



THE ASSOCIATE DEPUTY SECRETARY OF THE INTERIOR  
WASHINGTON, DC 20240

DEC 21 2006

The Honorable George E. Pataki  
Governor of New York  
Albany, New York 12224

Dear Governor Pataki:

This letter provides you with current information regarding the status of the application of the St. Regis Mohawk Tribe to have land placed in trust for the purpose of gaining approval to conduct off-reservation gaming activities in the State of New York.

While the St. Regis Mohawk Tribe already has an existing reservation of almost 15,000 acres of land in the State of New York, which is held in restricted fee status, the Tribe has proposed that the United States take another 29.31 acres of land into trust for a proposed casino project. The subject property is located in the Village of Monticello over 450 miles from the Tribe's reservation.

Generally, the Indian Gaming Regulatory Act (IGRA) permits Indian Tribes to establish gaming operations on Indian lands upon which the tribe exercised jurisdiction as of October 17, 1988. It is my understanding that the Tribe currently conducts gaming operations on its reservation, but seeks to conduct gaming on the subject property in hopes of achieving greater economic return.

Clearly, the Tribe did not exercise jurisdiction on the subject parcel in 1988, therefore it cannot be used for gaming purposes as a matter of law. However, IGRA also provides several exceptions in Section 20. The application from the Tribe seeks to obtain approval under the "two-part determination" exception referred to in Section 20 of IGRA.

Please recall that former Assistant Secretary Gover, an official of the former Clinton Administration, sent you a letter on April 6, 2000, pursuant to Section 20 (b)(1)(A) of IGRA to provide you with an opportunity to concur in the two-part determination process. A copy of former Assistant Secretary Gover's April 6, 2000, letter, and associated Findings of Fact are enclosed for your reference.

It is our understanding that you had decided not to act on this matter pending the completion of an environmental evaluation. The Tribe has submitted an Environmental Analysis (EA) and we have completed our review of the EA. We have determined that, pursuant to the National Environmental Policy Act, the EA is sufficient, an Environmental Impact Statement (EIS) is not required, and approving the "finding of no significant impact" (FONSI) is appropriate for the proposed project as it is currently defined. I have included a copy of the approved FONSI for your review.

Please be aware that we consider this action to be narrow in scope and should not be regarded as suggesting a commitment to take the subject land into trust or to approve a compact to conduct gaming on that property.

It is our understanding that representatives of the St. Regis Mohawk Tribe will be contacting you to urge you to concur in the April 6, 2000, two-part determination. Please be advised that no further action will be taken on this application, pending receipt of clear, written confirmation that the State of New York concurs with the two-part determination that this off-reservation project meets the requirements of IGRA.

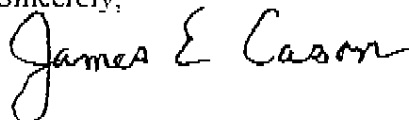
Your affirmative written concurrence is required before the Department will proceed with the consideration of the St. Regis Mohawk Tribe's application to take a portion of the Monticello Raceway in trust pursuant to the Department's land acquisition regulations in 25 CFR Part 151. Please be mindful that your concurrence in the two-part determination under Section 20(b)(1)(A) of IGRA should not be construed as a future commitment from the Department to take the land into trust. That decision has yet to be made and will be made only after consideration of all the regulatory requirements contained in 25 CFR Part 151.

Governor, please note that we share the concerns that many have expressed about the implications of off-reservation gaming and so-called "reservation shopping." As you are no doubt aware, within the past year, legislation has been introduced in both the United States Senate and the House of Representatives that would significantly restrict or eliminate the options currently available to Indian tribes under Section 20.

As a result of the public concerns being reflected in the aforementioned proposed legislation and other concerns advanced by local jurisdictions, the Department is reviewing the regulations that govern the processing of fee-into-trust applications (25 CFR Part 151). We anticipate changes to the rules that may result in fewer off-reservation properties being accepted into trust. In particular, we expect to consider a paradigm where the likelihood of accepting off-reservation land into trust decreases with the distance the subject parcel is from the Tribe's established reservation or ancestral lands and the majority of tribal members.

We understand that there are many competing issues and interests to consider before we act to permit gaming to occur in our communities. Please let me know if you need further information to facilitate your evaluation of this matter.

