovernmental Agreement (IGA) in 2012 that is included in Appendix C of the Final EIS. Following extensions in 2015 and 2018, the IGA is valid until March 26, 2021. The IGA requires that development within the Beloit Site comply with various chapters of the City's Code of General Ordinances and County Ordinances. Further, the Nation's adjacent fee parcels included in the Proposed Project shall remain in fee status and, therefore, must comply with all applicable local ordinances. The IGA also sets forth the impact payments the Nation will make to the City and County related to the provision of municipal services and improvements, the potential loss of tax revenue, and other potential costs relating to mitigating impacts that occur from gaming on the Beloit Site. The IGA applies to Alternatives A and B.

In accordance with Section 2.1 of the IGA, the City and County shall provide municipal services to the Nation. These include potable water, storm water control and diversion, sanitary sewer collection and treatment, police, fire inspection and emergency response, public safety dispatch, emergency medical and ambulance service, and all other applicable municipal services customarily provided to City residents, together with applicable inspections and permitting. The City and County shall bill the Nation (in addition to the impact payments paid annually by the Nation) for the provision of the municipal services.



As detailed in Section 2.2 of the IGA, the improvements to City infrastructure intended to support the operation of the Proposed Project shall be set forth in a separate development agreement between the City and Nation following the approval of the Proposed Actions. The preliminary scope of the improvements to City infrastructure is outlined in Section 2.2 of the IGA. This section requires: (1) the construction of a fourth lane on the east side of Willowbrook Road between Stateline Road and Colley Road; (2) reconstruction of Colley Road to meet applicable design standards and as deemed appropriate by the City and Nation, including the installation of curb and gutter; and (3) construction of traffic signalization in the vicinity of the project site as warranted by applicable design standards. The cost of necessary improvements would be financed and paid for exclusively by the City and would be subject to repayment from the Nation to the City pursuant to a guaranteed minimum payment and an infrastructure down payment described in Section 3.1.1 of the IGA.

*Grading and Drainage:* Construction would involve grading and excavation for building pads and parking lots, generating approximately 223,000 cubic yards of excess fill to be exported (Appendix D of the Final EIS). In addition, approximately 109,000 tons of base aggregate would be imported to meet engineering requirements for roadways and parking lots. Under Alternative A, 8,500 linear feet of storm water piping, 2,900 linear feet of grass swales, and a 1.9-acre detention pond would be located within the project site to provide optimum site drainage. Permeable pavement would be installed in the surface parking area where feasible. In addition, the City's regional storm water detention facilities would be expanded to include an additional 1.5-acre detention pond to accommodate excess storm water from the project site during a 100-year storm event in accordance with the IGA.

*Best Management Practices:* Construction and operation of Alternative A would incorporate a variety of industry standard best management practices (BMPs) designed to avoid or minimize potential adverse effects resulting from the development of Alternative A. These are listed in **Section 6.0** of the ROD.

## **2.2 Alternative B – Reduced Casino and Commercial Development**

Alternative B is similar to Alternative A in most aspects, including the issuance of a Secretarial Determination by the Secretary and transfer of the approximately 33-acre parcel into trust. Alternative B also consists of a casino development similar to Alternative A, but on a substantially reduced scale. Alternative B would result in the development of approximately 99,500 sf casino, retail, food and beverage facilities, and associated parking and infrastructure on the Beloit Site. There would be no hotel, water park, pool area, spa/wellness center, fitness center, or retail. Under Alternative B, the proposed casino facility would have a gross footprint of 291,620 sf. As with Alternative A, the project would connect to an existing City waterline in either Willowbrook or East Colley Road and wastewater service would be provided by the City through connection to an existing sewer line.

Construction of Alternative B would result in the exportation of approximately 222,000 cubic yards of excess fill. In addition, approximately 76,000 tons of base aggregate would be imported to meet engineering requirements for roadways and parking lots. Under Alternative B, 5,600 linear feet of stormwater piping, 3,400 linear feet of grass swales, and a 2.0-acre detention pond would be located within the project site.

### **2.3 Alternative C – Retail Development**

Alternative C includes the transfer of the Beloit Site into trust; however, it does not include a gaming component. Therefore, a Secretarial Determination by the Secretary would not be required. Alternative C includes the construction of a retail complex and parking facilities on the Beloit Site. The proposed retail complex would have a gross footprint of 175,000 sf at build-out. A total of 948 surface parking spaces would be provided for the retail complex. If any of these amenities on trust land require lease agreements with outside companies, the Nation would negotiate and execute the lease agreements in accordance with the Nation's tribal leasing regulations. The BIA approved the Nation's tribal leasing regulations in 2014 pursuant to the Helping Expedite and Advance Responsible Tribal Home Ownership Act of 2012, 25 U.S.C. § 415 (h).

The Nation has no agreement with the City at this time to provide water supply and wastewater services to the project site under Alternative C; however, it is assumed that an agreement similar to the IGA would be executed prior to construction of Alternative C. As with Alternatives A and B, water supply would be provided through a connection to an existing City waterline in either Willowbrook or East Colley Road and wastewater service would be provided by the City through connection to an existing sewer line located within the project site.

Alternative C would result in the exportation of approximately 113,000 cubic yards of excess fill. In addition, approximately 44,000 tons of base aggregate would be imported to meet engineering requirements for roadways and parking lots. Under Alternative C, 5,700 linear feet of stormwater piping, 3,700 linear feet of grass swales, and a 1.9-acre detention pond would be located within the project site to provide optimum site drainage.

The Nation has no agreement with the City at this time to provide law enforcement and fire services to the project site under Alternative C; however, it is assumed that an agreement similar to the IGA would be executed prior to construction of Alternative C.

### **2.4 Alternative D – No Action /No Development**

Under the No Action Alternative, none of the three development alternatives (Alternatives A, B, and C) would be implemented. The No Action Alternative assumes that existing uses on the approximately 73.5-acre project site would not change in the near term.

### **2.5 Alternative Sites Eliminated from Consideration**

The BIA considered the alternatives discussed below, but rejected them from detailed analysis because these alternatives were determined to be infeasible and/or would not fulfill the stated purpose and need of the Proposed Actions.

*Jackson, Dane, Wood, Monroe, Adams, Columbia, Juneau, Sauk, and Shawano Counties*

The Nation currently has gaming facilities operating in the cities of Black River Falls, Madison, Nekoosa, Tomah, and Wisconsin Dells, as well as the village of Wittenberg. An

alternative in the vicinity of these existing locations would not meet the stated purpose and need because it would not expand the Nation's land base or generate more revenue for the Nation, as customers would likely be drawn from the market of the Nation's existing casinos. Therefore, the BIA eliminated from consideration alternatives within Jackson, Dane, Wood, Monroe, Adams, Columbia, Juneau, Sauk, and Shawano counties.

### *Sites in the City of Beloit*

The BIA considered a number of alternative sites in the City of Beloit, including undeveloped properties approximately 20 acres or larger that could potentially accommodate the proposed gaming facility. Because the project site does not contain sensitive environmental resources such as wetlands, waters of the United States, or known cultural resources, and is in an area that is served by public utilities and has been planned for commercial development, none of the available sites reviewed met the criteria for ability to reduce the environmental effects of the Proposed Project. The BIA rejected additional sites within or adjacent to the City because of their inability to reduce environmental impacts of the Proposed Project, infeasibility, or due to conflict with City land use plans.

#### *Site #1*

In 2000, the Nation pursued plans to construct a Class III gaming facility in the City of La Crosse; however, voters rejected the proposal in a referendum. Therefore, an alternative location in the City of La Crosse was considered but rejected from detailed analysis.

#### *Site #2*

In 2002, the Nation pursued plans to construct a Class III gaming facility in the City of Wausau; however, voters rejected the proposal in a referendum. Therefore, BIA considered but rejected from detailed analysis an alternative location in the City of Wausau.

#### *Site #3*

The BIA considered the City of Lake Geneva when developing the Proposed Project; however, the potential for significant socioeconomic impacts due to proximity to the Potawatomi Bingo Casino eliminated the City of Lake Geneva from consideration as a location for the Proposed Project.

## **3.0 ENVIRONMENTAL IMPACTS AND PUBLIC COMMENTS**

### **3.1 Environmental Impacts Identified in Final EIS**

A number of specific issues were raised during the EIS scoping process and public and agency comments on the Draft EIS. The BIA considered each of the alternatives in the Final EIS relative to these and other issues. The categories of the most substantive issues raised include:

- Water Resources

- Biological Resources
- Cultural and Paleontological Resources
- Socioeconomics Conditions and Environmental Justice
- Transportation/Circulation
- Public Services
- Hazardous Materials

The BIA's evaluation of project-related impacts included consultation with entities that have jurisdiction or special expertise in topical areas. This ensured that the BIA developed impact assessments for the Final EIS using accepted industry standard practices, procedures, and the most currently available data and models for each of the issues evaluated. The BIA developed alternative courses of action and mitigation measures in response to environmental concerns and issues. Section 4 of the Final EIS described effects of Alternatives A through C as follows:

### **3.1.1 Geology and Soils**

Topography – The development alternatives would involve grading the majority of the project site for building pads and parking lots. Reduced intensity development would occur with Alternatives B and C; therefore, potential impacts to site topography are similar, but reduced compared with those associated with Alternative A. The project site is relatively flat with a gentle southwestern-aspect slope no greater than one percent. On-site grading would facilitate proper drainage and landscaping and swales would be built to use the existing topography. There are no topographic problems that would affect the grading of the project site, such as shallow bedrock, wetlands, or high groundwater conditions. Impacts to topography from the development alternatives would be less than significant. No mitigation is required.

