

RECEIVED

JUN 19 2017

LAND & RESOURCE

Dear Mr Bill Kalar,

June 16, 2017

Regarding Subject matter: Environmental impact with removal of the 8-14 acres tribal trust wetland designated for ricing on the south shore of Star Lake at Dent, Minnesota.

Important Star Lake Environmental Impacts: Removing wetland and replacing it in another part of the State of Minnesota is an environmental impact that would negatively affect two sights: Star Lake and the alternate placement site of wetland. It will affect shorelines, the inhabitants of fish, turtles, birds, water species, and wild life. This wetland was placed in tribal trust for food/ ricing. Placing it into a historical society would be more beneficial for our countries future generations.

- 1) When there is an increase of rain or snowfall and the lake water reaches higher levels; the 8-14 acers of wet land that was removed and would have been part of the flood plan is lost. This loss of flood plan would cause increase of erosion of the shoreline, damage to the roads, along the shoreline and flood damage of individual's shoreline homes and property.
- 2) To my knowledge Lake McDonald an area lake already has/had been working with rising lake water and flood damage to homes and cabins for several years.
- 3) Water Climate Change of heat/cold from the large building near the shoreline effects lake water temperature in turn affects the fish, turtles, and water species. The cement/steel/iron/building footings and building products will affect temperature changes of the ground and water. This climate change, would adjust/destroy life in the lake.
- 4) Disturbing the ground stability: A negative environmental impact will be created with ground in-stability when removing earth/soil/plant life on Star Lake. The foreign replacement sight would have ground instability with loose soil dumped into/on it.
- 5) The environmental impact of Star lake ground stability will no longer exist when earth/soil/local plants are no longer available to protect and stabilize water drainage overflow in times of flooding.
- 6) With an increase in human population using the lake there is an increase in risk of the zebra mussel and other contaminants. Generally speaking individuals who do not have or feel any ownership in a property; lake water, fish population, etc are at a higher risk of neglecting and do not take precautions to prevent spread of contaminants.
- 7) Franklin Lake in Ottertail County has zebra mussel. There may be more lakes that I am not unaware of.

- 8) Negative Environmental Impact: area fish, birds including our State Bird the Loon, Federal Bird the Eagle, and wild life will need to seek food and shelter elsewhere or decrease in population. We have enjoyed fishing and watching the Loons and Eagles while at the lake.
- 9) Removal of soil and placing it elsewhere is a disruption of two water sights. Removing soil with a machine bucket at Star Lake will kill and destroy live species that have developed over time in that specific wetland sight. The current stable environment for the fish and other water life will be destroyed.
If fish or species survive the trip to the second sight.; replacing the disturbed soil elsewhere will alter the species and life of the second water sight. Reproduction of species alters and changes DNA's.

Removing the current wetland will be a great environmental detriment to Star Lake. It will be a loss of food, shelter and breeding areas for our State Bird the Loon, Federal Bird the Eagle, local wild life, turtles, fish and water inhabitants.

Removing wetland from Star Lake is decreasing the flood plan area and is detrimental to area homes, roadways, and etc. Brick buildings do not help flood plans.

Placing this established ricing parcel of wetland that was entrusted to the White Earth Ojibwe Tribal Community with the historical society would enhance the learning opportunities of all future generations. This many generational established parcel of wetland on the Minnesota Historical Society would give future tribal and all citizens the opportunity to learn how our country was developed and history of the native American.

Sincerely yours,



Alice Syverson

Home Cabin: 31927 West Rosewood Dr
Dent; MN 56528

Home Address: 5399 County 12 Blvd
Kenyon, MN 55946

Phone: 507-271-9909

“Lets NOT destroy established ricing wetland that produces food and history of our Nation”

June 15, 2017

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JUN 19 2017

LAND & RESOURCE

Dear Mr Bill Kalar,

My concerns regarding a casino on Star Lake, Dent MN. by the White Earth Ojibwe Tribal Community.

The Native American has advocated for years to preserve their land and heritage, and continue to do so.

The wild rice area along Star Lake has been there for many decades. This was given as a gift to the White Earth Nation to preserve their heritage and provide income from ricing. The party that placed it in their Trust did it with pride, respect for the Native American. This is an established wild rice area and is not to be disturbed. It took many decades possibly centuries to establish and should remain so.

Disruption of fish, water species, birds, wild animals.

By removing the wetlands it will disrupt the equilibrium of the lake, stability of the lake bottom soil, displace the fish, turtles, water species along with the birds and wild animals. Minnesota's State Bird the Loon and the Federal bird the Eagle also live, reproduce and survive along Star Lake.

Traffic increase and road usage:

Has anyone actually hands on driven the local area roads and evaluated their topography and geography? Drive highway 35 and visualize an increase in volume of traffic flow for vehicles of all types, sizes, speeds, medical equipment, snow plowing, semi trucks including farm equipment and etc? This is an agricultural area. Please notice all the beautiful hills, curves, swamps, wild life as you travel.

How do you make highway 35 and the other local roads safe with a large influx of social, farm and emergency traffic?

How do you administer and pay for increased safety (ambulance, fire, road upkeep)?

How do you administer safety without an increase in taxes to fund the roads?

Who will pay for the increase in cost or taxes for the roads.

Other area roads have similar curves, lakes, ponds making large volume of traffic an increased safety issue.

With increase in traffic flow of people there will be an increase of emergency needs.

With increase traffic flow and population who will fund the local volunteer EMT, Ambulance, fire Departments? (Dent, Underwood, Dahilton, Ashby, and others along the way.)

Who has a helicopter for eminent life saving issues?

Another issue pertaining to a volunteer Emergency Response System.

How will volunteer personnel for ambulances, EMT, fire departments increase response time when competing with the increase of traffic flow on the current curvey country roads?

Example:

They have to leave from where ever they are: live, work or etc and get to the emergency department equipment. They will then travel on the same curvy, roads that has increased traffic flow with the large emergency equipment to get to the emergency.

The current local state highways are not conducive to increased social traffic flow, farm equipment, emergency response and etc.

a Who will pay for the increased equipment, storage, personnel, insurance, and etc to increase the local Emergency System?

Who will pay for the increase of maintenance of the roads?

Who will pay for the increase of DNR services to monitor the lake?

Who will pay the taxes to support the increased services needed to have the Casino as a neighbor?

The Loon is Minnesota's State protected bird. Star Lake has many Loons.

We need to protect our sensitive shorelines that provide homes, food and survival for our local birds, fish and animals. Replacing the current rice habitat on Star Lake shoreline will destroy the homes of the Loons, other bird species, fish and animals. Moving the current Star Lake shoreline and wetland is detrimental to the birds, fish and animals!!

The enclosed document from the Minnesota Department of Natural Resources of 2016 reports, "Threats to loons include human disturbance and pollutants such as lead and mercury."

It is not a wise decision to disturb and threaten the natural habitat of our fowl, fish, and wild life. This habitat includes our State Bird the Loon and Federal Bird the Eagle.

Star Lake has provided a quiet serene area for all life (fish, birds, wild life, humans). When driving down the gravel road the casino is potentially to be built on; one will drive past Camp Joy. This Bible Camp is for our young people; teaching values and respect of family and community life along with nature. Disrupting the important teaching of life and nature values to our youth cannot be tolerated.

Questions:

1) Why isn't our State Bird the Loon being considered?

***Note the comment below from Minnesota Department of Natural Resources website:

Population and management

Minnesota has more loons (roughly 12,000) than any other state except Alaska. Threats to loons include human disturbance and pollutants such as lead and mercury. The DNR monitors loon populations with the help of volunteers to improve understanding of what our state bird needs to maintain a strong, healthy presence here.

Our USA Federal Bird the Eagle also lives along this shoreline and must be Federally protected.

2) Why isn't the Federal Bird the Eagle being considered? They live along and around this lake also.

3) Who is actually pushing for the new Shooting Star Casino? The Minnesota Native American or the Executives who are already benefiting from funds from the current Shooting Star Casino?

Solution for the established wild rice area.

A wiser plan would be to place the wetlands on the Minnesota and National Historical Society. By placing the wetlands on the Historical Society it will proudly teach and present itself to future Native American generations.