Sincerely,



James E. Cason

Enclosures



THE ASSOCIATE DEPUTY SECRETARY OF THE INTERIOR  
WASHINGTON, DC 20240

DEC 21 2006

The Honorable Lorraine M. White  
St. Regis Mohawk Tribe  
Office of Tribal Council  
412 State Route 37  
Akwesasne, New York 13655

Dear Chief White:

This letter responds to the recent correspondence from the St. Regis Mohawk Tribe and your representatives regarding your request for the Department of the Interior to approve an environmental assessment (EA) and associated "finding of no significant impact" (FONSI) for a proposed casino project. [See November 28, 2006, letter from Jerome Levine, Holland & Knight; November 21, 2006, letter from the St. Regis Mohawk Tribal Council; your letter of November 16, 2006, together with Chief Lazore; and your letter of October 30, 2006, along with Chiefs Lazore & Ransom.]

While the St. Regis Mohawk Tribe already has an existing reservation of almost 15,000 acres of land in the State of New York, which is held in restricted fee status, the Tribe has proposed that the United States take another 29.31 acres of land into trust for a proposed casino project. The subject property is located in the Village of Monticello over 450 miles from your reservation.

Generally, the Indian Gaming Regulatory Act (IGRA) permits Indian Tribes to establish gaming operations on Indian lands upon which the tribe exercised jurisdiction as of October 17, 1988. It is my understanding that the Tribe currently conducts gaming operations on its reservation, but through this proposal seeks to conduct gaming on the subject property in hopes of achieving greater economic return.

Clearly, the Tribe did not exercise jurisdiction on the subject parcel in 1988, therefore it cannot be used for gaming purposes as a matter of law. However, IGRA also provides several exceptions in Section 20. The application from the Tribe seeks to obtain approval under the "two-part determination" exception referred to in Section 20 of IGRA.

As we have discussed on several occasions, we share the concerns that many have expressed with off-reservation gaming and so-called "reservation shopping." As you are no doubt aware, during the 109<sup>th</sup> Congress, legislation was introduced in both the United States Senate and the House of Representatives that would have significantly restricted or eliminated the options currently available to Indian tribes under Section 20.

As a result of the public concerns being reflected in the aforementioned proposed legislation and other concerns advanced by local jurisdictions, the Department will be reviewing the regulations that govern the processing of fee-into-trust applications (25 CFR Part 151). We anticipate

The Honorable Lorraine M. White

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changes to the rules that may result in fewer off-reservation properties being accepted into trust. In particular, we expect to consider a paradigm where the likelihood of accepting off-reservation land into trust decreases with the distance the subject parcel is from the Tribe's established reservation or ancestral lands and the majority of tribal members.

Further, we plan to review our approach for soliciting and accommodating the views of elected officials (State, county, city, etc.) and community members in the local area as a part of our IGRA Section 20 decisions. We also plan to give more detailed consideration of the broad implications associated with new gaming operations within established communities where gaming is not currently conducted.

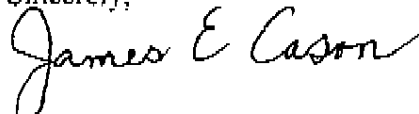
Finally, we expect continued Congressional efforts during the 110<sup>th</sup> Congress to restrict or terminate the options currently available under Section 20. Consequently, the Department plans to review its approach to evaluating Section 20 gaming applications to ensure that we are able to justify fully to concerned Congressional leaders any action the Department may take to approve an off-reservation gaming application.

We know that pursuing a Section 20 gaming application can be a long, challenging, and expensive process. We wanted you to know that the statutory, regulatory, and policy environment is changing. We urge you to become fully aware of the changing environment, discuss the risks of pursuing an off-reservation gaming application with your tribal council, legal counsel and business partners, and to consider fully the relative risks, costs and benefits of pursuing an alternative on-reservation gaming initiative.

That said, we have completed our review of the EA and have determined that, pursuant to the National Environmental Policy Act, the EA is sufficient, an Environmental Impact Statement is not required, and approving the FONSI is appropriate for the proposed project as it is currently defined. I have included a copy of the approved FONSI for your records.

Finally, please be aware that we consider this present action to be narrow in scope and should not be regarded as suggesting a future commitment to take the subject land into trust or to approve a compact to conduct gaming on that property pursuant to Section 20 of IGRA. We look forward to working with the Tribe, representatives of local jurisdictions, and the public in the future consideration of your application.