Soils/Geology – The development alternatives could potentially create soil erosion during construction, operation, and maintenance activities, including clearing, grading, trenching, and backfilling. The primary soils on the project site have a slight erosion potential based on soil type and slope gradient. All development alternatives would be constructed in association with a National Pollutant Discharge Elimination System (NPDES) permit from the USEPA for sediment control and erosion prevention into navigable (surface) waters of the United States. As part of the NPDES permit, a Storm Water Pollution Prevention Plan (SWPPP) would be prepared and implemented. The design and construction of the development alternatives, through adherence to an NPDES permit for sediment control and erosion, would not significantly affect soils or create erosion or sedimentation issues on the alternative sites. After implementation of mitigation measures discussed in **Section 6.1** of this ROD and Section 5.0 of the Final EIS, impacts to surface water quality from the development alternatives would be less than significant.

Seismicity – The state of Wisconsin is an area of low seismic risk and there are no known active faults in the vicinity of the project site. Additionally, in its gaming compact with the State of Wisconsin (Appendix B of the Final EIS) the Nation has committed to develop its public buildings consistent with Chapter 101 of the Wisconsin Statutes, Regulation of Industry, Buildings and Safety. Impacts from seismicity on the development alternatives would be less than significant. No mitigation is required.

Mineral Resources – Given that there are no known or recorded mineral resources within the project site, construction and operation of the development alternatives would not adversely affect known or recorded mineral resources. Impacts to mineral resources from the development alternatives would be less than significant.

### **3.1.2 Water Resources**

Flooding – The project site is located outside the 100-year and 500-year floodplains; therefore, all development alternatives would comply with Executive Order No. 11988. The development alternatives would not impede or redirect flood flows, alter floodplain elevations, or affect floodplain management. Impacts from flooding on the development alternatives would be less than significant.

Construction - Construction activities under the development alternatives would include ground-disturbing activities such as clearing and grubbing, mass grading, and excavation, which could lead to erosion of topsoil. Erosion from construction could increase sediment discharge to surface waters during storm events, thereby degrading downstream water quality. Discharges of pollutants to surface waters from construction activities and accidents are a potentially significant impact. Erosion control measures would be employed in compliance with the NPDES General Construction Permit for construction activities. A SWPPP would be developed prior to any ground disturbance at the project site and would include BMPs to reduce potential surface water contamination during storm events. After implementation of mitigation measures discussed in **Sections 6.1** and **6.2** of this ROD and Section 5.0 of the Final EIS, impacts to surface water quality from the development alternatives would be less than significant.

Storm Water Runoff – A grading and drainage analysis for the development alternatives has been completed and is included in Appendix D of the Final EIS. The development alternatives would generate increased runoff during rain events due to an increase in impervious surfaces on the project site; however, Alternatives B and C would result in less impervious surfaces compared to Alternative A due to the reduced footprints. Storm water runoff under all alternatives would be directed into on-site storm water control facilities sized to accommodate excess water draining from impervious surfaces. The proposed storm water control facilities, which include several vegetated detention swales, would treat all storm water on-site. No discharge to Waters of the United States would occur, either through non-point source storm water runoff or through point source discharge of storm water from a culvert or outfall. In order to avoid impacts of the silt-laden storm water on Spring Brook and Turtle Creek, silt fence, erosion bales, and riprap would be used during construction to contain the sediment. With mitigation measures and BMPs discussed in **Sections 6.1** and **6.2** of this ROD and Section 5.0 of the Final EIS, impacts to regional storm water runoff and surface water quality from the development alternatives would be less than significant.

Groundwater – The development alternatives would not require the use of on-site groundwater supplies because water would be provided pursuant to a services agreement as discussed in Section 2.1 of the IGA between the Nation, City, and County. The City's municipal public water system would serve the project; therefore, new wells would not be

developed and there would be no impact to existing wells in the immediate vicinity of the project site. The City has agreed to provide potable water service to the project and has indicated that aquifers have sufficient capacity under existing conditions. The introduction of impermeable surfaces can reduce groundwater recharge in areas where surface percolation accounts for a large percentage of natural recharge, resulting in the lowering of the groundwater levels in nearby wells. Although the development alternatives would introduce large areas of impermeable surfaces, the use of detention ponds for storing storm water would allow collected storm water to percolate into the groundwater table. Impacts on groundwater levels from the introduction of impermeable surfaces on the project site for the development alternatives would be less than significant.

Several features designed to filter surface runoff have been incorporated into the project design in accordance with the City of Beloit Municipal Code. These features include the use of storm water detention basins to remove suspended solids such as trash, sediment, and other potential materials that could degrade water quality. Use of vegetative swales would provide additional filtering by capturing sediment and pollutants within the soil matrix. With mitigation measures provided in **Sections 6.1** and **6.2** of this ROD and Section 5.0 of the Final EIS, impacts to ground water for the development alternatives would be less than significant.

### **3.1.3 Air Quality**

Construction Emissions – The development alternatives would generate air pollutants during construction, although they would not exceed regulatory emissions threshold levels. However, to further reduce project-related construction criteria pollutants and diesel particulate matter (DPM) emissions, the mitigation measures described in **Section 6.3** of this ROD and Section 5.0 of the Final EIS would further reduce impacts from construction emissions. Impacts from air pollutants generated during construction of the development alternatives would be less than significant.

Operational Emissions – Buildout of the development alternatives would result in the generation of mobile emissions from patron, employee, and delivery vehicles, as well as stationary emissions from combustion of natural gas in boilers, stoves, heating units, and other equipment on the project site. The project site is in a region of attainment for all criteria pollutants. Under the federal regulations of the Clean Air Act, *see* 40 C.F.R. Part 93, if a region is in attainment for all criteria pollutants, then the region meets the U.S. National Ambient Air Quality Standards and there are no *de minimis* levels or “thresholds” for a project’s emissions. BMPs provided in **Section 6.3** of this ROD and Section 5.0 of the Final EIS would minimize CAP emissions. With these BMPs, impacts to air quality from the development alternatives would be less than significant.

### **3.1.4 Biological Resources**

Wildlife and Habitats – Development of Alternatives A, B, and C would affect approximately 73.5 acres of habitat. None of the habitats that would be affected by the implementation of the alternatives are considered sensitive biological communities. Impacts to wildlife and habitats from the development alternatives would be less than significant.

Special Status Species – The development alternatives comply with the Federal Endangered Species Act (FESA), 16 U.S.C. § 1531 *et. seq.* No federally listed wildlife species occur or have the potential to occur within the project site. No state listed plants or wildlife species occur or have the potential to occur within the project site. Impacts to federally listed wildlife species or state listed plants or wildlife species from the development alternatives would be less than significant. *See* 40 C.F.R. § 1508.27 (b)(9).

Migratory Birds – All development alternatives could adversely affect active migratory bird nests if vegetation removal or loud noise-producing activities associated with construction were to occur during the nesting season (between March and August). With the mitigation listed in **Section 6.4** of this ROD and Section 5.0 of the Final EIS, impacts to migratory birds from the development alternatives would be less than significant.

Waters of the United States – No wetlands or Waters of the United States are located within the project site. Discharge of soil associated with ground-disturbing activities has the potential to impact off-site waterways, including Turtle Creek and Spring Brook. Implementation of mitigation identified in **Section 6.1** of this ROD and Section 5.0 of the Final EIS, including erosion and siltation controls around all ground-disturbing activities, would ensure that impacts to Waters of the United States from the development alternatives would be less than significant.

### **3.1.5 Cultural Resources**

An archaeological investigation (Appendix G of the Final EIS) revealed no previously unrecorded cultural resources within the project site, with the exception of a deposit of mixed modern and historical debris on Colley Road near the former Dougan site, which is not eligible for listing on the National Register of Historic Places (NRHP). Given the absence of pre-contact or historic properties within the project site, there would be no direct adverse effects to known NRHP-eligible or listed properties as a result of the development alternatives in those parcels. There is a slight possibility that previously unknown cultural resources would be encountered during ground-disturbing activities. This would be a potentially significant impact. Mitigation measures are presented in **Section 6.5** of this ROD and Section 5.0 of the Final EIS for the treatment of unanticipated archaeological discoveries. Impacts to cultural resources from the development alternatives would be less than significant.

### **3.1.6 Socioeconomic Conditions and Environmental Justice**

Impacts on the Ho-Chunk Nation – The development alternatives would have a beneficial impact on the Nation and would generate new income to fund the operation of the tribal government. This income is anticipated to have a beneficial effect on tribal attitudes, expectations, quality of life, and culture by funding tribal programs that serve tribal members, including education, health care, housing, social services, and tribally-sponsored cultural events, and by supporting tribal self-sufficiency and self-determination. This beneficial impact would be more pronounced under Alternatives A and B because these alternatives would generate the greatest revenue among the development alternatives. The revenues generated by the proposed retail establishment (Alternative C) would not be collected by the Nation; however, the Nation would collect revenues from leases signed by retailers. The

impacts on the Nation under Alternative C would be beneficial, but on a lesser scale than Alternatives A or B. Alternative C would not generate a sufficient amount of revenue to fund all essential governmental, social, and other services.

Socioeconomic Conditions – The construction and operation of all development alternatives would result in economic output to areas in the vicinity of the project site, including Rock County, Wisconsin, and Winnebago County, Illinois, (Counties) in the form of jobs, purchases of goods and services, and through positive fiscal effects. The construction of alternatives would result in indirect and induced economic activity among a variety of different industries and businesses throughout the Counties. Output received by the businesses in the Counties would in turn increase their spending and labor demand, further stimulating the local economy. This would be considered a beneficial impact. Alternative C would result in a beneficial impact to the local economy, but to a lesser degree than Alternatives A and B due to the reduction in building size and absence of a gaming component.

The operation of the casino alternatives (Alternatives A and B) may have substitution or competitive effects on competing gaming venues, including tribal casinos and local cardrooms. The substitution effects would be greater for those gaming facilities that are closest to the proposed gaming projects and most similar in terms of the types of customers that would visit the venues. Estimated substitution effects are anticipated to diminish after the first year of operation of the gaming alternatives. The substitution effects resulting from the gaming alternatives to competing tribal gaming facility revenues are not anticipated to significantly impact these casinos, or to cause their closure, or to significantly impact the ability of the tribal governments that own the facilities to provide essential services to their respective memberships.

