

CATHY McMORRIS RODGERS
5TH DISTRICT, WASHINGTON

REPUBLICAN CONFERENCE
CHAIR

DEPUTY WHIP

COMMITTEE:
ENERGY AND COMMERCE
SUBCOMMITTEE ON HEALTH

Congress of the United States House of Representatives

May 1, 2013

COUNTIES:
ASOTIN
COLUMBIA
FERRY
GARFIELD
LINCOLN
PEND OREILLE
SPOKANE
STEVENS
WALLA WALLA
WHITMAN

Mr. Stanley Speaks
Northwest Regional Director
Bureau of Indian Affairs
Northwest Region
911 Northeast 11th Avenue
Portland, OR 97232

Re: FEIS Comments, Spokane Tribe of Indians West Plains Development Project

Dear Mr. Speaks:

I appreciate the opportunity to comment on the Final Environmental Impact Statement (FEIS) for the Spokane Tribe of Indians West Plains Casino and Mixed-Use Development Project. The Spokane Tribe continues, and is encouraged, to seek economic development opportunities. The proposed site, due to its location relative to Fairchild Air Force Base's (Fairchild) long standing flight patterns, presents a clear threat to current and future missions of Fairchild. As such, I oppose, in its proposed location, the Spokane Tribe of Indians West Plains Casino and Mixed-Use Development Project.

I am aware this concern is beyond the traditional scope of the NEPA process. However, as stated in the FEIS, similar "comments have been included within the administrative record and thus will be considered by the Bureau of Indian Affairs (BIA) in its decision." Fairchild has been an integral part of our community since 1942 when the City of Spokane and local residents purchased the land and donated it to the War Department. Today, the community continues to strongly support Fairchild. By implementing the Joint Land Use Study (JLUS), the City of Spokane, County of Spokane, and City of Airway Heights seek to provide criteria which will ensure Fairchild's mission continues into the future.

Fairchild is vital to our nation's aerial refueling effort and is key to Air Force's global-level reach. Over time, the aviation missions at Fairchild have been complemented by the development of the Air Force Survival School, the Joint Personnel Recovery Center, and most recently, a unique association between the Air Force's 92nd Air Refueling Wing and the Washington State Air National Guard's 141st Air Refueling Wing.

As an Air National Guard Wing, the 141st Air Refueling Wing has dual missions. First, through the Washington Adjutant General, this wing has a state mission to provide protection to life and property and preserve peace. Second, the ANG Wing has a federal mission to train, equip, and deploy forces to locations worldwide in support of specific contingency operations.

Located in Eastern Washington, Fairchild has been a fixture in the Spokane community. The association between the 92nd and 141st Air Refueling Wings marries the best the active duty and reserve components have to offer, providing world leadership in aerial refueling, airlift and aeromedical evacuation capabilities while fostering innovation and efficiency in operation. Additionally, Fairchild, as a base with a thoroughly developed, high-performing association between the Air Force and the Air National Guard is the model for

203 CANNON HOUSE OFFICE BUILDING
WASHINGTON, DC 20515
(202) 225-2006
FAX: (202) 225-3392

10 NORTH POST STREET, SUITE 625
SPOKANE, WA 99201
(509) 353-2374
FAX: (202) 225-3392

555 SOUTH MAIN
COLVILLE, WA 99114
(509) 684-3481
FAX: (202) 225-3392

29 SOUTH PALOUSE STREET
WALLA WALLA, WA 99362
(509) 629-9358
FAX: (202) 225-3392

www.mcmorrisrodgers.house.gov
www.mcmorrisrodgers.house.gov/facebook

the entire Air Mobility Command.

As part of the Air Force's Survival School, the 36th Rescue Flight supports the National Search-and-Rescue (SAR) Plan by conducting SAR and medical evacuation missions throughout the Pacific Northwest, covering a four state region. Since inception the 36th Rescue Flight is credited with saving over 650 lives.