Sincerely,



James E. Cason



THE ASSOCIATE DEPUTY SECRETARY OF THE INTERIOR  
WASHINGTON, DC 20240

**FINDING OF NO SIGNIFICANT IMPACT FOR THE MONTICELLO  
RACEWAY CASINO**

**AGENCY:** Bureau of Indian Affairs (BIA)  
**ACTION:** Finding of No Significant Impact (FONSI)

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**SUMMARY:** The St. Regis Band of Mohawk Indians also known as the St. Regis Mohawk Tribe of New York (Tribe) submitted an application to the U.S. Department of the Interior (DOI), Bureau of Indian Affairs (BIA) requesting the Secretary of the Interior (Secretary) to take approximately 29.31 acres into trust for the Tribe to be used for the purpose of operating a Class III Native American Gaming facility and associated restaurants, and retail facilities. The proposed Federal Action is to approve the Tribe's request to take this land into trust for the purpose of conducting Class III gaming activities pursuant to the Indian Gaming Regulatory Act (IGRA) of 1988, 25 U.S.C. §2701 *et seq.* The proposed fee-to-trust property is located in Sullivan County, New York, at the Monticello Raceway, on the northwesterly boundary of the Village of Monticello, adjacent to the Town of Thompson, abutting the southwest quadrant of NY Route 17/I-86 "Quickway" Interchange 104 with 17B. The proposed casino site is located on property presently part of the Monticello Raceway facility.

Based on a thorough review and analysis of the Draft Environmental Assessment (DEA) submitted by the Tribe entitled "Monticello Raceway Casino Draft EA" dated August 2006, BIA has determined that the proposed federal action is not a major federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act (NEPA) of 1969. Public comments were accepted on the DEA between September 12, 2006, and October 12, 2006. The DEA received minor changes as a result of the public comments. The DEA, dated August 2006, has therefore been adopted with modifications as the Final Environmental Assessment (FEA) for the conveyance of this parcel into trust status. The modifications are minor and include updating information. The changes do not constitute a major revision so an additional public review is not required. The comments and BIA responses are published as an appendix of the FEA. Based on the review of this FEA it has been determined that the proposed action will not have a significant impact on the quality of the human environment, therefore an Environmental Impact Statement is not required and the BIA is issuing this Finding of No Significant Impact (FONSI).

A previous FONSI had been issued for this proposal on October 28, 1999, by the BIA Eastern Region with a revised FONSI signed by the Assistant Secretary of Indian Affairs on April 4, 2000. The current finding is consistent with the previous FONSI and the Secretary's two part determination issued on April 6, 2000, in accordance with Section

20(b)(1)(A) of IGRA, 25 U.S.C. 2719(b)(1)(A). The current proposal is an update for the same proposal, so includes updated information throughout the EA.

In addition to complying with the federal statutes, the site was subjected to the New York State Environmental Quality Review Act (SEQRA) with the completion of extensive reviews in developing an Environmental Impact Statement issued March 10, 1998, with a 2003 SEQRA update of information and confirmation of the validity of the findings issued by the Village Planning Board, issued on July 22, 2005.

**PURPOSE AND NEED, LAWS, AND AGREEMENTS:** The purpose and need for the proposed action is to improve the St. Regis Mohawk Tribe's long term economic condition through the development of the stable, sustainable source of revenue and employment through Indian gaming. Gaming is a unique opportunity for Indian tribes to improve the socio-economic conditions and to enhance the living standards and quality of life for Indian people through the development of a stable source of income and employment. This opportunity is afforded to Indian tribes, including the St. Regis Mohawk Tribe, under IGRA (25 U.S.C. § 2701 *et seq.*). The Tribe needs a stable economic base to address problems stemming from high unemployment, insufficient housing and inadequate health care.

Gaming by the Tribe has been sanctioned by the State of New York through a Tribal-State compact approved by the Secretary on December 4, 1993, with notice of approval published in the Federal Register on December 13, 1993. Subsequent amendments to the Compact were approved on January 19, 1995, with a notice of approval published in the Federal Register on January 30, 1995; two other amendments took effect on March 7, 1995, and on August 13, 1999. A further amendment was approved on January 11, 2005, with its notice of approval published in the Federal Register on March 7, 2005. The Tribe will be submitting another amendment to include gaming at the Monticello Raceway site in Sullivan County, New York.

**DESCRIPTION OF THE PROPOSED PROJECT:** The proposed Monticello Raceway Casino plans are to construct a Class III gaming complex with associated restaurants on a proposed fee-to-trust parcel. The proposed casino will consist of approximately 766,000 square feet of total floor area with 583,000 square feet of gaming space on two floors. Parking would be provided for 4,791 cars. There will be additional bus loading and parking areas. The gaming floor area of the Casino will feature approximately 125 table games (with an average of six positions each) and 3,500 slot machines for a total of approximately 4,200 positions and 24 Poker Tables. The design would allow a free flow of patrons and visitors between the Tribe's casino and the Raceway facility, but would function as an independent operation.