Potential non-gaming substitution effects would be counteracted by the local economic activity generated by casino patrons other than local residents. Specifically, as the casino would draw non-residents to the area, the associated increase in new visitor demand for off-site entertainment venues, restaurants, and bars would make up for some area residents choosing to visit the development alternatives rather than other local establishments. Thus, it is not anticipated that significant quantifiable non-gaming substitution effects would occur with any of the alternatives. Similar to Alternatives A and B, a portion of revenue for Alternative C may be transferred from other local businesses through substitution. However, there are no other outlet malls within a 60-minute market area and the outlet mall proposed in Alternative C is unlikely to affect the demand for the big box stores in the area. Any anticipated substitution effects are likely to diminish after the first year of the project's operation and once local residents return to more typical spending patterns. The substitution effect, should it occur, would represent a negligible portion of total economic activity that would be generated by Alternative C. This impact would be less than significant.

Alternatives A through C would result in increased costs to local agencies for the provision of governmental services, including police, fire and emergency services. **Section 6.6** of this ROD and Section 5.0 of the Final EIS list annual payments that would be made by the Nation to State and local governments in accordance with the Tribal-State Compact and local agreements. These annual payments would provide support for public services, community



benefits, and utilities throughout the region. Alternatives A through C would result in decreased property taxes from the 33-acre parcel if transferred into trust. However, the three other project parcels would remain in fee and generate property tax revenue annually. The retail sales conducted on the three parcels that would remain in fee ownership would collect sales tax. Therefore, the net impact to tax revenues as a result of the alternatives would be positive, and therefore beneficial. Further, impacts on local housing values, housing supply, parks, and libraries from the development alternatives would be less than significant.

Environmental Justice – The development alternatives would have a direct beneficial impact on minority and low-income populations. These benefits would likely occur in the form of more and better employment, and the related social improvements. Other effects to minority and low-income persons, such as traffic, air quality, noise, etc. would be neutral, after the implementation of the specific mitigation measures related to these environmental effects. Therefore, with the implementation of the mitigation measures described in this ROD, impacts to minority or low-income communities from the development alternatives would be less than significant.

### **3.1.7 Transportation/Circulation**

Construction Traffic – All development alternatives would result in temporary impacts resulting from construction activities. These effects would include temporary inconveniences to travelers. No intersection movement within the study area would operate at an unacceptable Level of Service (LOS) with the addition of construction-related project traffic. Mitigation measures identified in **Section 6.7** of this ROD and Section 5.0 of the Final EIS would further minimize construction traffic impacts for off-site road improvements. With implementation of mitigation measures and because impacts would be temporary, occur outside of peak hours, and not create LOS impacts at study intersections, impacts from construction traffic would be less than significant.

Project Traffic – Alternative A would result in the following six study intersections operating at an unacceptable LOS, when added to 2025 build-out baseline traffic volumes:

- Willowbrook Road and State Line Road NB approach (LOS F) and SB through/left-turn lane (LOS F)
- Willowbrook Road and East Colley Road WB approach (LOS F), NB approach (LOS F), and SB approach (LOS F)
- STH-81/Milwaukee Rd and Willowbrook Rd NB approach (LOS F)
- STH-81/Milwaukee Rd and Cranston Rd EB left-turn movement (LOS F)
- Willowbrook Road and Warner Court/Casino Entrance West WB left-turn movement (LOS F)
- East Colley Road and Retail Entrance/Cottonwood Street NB left-turn movement (LOS E)

Alternative B would result in the following five study intersections operating at an unacceptable LOS, when added to 2025 build-out baseline traffic volumes:

- Willowbrook Road and State Line Road NB approach (LOS F)

- Willowbrook Road and East Colley Road SB approach (LOS F)
- STH-81/Milwaukee Road and Willowbrook Road NB left-turn movement (LOS F)
- STH 81/Milwaukee Road and Cranston Road EB left-turn movement (LOS F)
- Willowbrook Road and Warner Court/Casino Entrance West WB left-turn movement (LOS F)

Alternative C would result in the following study intersection operating at an unacceptable LOS, when added to 2025 build-out baseline traffic volumes:

- STH-81/Milwaukee Road and Willowbrook Road NB left-turn movement (LOS F)

Currently there are no regional or local transit stops in the immediate vicinity of the project site, with the nearest transit stop at Willowbrook Road and Kennedy Drive approximately 0.5 miles north of the project site. Because there is sufficient parking available on-site and there are no transit facilities currently providing public transit to the project site, no significant adverse effects would occur to transit facilities as a result of any development alternatives. However, the Nation in consultation with the City has determined that it would build a local transit stop on the project site under Alternatives A and B. The Nation anticipates it would provide shuttle service to adjacent truck stops and additional locations within the surrounding region. With the implementation of the transit stop and shuttle service at the project site, transit service would be regionally enhanced, and therefore, Alternatives A and B would have a beneficial effect on transit.

No significant adverse effects would occur to the existing pedestrian facilities as a result of the development alternatives and bike and pedestrian facilities are not needed; however, pursuant to Section 2.2 of the IGA, these facilities may be constructed during the widening of Willowbrook Road and East Colley Road should they be deemed appropriate by the City and Nation. With the implementation of recommended mitigation measures in **Section 6.7** of this ROD and Section 5.0 of the Final EIS, all development alternatives would not contribute towards significant cumulative effects on traffic and circulation. Impacts to transit, bicycle, and pedestrian facilities under all alternatives would be less than significant.

### **3.1.8 Land Use**

Land use impacts from Alternatives A, B, and C would be similar because each such alternative would result in approximately 33 acres of land being transferred from fee to federal trust, thereby removing the property from the City's land use jurisdiction. For Alternatives A and B, the remaining 40.5 acres in the project site would be left in fee and be subject to City of Beloit regulations. Alternative C would result in development less than half the size of Alternative A, resulting in the development of a retail shopping center on the 33-acre parcel. Although the project site is currently used for agriculture, it is zoned General Manufacturing. The project site has been identified by the City as an area of economic development and was reclassified to a Community Commercial land use designation in the most recent City of Beloit Comprehensive Plan. Alternative A would be consistent with the land use designation in the City of Beloit Comprehensive Plan and the goals of the City, which seek to create an entertainment district including restaurants, a casino, and other related development. Although Alternatives B and C would also be consistent with the Community

Commercial land use designation, by removing the convention center and hotel through Alternative B and removing the gaming aspect through Alternative C, these alternatives would not fully meet the goal of the Community Commercial land use. Impacts to land use would be less than significant.

A Farmland Conversion Impact Rating form was completed for the project site and was submitted to the local Natural Resources Conservation Service (NRCS) office on February 20, 2013 (Appendix J of the Final EIS). The project site received a score of 61 for the site assessment component of the evaluation and a total score of 147. Because the total score is below the 160-point threshold, the project site does not meet the requirements for protection under the Farmland Protection Policy Act (FPPA). Impacts to farmlands from the development alternatives would be less than significant.

### **3.1.9 Public Services**

Water Supply – In accordance with Section 2.1 of the IGA, the Nation shall utilize existing municipal services provided by the City of Beloit and Rock County rather than duplicating those services on the project site for Alternatives A and B. The City’s municipal potable water system would serve the project site through connections to be provided to the project site at the Nation’s sole cost and expense. Domestic water would be provided by extensions of the City water system at two locations; one along Willowbrook Road and the other along East Colley Road. A letter from the City of Beloit dated May 3, 2013 confirms that the City’s water supply system is capable of accommodating the water needs of all development alternatives (Appendix K of the Final EIS). No agreement with the City has been made at this time to provide municipal services to the project site under Alternative C; however, it is assumed that an agreement similar to the IGA provided for Alternatives A and B would be executed prior to construction of Alternative C. In accordance with Section 2.0 of the IGA, upon connection to the City’s water system, the Nation would pay the current water capital connection charges and monthly service fees, as well as fund the extension of the City’s municipal system to the project site. This fair share compensation would allow the City to expand its water supply infrastructure as necessary to serve the proposed development. With implementation of the conditions of the IGA and mitigation measures in **Section 6.9** of this ROD and Section 5.0 of the Final EIS, impacts to the City’s public water system and level of service would be less than significant.

Wastewater Service – Pursuant to Section 3.9.1 of the IGA, water infrastructure for Alternatives A and B would be designed, installed, and maintained in accordance with Chapter 8 – Plumbing Code, Chapter 9 – Building Code, and Chapter 29 – Wastewater Treatment System of the City’s Code of General Ordinances. No agreement with the City has been made at this time to provide wastewater services to the project site under Alternative C; however, it is assumed that an agreement similar to the IGA provided for Alternatives A and B would be executed prior to construction of Alternative C. The project site would be connected to the City’s existing wastewater collection system, at the Nation’s sole cost and expense. Because the available capacity of the City’s wastewater collection system is approximately 7.3 million gallons per day (mgd), and the estimated demand of the Proposed Project is 432,000 gallons per day (gpd) (0.059 percent of existing capacity), impacts would be less than significant. Because of the reduced development scale, Alternatives B and C

would have a smaller wastewater demand than Alternative A, and, therefore, also have a less-than-significant impact. In accordance with Section 2.0 of the IGA, upon connection to the City's sewer system the Nation would pay the current capital connection charges and monthly service fees, as well as fund the extension of the City's municipal system to the project site. With implementation of the conditions of the IGA and mitigation measures in **Section 6.9** of this ROD and Section 5.0 of the Final EIS, impacts to the City's public sewer and wastewater treatment system and would be less than significant.