Sincerely yours,



Selmer Syverson

Home: 5399 Cty 12 Blvd

Kenyon, MN 55946

Cabin: 31927 West Rosewood Dr

Dent, MN 56528

Phone: 507-254-1682

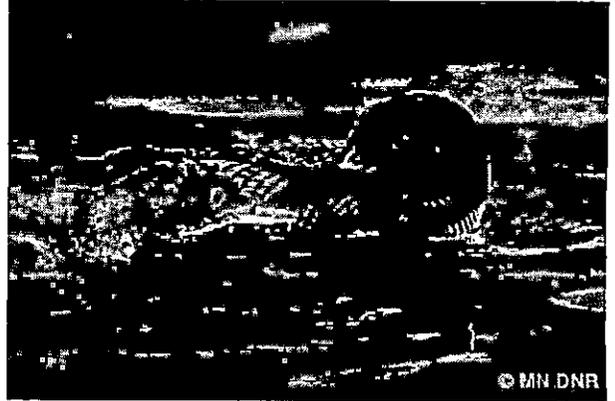
Common loon

Gavia immer

Minnesota's state bird, the common loon, is more at home in the water than on land. Built like a torpedo, it swims under water in search of prey. Minnesota has more common loons than any other state except Alaska.

Identification

General description: Larger than a mallard but smaller than a goose, this water bird has a thick neck and a long, black bill. Its legs are set far back on its body, so it has an awkward gait on land. The male is slightly larger than the female, but otherwise the two sexes look identical.



Weight: Adult loons weigh 8 to 12 pounds.

Color: The common loon has a black bill and a red eye. In summer it is a spotty black and white with a black/iridescent green head. In fall a "winter coat" that's gray above and white below replaces its summer plumage.

Sounds: The common loon has four calls. The tremolo, which sounds a bit like maniacal laughter, is an aggressive call. The wail is a long, drawn-out sound. The hoot, a shorter call, is used to communicate among parents and young. The yodel is sounded by male loons guarding their territory.

Reproduction

Loons don't begin breeding until they are three or four years old. The male chooses a territory and attracts a mate. Together the male and female build a nest out of reeds and grasses on the edge of the water. They take turns incubating the one to two eggs the female lays. After 28 to 30 days blackish brown chicks emerge from the eggs, soon ready for a swim. One of the ways parents care for their young is to carry them on their backs to keep them safe from fish and turtle predators. Young loons don't fly until they are more than two months old.



Food

Loons like fish - panfish, perch, ciscoes, suckers, trout, bullheads, smelt, and minnows. They also may eat frogs, leeches, crayfish, mollusks, salamanders, amphipods, and insects.

Predators

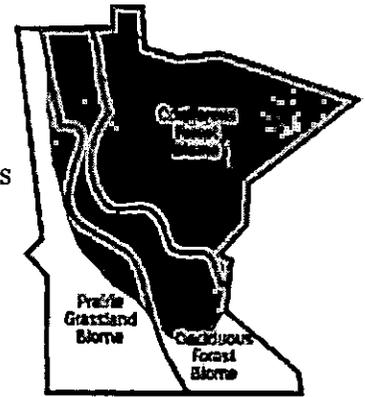
Adult loons rarely are eaten by other animals (except bald eagles), but their young can fall prey to skunks, raccoons, foxes, snapping turtles, northern pike, and muskies.

Habitat and range

Loons are found on lakes throughout central and northeastern Minnesota. In September, Minnesota's adult loons travel to their winter home along the Atlantic coast from North Carolina south to Florida, or on the Gulf of Mexico. Younger loons follow a month or so later.

Population and management

Minnesota has more loons (roughly 12,000) than any other state except Alaska. Threats to loons include human disturbance and pollutants such as lead and mercury. The DNR monitors loon populations with the help of volunteers to improve understanding of what our state bird needs to maintain a strong, healthy presence here.



Fun facts

Loons' lives are filled with fun facts. For example:

- The bones of most birds are hollow and light, but loons have solid bones.
- The extra weight helps them dive as deep as 250 feet to search for food. They can stay underwater for up to five minutes.
- Because their bodies are heavy relative to their wing size, loons need a 100- to 600-foot "runway" in order to take off from a lake.
- Loons can fly more than 75 miles per hour.
- The red in the loon's eye helps it to see under water.
- Scientists think loons can live for 30 years or more

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June 14, 2017

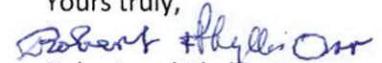
Dear Mr. Kalar,

The proposed Casino on Star Lake is of great concern to me and my family. Our family has a summer cottage on the south arm and has been going there for over 58 years, and of course we are very concerned about the impact that a busy Casino, hotel and RV resort would have on the lake. It seems to me that there are two areas of concern.

1. The environmental impact of this project on the lake and the surrounding area. It should be investigated in great detail, by whatever government programs are available, for the detrimental effects it could cause to the environment, the road system, taxes, and jobs market.
2. The potential now, or in the future, for hundreds of additional boats on the lake. This would have a major impact on fishing and recreation on the lake. The south arm especially, would be impacted by lots of additional fishing boats navigating in it, during the summertime.

Please do whatever is necessary to insure that the lake and surrounding area is not damaged by this project.

Yours truly,



Robert and Phyllis Orr
37787 Hunter's Beach Lane

5 Rosewood Lane
Pekin, Illinois 61554
(309) 346-3945

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JUN 19 2017

LAND & RESOURCE

Mr. Bill Kalar
Land and Resources Director
OTC Government Center
540 West Fir
Fergus Falls, MN 56537

Re: Shooting Star Casino & Resort Proposal on Star Lake

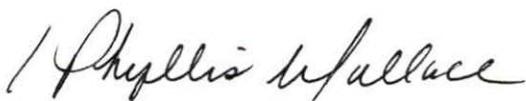
I am the owner of a home on the north shore of Star Lake on State Hwy 108.

In the matter of the CUP for a parking lot to serve the above referenced development it is my understanding that the county Board of Commissioners may require the more thorough Environmental Impact Statement (EIS). I hereby petition the Board to exercise that discretion.

I find such a proposal to be very harmful to the wildlife, many species of birds, and the water. The amount of pollution to the environment and to the lake itself is something that no one who owns a home or lives in the area would want to see happen.

Sincerely,

Phyllis Wallace



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Mr. Bill Kalar
Land & Resource Management Director
OTC Government Services Center
540 West Fir
Fergus Falls, Minnesota 56537

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LAND & RESOURCE

Dear Mr. Kalar:

Please accept this letter as my submitted comments of concern with the Star Lake Casino Development Project and the EAW completed for the project. I am a property owner on Star Lake (33023 380th Street) and will be impacted directly by the building of the casino and related structures within two miles of my property. I refer to this project as the "Star Lake Casino Trojan Horse Project", as it seems it is being promoted on its benefits for economic growth with limited environmental impact to the lake or surrounding area. It appears to be held out as being good for the state, county, and township before FULL understanding of the costs and environmental impacts that will come from such an operation have been fully analyzed. A completed EIS would go a long way towards identifying the entire environmental, infrastructure, social, medical, emergency service, security, transportation, and tax implications of such a major development.

I will begin my comments with a statement from page 12 of 41 of the EAW under "Plans Compatibility." The EAW states, "As previously discussed, development of the Limited Star Lake Comprehensive Plan consisted of public input resulting in a list of community goals and objectives to guide future development." I attended the first/original LASLCP meeting at the Dent Community Center and all subsequent "open houses" offered relative to the project. What was really limited was the ability for members of the public (like myself) to engage in a discussion to share concerns and debate pros/cons of such a project. There was NO formal discussion of public concerns. The meetings basically were structured to share the results of the plan developed by the White Earth Tribe, paid consultants, and a limited group of county representatives. Through the open house process, I was given some information on how environmental concerns would be addressed, shown construction drawings, and shown results of the survey that was formatted to assume a casino was being built. I do not believe there was an intent to gather true public feedback on concerns with putting a casino in the location identified as White Earth Trust land or its acquired Fee Land.

To be more specific, my comments are as follows:

(1) Page 6 of 41, Section e

"If the project is successful, future stages may include expansion of hotel and gaming area, expansion of the RV parking area, addition of rental cabins, and/or a golf course, or other amenity improvements. No master plan, construction plans, or timeline have been established for these future stages. As planning for these future stages begin, the need for an environmental review will be evaluated and appropriate reviews will be conducted."

The EAW response to this itself creates the question of what happens if the project is not successful and/or abandoned prior to full completion? Will the land be returned to its native state? Who has responsibility to monitor such restoration? There is no information on how the environmental and economic issues of such events would be addressed. Beyond that issue, I believe Minnesota State Law (Minnesota Rule 4410.0200, subpart 60 and 9c respectively) requires that ALL parts of future/possible actions must be reviewed as part of a single project. RV expansion, additional cabins, a golf course, etc. all have significant potential environmental impacts on Star Lake. Future stress from such plans should be accessed as part of a full EIS on this project before approval is granted.

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JUN 1964

The following information is being furnished to you for your information. It is based on the information available to the Bureau as of the date of this report. It is not intended to constitute an offer of insurance or any other financial product. The information is for general informational purposes only. It is not intended to be used as a basis for investment decisions. The information is not intended to be used as a basis for investment decisions. The information is not intended to be used as a basis for investment decisions.