Additionally, the economic impact of Fairchild to Eastern Washington cannot be overstated. Fairchild is the largest employer in Eastern Washington. According to a recent report commissioned by the Washington State Military Alliance, there are currently 4,700 military members and 1,100 civilian personnel associated with Fairchild. Fairchild's annual economic impact on the community is approximately \$461 million dollars. Using the federal multiplier, Fairchild's total economic impact to the region is over \$1 billion dollars. From a strictly economic perspective, should Fairchild close at some point in the future, Eastern Washington would experience irreparable harm.

As Eastern Washington's representative in Congress, I take very seriously any set of circumstances that would negatively impact Fairchild's training, base operations, and readiness. However, more importantly, I want to ensure that Fairchild continues to have opportunities to expand its missions and capabilities. Our decisions today must not limit current or future military operations at Fairchild. I am concerned the location of this proposed development, when completed, will adversely impact military operations at Fairchild.

As discussed in the FEIS, the Air Force was a Cooperating Agency with the BIA. From the Air Force, I also understand that the Air Force provided additional comments and suggested changes to proposed mitigations in the Draft EIS, and that BIA incorporated these comments and proposed mitigations into the FEIS. To that end, I would like to thank the BIA for working with the Air Force to incorporate the mitigation strategies in the FEIS.

However, as the Air Force and the Department of Defense continue to operate in a restrained fiscal climate for the foreseeable future, I question the wisdom of developing a casino-resort facility along with site retail, commercial buildings, tribal center, and a police/fire station adjacent to Fairchild. As discussed in the FEIS, the BIA seems confident that the

implementation of the Proposed Project would not encroach upon Fairchild AFB's available air space or impede its ability to implement the operational and training mission of the installation because: 1) with the implementation of mitigation recommended in the Final EIS the Proposed Project would not create an air navigation hazard or otherwise impede Fairchild AFB operations; 2) the Tribe has agreed to accept any inconveniences associated with the AFB operations during operation of the Proposed Project; and 3) Fairchild AFB has confirmed that it will not alter its flight patterns in response to complaints from the Tribe related to nuisances on the project site. Therefore, with identified mitigation measures contained in the Final EIS, the Proposed Project is not considered an 'encroachment' that would make Fairchild AFB vulnerable to closure.¹

Regardless of stated mitigation measures, I have concerns that the proposed project would be viewed as an encroachment.

¹ BUREAU OF INDIAN AFFAIRS. FINAL ENVIRONMENTAL IMPACT STATEMENT: SPOKANE TRIBE OF INDIANS WEST PLAINS CASINO AND MIXED-USE DEVELOPMENT PROJECT 2013.

As defined by the Department of Defense Office of Economic Adjustment, encroachment is any incompatible development. Encroachment entails the expansion of civilian activity into predominantly military training areas and includes incompatible uses that produce externalities such as noise, dust, and excessive light which impact the military mission. Encroachment also includes structures that intrude into airspace. In 2010, Spokane County, in partnership with the Cities of Spokane, Airway Heights, and Medical Lake completed the JLUS for Fairchild Air Force Base to assure that development in the vicinity of Fairchild is compatible with current and future base operations. The final JLUS contained numerous recommendations ranging from developing military influence area strategies to implementing building codes and zoning strategies. As provided in the JLUS, part of the proposed project lies within the most restrictive military influence area. Within this military influence area, high-intensity uses that encourage substantial concentrations of people are not encouraged because of their potential to put a large number of people in harm's way. As specified in the JLUS, examples of high-intensity uses include, but are not limited to, religious institutions, meeting halls, community centers, eating and drinking establishments, retail sales and services, shopping centers, hotels and motels, and businesses with a large number of employees. Considering the final JLUS, the proposed project does not appear to be compatible with the JLUS and could be viewed as encroachment.

As stated in Section 3.9.2 of the FEIS, "[t]he project site is located adjacent to and directly below established flight patterns for Fairchild AFB." Moreover "the U.S. Air Force has indicated that future restrictions to flight patterns to avoid noise related land use conflicts would not be possible without impacting the operational and training missions of Fairchild AFB." To that end, "because the U.S. Air Force has an ongoing and sustained operational mission at Fairchild AFB it will continue to fly existing patterns, which will generate high noise levels as pilots fly the closed patterns and conduct approach and departure flight operations." Since the area northwest of the Fairchild runway is the only available flight plan, I am concerned that the proposed development would constitute an encroachment. And while the FEIS includes a Tribal Ordinance, Spokane Tribal Resolution 2012-146, from the Spokane Tribe, this resolution outlines no enforcement mechanism or mitigation strategy should complaints arise.