Solid Waste Service – Construction of the Proposed Project under all development Alternatives would result in a temporary increase in the generation of solid waste. Waste that cannot be recycled would be disposed of at the City of Janesville Landfill. Operational solid waste from Alternative A would represent approximately 1,067 tons per year (tpy), which accounts for 0.02 percent of City of Janesville Landfill's total capacity. Operation of Alternative A would not result in significant effects on solid waste services. Due to the reduction in building size, Alternatives B and C would produce less solid waste than Alternative A, and, therefore, also not result in significant effects on solid waste services.

Law Enforcement, Fire Protection, and Emergency Medical Services – All development alternatives have the potential to increase demand for law enforcement, fire protection, and emergency medical services. Pursuant to Section 2.1 of the IGA, the City and County shall provide the municipal services to the Nation under Alternatives A and B and shall bill the Nation (in addition to the Impact Payments) for the provision of municipal services in the same manner as is usual and customary for all other users of such municipal services. No agreement with the City has been made at this time to provide law enforcement and fire services to the site under Alternative C; however, it is assumed that an agreement similar to the IGA would be executed prior to construction of Alternative C. With implementation of mitigation measure described in **Section 6.9** of this ROD and Section 5.0 of the Final EIS impacts to law enforcement, fire protection, and emergency medical services would be less than significant.

Electricity and Natural Gas – Electricity and natural gas would be provided by Alliant Energy for the project site through nearby connections on Willowbrook Road and East Colley Road, north and west of the project site. Alliant Energy would work with the Nation to identify the power facilities needed for each component of the development for the chosen alternative. Alliant Energy currently has sufficient capacity to serve all development alternatives. Impacts on electricity and natural gas would be less than significant.

### **3.1.10 Noise**

Construction Noise – The increase in ambient noise levels due to the increase in vehicles on area roadways during construction of all development alternatives would be less than the FHWA noise thresholds for residential and commercial land uses. Therefore, noise resulting from increased construction traffic would not result in a significant adverse effect to the ambient noise level during any phase of construction. The maximum noise level due to construction equipment at the nearest sensitive noise receptor would be greater than the FHWA threshold for Alternative A. Therefore, there would be a potentially significant effect due to stationary construction noise. Mitigation measures are provided in **Section 6.7** of this

ROD and Section 5.0 of the Final EIS to reduce stationary construction noise effects. Therefore, with implementation of mitigation measures, construction noise associated with Alternative A would be less than significant on the ambient noise environment. Due to the reduction in building size, noise resulting from Alternatives B and C would be less than Alternative A and also be less than significant.

Operational Noise – None of the roadways that would experience the most increase in project related traffic (East Colley Road, Willowbrook Road, and Milwaukee Road) would exceed the FHWA NAC threshold of 67 dBA Leq with the addition of project traffic for all development alternatives. Therefore, the impacts to sensitive receptors along these roadways would be less than significant. Noise from roof mounted HVAC equipment would not be audible due to the distance to the nearest sensitive noise receptor. Loading dock noise has the potential to create an adverse effect associated with the ambient noise environment. Mitigation measures are provided in **Section 6.10** of this ROD and Section 5.0 of the Final EIS to reduce truck idling noise to less than 67 dBA Leq. The noise level in parking lots and parking structures would be less than the FHWA Noise Abatement Criteria (NAC) threshold of 67 dBA for all development alternatives and would not result in significant adverse effects associated with the off-site ambient noise environment. Operational equipment noise would be less than significant on the ambient noise environment for all development alternatives.

### **3.1.11 Hazardous Materials**

The possibility exists that undiscovered contaminated soil and/or groundwater is present on the project site due to the migration of hazardous materials from off-site properties. Construction personnel could encounter contamination during construction-related earth moving activities. BMPs presented in **Section 6.11** of this ROD and Section 5.0 of the Final EIS would minimize or eliminate adverse effects from undiscovered contaminated soil or groundwater. During grading and construction, the use of routine hazardous materials may include gasoline, diesel fuel, motor oil, hydraulic fluid, solvents, cleaners, sealants, welding flux, various lubricants, paint, and paint thinner. Specific BMPs presented in **Section 6.11** of this ROD and Section 5.0 of the Final EIS would minimize the risk of inadvertent release of these materials. With these measures, impacts from hazardous materials would be less than significant during construction. Impacts from potentially hazardous operational materials such as motor oil, hydraulic fluid, solvents, cleaners, lubricants, paint, and paint thinner would be less than significant with proper storage, handling, and disposal.

### **3.1.12 Aesthetics**

During construction activities on the project site, heavy construction equipment, materials, and work crews would be readily visible from stationary locations, as well as from vehicles traveling on nearby roadways; however, views of construction may be partially blocked by previously existing vegetation. Aesthetic impacts from construction would be temporary in nature and would not result in obstructed views of scenic resources. Development of Alternative A would encompass the majority of the project site. The height of the multi-story hotel tower would not exceed 180 feet. There would be two four-story concrete parking structures to the east and west of the casino resort facility. Within the project site to the west of the casino, there would be a grouping of retail buildings along with one of the parking

structures. Impacts to viewsheds resulting from Alternatives B and C would be similar although lessened, when compared with Alternative A due to the reduced intensity design and the absence of a hotel and parking structures.

The development of Alternatives A, B, and C would transform the current agricultural space to one more urban in appearance. However, this development on the project site would not be visually incompatible with land uses currently existing in the immediate vicinity. The Proposed Project would result in a visually cohesive development that may be considered more aesthetically pleasing than other regional commercial strip development. Development alternatives would be required to have lighting fixtures that would be an integral part of the overall design and strategically positioned to minimize any direct site lines or glare to the public. Exterior signage would be considered as part of the exterior architectural design and would enhance the buildings' architecture and the natural characteristics of the site by incorporating native materials in combination with architectural trim. Illuminated signs would be designed to blend with the light levels of the building and landscape lighting in both illumination levels and color characteristics. Through the use of downcast and directed lighting, low-pressure sodium bulbs, and strategically positioned lighting fixtures, the development alternatives' impacts of lighting off-site would be minimized and would not be significantly adverse. With the successful completion of the architectural review by the City of Beloit, all development alternatives would be in conformance with the City of Beloit policies pertaining to development and impacts to aesthetics would be less than significant.

### **3.1.13 Indirect and Growth-Inducing Effects**

Indirect Effects from Off-Site Traffic Mitigation Improvements – Implementation of any alternative on the project site would require construction of traffic mitigation and utility improvements, which would require grading and the introduction of fill material. These activities would have potential significant effects to geology and soils, water resources, air quality, biological resources, hazardous materials, and cultural resources. A SWPPP would be developed that would include soil erosion and sediment control practices to reduce the amount of exposed soil, prevent runoff from flowing across disturbed areas, slow runoff from the site, and remove sediment from the runoff. Mitigation for these activities is provided in the relevant subsections of **Section 6.0** of this ROD and **Section 5.0** of the Final EIS. With this mitigation, any indirect effects from off-site traffic mitigation improvements would be less than significant.

Indirect Effects from Storm water Infrastructure Improvements – Under Alternative A, the City's regional storm water detention facilities would be expanded to include an additional 1.5-acre detention pond to accommodate excess storm water from the project site during a 100-year storm event in accordance with the IGA. Alternatives B and C require no off-site storm water features. The expansion of the City's storm water facility would require grading, excavation, and the introduction of backfill material. These activities would have potential significant effects to geology and soils, water resources, air quality, biological resources, hazardous materials, and cultural resources. A SWPPP would be developed that would include soil erosion and sediment control practices to reduce the amount of exposed soil, prevent runoff from flowing across disturbed areas, slow runoff from the site, and remove sediment from the runoff. Mitigation for these activities is provided in the relevant

subsections of **Section 6.0** of this ROD and Section 5.0 of the Final EIS. With this mitigation, any indirect effects from storm water infrastructure improvements would be less than significant.

Growth-Inducing Effects – Development of all alternatives would result in one-time employment opportunities from construction and permanent employment opportunities from operation. These opportunities would result from direct as well as indirect and induced effects. Construction opportunities would be temporary in nature, and would not be anticipated to result in the permanent relocation of employees into the City of Beloit. Operational employment opportunities would potentially include employees that relocate to Beloit from outside of the county. Based on regional housing stock projections and current trends in local housing market data, there are anticipated to be more than enough vacant housing units to support potential increases in the regional labor market under all development alternatives. As such, none of the development alternatives are expected to stimulate regional housing development and growth-inducing impacts to the housing market would not occur. Commercial growth output would be generated from direct, indirect, and induced economic activity. In addition, employees would generate growth from induced output resulting from expenditures on goods and services at other area businesses. Indirect and induced output could stimulate further commercial growth; however, such demand would be diffused and distributed among a variety of different sectors and businesses in Rock County. As such, significant regional commercial growth-inducing impacts would not be anticipated to occur with any development alternative. Growth-inducing effects of Alternative C would be comparable but to a lesser extent than Alternatives A and B, since Alternative C is reduced in size and scope.

Development in Beloit or other cities within Rock County would be subject to the constraints of their general plans, local ordinances, and other planning documents. New projects resulting from any induced effect would be subject to appropriate project-level environmental analysis. As discussed above, the minimal amount of commercial growth that may be induced by the development alternatives would not result in significant adverse environmental growth inducing effects.

### **3.1.14 Cumulative Effects**

The development of Alternatives A through C, when added to past, present, and reasonably foreseeable future actions would not result in significant cumulative impacts to geology and soils, water resources, biological resources, cultural resources, land use, water supply, wastewater, solid waste, electricity, natural gas, telecommunications, noise, hazardous materials, or aesthetics.

Air Quality – The project site and vicinity is in attainment for all criteria pollutants, therefore, air quality in the region is not cumulatively impacted. BMPs provided in **Section 6.3** of this ROD and Section 5.0 of the Final EIS would minimize criteria air pollutant emissions. With implementation of these BMPs, the development alternatives would not contribute to a significant cumulative effect to air quality.