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(2) Page 3 of 41

Project Description:

b.

The project description outlines a resort with indoor and outdoor pools, gaming facility, 180 guest room hotel, 216 seat Bar & Grill, 255 seat Buffet restaurants, 400 seat event center, supporting offices and storage facility, RV park with support building and associated parking for automobiles and buses. In addition, there will be raw water wells, potable water treatment and storage facilities and wastewater treatment ponds. The SCOPE of this project alone should require a full EIS. Many parts of the Limited Comprehensive Plan are incomplete. There is no analysis of the traffic impact of the required workforce on area roads. The need for additional housing for both the temporary construction workforce and the more permanent casino staff has not been addressed. How will construction crews handle their waste water and accommodation needs? Will there be more mobile home parks created to fill this need? A full EIS would provide the opportunity to address the scope of the project needs for both housing and transportation.

(3) Page 8 of 41

9. Land Use:

a. Describe

i.

"No parks or trails are located on or adjacent to the project area."

While I understand the reason for the EAW response, if you view the site with snow on the ground, there are LOTS of Whitetail Deer, rabbit, and other wildlife trails criss-crossing the property. It truly is a wetland and wildlife habitat area

b. Land Use Compatibility

"Land use within the area can be characterized as rural. Even with the rural character of the surrounding lands, the project is compatible with existing land use identified within the Limited Comprehensive Plan area boundary."

I will take great exception to the conclusion that this project somehow fits the "rural" character of the area. An 85 foot high, lighted casino facility with parking for 979 vehicles and a 25 site RV park in close proximity does not fit any reasonable definition of "rural." There is existing research on the impact of casino development on property values, local economies, and communities. I do not see any reference to such research in the LASLCP or the EAW. These studies should be reviewed as part of a full EIS review before a conclusion is made that THIS project is capable of being integrated into the fabric of the area.

(4) Page 11 of 41

Ordinance Requirements

If Tribal Trust Land is separate for purposes of sovereign treaty rights and exempt from Federal and/or Minnesota State law governing wetlands development and impervious surface regulations, what law grants the Tribe and/or the County the right to combine Trust and Fee land to avoid problems with impervious surface requirements on Fee land? The legal right that grants this should be listed in the EAW and/or made known to the public in any future EIS review. The Tribe is in violation of the existing shore land area impervious surface rules on its Trust Land with their proposed development plan.

(5) Page 26 of 41

Wetland replacement/compensatory mitigation

Just a common sense question. What benefit is there to me as a property owner, tax payer, and person that enjoys wetlands and wildlife in Ottertail County to have Star Lake wetlands destroyed and

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lost forever to be replaced with some type of wetland in Becker and Roseau counties. Is there equivalent value for such a proposal. Who makes such a determination? Bad law is still bad law and should be challenged. The structure of the 2 for 1 wetlands exchange rule is bad legislation in application.

(6) Page 27 of 41

“Additional boat traffic could be generated as a result of this project, but this would be limited top transient and pass through traffic. As such, no significant change in the number or type of watercraft on the Unnamed Lake or Star Lake is expected due to the proposed project.”

Neither the EAW nor the Limited Area Plan has done a complete analysis of the increased use of Star Lake waters. Promoted as a “family resort and casino” with an RV park and potential future cabins, it would seem reasonable to expect both increased jet ski, pontoon, and boat traffic on the lake. Any increased traffic increases the risk of introducing invasive species and puts more pressure on lake fishing and water resources. A more complete analysis of this environmental impact is called for, hence another reason for a full EIS.

(7) Page 36 of 41

Visual:

Having an 85 foot tall main structure with 180 rooms, bar, event center, fully lighted, does NOT result in minimal visual impact to the lake or surrounding area. Add the holding ponds and there will be a radical disruption to the rural nature of the area.

(8) Page 39 of 41

In reviewing the EAW and the transportation study conducted by Ottertail County, I did not identify reference to the additional workforce traffic nor any data on the increase on area roads for issues like DUI drivers. The project includes a 216 seat bar with 979 parking spots and RV traffic. What does that mean for increased impaired drivers on area roads? As a Father and Grandfather with family traveling to our Star Lake cabin on Hwy 108 and Hwy 41, this is a necessary piece of information lacking in the EAW or Limited Study Plan. In addition, the data on crime increase related to casinos, security cost and emergency medical services are NOT well identified in the plans submitted thus far. I understand an EAW does not need to address such issues, but only general statements on these issues are inadequate and should be part of an EIS requirement.

(9) Page 39 of 41

c.

There is some mention on improvements to CSAH 41 anticipated within the next two years, with implementation to follow as funding mechanisms are identified and funding is secured. As a property owner that travels from my home in Bismarck, North Dakota to Star Lake on a fairly regular basis, some area roads are in need of repair currently. Winter road care (plowing, sanding, etc.) is especially in need of more attention and funding. What will be the tax impact for the county and state taxpayers for road changes and upgraded maintenance as traffic increases due to the casino? The plan for road changes and updates should be expanded along with cost information within the context of an EIS.

(10) Page 41 of 41

Other potential environmental effects.

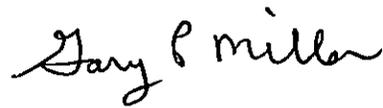
The EAW lacks analysis for the environmental impact of temporary construction housing or workforce housing. I am not an expert on soil, wastewater, or other environmental factors

listed within the EAW. Therefore, I will need to rely on State and Federal expertise to insure compliance in those areas.

Overall, I do not feel the EAW as submitted has sufficient detail to justify approval of the project. A full and complete EIS should be a minimum requirement for a project with this magnitude of environmental impact.

I began by referring to the is a "Trojan Horse" project. Once it is adopted, there will be no turning back. Please make sure that ALL impact on Star Lake and its eco system have been analyzed and not sacrificed for the lure of economic development! Approve a full EIS, as the necessary next step.

Sincerely,

A handwritten signature in cursive script that reads "Gary P. Miller". The signature is written in black ink and is positioned above the printed name.

Gary P. Miller

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Bill Kalar

From: Bill Kalar
Sent: Monday, June 19, 2017 9:08 AM
To: 'Appell Family'
Subject: RE: EAW Comment Letter and attachments

Tim and Angie Appell – this will confirm receipt of your comments. They will be included as part of the Public Record regarding this matter.

Bill Kalar
Land & Resource Mgt.
218-998-8105



From: Appell Family [<mailto:taat@wah.midco.net>]
Sent: Monday, June 19, 2017 8:50 AM
To: Bill Kalar
Subject: EAW Comment Letter and attachments

Good Morning

Please find attached our comment letter with regard to the EAW and supporting documentation attached.

Thank you for your consideration in this matter.

Tim & Angie Appell

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JUN 19 2017
LAND & RESOURCE

June 20, 2017

Bill Kalar, Land & Resource Management Director
OTC Government Services Center
540 West Fir
Fergus Falls, MN 56537

Dear Mr. Kalar:

We are writing with regard to the proposed Star Lake Casino. My husband and myself live in Wahpeton, North Dakota but own a lake home on the south arm of Star Lake. It was our intent when we purchased the home to become permanent residents of Otter Tail County once we retire.

There are several concerns that we see with the proposed Star Lake Casino and feel that an Environmental Impact Study is imperative:

One being employment: I have attached a printout of current job openings at the Mahnomen and Bagley Shooting Star Casino locations there are 38 job openings. In contrast I have also attached the job listings for Dakota Magic Casino (advertised in the Wahpeton/Breckenridge Daily News) located on the North/South Dakota border they have 19 job openings and they are located on the Wahpeton Sisseton Reservation. Where would the workers come from to support the Star Lake Casino as the White Earth Reservation is some 60 miles from the proposed Star Lake Casino?

Another area of concern is would the fee land remain as such or would it be put into trust land to avoid paying real property taxes and special assessments? Attached is a copy of Code of Federal Regulations, Title 25, Chapter I, Part 151, Subchapter H, Section 151.11 Off-reservation acquisitions. *§ 151.11 Off-reservation acquisitions. The Secretary shall consider the following requirements in evaluating tribal requests for the acquisition of lands in trust status, when the land is located outside of and noncontiguous to the tribe's reservation, and the acquisition is not mandated: (a) The criteria listed in §151.10 (a) through (c) and (e) through (h); (b) The location of the land relative to state boundaries, and its distance from the boundaries of the tribe's reservation, shall be considered as follows: as the distance between the tribe's reservation and the land to be acquired increases, the Secretary shall give greater scrutiny to the tribe's justification of anticipated benefits from the acquisition. The Secretary shall give greater weight to the concerns raised pursuant to paragraph (d) of this section. (c) Where land is being acquired for business purposes, the tribe shall provide a plan which specifies the anticipated economic benefits associated with the proposed use. (d) Contact with state and local governments pursuant to §151.10 (e) and (f) shall be completed as follows: Upon receipt of a tribe's written request to have lands taken in trust, the Secretary shall notify the state and local governments having regulatory jurisdiction over the land to be acquired. The notice shall inform the state and local government that each will be given 30 days in which to provide written comment as to the acquisition's potential impacts on regulatory jurisdiction, real property taxes and special assessments. [60 FR 32879, June 23, 1995, as amended at 60 FR 48894, Sept. 21, 1995]*

Also what if anything is going to be done with the infrastructure (roads) leading to the proposed casino sight? If you have big heavy trucks hauling dirt to fill in the wetlands then who will be responsible for repairing or improving those roads? The taxpayers should not be burdened with this responsibility we are already paying a considerable amount in real estate taxes for our property.