Operating in a restrained fiscal environment, the Department of Defense is considering every option to reduce their spending. Earlier this month, President Obama submitted his proposed FY2014 budget to Congress. In this proposed budget, the Air Force is looking to consolidate infrastructure and reduce excess capacity. To that end, the Air Force supports the Department of Defense's request for further base realignment and closure (BRAC) authority in FY2015. General Mark Welsh, Chief of Staff of the Air Force, recently said "[a]s difficult as BRAC would be for everyone, we can simply no longer afford to retain unnecessary overhead that diverts precious resources from readiness and modernization."² Similarly, Acting Assistant Secretary of the Air Force for Installations, Environment, and Logistics Kathleen Ferguson, testifying before the House Armed Services Committee on March 14, 2013, stated that at the time of the last assessment in 2004, there was 24 percent of Air Force basing infrastructure in excess of military needs. Furthermore, she testified that BRAC 2005 did not make major reductions to the Air Force and since that time, the Air Force has continued to reduce their force structure and end strength numbers. Therefore, her testimony concluded, "intuitively we know that we still have excess infrastructure, while we spend considerable time optimizing the use of our facilities and carefully and frugally managing those facilities we

² Army Sgt. 1st Class Tyrone C. Marshall Jr., Budget Request Provides for Best Air Force Possible, Welsh Says. American Forces Press Service. (Apr. 12, 2013), <http://www.af.mil/news/story.asp?id=123344279>.

know to be excess."³ While certainly not popular with Members of Congress, the threat of an additional BRAC round exists. Therefore, I believe that in order to not be vulnerable to closure in another BRAC round, Fairchild must be able to continue to modernize and prevent local development that could be viewed as an encroachment by the Department of Defense, the Air Force, or an independent BRAC Commission.

The BIA seems confident that Fairchild will not be subject to closure in any future BRAC round based on the 2005 BRAC Commission criteria, stating "it is reasonable to assume that the same or very similar criteria will be utilized during the next BRAC process." However, this logic is faulty. According to a recent GAO report, while the 2005 BRAC round was the "biggest, most complex, costliest BRAC round ever",⁴ it is important to remember that its primary focus was not on reducing infrastructure. Instead, the then-Secretary of Defense "saw BRAC 2005 as a unique opportunity to adjust the Department of Defense's base structure to meet new challenges, such as international terrorism and weapons of mass destruction, and to meet future challenges, such as designating where forces returning from overseas will be located." In addition, the 2005 BRAC round "was unique in that it was conducted in an era generally characterized by growing defense budgets." This simply will not be the case for a future BRAC round. While the 2005 BRAC round was focused on transforming and fostering unity between the "total force", future BRAC rounds will be focused on eliminating excess capacity and realizing cost savings. As Fairchild's congressional advocate, I am not willing to expose Fairchild to unnecessary risk based on a faulty assumption posed by the BIA.

I take seriously any threat that would impact Fairchild Air Force Base's current or future training, base operations, and readiness. As such, I believe the current location for the Spokane Tribe of Indians West Plains Casino and Mixed-Use Development Project is a clear encroachment and poses significant harm to Fairchild Air Force Base. Therefore, I ask that their request for special exception for the proposed development be denied.

Sincerely,



Cathy McMorris Rodgers
Member of Congress

Cc: The Honorable Kevin K. Washburn, Assistant Secretary-Indian Affairs, Bureau of Indian Affairs

³ *Is Base Realignment and Closure (BRAC) Appropriate at this Time? Before H.Comm. on the Armed Services, 113th Cong. (2013)* (statement of Kathleen Ferguson, Acting Assistant Secretary of the Air Force for Installations, Environment, and Logistics, U.S. Air Force).

⁴ U.S. GOVERNMENT ACCOUNTABILITY OFFICE, GAO-13-149, MILITARY BASES: OPPORTUNITIES EXIST TO IMPROVE FUTURE BASE REALIGNMENT AND CLOSURE ROUNDS (2013).