Socioeconomic Conditions – When considered with the buildout of the County and City Comprehensive Plans, the development alternatives may contribute towards cumulative socioeconomic effects including impacts to the local labor market, housing availability, increased costs due to problem gambling, and impacts to local government. These effects would occur as the region’s economic and demographic characteristics change, as the population grows, and as specific industries expand or contract. Planning documents for the County and the City of Beloit will continue to designate land uses for businesses, industry, and housing, as well as plan public services for anticipated growth in the region. Further, potential adverse socioeconomic effects of the development alternatives would be avoided through implementation of the mitigation measures described in **Section 6.0** of this ROD, Section 5.0 of the Final EIS, and through compliance with state and local agreements. Therefore, development alternatives would not contribute to significant adverse cumulative socioeconomic effects.

Transportation – Development of the alternatives, in combination with anticipated growth, would result in increased traffic flow, congestion and a number of intersections that do not meet minimum LOS levels. Such effects would be reduced to less than significant levels through fair share contributions and other mitigation for direct project impacts described in **Section 6.7** of this ROD and Section 5.0 of the Final EIS.

Law Enforcement, Fire Protection, and Emergency Medical Services – Under Alternatives A and B, it is anticipated that the City of Beloit Police Department would need an additional facility, nine additional officers, and two supportive staff by the year 2016 to accommodate the increased demand on law enforcement services. Additionally, future development and buildout of the City and County Comprehensive Plans would result in increased demands on the City of Beloit Fire Department. Cumulative impacts to public services under Alternative C are similar to those described for Alternatives A and B. No agreement with the City has been made at this time to provide law enforcement and fire services to the site under Alternative C; however, it is assumed that an agreement similar to the IGA would be executed prior to construction of Alternative C. With implementation of the conditions of the IGA, as discussed in **Section 6.9** of this ROD and Section 5.0 of the Final EIS, development of any alternative would not result in significant effects on public law enforcement, fire, or emergency medical services.

### **3.1.15 Unavoidable Adverse Effects**

In accordance with the analysis within the Final EIS, there are no unavoidable adverse effects that would occur as a result of the implementation of the Proposed Actions and alternatives. All identified impacts can be adequately mitigated.

## **3.2 Comments on the Final EIS and Responses**

During the 30-day waiting period following publication of EPA’s NOA of the Final EIS, the BIA received 29 comment letters from agencies and interested parties. The BIA reviewed and considered all comment letters on the Final EIS. Specific responses to these representative comment letters are included in the Supplemental Response to Comments document, which is included as **Attachment 3** to this ROD.



#### **4.0 PREFERRED ALTERNATIVE**

For the reasons discussed herein and in the Final EIS, the Department has determined that Alternative A is the agency's Preferred Alternative because it best meets the purpose and need for the Proposed Actions. The purpose of the Proposed Actions is to facilitate tribal self-sufficiency, self-determination, and economic development, thus satisfying both the Department's land acquisition policy as articulated in the Department's trust land regulations at 25 C.F.R. Part 151, and the principal goal of IGRA as articulated in 25 U.S.C. § 2701.

The casino-hotel facility described under Alternative A would provide the Nation with the best opportunity for securing a viable means of attracting and maintaining a long-term, sustainable revenue stream for the tribal government. Under such conditions, the tribal government would be stable and better prepared to establish, fund, and maintain governmental programs that offer a wide range of health, education and welfare services to tribal members, as well as provide the Nation and its members with greater opportunities for employment and economic growth. While Alternative A would have greater environmental impacts than the No Action Alternative, the No Action Alternative does not meet the purpose and need for the Proposed Actions. The environmental impacts of the Preferred Alternative are adequately addressed by the mitigation measures adopted in this ROD.

Alternative B would have similar impacts as Alternative A, but such impacts would generally be less than those under Alternative A because of the decreased development scope. However, beneficial socioeconomic effects to the Nation would be reduced compared to Alternative A.

Alternative C would have reduced impacts compared to Alternatives A and B. However, beneficial socioeconomic effects to the Nation would be reduced compared to Alternatives A and B.

Alternative D, the No Action/No Development Alternative, would avoid all environmental effects associated with the development of Alternatives A, B, and C and thus would have significantly fewer environmental effects. However, this alternative would not meet the purpose and need for the Proposed Actions.

In summary, Alternative A is the alternative that best meets the Purpose and Need for action. Therefore, Alternative A is the Department's Preferred Alternative.

#### **5.0 ENVIRONMENTALLY PREFERRED ALTERNATIVE(S)**

The Retail Development Alternative (Alternative C) would result in the fewest effects to the environment of any of the development alternatives because Alternative C would have a substantially reduced development footprint.

The No Action Alternative (Alternative D) would result in the fewest environmental impacts. Under the No Action Alternative, the Beloit Site would not be taken into trust. The project site would likely be developed because of its location and existing improvements. Because it cannot be predicted with certainty the exact type of development that would occur under the No Action Alternative, it is difficult to assess accurately whether the scope of impacts would

be comparable to those under other development alternatives. However, the No Action Alternative would not meet the stated Purpose and Need. Specifically, it would not provide self-sufficiency, self-determination, and economic development, thereby improving the quality of life for tribal members and their families. The No Action alternative also would likely result in substantially fewer economic benefits to Rock County and the City of Beloit than any of the development alternatives.

## **6.0 MITIGATION MEASURES**

All practicable means to avoid or minimize environmental harm from the Preferred Alternative have been identified. The following mitigation measures and related enforcement, and monitoring programs have been adopted as a part of this decision. Where applicable, mitigation measures will be monitored and enforced pursuant to federal law, tribal ordinances, and agreements between the Nation and appropriate governmental authorities, as well as this decision. Specific BMPs and mitigation measures adopted pursuant to this decision are set forth below and included within the Mitigation Monitoring and Enforcement Plan (MMEP) (*see Attachment 1* of this ROD).

### **6.1 Geology and Soils**

The following mitigation measure shall be implemented in accordance with federal regulatory requirements, the City of Beloit's Municipal Code, and Section 3.9.1 of the IGA for the Preferred Alternative.

- A. The Nation shall obtain coverage under the United States Environmental Protection Agency (USEPA) General Construction National Pollutant Discharge Elimination System (NPDES) permit under the federal requirements of the Clean Water Act (CWA). As required by the NPDES General Construction Permit, a SWPPP shall be prepared that addresses potential water quality impacts associated with construction and operation of the Preferred Alternative. The SWPPP shall also contain information to fulfill the City of Beloit's requirements for an Erosion and Sediment Control Plan and a Storm Water Management Plan. As required by the NPDES General Construction Permit and the City of Beloit's Municipal Code, the SWPPP shall make provisions for erosion prevention and sediment control and control of other potential pollutants by describing construction practices, stabilization techniques, and structural BMPs that are to be implemented to prevent erosion and minimize sediment transport. The BMPs will meet the performance standards as outlined in the Beloit Code for construction site disturbances and post-construction storm water management. BMPs shall be inspected, maintained, and repaired to assure continued performance of their intended function. Reports summarizing the scope of these inspections, the personnel conducting the inspection, the dates of the inspections, major observations relating to the implementation of the SWPPP, and actions taken as a result of these inspections shall be prepared and retained as part of the SWPPP. The SWPPP shall be submitted for approval to the USEPA, City of Beloit, and Wisconsin Department of Natural Resources (WDNR). To minimize the potential for erosion to occur on the project site, the following items shall be addressed in the SWPPP and implemented pursuant to the NPDES General Construction Permit and the City of Beloit's Municipal Code:

1. Stripped areas shall be stabilized through temporary seeding using dryland grasses.
2. Conveyance channels and severe erosion channels shall be mulched or matted to prevent excessive erosion.
3. Exposed stockpiled soils shall be covered with plastic covering to prevent wind and rain erosion.
4. The construction entrance shall be stabilized by the use of riprap, crushed gravel, or other such material to prevent the track-out of dirt and mud.
5. Construction roadways shall be stabilized using frequent watering, stabilizing chemical application, or physical covering of gravel or riprap.
6. Filter fences shall be erected at all on-site storm water exit points and along the edge of graded areas to stabilized non-graded areas and control siltation of onsite storm water.
7. Dust suppression measures included in Section 5.2.3, Air Quality, shall be implemented to control the production of fugitive dust and prevent wind erosion of bare and stockpiled soils.

## **6.2 Water Resources**

The following project design measures shall be implemented in accordance with Section 3.9.1 of the IGA for the Preferred Alternative.

- A. Pursuant to Chapter 24 of the City of Beloit Municipal Code, the Nation shall be responsible for submitting a storm water utility service application at the time a building permit application is submitted or a site plan review is conducted, whichever occurs sooner.
- B. Pursuant to the Beloit Code, infiltration shall be met with one of the following methods:
  1. Infiltrate sufficient volume so the post-development infiltration volume shall be at least 60 percent of the predevelopment infiltration volume. No more than 2 percent of the project site is required as an effective infiltration area.
  2. Infiltrate 10 percent of the runoff from the 2-year, 24-hour design storm with a Type II distribution. No more than 2 percent of the project site is required as an effective infiltration area.
- C. Pursuant to the Beloit Code, grass swales used for runoff conveyance and pollutant removal shall be designed to be vegetative and be capable of carrying runoff through a swale for 200 feet or more in length and have velocities no greater than 1.5 feet per second for the 2-year design storm.
- D. The design of the storm water conveyance system for the Preferred Alternative shall follow the City of Beloit standards and good engineering practices. Curb and gutter shall be placed in the roadways and at various locations in the parking lots to direct storm water to the on-site conveyance system. The storm sewer pipe network used for storm water conveyance has been designed with appropriate sizes and slopes to

maintain proper flow velocities and performance criteria. Storm water structures shall consist of inlets, catch basins and manholes located throughout the parking lots and roadways to maximize the collection of storm water generated from post-construction facilities. Each storm water inlet, catch basin, or manhole shall be designed to include a minimum of a 2-foot sump to assist with Total Suspended Solids reduction consistent with engineering practices in the area. Grass swales are designed to safely convey the storm water, reduce Total Suspended Solids and reduce the velocities to keep scour concerns minimized.