There is also great concern over public safety where would the additional man power come from for policing as well as emergency medical services? Who would pay for these additional services, I certainly hope it would not be put on the tax payers of Otter Tail County.

EAW 11 (b) (i) (iv) There is also great concern regarding retention ponds, potable water, raw water wells, waste water treatment system with regard to who would be overseeing this to make sure that there would be no waste entering the lake?

EAW 9b-In closing we like the "rural" character of Star Lake that is why we chose to purchase a year round lake home there. It is quiet and peaceful and we enjoy fishing and water recreation on the lake and do not feel that a casino fits in with the surrounding lands.

Please do the right thing and require an Environmental Impact Study.

Thank You

Tim & Angie Appell

Search Results

More Jobs You Might Like

There are ~~23 jobs~~ you might like at Shooting Star Casino.

[New Search](#)



Results: 1-38 of 38

Page: **1** of 1

Title	Location	Address	City, State	Date Posted
Bagley Maintenance	Bagley Facilities	340th Street	Bagley, MN	6/14/2017
Tim Hortons Clerk	Tim Hortons		Mahnomen, MN	6/14/2017
EG Gift Shop Clerk	Bagley Gift Shop	340th Street	Bagley, MN	6/14/2017
Slot Tech Level I	Bagley Slots		Bagley, MN	6/13/2017
Security Guard Level I - Bagley	Security	777 Casino Road	Mahnomen, MN	6/13/2017
Security Guard I - Mahnomen	Security	777 Casino Road	Mahnomen, MN	6/13/2017
Graphic Artist	Advertising	777 Casino Road	Mahnomen, MN	6/13/2017
Blackjack Dealer	Table Games	777 Casino Road	Mahnomen, MN	6/13/2017
Front Desk Clerk	Hotel	777 Casino Road	Mahnomen, MN	6/13/2017
Porter	Hotel	777 Casino Road	Mahnomen, MN	6/13/2017
Room Attendant	Hotel	777 Casino Road	Mahnomen, MN	6/8/2017
Casino Host	Player Relations	777 Casino Road	Mahnomen, MN	6/8/2017
Hard Count Staff	Count Team	777 Casino Road	Mahnomen, MN	6/8/2017
SMOKE Manager	Smoke	777 Casino Road	Mahnomen, MN	6/7/2017
Transportation Driver Level II	Guest Services	777 Casino Road	Mahnomen, MN	6/5/2017
Box Office Associate	Entertainment	777 Casino Road	Mahnomen, MN	5/31/2017
Bingo Floor Worker	Bingo_Pull Tabs	777 Casino Road	Mahnomen, MN	5/23/2017
Bagley Cook	Bagley Food and Beverage	340th Street	Bagley, MN	5/23/2017
Bagley Bartender	Bagley Food and Beverage	340th Street	Bagley, MN	5/23/2017
Bagley Server	Bagley Food and Beverage	340th Street	Bagley, MN	5/23/2017
Deli Cook	Deli	777 Casino Road	Mahnomen, MN	5/23/2017
SMOKE Shift Under Cook	Smoke	777 Casino Road	Mahnomen, MN	5/23/2017
Bagley Steward	Bagley Food and Beverage	340th Street	Bagley, MN	5/23/2017
Convenience Store Clerk Cook	Convenience Store	777 Casino Road	Mahnomen, MN	5/23/2017
SMOKE Server	Whispering Winds	777 Casino Road	Mahnomen, MN	5/23/2017
SMOKE Steward	Smoke	777 Casino Road	Mahnomen, MN	5/23/2017
SMOKE Bartender	Smoke	777 Casino Road	Mahnomen, MN	5/23/2017
Inventor, Specials	Star Mart	777 Casino Road	Mahnomen, MN	5/23/2017
Zone8 Cook Level II	Zone8	777 Casino Road	Mahnomen, MN	5/4/2017
Zone8 Server	Zone8	777 Casino Road	Mahnomen, MN	5/2/2017

6/18/2017

Open Jobs-Search Results-Shooting Star Casino

[Banquet Server	Sales and Banquets	777 Casino Road	MN	3/30/2017
[Bartender	Mustang Lounge	777 Casino Road	Mahnomen, MN	3/30/2017
[Cocktail Server	Mustang Lounge	777 Casino Road	Mahnomen, MN	3/2/2017
[Buffet Server	Traditions Buffet	777 Casino Road	Mahnomen, MN	3/2/2017
[Buffet Server	Traditions Buffet	777 Casino Road	Mahnomen, MN	3/2/2017
[Catering Services (S...)	Sales and Banquets	777 Casino Road	Mahnomen, MN	3/2/2017
[Dining Room	Sales and Banquets	777 Casino Road	Mahnomen, MN	3/2/2017
[Buffet Server	Traditions Buffet	777 Casino Road	Mahnomen, MN	1/9/2017



Results: 1-38 of 38

Page: 1 of 1



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AUCTION**

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§ 151.4

land in trust or restricted status, land may be acquired for an individual Indian in trust status:

(1) When the land is located within the exterior boundaries of an Indian reservation, or adjacent thereto; or

(2) When the land is already in trust or restricted status.

§ 151.4 Acquisitions in trust of lands owned in fee by an Indian.

Unrestricted land owned by an individual Indian or a tribe may be conveyed into trust status, including a conveyance to trust for the owner, subject to the provisions of this part.

§ 151.5 Trust acquisitions in Oklahoma under section 5 of the I.R.A.

In addition to acquisitions for tribes which did not reject the provisions of the Indian Reorganization Act and their members, land may be acquired in trust status for an individual Indian or a tribe in the State of Oklahoma under section 5 of the Act of June 18, 1934 (48 Stat. 985; 25 U.S.C. 465), if such acquisition comes within the terms of this part. This authority is in addition to all other statutory authority for such an acquisition.

§ 151.6 Exchanges.

An individual Indian or tribe may acquire land in trust status by exchange if the acquisition comes within the terms of this part. The disposal aspects of an exchange are governed by part 152 of this title.

§ 151.7 Acquisition of fractional interests.

Acquisition of a fractional land interest by an individual Indian or a tribe in trust status can be approved by the Secretary only if:

(a) The buyer already owns a fractional interest in the same parcel of land; or

(b) The interest being acquired by the buyer is in fee status; or

(c) The buyer offers to purchase the remaining undivided trust or restricted interests in the parcel at not less than their fair market value; or

(d) There is a specific law which grants to the particular buyer the right to purchase an undivided interest or interests in trust or restricted land

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without offering to purchase all of such interests; or

(e) The owner of a majority of the remaining trust or restricted interests in the parcel consent in writing to the acquisition by the buyer.

§ 151.8 Tribal consent for nonmember acquisitions.

An individual Indian or tribe may acquire land in trust status on a reservation other than its own only when the governing body of the tribe having jurisdiction over such reservation consents in writing to the acquisition; provided, that such consent shall not be required if the individual Indian or the tribe already owns an undivided trust or restricted interest in the parcel of land to be acquired.

§ 151.9 Requests for approval of acquisitions.

An individual Indian or tribe desiring to acquire land in trust status shall file a written request for approval of such acquisition with the Secretary. The request need not be in any special form but shall set out the identity of the parties, a description of the land to be acquired, and other information which would show that the acquisition comes within the terms of this part.

§ 151.10 On-reservation acquisitions.