**ALTERNATIVES CONSIDERED:** The project, as described in the EA is the preferred alternative based on market studies, ease of access and community input including the business community. Additionally, extensive site development is already established allowing for adaptive reuse of some of the existing facilities and structures during construction, minimizing impacts associated with developing previously

undeveloped lands. Access by road is readily available. Community services such as police, fire protection, ambulance and health care are readily available. All utilities are in place and adequate for a wide range of development opportunities which will be spurred by the approval and development of the proposed casino.

The EA considered various project type alternatives, other site alternatives, access alternatives, and various project size alternatives, but most were eliminated from detailed analysis. A reduced development alternative (Alternative A) was considered in the EA in the detailed analysis but is considered less than optimum, considering the investment necessary for such a project, the decrease in return on the investment and minimal differences in potential impacts.

The No Action Alternative was thoroughly considered in the assessment. Under this alternative the property would not be taken into trust and no construction would occur. While physical resource impacts would not exist by selecting the No Action Alternative, the proposed project already minimizes impacts by selecting a site compatible with projected uses, and using a construction site currently used as a parking lot, so requires no habitat impacts. The gradual loss of racing patrons would be expected to continue at the Monticello Raceway site with a potential negative impact anticipated on the facility.

As evidenced by the financial success of other casinos and financial projections for the proposed casino, this project clearly presented the best opportunity for a financially successful venture. The best long term employment opportunities are associated with the development of this proposed casino complex based on the projected long term financial stability of the project.

The proposed project site currently is used for wagering on horse races and gaming with Video Lottery Terminals (VLT) so the site is the most compatible with the proposed development in Sullivan County. Gaming operations utilize space very efficiently by concentrating activities and reducing the need for expansive facilities thereby maximizing the economic benefits realized by the establishment. This reduces the relative need for site development and minimizes the direct environmental impacts of the project when compared to other comparable profitable economic development projects.

**ENVIRONMENTAL IMPACTS:** The Monticello Raceway site has been used as a wagering site for over 40 years. The site includes existing infrastructure, utilities and access roads. The proposed construction site is currently used for parking so is extensively disturbed with no remaining natural habitat. The EA documents the planning process and describes the comprehensive analysis of the impacts of the project not only on the proposed fee-to-trust property but also on the surrounding community. In addition to the EA, the Tribe and their environmental consultant conducted a Phase I Environmental Site Assessment to determine if there were any environmental contaminants and/or hazardous materials on or adjacent to the proposed fee-to-trust property. A BIA Level I Contaminant Survey was also completed on the proposed fee-to-trust property. No significant, unmitigated adverse environmental conditions or contaminants, hazardous materials, or liabilities remain. Additionally, the proposals

described in the Final EA should minimize any impacts that the project has on the environment.

Construction on the proposed project site; an existing parking lot, will not disturb endangered species or critical habitat, surface waters, or groundwater. A stormwater control system will minimize erosion and surface water impacts. There are no surface waters on the project site, and the closest surface waters are two unnamed tributaries of Kinne Brook, which are listed as protected waters by the New York State Department of Environmental Conservation (NYSDEC). These will remain protected with minimal impacts through proper stormwater controls managed by a stormwater discharge permit issued by the NYSDEC under New York State's Pollution Discharge Elimination System (SPDES) program, which will insure adequate site layout, grading and drainage.

There will be no historic, archeological or cultural resource impacts from the proposed project. The project site contains no sites eligible for the National Register. Indian Tribes identified as having been in the region by the State Historic Preservation Officer did not identify any cultural or religious significance for the property in response to BIA consultation.

The proposed project conforms to resource use patterns for the region, since the site is already used for wagering, has easy access from the interstate, and has infrastructure already in place. A detailed traffic analysis, updated May 2006 indicated local areas where traffic congestion issues could arise, but these will be mitigated through the fully enforceable agreement between the Tribe and local governments. Some comments suggested that additional detailed traffic analysis in neighboring Orange County is warranted as a potential impact. Orange County traffic impacts were analyzed in previous studies for other proposed tribal projects in the region, and these studies are incorporated by reference in the Final EA. The greatest currently congested areas in Orange County are greater than 25 miles from the project site. As a result, only a small fraction of the total traffic volume will be added to the greatest peak-hour congested areas as a result of the project. The addition of large shopping venues and significant growth in Orange County in recent years would normally be expected to be accompanied by adequate traffic management planning, which would be expected to alleviate these Orange County problems. The small increases in Orange County traffic due to the proposed project are not deemed to be significant enough to warrant mitigation.