- E. On-site storm water management mitigation measures shall include a combination of the following: storm sewer pipe network, catch basins, grass swale conveyance and treatment systems, on-site detention ponds, and/or regional storm water detention ponds.

### **6.3 Air Quality**

Title 3 Health and Safety Code of the Ho-Chunk Nation Code (HCC), Section 14 Human Health Hazard Ordinance (HHHO; 3 HCC § 14) sets forth regulations to protect public health, safety, and general welfare, and maintain and protect the environment by prohibiting and abating the human health hazards defined in the ordinance. The HHHO identifies air pollution as a human health hazard and seeks to abate the emission of smoke, soot, cinders, noxious fumes or gases, fly-ash, industrial emissions, or any other atmospheric pollutant that violates Chapter NR 400 of the Wisconsin Administrative Code (Wis. Admin. Code). The following BMPs shall be implemented consistent with the HHHO.

#### **6.3.1 Construction**

The following construction BMPs are recommended for the Preferred Alternative.

- A. The following dust suppression measures shall be implemented by the Nation to control the production of fugitive dust (PM<sub>10</sub>) and prevent wind erosion of bare and stockpiled soils consistent with 3 HCC §14 and Wis. Admin. Code § NR 415.04 Fugitive Dust:
  1. Spray exposed soil with water or other suppressant twice a day.
  2. Minimize dust emissions during transport of fill material or soil by wetting down loads, ensuring adequate freeboard (space from the top of the material to the top of the truck bed) on trucks, and/or covering loads.
  3. Promptly clean up spills of transported material on public roads.
  4. Restrict traffic on-site to reduce soil disturbance and the transport of material onto roadways.
  5. Locate construction equipment and truck staging areas away from sensitive receptors as practical and in consideration of potential effects on other resources.
  6. Provide wheel washers to remove particulate matter that would otherwise be carried off-site by vehicles to decrease deposition of particulate matter on area roadways.

7. Cover dirt, gravel, and debris piles as needed to reduce dust and wind-blown debris.
- B. The following measures shall be implemented by the Nation to reduce emissions of criteria pollutants, greenhouse gases (GHGs) and diesel particulate matter (DPM) from construction of the Preferred Alternative:
1. It is recommended that the Nation control criteria pollutants and GHG emissions whenever reasonable and practicable by requiring all diesel-powered equipment be properly maintained and minimize idling time to 5 minutes when construction equipment is not in use, unless per engine manufacturer's specifications or for safety reasons more time is required. Since these emissions would be generated primarily by construction equipment, machinery engines shall be kept in good mechanical condition to minimize exhaust emissions. The Nation shall employ periodic and unscheduled inspections to accomplish the above mitigation.
  2. Require all construction equipment with a horsepower rating of greater than 50 be equipped with diesel particulate filters, which would reduce approximately 85 percent of DPM.

### **6.3.2 Operation**

- C. The Nation shall reduce emissions of criteria air pollutants and GHGs during construction and operation through the following actions, as applicable:
1. The Nation shall use clean fuel vehicles in the vehicle fleet where practicable consistent with the Solid Waste and Recycling Ordinance of the HCC (3 HCC § 1 (22)(a)(3)), which would reduce criteria pollutants and GHG emissions within the Beloit region.
  2. The Nation shall provide preferential parking for vanpools and carpools consistent with Wis. Admin. Code § NR 486.06(2)(h), which would reduce criteria pollutants and GHGs.
  3. The Nation shall use low-flow appliances where feasible and utilize both potable and non-potable water to the extent practicable consistent with Section 3.6.4 of the IGA. The project proponent shall use drought resistant landscaping where practicable and provide "Save Water" signs near water faucets throughout the development.
  4. Consistent with 3 HCC § 14, the Nation shall control criteria pollutants, GHG, and DPM emissions during operation whenever reasonable and practicable by requiring all diesel-powered vehicles and equipment be properly maintained and minimizing idling time to five minutes at loading docks when loading or unloading food, merchandise, etc. or when diesel-powered vehicles or equipment are not in use; unless per engine manufacturer's specifications or for safety reasons more time is required. The Nation shall employ periodic and unscheduled inspections to accomplish the above mitigation.
  5. The Nation shall use energy efficient lighting consistent with the Solid Waste and Recycling Ordinance of the HCC (3 HCC § 1 (22)(a)(1)), which would reduce indirect criteria pollutants and GHG emissions. Using energy efficient lighting

would reduce the project's energy usage, thus, reducing the project's indirect GHG emissions.

6. The Nation shall install recycling bins throughout the hotel and casino for glass, cans, and paper products consistent with the Solid Waste and Recycling Ordinance of the HCC (3 HCC § 1 (22)(a)). Decorative trash and recycling receptacles shall be placed strategically outside to encourage people to recycle.
7. Environmentally preferable materials shall be used to the extent practical for construction of facilities consistent with Section 3.6.4 of the IGA.
8. The Nation shall plant trees and vegetation on-site or fund such plantings off-site consistent with Section 3.6.4 of the IGA. The addition of photosynthesizing plants would reduce atmospheric CO<sub>2</sub> because plants use CO<sub>2</sub> for elemental carbon and energy production. Trees planted near buildings would result in additional benefits by providing shade to the building, thus reducing heat absorption and air conditioning needs and saving energy.
9. The Nation shall use energy efficient appliances in the hotel and casino consistent with the Solid Waste and Recycling Ordinance of the HCC (3 HCC § 1 (22)(a)(1)).
10. The Nation shall incorporate advanced lighting design and include day lighting, where appropriate consistent with Section 3.6.4 of the IGA. Advanced lighting design and day lighting would reduce project-related GHG emissions by reducing electrical energy usage.
11. The Nation shall use solar hot water heaters where appropriate consistent with Section 3.6.4 of the IGA. The use of solar hot water heaters would reduce project related GHG emissions by reducing electrical energy usage.

#### **6.4 Biological Resources**

The following mitigation measures shall be implemented in accordance with federal regulatory requirements (Migratory Bird Treaty Act (MBTA)) for the Preferred Alternative.

- A. In accordance with the MBTA, a qualified biologist shall conduct a preconstruction survey within 100 feet around the vicinity of the project site for active nests should construction activities commence during the nesting season for birds of prey and migratory birds (between March and August). The preconstruction survey shall be conducted within 14 days prior to commencement of construction activities. If surveys show that there is no evidence of nests, then no additional mitigation shall be required so long as construction activities commence within 14 days following the survey. If active nests are identified, a 100-foot buffer zone should be established around the nests. A qualified biologist should monitor nests weekly during construction to evaluate potential nesting disturbance by construction activities. The biologist should delimit the buffer zone with construction tape or pin flags within 100 feet of the active nest and maintain the buffer zone until the end of breeding season or the young have fledged. Guidance from the United States Fish and Wildlife Service (USFWS) shall be requested if establishing a 100-foot buffer zone is impractical.
- B. Should any trees be anticipated for removal, they shall be removed between October and February, which is outside of the nesting season. If trees are anticipated to be removed during the nesting season, a qualified biologist shall conduct a preconstruction survey. If the survey shows that there is no evidence of active nests,

then the tree shall be removed within 10 days following the survey. If active nests are located within trees identified for removal, a 100-foot buffer shall be installed around the tree. The tree shall not be removed until the biologist determines that the nestlings have successfully fledged.

## **6.5 Cultural and Paleontological Resources**

The following mitigation measures shall be implemented in accordance with federal regulatory requirements for the Preferred Alternative.

- A. In the event of any inadvertent discovery of prehistoric or historic archaeological resources or paleontological resources during construction-related earth-moving activities, all such finds shall be subject to Section 106 of the National Historic Preservation Act (NHPA) as amended. Specifically, procedures for post-review discoveries without prior planning pursuant to the regulations at 36 C.F.R. § 800.13 shall be followed and this would include re-consulting with SHPO and the nearby community and identifying reasonable and prudent measures to avoid, minimize, or mitigate adverse effects to such discoveries.
- B. If human remains are discovered during ground-disturbing activities on Tribal lands, if applicable, the finds shall be subject to the requirements of the Native American Graves Protection and Repatriation Act (NAGPRA) and/or Archaeological Resources Protection Act (ARPA).
- C. In the event of accidental discovery of paleontological materials during ground-disturbing activities, a qualified paleontologist shall be contacted to evaluate the significance of the find and collect the materials for curation as appropriate.

The following specific mitigation measures shall be implemented to avoid impacts to Dougan Round Barn and Farm Complex site under the Preferred Alternative:

- D. It is recommended that no construction be permitted more than 50 feet north of East Colley Road within the Dougan Round Barn and Farm Complex site to ensure that potentially important historic resources are not affected. The historic site should be clearly depicted on all engineering and construction maps and noted as a sensitive area.
- E. Prior to construction and ground disturbing activities flagging and caution tape should be put in place to ensure that there are no inadvertent intrusions into the sensitive area.
- F. If future engineering or development plans change and require excavation of trenches for utilities across the old Dougan parcel an intensive archaeological survey and shovel probes of that specific APE should be conducted.
- G. If significant cultural resources are encountered (buried trash deposits, cisterns, architectural features) they should be avoided or excavated and recorded as part of a Treatment Plan that should be prepared if such resources cannot be avoided.