Upon receipt of a written request to have lands taken in trust, the Secretary will notify the state and local governments having regulatory jurisdiction over the land to be acquired, unless the acquisition is mandated by legislation. The notice will inform the state or local government that each will be given 30 days in which to provide written comments as to the acquisition's potential impacts on regulatory jurisdiction, real property taxes and special assessments. If the state or local government responds within a 30-day period, a copy of the comments will be provided to the applicant, who will be given a reasonable time in which to reply and/or request that the Secretary issue a decision. The Secretary will consider the following criteria in evaluating requests for the acquisition of land in trust status when

the land is located within or contiguous to an Indian reservation, and the acquisition is not mandated:

(a) The existence of statutory authority for the acquisition and any limitations contained in such authority;

(b) The need of the individual Indian or the tribe for additional land;

(c) The purposes for which the land will be used;

(d) If the land is to be acquired for an individual Indian, the amount of trust or restricted land already owned by or for that individual and the degree to which he needs assistance in handling his affairs;

(e) If the land to be acquired is in unrestricted fee status, the impact on the State and its political subdivisions resulting from the removal of the land from the tax rolls;

(f) Jurisdictional problems and potential conflicts of land use which may arise; and

(g) If the land to be acquired is in fee status, whether the Bureau of Indian Affairs is equipped to discharge the additional responsibilities resulting from the acquisition of the land in trust status.

(h) The extent to which the applicant has provided information that allows the Secretary to comply with 516 DM 6, appendix 4, National Environmental Policy Act Revised Implementing Procedures, and 602 DM 2, Land Acquisitions: Hazardous Substances Determinations. (For copies, write to the Department of the Interior, Bureau of Indian Affairs, Branch of Environmental Services, 1849 C Street NW., Room 4525 MIB, Washington, DC 20240.)

[45 FR 62036, Sept. 18, 1980, as amended at 60 FR 32879, June 23, 1995]

§ 151.11 Off-reservation acquisitions.

The Secretary shall consider the following requirements in evaluating tribal requests for the acquisition of lands in trust status, when the land is located outside of and noncontiguous to the tribe's reservation, and the acquisition is not mandated:

(a) The criteria listed in § 151.10 (a) through (c) and (e) through (h);

(b) The location of the land relative to state boundaries, and its distance from the boundaries of the tribe's res-

ervation, shall be considered as follows: as the distance between the tribe's reservation and the land to be acquired increases, the Secretary shall give greater scrutiny to the tribe's justification of anticipated benefits from the acquisition. The Secretary shall give greater weight to the concerns raised pursuant to paragraph (d) of this section.

(c) Where land is being acquired for business purposes, the tribe shall provide a plan which specifies the anticipated economic benefits associated with the proposed use.

(d) Contact with state and local governments pursuant to § 151.10 (e) and (f) shall be completed as follows: Upon receipt of a tribe's written request to have lands taken in trust, the Secretary shall notify the state and local governments having regulatory jurisdiction over the land to be acquired. The notice shall inform the state and local government that each will be given 30 days in which to provide written comment as to the acquisition's potential impacts on regulatory jurisdiction, real property taxes and special assessments.

[60 FR 32879, June 23, 1995, as amended at 60 FR 48894, Sept. 21, 1995]

§ 151.12 Action on requests.

(a) The Secretary shall review all requests and shall promptly notify the applicant in writing of his decision. The Secretary may request any additional information or justification he considers necessary to enable him to reach a decision. If the Secretary determines that the request should be denied, he shall advise the applicant of that fact and the reasons therefor in writing and notify him of the right to appeal pursuant to part 2 of this title.

(b) Following completion of the Title Examination provided in § 151.13 of this part and the exhaustion of any administrative remedies, the Secretary shall publish in the FEDERAL REGISTER, or in a newspaper of general circulation serving the affected area a notice of his/her decision to take land into trust under this part. The notice will state that a final agency determination to take land in trust has been made and that the Secretary shall acquire title in the name of the United States no

§ 151.13

sooner than 30 days after the notice is published.

[45 FR 62036, Sept. 18, 1980. Redesignated at 60 FR 32879, June 23, 1995, as amended at 61 FR 18083, Apr. 24, 1996]

§ 151.13 Title examination.

If the Secretary determines that he will approve a request for the acquisition of land from unrestricted fee status to trust status, he shall acquire, or require the applicant to furnish, title evidence meeting the *Standards For The Preparation of Title Evidence In Land Acquisitions by the United States*, issued by the U.S. Department of Justice. After having the title evidence examined, the Secretary shall notify the applicant of any liens, encumbrances, or infirmities which may exist. The Secretary may require the elimination of any such liens, encumbrances, or infirmities prior to taking final approval action on the acquisition and he shall require elimination prior to such approval if the liens, encumbrances, or infirmities make title to the land unmarketable.

[45 FR 62036, Sept. 18, 1980. Redesignated at 60 FR 32879, June 23, 1995]

§ 151.14 Formalization of acceptance.

Formal acceptance of land in trust status shall be accomplished by the issuance or approval of an instrument of conveyance by the Secretary as is appropriate in the circumstances.

[45 FR 62036, Sept. 18, 1980. Redesignated at 60 FR 32879, June 23, 1995]

§ 151.15 Information collection.

(a) The information collection requirements contained in §§151.9; 151.10; 151.11(c), and 151.13 have been approved by the Office of Management and Budget under 44 U.S.C. 3501 *et seq.* and assigned clearance number 1076-0100. This information is being collected to acquire land into trust on behalf of the Indian tribes and individuals, and will be used to assist the Secretary in making a determination. Response to this request is required to obtain a benefit.

(b) Public reporting for this information collection is estimated to average 4 hours per response, including the time for reviewing instructions, gathering and maintaining data, and completing and reviewing the information

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collection. Direct comments regarding the burden estimate or any other aspect of this information collection to the Bureau of Indian Affairs, Information Collection Clearance Officer, Room 337-SIB, 18th and C Streets, NW., Washington, DC 20240; and the Office of Information and Regulatory Affairs [Project 1076-0100], Office of Management and Budget, Washington, DC 20502.

[60 FR 32879, June 23, 1995; 64 FR 13895, Mar. 23, 1999]

PART 152—ISSUANCE OF PATENTS IN FEE, CERTIFICATES OF COMPETENCY, REMOVAL OF RESTRICTIONS, AND SALE OF CERTAIN INDIAN LANDS

Sec.

152.1 Definitions.

152.2 Withholding action on application.

ISSUING PATENTS IN FEE, CERTIFICATES OF COMPETENCY OR ORDERS REMOVING RESTRICTIONS

152.3 Information regarding status of applications for removal of Federal supervision over Indian lands.

152.4 Application for patent in fee.

152.5 Issuance of patent in fee.

152.6 Issuance of patents in fee to non-Indians and Indians with whom a special relationship does not exist.

152.7 Application for certificate of competency.

152.8 Issuance of certificate of competency.

152.9 Certificates of competency to certain Osage adults.

152.10 Application for orders removing restrictions, except Five Civilized Tribes.

152.11 Issuance of orders removing restrictions, except Five Civilized Tribes.

152.12 Removal of restrictions, Five Civilized Tribes, after application under authority other than section 2(a) of the Act of August 11, 1955.

152.13 Removal of restrictions, Five Civilized Tribes, after application under section 2(a) of the Act of August 11, 1955.

152.14 Removal of restrictions, Five Civilized Tribes, without application.

152.15 Judicial review of removal of restrictions, Five Civilized Tribes, without application.

152.16 Effect of order removing restrictions, Five Civilized Tribes.

From: Bill Kalar
Sent: Monday, June 19, 2017 9:04 AM
To: 'Arlette Preston'
Subject: RE: White Earth Casino project public project

Arlette Preston – this will confirm receipt of your comments. They will be included as part of the Public Record regarding this matter.

Bill Kalar
Land & Resource Mgt.
218-998-8105



From: Arlette Preston [mailto:arlette.preston@homeinstead.com]
Sent: Monday, June 19, 2017 8:49 AM
To: Bill Kalar
Subject: White Earth Casino project public project

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JUN 19 2017
LAND & RESOURCE

June 19, 2017

Bill Kalar
Land & Resource Management Director
OTC Government Services Center
540 West Fir
Fergus Falls, MN 56537

Dear Mr. Kalar;

We own properties on the West Arm of Star Lake and are writing to express our concerns about the casino project. There remain too many questions unanswered by the EAW and we urge you to require a full EIS.

Just the sheer size of this project warrants a full analysis of the impact on the environment, not only the current proposal being considered but also the cumulative effects of future development which are bound to happen on this property.

The impact of increased traffic and the treatment of waste water has not been fully considered. An EIS would mitigate some of the negative effects with better planning and/or alternatives. Light pollution is partially addressed in the EAW, but signage can be very intrusive and has not been addressed.

In general, the EAW understates the concerns. Further study will allow for additional mitigation of the negative impact surely arising from such a large project.

Thank you for considering our input.

Sincerely,



Arlette Preston



Richard Preston
38371 Bambi Dr.
Dent, MN 56528

Bill Kalar

From: Bill Kalar
Sent: Monday, June 19, 2017 8:54 AM
To: 'Mark Oyloe'
Subject: RE: EAW Public Comments - Star Lake Casino

Mark Oyloe - this will confirm receipt of your comments. They will be included as part of the Public Record regarding this matter.