The project will not result in any significant air quality impacts. Sullivan County is an attainment area for all National Ambient Air Quality Standards. Traffic congestion that produces air quality impacts in Sullivan County will be minimized through enforceable mitigation. Proper controls will be used to minimize fugitive dust during construction. Some comments suggested additional detailed analysis of Orange County air quality impacts. Casino contribution to Orange County air quality problems is also not considered to be significant. Orange County traffic congestion induces air quality problems, but the casino traffic contribution to Orange County is not considered to be significant due to the large distance from the casino to the heaviest areas of congestion



where impact could be problematic, and the small fraction of the total volume of cars at these sites that would be related to the casino.

The proposed project will improve socioeconomic conditions for both the Tribe and Sullivan County. The proposed project will create hundreds of jobs for the Tribe and local communities. Direct and indirect spending will increase, and the tourism and recreational industry are expected to be revitalized by the project. The proposed project will not disproportionately affect minority and low income persons, but these are expected to be positively affected by having an increase in employment opportunities. The Tribe is considered an environmental justice community for this proposed action that would receive a significant benefit as a result of project approval. The increased costs to local governments for public schools, roads, police, emergency medical care, solid waste, utilities and other socioeconomic impacts will be fully mitigated through the local agreements between the Tribe and local governments.

Cumulative and indirect impacts analyzed included possible impacts on schools, businesses, housing, the county tax base, water usage, the sewer system, electricity demand, and public health and safety. Regional growth is an anticipated impact that is reasonably foreseeable, but with regional growth comes a larger tax base to provide for the needs of the new residents. Growth in the local economy that accompanies new residents and businesses increases tax revenues to local governments to pay for necessary services. Cumulative and indirect impacts are not expected to be significant.

**MITIGATION:** Mitigation of impacts is inherent in the project design wherever possible as detailed in the EA. Mitigation for other potential impacts is provided through the local agreements. The agreement with the Village of Monticello was signed December 17, 1997, and amended February 17, 1998, and executed between Catskills Development and the Village of Monticello as a result of the SEQRA process. This agreement commits the Tribe to annually pay five million dollars to a Community Development Fund to offset an anticipated increase in government services and loss of tax revenue for the property site. The Sullivan County local agreement requires the Tribe to provide an additional fifteen million dollars annually to Sullivan County for potential impacts in Sullivan County. These agreements are anticipated to fully provide for any mitigation necessary to cover increased costs of government services for roads, schools, gambling addiction counseling, infrastructure and utilities, police and fire protection, and emergency service vehicles and staff. Additionally, the SEQRA Findings Statement makes any mitigation measures adopted during the SEQRA process binding.

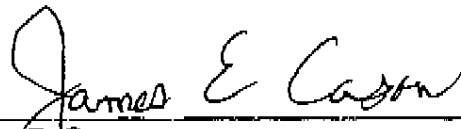
The specific traffic mitigation measures include: (1) Widening and reconstruction of Route 17B Jefferson Street and Route 17B exit ramp; (2) Adding an additional traffic lane and full signal to Raceway Road; (3) Adding turn lanes to the West Broadway approach on Route 17B; (4) Adding a signal to the Route 17B and Kauffman Road intersection; (5) Constructing a new casino access driveway; Signalize the Stable Road - Raceway Service/Bus Driveway intersection; (6) Signalize the West Broadway and Forestburgh Road/Route 42 intersection; and (7) Eliminate the left turns on the bridge

over Route 17 from the northbound lane into Old Route 17 and from the southbound lane into the eastbound entrance ramp.

Specific stormwater mitigation measures include the development of four on-site stormwater management basins. Additional protection will be provided by following the Soil Erosion and Prevention Plan in Appendix O.

**DETERMINATION:** The proposed federal action to approve the St. Regis Mohawk Tribe's request to take approximately 29.31 acres of fee land into trust for the Tribe for the purpose of Class III gaming does not constitute a major federal action that would significantly affect the quality of the human environment as defined in the NEPA. This conclusion is based on the analysis contained in the EA. Therefore, an Environmental Impact Statement is not required and the BIA is issuing this FONSI.

ISSUED IN WASHINGTON, DC, this 21<sup>st</sup> day of December 2006 by:



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James E. Cason  
Associate Deputy Secretary