The following specific mitigation measures shall be implemented to avoid impacts to unknown cultural resources from construction activities in the vicinity of the former Alfred Field House site under the Preferred Alternative:

- H. No construction associated with the widening of Willowbrook Road should be permitted on the west side of the existing road. The area associated with the former Alfred Field House should be clearly depicted on all engineering and construction maps and noted as a sensitive area.
- I. In the event that future plans require excavation in the vicinity of the former Alfred Field House site, additional identification efforts shall occur. If significant cultural resources are encountered (buried trash deposits, cisterns, architectural features) they should be avoided or excavated and recorded as part of a Treatment Plan that should be prepared if such resources cannot be avoided.

## **6.6 Socioeconomic Conditions**

The following provision of the IGA is applicable to the Preferred Alternative and would avoid, minimize, or mitigate adverse socioeconomic effects:

- A. In accordance with Section 3.1.2 of the IGA (Net Win Payment), the Nation agrees to make a payment to the City on or before the fifteenth (15th) day of each month following a quarter of operation, equivalent to two percent (2%) of the Net Win at the Beloit Class III Gaming Facility with respect to such prior Quarter of Operation. The City agrees to make distributions to the County equal to thirty percent (30%) of the amount of each Net Win Payment actually received by the City within twenty (20) days following receipt of each such Net Win Payment from the Nation pursuant to the IGA.
- B. In accordance with Section 3.8 of the IGA (Compulsive Gambler Program), the Nation agrees to maintain at the Beloit Class III Gaming Facility its programs and policies for the assessment, identification, and assistance of compulsive gamblers currently in effect at its other Class III Gaming facilities.

The following provisions of the Tribal-State Compact are applicable to the Preferred Alternative and would avoid, minimize, or mitigate adverse socioeconomic effects:

- C. In accordance with Section XXXIV.C.1 of the Tribal-State Compact, the Nation is required to make an annual payment of \$1,000 to Rock County for every acre of land owned by the United States of America in trust for the Nation within Rock County. The County may expend the payment made by the Nation to the County under this paragraph for any purpose.



## **6.7 Transportation / Circulation**

### **6.7.1 Construction**

The following mitigation measure shall be implemented in accordance with the applicable jurisdictional agency's regulatory requirements for the Preferred Alternative:

- A. The following measures shall be implemented in conformance with the Wisconsin Department of Transportation (WisDOT) requirements for work within federal and state right-of-ways:
  1. Proposed changes to State facilities must be designed to current WisDOT and the City of Beloit standards and specifications.
  2. Plans for any proposed access or construction within East Colley Road and Willowbrook Road right-of-ways must be reviewed and approved by WisDOT and the City of Beloit prior to beginning work.
  3. Engineering calculations, plans, and reports submitted for review and approval must bear the seal and original signature of a professional engineer.
  4. Construction must be done in accordance with the current WisDOT 2018 Construction and Materials Manual and the 2018 Wisconsin Standard Specifications.
  5. The Nation shall obtain a WisDOT work in right of way permit for any work within state right of way. The permit process shall define any needed inspection activities and who shall be responsible for the inspection.
  6. A Traffic Management Plan (TMP) shall be prepared to identify where construction routes are proposed, and other standards set forth in the 2009, Federal Highway Administration (FHWA), *Manual on Uniform Traffic Control Devices for Streets and Highways*. The TMP shall be submitted to WisDOT and the City of Beloit.
  7. Prior to development of access driveways along East Colley Road, a site distance analysis shall be performed to ensure the existing tree line is not blocking the view at the proposed access points.

### **6.7.2 Operation – 2025 Buildout Year**

To prevent violation of federal, state and local policies related to traffic operations imposed for the protection of the environment, *see* 40 C.F.R. § 1508.27 (b)(10), and in accordance with the IGA, the following traffic mitigation measures shall be implemented as identified within the Traffic Impact Analysis (TIA) for the Preferred Alternative (Appendix I of the Final EIS). Fair share contributions for operational mitigation shall be determined in consultation with the appropriate jurisdiction (i.e. WisDOT, City of Beloit, and/or Illinois Department of Transportation (IDOT)).

- B. Prior to the operation of the Preferred Alternative (2025) the Nation shall implement and/or pay a fair share contribution to the following mitigation measures, which would result in a Level of Service (LOS) of D or better and a less-than-significant impact at the study intersection movements:

1. **STH-81/Milwaukee Road and Willowbrook Road:** Install a fully-actuated traffic signal set to an actuated-uncoordinated cycle. The traffic signal would be installed only after a signal warrant analysis confirming that one is necessary is submitted by the City to WisDOT, and WisDOT approval is granted.
  2. **STH-81/Milwaukee Road and Branigan Road:** Retime the existing traffic signal to improve operations.
- C. Prior to the operation of the Preferred Alternative (2025) the Nation shall implement and/or pay a fair share contribution to the following mitigation measure, which would result in an LOS of D or better and a less-than-significant impact at all study intersection movements:
1. **Willowbrook Road and State Line Road:** Construct either a roundabout or install a fully-actuated traffic signal. The roundabout would operate with two lanes in the northbound and southbound directions and one lane in the eastbound and westbound directions. The traffic signal would be installed only after a signal warrant analysis confirming that one is necessary is submitted by the City to WisDOT, and WisDOT approval is granted.
  2. **Willowbrook Road and East Colley Road:** Install fully-actuated traffic signals set to an actuated-uncoordinated cycle. Construct a separated, slotted right-turn lane on the northbound approach. Construct a separated left-turn lane on the southbound approach. The traffic signal would be installed only after a signal warrant analysis confirming that one is necessary is submitted by the City to WisDOT, and WisDOT approval is granted.
  3. Manual flaggers and/or electronic changeable message signs, barricades or cones shall be used to direct traffic along Willowbrook, East Colley, Milwaukee, and State Line Roads before and after special events. Traffic control personnel and devices shall be provided by the Nation.
  4. **STH-81/Milwaukee Road and Willowbrook Road:** Extend the existing left-turn lane on the westbound approach.
  5. **Willowbrook Road and Warner Court/Casino Entrance West:** Install fully-actuated traffic signals. The traffic signal would be installed only after a signal warrant analysis confirming that one is necessary is submitted by the City to WisDOT, and WisDOT approval is granted. Construct a separated right-turn lane on the northbound approach and a separated left-turn lane on the southbound approach. Construct dual left-turn lanes and shared through/right-turn lanes on the westbound approach.
- D. Prior to the operation of the Preferred Alternative, the Nation shall implement and/or pay a fair share contribution to the following mitigation measures, which would result in an LOS of D or better and a less than significant impact at all study intersection movements:
1. **Willowbrook Road and IL-75/Gardner Street:** Construct an additional southbound left-turn lane with protected left-turn signal phasing in the southbound direction.

2. **STH-81/Milwaukee Road and Cranston Road:** Retime the existing traffic signal to improve operations.

### 6.7.3 Operation – 2035 Cumulative Year

To prevent violation of federal, state and local policies related to traffic operations imposed for the protection of the environment, *see* 40 C.F.R. § 1508.27 (b)(10), and in accordance with the IGA, the following traffic mitigation measures shall be implemented as identified within the TIA for the Preferred Alternative (Appendix I of the Final EIS). Fair share contributions for operational mitigation shall be determined in consultation with the appropriate jurisdiction (i.e. WisDOT, City of Beloit, and/or IDOT). These measures assume completion of identified mitigation provided above for the 2025 Opening Year.

- E. Prior to the operation of the Preferred Alternative in the cumulative year 2035 the Nation shall implement and/or pay a fair share contribution to the following mitigation measures, which would result in an LOS of D or better and a less-than-significant impact at all study intersection movements:
  1. **STH-81/Milwaukee Road and Willowbrook Road:** Construct an additional westbound left-turn lane to make the approach accommodate dual-left turns.
  2. **STH-81/Milwaukee Road and Cranston Road:** Construct an additional eastbound left-turn lane to make the approach accommodate dual-left turns and revise signal phasing to protected left turns in the eastbound direction.
  3. **I-39/90 Southbound Off-Ramp and STH-81/Milwaukee Road:** Complete a traffic signal warrant analysis to determine if traffic signals are warranted. If signals are warranted, install fully-actuated traffic signals set to an actuated-uncoordinated half-cycle consistent with the timings west on STH-81/Milwaukee Road. The traffic signal would be installed only after a signal warrant analysis confirming that one is necessary is submitted by the City to WisDOT, and WisDOT approval is granted.

## 6.8 Land Use

Impacts related to land use include air quality and noise effects, congestion of local roads, and alterations to visual resources. Therefore, mitigation measures in **Sections 6.3, 6.7, and 6.10** would reduce adverse impacts regarding land use.

## 6.9 Public Services

The following provisions of the IGA are applicable to the Preferred Alternative and would avoid, minimize, or mitigate adverse effects associated with public services:

- A. Subject to the terms of the Development Agreement, the Nation shall make a two million and no/100 dollar (\$2,000,000.00) Infrastructure Down Payment to the City, payable within thirty (30) days following the Trust Approval Date, which shall be applied against the cost of the City Improvements. Because this Infrastructure Down Payment will be applied by the City against the cost of the City Improvements, it will

be paid exclusively to the City and will not be divided between the City and County as provided for in Section 3.3 of the IGA. These payments are intended to compensate the City and/or County for upgrades to facilities and any additional staffing as needed to serve development of the property, allowing the City to maintain public services at existing levels or better.

- B. The final design of the sewer and water system shall be in reasonable conformity with Chapters 29.04 and 27.05, respectively of the City of Beloit Municipal Code and the City Public Works Standards.
- C. Upon connection to the City sanitary and water systems, the Nation shall pay the current water and sewer capital connection charge, as established by the City. The Nation shall additionally pay monthly service fees for water and sewer service based upon rates adopted annually by the City.