Bill Kalar
Land & Resource Mgt.
218-998-8105

-----Original Message-----

From: Mark Oyloe [mailto:oyloe@charter.net]
Sent: Sunday, June 18, 2017 3:06 PM
To: Bill Kalar
Subject: EAW Public Comments - Star Lake Casino

Mark Oyloe
1122 Sunset Dr
Fergus Falls, MN 56537

Mr. Bill Kalar
Land and Resource Management Director
OTC Govt Services Center
Fergus Falls, MN 56537

RECEIVED
JUN 19 2017
LAND & RESOURCE

Dear Mr. Kalar,

As a person whose family has owned land on Star Lake for almost 90 years, I am writing to comment on the proposed Star Lake Casino. I was at the meeting in Pelican Rapids on the 15th and will try to offer comments that were not offered there, or expand on those that were offered. I agree with the many very effectively presented comments about the environmental issues the project presents, and hope that you and the County Commissioners will take them into account.

I left the meeting before it officially adjourned as I wanted to be sure I did not have to drive back to Star Lake on Highway 108 after dark. I would suggest that anyone who thinks the transportation infrastructure is adequate for the proposed project take a drive from Pelican Rapids to Dent on 108 on a dark, cloudy night. It is a tough drive, with winding roads, hills and many entrances, some hidden. I would be even more nervous about driving it with extra traffic from the casino, which would include many people who were unfamiliar with the route as well as people who have had a few too many and/or were preoccupied with their gambling wins or losses. Other roads leading to the area are not a lot better.

Even during the day, it seems unwise to add additional traffic to these roads, especially considering the nature of the traffic. I cannot imagine delivery trucks or buses barreling along 108, or turning onto 41 from 108 on the corner that was much mentioned at the meeting. I do not even like the thought of adding such traffic to the Otter Tail Lake Road, or to highway 35. This would likely be a bigger problem in the winter, when 35 and 41 are often slippery. Again, it is the nature of the traffic, as much as the additional volume, that concerns me.

I was at the open-house informational meeting at Dent last September.

While I was there I asked about the land WE purchased along the North arm of the lake, inquiring about their plans for it. I basically got the "run-around," but like Lee Mindeman said at last week's meeting, they must have bought it with some purpose

in mind. That leads me to wonder what they have in mind for the lake itself. Star Lake is basically a fairly quiet lake now. People have their fun on speedboats and jet-skis but most are considerate of their neighbors, and the noise is not very bothersome. I worry that WE plans to market this place as a "summer playground" destination and rent jet-skis, etc. Double or triple the amount of jet-skis and other boats on the lake and the noise level would greatly worsen, bringing about a situation that is unfair to the lake's residents. It would also make accidents more likely. So far WE has been very evasive about their long term plans for the complex, which is of huge concern to me. They should be required to come clean, and their long term plans should be assessed in the hoped for EIS.

I noticed the section in the EAW that states that this project is compatible with a rural area. How was this determined? I do not think it is compatible with the area and neither did any of the speakers at the meeting. It seems to me that this is one question where the local resident's opinions should be quite important. They are, after all, the ones that are familiar with the area and who will have to coexist with the Casino.

I hope we do not lose sight of the the fact that this project is first and foremost a gambling operation, and that entails some unique social effects that should be considered. If this casino is like other casinos (and I see no reason to think it will not be) it will make a good percentage of its profits off of gambling addicts, which it will create and cater to. Along with the problems this will cause for area families, it will mean increased costs for treatment, counseling, legal proceedings etc. Someone will have to pay for these costs and you can bet it won't be the casino.

Thank you for hearing me out, and thanks to you and the County Commissioners for holding the meeting the other night. I think a project of this scope, and with this potential for environmental problems, absolutely warrants an EIS and I hope that will be the decision. Putting a huge operation like this on Star Lake is, for many reasons, a truly bad idea, which I hope never comes to fruition.

Sincerely,
Mark Oyloe

Bill Kalar

From: Bill Kalar
Sent: Monday, June 19, 2017 8:58 AM
To: 'maasjo@eot.com'
Subject: RE: Comment on development proposed for Star Lake

Peggy Maasjo - this will confirm receipt of your comments. They will be included as part of the Public Record regarding this matter.

Bill Kalar
Land & Resource Mgt.
218-998-8105

-----Original Message-----

From: maasjo@eot.com [mailto:maasjo@eot.com]
Sent: Saturday, June 17, 2017 9:29 PM
To: Bill Kalar
Subject: Comment on development proposed for Star Lake

Mr. Kalar,

I have attached a letter I would like to submit during the open comment period regarding the proposed casino on Star Lake. My name is Peggy Maasjo and I live at 31883 W. Rosewood Dr., Dent, Mn 56528. I have been a resident on Star Lake for the past 36 years.

Peggy

RECEIVED
JUN 19 2017
LAND & RESOURCE

To the Ottertail County Commissioners:

I am writing to ask that you request an EIS for the proposed development on Star Lake. I have been a resident of Star Lake for the past 36 years. My husband and I moved onto the lake shortly after we were married. My husband always wanted to live on a lake and we were looking for a place half way between Pelican Rapids and Perham. We have loved every minute we have been on this peaceful, beautiful lake. I have several concerns with statements listed in the EAW. EAW Item 6 states the immense size of this project. It is the largest development proposed on a lake in Ottertail County. Just its immense size alone should warrant an EIS but the fact that they are proposing to build it on our wetlands should demand an EIS. I am also concerned by the question of what happens if they run out of money and cannot finish the project or the gaming industry goes bottom up and they are forced to close the casino. Are we then left with a large building that will eventually become an eye sore, a parking lot that becomes full of potholes and cracks and a waste water pond that sits as an eye sore?

Some lakes in OtterTail are noted more for recreational activities and less for fishing and the quiet and peacefulness of the lake. EAW Item 9 addresses Land Use compatibility and this development is not compatible to the rural character of Star Lake. Star Lake is a quiet, peaceful, tranquil lake. The boat traffic of those on the lake for skiing, wake boarding, and jet skiing is minimal. Most of the people on the water are fisherman and if you fish you know that the two are not compatible. Several people fish the South arm for crappies and sun fish. Not only will this development destroy the area where they spawn but the recreational boat traffic is sure to increase and we will no doubt loss the rural character and charm of our lake.

I have no background in wastewater treatment but I am concerned by EAW Item 11. The proposed waste water treatment will be located adjacent to a "Natural Environment" lake that flows directly into Star Lake and on into Dead Lake. At minimum, an EIS should be done to assure that is done right. Once the water is contaminated, I suspect it would take years and a lot of money to correct the problem.

I am very frustrated with EAW Item 11. Why should the White Earth Nation be allowed to fill 8.41 acres of our wetlands and substitute this for 15 acres of wet land replacement in Becker and Roseau Counties? Tell me how this is of any benefit to the people on Star Lake and the residents of Ottertail County. I think an EIS is needed to determine the impact that the loss of these wetlands will have on Star Lake over the next 100 years. This project will have a forever impact on Star Lake. To make a decision without requiring an EIS is wrong. State and Federal regulations require impacts to wetlands be avoided or minimized. How is filling in 8.41 acres of our wetlands not going to make a huge impact on the wetlands in this county and on Star Lake? Wetlands were destroyed without much consideration years ago and now we are spending money to restore the wetlands that were lost. There is a reason that the State and Federal regulations are in place. Are there no other alternatives to filling in this wetland? If not, should you allow this development to move forward? I had a difficult time with the protesting of the Native Americans at the pipeline near Bismarck, ND after the White Earth Nation proposed this development on Star Lake. How can water be life if you are willing to risk water quality to fill in wetlands, destroy your rice patches, and build a casino on Star Lake? It seems contradictory to me. After attending the open comment period in Pelican Rapids, the tribe confirmed that many of their members

are not in support of the building of this casino and think it is wrong. If they think it is wrong, why would the county allow this development to be built without requesting an EIS.

I am also concerned about EAW Item #16. Recently, Perham was having problems with odor from their wastewater ponds. I avoided the city because of the strong stench. What are we going to be dealing with having large wastewater ponds located across from the lake. We frequently get west winds. Are we going to be smelling this every time the wind blows from the west? EIS Please!

On a quiet night, I can hear people talking in boats on the lake. I like to listen to the loons talk in the evenings. What impact will the casino have on noise on the lake?