The following provisions of the Tribal-State Compact for Class III Gaming are applicable to the Preferred Alternative and would minimize and/or mitigate adverse effects associated with public services:

- D. In accordance with Item A Section XIV, Public Health and Safety, of the Tribal-State Compact for Class III Gaming, the Nation shall enact ordinances setting forth public health and safety standards for public buildings, electrical wiring, fire prevention, plumbing and sanitation that are at least as restrictive as those standards set forth in Chapter 101 of the Wisconsin Statutes and the administrative rules adopted thereunder including, but not limited to Chapters ILHR 14 (Fire Prevention), 16 (Electrical Wiring), 28 (Smoke Detectors), 160 (Existing Buildings), 162 (Theaters and Assembly Halls), and 81-86 (Plumbing), Wis. Adm. Code. The Nation shall periodically update its public health and safety ordinances in accord with changes in this law and the administrative rules.
- E. The Nation shall engage a state certified inspector to conduct inspections of all facilities for Class III gaming under this Compact on a periodic basis, but not less than annually, and shall promptly repair or correct all instances of non-compliance with the requirements of this section. An inspection report shall be prepared by the Nation in connection with each inspection and copies of said reports shall be forwarded to the Lottery Board.

## **6.10 Noise**

### **6.10.1 Construction**

Pursuant to Sections 3.9.1 and 3.10.1 of the IGA, the Nation shall permit the City to enforce upon the 33-acre parcel select portions of the City's Code of General Ordinances, including Chapter 15.12 regarding Noise that prohibits the generation of any noise tending to unreasonably disturb the peace and quiet of any person in the vicinity thereof. The following BMPs shall be implemented during construction of the Preferred Alternative in accordance with the requirement of the IGA:

- A. Construction using heavy equipment shall not be conducted between 10:00 p.m. and 7:00 a.m.
- B. All engine-powered equipment shall be equipped with adequate mufflers. Haul trucks shall be operated in accordance with posted speed limits. Truck engine exhaust brake use shall be limited to emergencies.
- C. Loud stationary construction equipment shall be located as far away from residential receptor areas as feasible.
- D. All generator sets shall be provided with enclosures.

### **6.10.2 Operation**

The following mitigation measures shall be implemented during operation to prevent violation of the NAC standards used by the Federal Highway Administration (FHWA) and WisDOT imposed for the protection of the environment, 40 C.F.R. § 1508.27 (b)(10):

- E. Trucks and buses that enter the project site via East Colley Road shall not idle for more than three minutes.
- F. The Nation shall construct a sound wall that would reduce truck idling noise from the loading dock located adjacent to East Colley Road to less than 67 dBA (Federal NAC) at the nearest noise sensitive receptors.

### **6.11 Hazardous Materials**

The HHHO identifies toxic and hazardous material as a human health hazard and seeks to abate the storage, use, or disposal of hazardous materials in such quantity or manner that has the potential to create a human health hazard. The following BMPs shall be implemented for the Preferred Alternative to minimize potential effects associated with the exposure to hazardous materials consistent with the HHHO.

- A. Personnel shall follow BMPs for filling and servicing construction equipment and vehicles. The BMPs designed to reduce the potential for incidents/spills involving the hazardous materials shall include the following:
  1. To reduce the potential for accidental release, fuel, oil, and hydraulic fluids shall be transferred directly from a service truck to construction equipment.
  2. Catch-pans shall be placed under equipment to catch potential spills during servicing.
  3. Refueling shall be conducted only with approved pumps, hoses, and nozzles.
  4. All disconnected hoses shall be placed in containers to collect residual fuel from the hose.
  5. Vehicle engines shall be shut down during refueling.
  6. No smoking, open flame, or welding shall be allowed in refueling or service areas.
  7. Refueling shall be performed away from bodies of water to prevent contamination of water in the event of a leak or spill.
  8. Service trucks shall be provided with fire extinguishers and spill containment equipment, such as absorbents.

9. Should a spill contaminate soil, the soil shall be put into containers and disposed of in accordance with local, state, and federal regulations.
10. All containers used to store hazardous materials shall be inspected at least once per week for signs of leaking or failure.

B. In the event that contaminated soil and/or groundwater is encountered during construction related activities, all work shall halt until a professional hazardous materials specialist or other qualified individual assesses the extent of contamination. If contamination is determined to be hazardous, representatives of the Nation shall consult with the USEPA to determine the appropriate course of action, including development of a Sampling and Remediation Plan if necessary. All contaminated soils that are determined to be hazardous shall be disposed of in accordance with federal regulations.

#### **6.12 Mitigation Measures that are not Adopted**

Council on Environmental Quality (CEQ) NEPA regulations at 40 C.F.R. § 1505.2 (c) call for identification in the ROD of any mitigation measures specifically mentioned in the Final EIS that are not adopted. Because BIA in this ROD has selected Alternative A, mitigation measures for other alternatives in the Final EIS are not adopted.

#### **7.0 DECISION TO IMPLEMENT THE PREFERRED ALTERNATIVE**

The Department has determined that it will implement the Preferred Alternative (Alternative A in the Final EIS). This decision is made based on the environmental impacts identified in the EIS, a consideration of economic and technical factors, and the purpose and need for action. Of the alternatives evaluated in the EIS, Alternative A would best meet the purpose and need for action because it best promotes the long-term economic vitality and self-sufficiency, self-determination, and self-governance of the Nation. The construction of a casino-hotel and other supporting facilities on the project site would provide the Nation with the best opportunity for securing a viable means of attracting and maintaining a long-term, sustainable revenue stream for its tribal government. This would enable the tribal government to establish, fund, and maintain governmental programs that offer a wide range of health, housing, education, and welfare services to tribal members, as well as provide the Nation, its members, and local communities with greater opportunities for employment and economic growth.

The completion of the project as detailed in Alternative A will require the approval or other actions of federal or local agencies. Completion of Alternative A requires the issuance of a Secretarial Determination by the Secretary pursuant to IGRA finding that a gaming establishment would be in the best interest of the Nation and its members, and not detrimental to the surrounding community, thus making the Beloit Site eligible for gaming. In addition, the Governor of Wisconsin must concur in that determination before gaming could occur on the Beloit Site. Completion of Alternative A also requires that the Secretary approve the Nation's application and transfer the Beloit Site into trust. Further, the Nation would also coordinate with local agencies to construct off-site roadway improvements and to provide fair share funding.

The Preferred Alternative results in substantially greater beneficial effects for the Nation and the communities of the City of Beloit and Rock County. All impacts from the Preferred Alternative would be reduced to a less than significant level after the implementation of mitigation measures. Accordingly, the Department will implement the Preferred Alternative subject to implementation of the applicable mitigation measures listed in **Section 6.0**.

### **7.1 The Preferred Alternative Results in Substantial Beneficial Impacts**

The Preferred Alternative is expected to result in beneficial effects for the Nation and its members. The residents of Rock County, Wisconsin; Winnebago County, Illinois; the City of Beloit; and the City of South Beloit will also experience beneficial effects. Key beneficial effects include:

- Establishment of a land base for the Nation to establish a viable business enterprise. Revenues from the operation of the casino would provide funding for a variety of health, housing, education, social, cultural, and other programs and services for tribal members, and provide employment opportunities for its members.
- Revenue generated from the development will also provide capital for other economic development opportunities, and will allow the Nation to achieve tribal self-sufficiency, self-determination, and a strong, stable tribal government.
- Generation of approximately 4,029 employment positions within the Counties during the construction period, with total wages of \$214 million.
- Operational activities associated with Alternative A would generate an increase of 3,422 job opportunities within the Counties. Direct, indirect, and induced employment opportunities are estimated to total 1985, 738, and 699, respectively. Operational activities associated with Alternative A would generate an increase of \$149.1 million in wages in the Counties. Direct wages are estimated to total approximately \$90.2 million. Indirect and induced wages are estimated to total \$30.4 million and \$28.5 million, respectively.
- State, county, and local taxes resulting from operating activities of approximately \$50.8 million per year, after adjusting for the elimination of the property taxes on the 33-acre parcel, once it is taken into trust.

### **7.2 Reduced Intensity Alternative Restricts Beneficial Effects**

The Reduced Intensity Alternative (Alternative B) would generate less revenue than the Preferred Alternative. As a result, this Alternative would limit the Nation's ability to foster tribal economic development, self-determination, and self-sufficiency.

**7.3 Non-Gaming at the Project Site Restricts Beneficial Effects to the Nation and Surrounding Community**

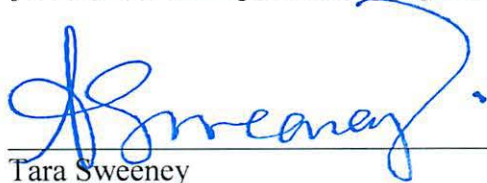
The non-gaming alternative at the project site (Alternative C) would result in far less revenue generated as compared to Alternatives A and B and would limit the number of programs and services the Tribal Government could offer tribal members. As a result, it would limit the Nation's ability to foster tribal economic development, self-determination, and self-sufficiency. The reduced economic and related benefits of Alternative C make it a less viable option, which would fulfill the purpose and need of the Proposed Actions to a lesser extent than the Preferred Alternative.

**7.4 No Action Alternative Fails to Meet the Purpose and Need for Action**

The No Action Alternative (Alternative D) would not meet the stated purpose and need for action. While the No Action Alternative would result in lesser environmental impacts, this alternative would not facilitate or promote the Nation's economic development, self-determination, or self-sufficiency. The No Action Alternative would not provide a more stable income source that would enable the tribal government to provide essential social, housing, educational, health, and welfare programs. The No Action alternative also would likely result in substantially less economic benefits to Rock County and the City of Beloit than any of the development alternatives.

**8.0 Signature**

By my signature, I indicate my decision to implement the Proposed Action and issue a Secretarial Determination pursuant to the Indian Gaming Regulatory Act. A decision whether to accept the 33-acre Beloit Site in trust pursuant to the Indian Reorganization Act, 25 U.S.C. § 5108, and its implementing regulations at 25 C.F.R. Part 151 will be made at a later date.



Tara Sweeney  
Assistant Secretary – Indian Affairs

APR 16 2020  
Date