I am very concerned about the roads around Star Lake. My biggest fear is a deadly accident occurring at the corner of 41 and 108. Right from the start, I pointed this out to the engineering firm assisting in the development of the Star Lake Limited Comprehensive Plan. The intersection lies in a bowl and visibility is limited in both directions. I can not see how you are going to avoid a potential deadly accident when a large bus pulls onto 108 from 41 and a car heading east on 41 collide. It takes a while for a bus to pull out and make the turn. Even at 40 mph, a car coming over the hill will have limited time to stop should the bus pull out in front of them. This is a nightmare waiting to happen. Fortunately, the traffic currently in the area is minimal and mostly local so people are cautious at the intersection. There are not typically many large vehicles such as buses or RVs traveling these roads. Someone needs to study this in more detail. No one should die at this intersection because of poor planning. I am also concerned about the traffic heading south on 41. The properties on South 41 cross 41 to access the lake. There are several properties with children, a resort that has to cross the road to access the lake and a busy ice cream shop. An EIS is needed to identify the safety concerns regarding traffic changes in the area as a result of the casino.

The EAW indicates that further development will occur but does not disclose what that is. Do we not deserve to know what development is in the plans to determine further impact it will have on Star Lake? Is a marina purposed? This will certainly increase our risk of Aquatic Invasive species. Can our Public Accesses handle more boat traffic? Will we have adequate resources to patrol the water? What will the increased demand do to our fishery?

I am also concerned about taxpayer costs associated with the project. It is proposed that the development will fill the wetland with 450,000 + cubic yards of fill. If a truck hauls 10 cubic yards of fill that would mean 45,000 truckloads of fill would be required. Can you imagine 45,000 trucks traveling over the roads? What impact will this have on our roads? Who is going to pay to fix the roads once they need to be repaired? Who is paying for Lake Region's upgrades? I will be upset to see my electricity bill increase when I am out of power with every storm that occurs. With this last storm, I was out of electricity for 18 hours. No one has even began to have the discussion of fire and police protection let alone health services. I can testify that the Dent First Responders do not have the manpower to take on this project.

You, as County Commissioners, are elected representatives of this County. I feel that there are too many questions regarding this development not to request an EIS. I am asking that you vote to either stop the development or request an EIS.

Sincerely,

Peggy Maasjo

Bill Kalar

From: Bill Kalar
Sent: Monday, June 19, 2017 8:50 AM
To: 'Aubrey Ebanks'
Subject: RE: EAW Public Comments - Star Lake Casino

Aubrey Banks – this will confirm receipt of your comments. They will be included as part of the Public Record regarding this matter.

Bill Kalar
Land & Resource Mgt.
218-998-8105



From: Aubrey Ebanks [mailto:aubrey@yerbua.com]
Sent: Monday, June 19, 2017 7:10 AM
To: Bill Kalar
Subject: EAW Public Comments - Star Lake Casino

Bill Kalar,

Attached are my comments on the Star Lake Casino development EAW.

Aubrey Ebanks
Yerbua Web Design
39605 Galaxy Road
Dent, MN 56528
Office: 218-758-2769
Cell: 612-325-1780
Email: aubrey@yerbua.com
Website: yerbua.com

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JUN 19 2017
LAND & RESOURCE

June 19, 2017

Mr. Bill Kalar
Land & Resource Management Director
OTC Government Services Center
540 West Fir
Fergus Falls, MN 56537

Re: Star Lake Casino Development Project – EAW Comments

This EAW seems to be woefully incomplete or inaccurate. The seemingly minor mistakes in this EAW might seem picky to bring up, but they point to a lack of attention to detail that I think is necessary in the review of all the facts that need to be considered before any permits should be granted.

EAW (Page 1 Section 2)

There is no Proposer or RGU listed, just the contact.

According to Minnesota Rules 4410.0200 Subpart 68, the proposer means, "the person or governmental unit that proposes to undertake or direct others to undertake a project." The Proposer should be the entity that has applied for or would receive the approval for the project or the governmental unit that will undertake the project and not a consultant, attorney, or other entity or person representing the proposer.

EAW (Page 1 Section 5) The parcels of land listed,

*56000150109003, 56000150109000, 56000150106000, 5600150108001, (Fee Title Land)
56000150109001(Tribal Trust Land),*

are owned by Central Minnesota Land Company LLC., The United States of America (USA), or don't exist (misabeled). There are other parcels owned by Central Minnesota Land Company in the immediate area that are not mentioned in the EAW but appear in drawings (Page 46, incorrectly labeled, is 5600010070000 but should be 5600010007000). Are the unmentioned parcels part of this project? Is Central Minnesota Land Company or the USA the Proposer and do they have the right to develop "Class III" gaming in Minnesota?

Who is Central Minnesota Land Company? Mail sent to their address: 1117 Minnesota Ave, Detroit Lakes MN, 56501 was returned as "Returned to Sender, Attempted – Not Known, Unable to Forward". There seems to be a lot of confusion or misinformation about who owns the fee land and who the actual Proposer is. I think this EAW is clearly inadequate since by studying the EAW one cannot even figure out who owns the land and who the actual Proposer is.

The following needs to be clearly stated and defined in the EAW:

1. Who is the Proposer?
2. Do they have the right to conduct gaming in Minnesota?
3. Do they have all the necessary permits from the Bureau Of Indian Affairs?

4. Do they have the necessary permits/permission from the Minnesota Chippewa Tribe (MCT) to use the trust land?
5. Does the Proposer have the support of the White Earth Nation people?

This land is zoned to be (description on OTC website) FOREST,PARK,WILDLIFE Non-Homestead, AGRICULTURAL Non-Homestead, RURAL VACANT LAND Non-Homestead or RESIDENTIAL Non-Homestead. The Proposer, Central Minnesota Land Company, or White Earth Nation, or whomever the Proposer is, should have to get all the zoning of the land correct to make sure this land even qualifies to be commercially developed. It seems to me that the very reason this land was purchased and put into trust for the MCT, was to protect it from development, that no matter how development progressed the MCT would have a place to "rice and carry out traditional activities".

EAW (Page 6 Section e)

If the project is successful, future stages may include expansion of hotel and gaming areas, expansion of the RV parking area, addition of rental cabins and/or a golf course, or other amenity improvements. No master plan, construction plans, or timeline has been established for these future stages. As planning for these future stages begin, the need for a new environmental review will be evaluated and appropriate reviews will be conducted.

This seems to suggest that there is a significant chance that if this development is allowed, there could be more wetland destruction. Where does it stop? I can't imagine a scenario where there could be more devastation of wetlands than what is already proposed but apparently that potential is there.

EAW (Page 7 Section 8)

8. Permits and approvals required: List all known local, state and federal permits, approvals, certifications and financial assistance for the project. Include modifications of any existing permits, governmental review of plans and all direct and indirect forms of public financial assistance including bond guarantees, Tax Increment Financing and infrastructure. *All of these final decisions are prohibited until all appropriate environmental review has been completed. See Minnesota Rules, Chapter 4410.3100.*

Unit of Government	Type of Application	Status
<i>White Earth Nation</i>	<i>Tribal Land Usage</i>	<i>Applied – Resolution Approved</i>

I think that the MCT would be the "Unit of Government" that would have to approve this application not the WEN. Where is the proof that WEN (if in fact they are actually the Proposer) has permission from the MCT to use the land "Held in trust for the MCT"?

EAW (Page 10 Section B)

Examples of similar resort development in non-urban areas that have been successfully and compatibly integrated into the fabric of their communities and areas include Maddens Resort near Brainerd, Arrowwood Resort in Alexandria, Homestead RV Park & Resort, The Barn and The Inn at Dunvilla, and nearby, Thumper Pond Resort in Otter Tail County. Black Bear Casino Resort near Carlton provides a casino development project example that has been successful and compatibly integrated into the fabric of their community and area.

This is exactly why we live here and not in the Brainerd area. Not all of Minnesota needs to be developed to that extent, maybe those of us that choose to live here instead of the busy areas like Brainerd, did it for exactly that reason. While development might bring additional visitors to the area, it could drive away others that are looking for serenity. And to use Thumper Pond as an example shows a lack of good research, as they have struggled from day one.

Other Reasons for an EIS

As a casino patron myself, I have noticed that casinos throughout Minnesota aren't as busy as they once were. Does the developer have a detailed feasibility study that shows this project has a reasonable chance of success? If such a study does exist, it could be part of an EIS, whereas an EAW does not go into that level of detail. What would be worse than having this huge development, that is totally out of character with the area built, would be to have it built and within a few years fail. So, if a comprehensive feasibility study does not exist, one should be required before any permits are granted. This study should include funding of the entire project with enough resources for potential cost overruns and unforeseen obstacles of such a difficult development. It would be a shame to allow this project to begin and part way through have the project stop for funding or any other reason. The damage would already have been done to the wetlands and the environment.

As a resident of Star Lake, I am very concerned about the crime that usually follows the development of casinos. There are studies that show increased crime, addiction (drugs and gambling) and the fact that casinos cannibalize local businesses thus reducing tax revenue. An EIS could go into plans on how these and other things like fire, police and emergencies would be handled and funded. These are all questions that I think current residents want and should have answered as part of the review.

My Summary

I am not an environmental expert so a lot of the technical review of the EAW I will leave up to more qualified people, but I know that as just a regular guy I did not have to go very far into this EAW to see many reasons why a more detailed study is needed. I would like to close my comments by asking OUR County Commissioners to do the right thing and assure us that even if this project proceeds, we have covered all the bases and done our best to protect Star Lake, which is truly a wonderful resource in the heart of Otter Tail County. Any outcome other than an EIS would seem to be short-sighted and reckless.

Respectfully

Aubrey Ebanks
39605 Galaxy Road
Dent, MN 56528

Bill Kalar

From: Bill Kalar
Sent: Monday, June 19, 2017 8:48 AM
To: 'slate2359@comcast.net'
Subject: RE: Comment on EAW prepared for the Star Lake casino project

Steve Slatten – this will confirm receipt of your comments. They will be included as part of the Public Record regarding this matter.

Bill Kalar
Land & Resource Mgt.
218-998-8105



From: slate2359@comcast.net [mailto:slate2359@comcast.net]
Sent: Monday, June 19, 2017 8:08 AM
To: Bill Kalar
Subject: Comment on EAW prepared for the Star Lake casino project

Dear Mr. Kalar:

My name is Steve Slatten, and I currently reside in Lino Lakes, Minnesota. I was born and raised in Fergus Falls and own property in Otter Tail County, including land on the south arm of Star Lake directly across the water from the site of the proposed casino. Myself and three other partners purchased 60 acres there in 1998 and have been privileged to care for this property for almost 20 years now. I have reviewed the EAW prepared by the entity proposing this casino and find it woefully inadequate in addressing the potential implications of such a massive development on this ecosystem. I'm sure many of the concerns have already been brought to your attention by others so I am not going to restate them here.

I do not see how this project can be allowed to continue without an EIS. There is no doubt in my mind that a development of this magnitude can do anything but irreparable harm and damage to this pristine part of Star Lake. And I think that there are many people with considerable more expertise on this topic than I who would agree. In fact I have a high school classmate who has a PhD in freshwater biology from Iowa State that currently lives out of state, and when I told him of this project, he could not believe it would ever be even considered. I am encouraging him to comment to you directly.

I sincerely hope that the Commissioners of Otter Tail County will do what is correct for this and future generations and insist that a comprehensive Environmental Impact Statement be prepared before allowing this project to continue.

Respectfully,
Steven H. Slatten

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JUN 19 2017
LAND & RESOURCE

Bill Kalar

From: Bill Kalar
Sent: Friday, June 16, 2017 1:47 PM
To: 'Pam Fairbanks'
Subject: RE: EAW Public Comments - Star Lake Casino

Pam Fairbanks – this will confirm receipt of your comments. They will be included as part of the Public Record regarding this matter.

Bill Kalar
Land & Resource Mgt.
218-998-8105



From: Pam Fairbanks [<mailto:pfairbanks57@gmail.com>]
Sent: Friday, June 16, 2017 12:24 PM
To: Bill Kalar
Subject: EAW Public Comments - Star Lake Casino

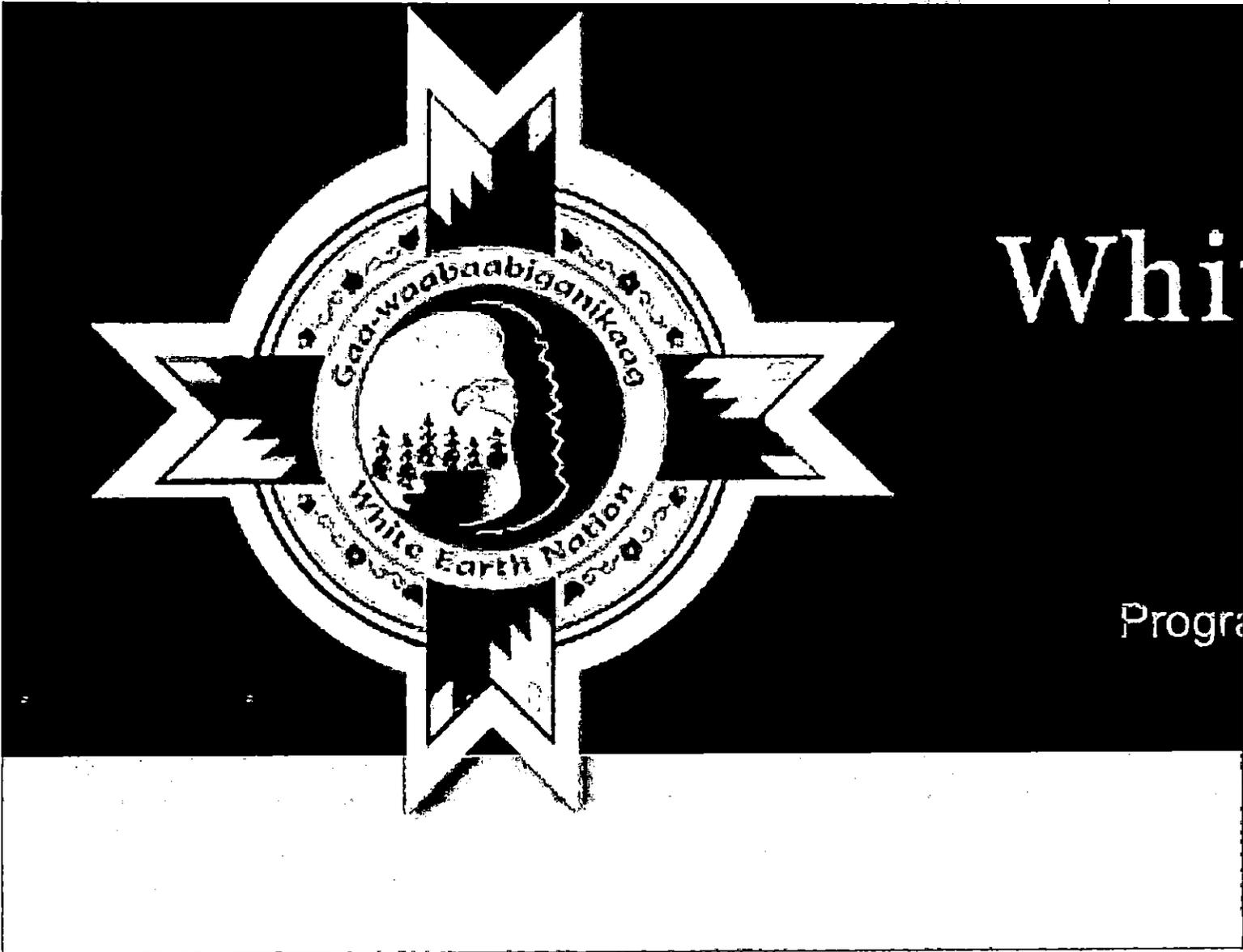
Bill,

I am a member of WEN and I am totally against the Star Lake proposed Casino for a few reasons. The first reason is that 3 of our council members made this decision without any input from tribal members. The second reason is this proposed project is hypocritical of our tribes mission statement:

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Netflix



Vision and Mission

Mission: To preserve, promote and enhance our quality

•
Our ~~Reservation is in need of anything but another casino.~~ With the fee land purchased by WEN, I am pleading with you not to approve any use permits for our tribe. This project needs to stop here and now!

Thank you,
Pam Fairbanks
Sent from my iPad

Bill Kalar

From: Bill Kalar
Sent: Friday, June 16, 2017 11:44 AM
To: 'Mike Donoho'
Subject: RE: EAW Public Comment

Hi Mike – thanks for your input.

Bill Kalar
Land & Resource Mgt.
218-998-8105



From: Mike Donoho [mailto:mndonoho@prtel.com]
Sent: Thursday, June 15, 2017 5:14 PM
To: Bill Kalar
Subject: EAW Public Comment

Bill,

I hope your inbox has room for 1 more. See you tonight.

Mike

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Bill Kalar
Land and Resource Management Director
Government Services Center, 540 West Fir
Fergus Falls, MN 56537

June 15, 2017

Mr. Kalar,

I am writing to you in regards to the Public Comment period on the voluntary EAW conducted by White Earth Nation on their proposed Resort/Casino development on Star Lake. As you know, I am a third generation property owner on the lake with my family actively involved in the preservation of Star Lake for many years. I have served on the Star Lake Property Owners Association, which my parents were instrumental in organizing, for 2 terms (recently resigned as a result of this development proposal) as well as being a member of the Limited Area Star Lake Comprehensive Plan team. I strongly believe they should be granted the permits required to proceed with the development without additional studies.

Through my involvement I have been monitoring the progress of this proposed development with great interest and talking with other property owners on the lake and DNR officials in Fergus Falls, Detroit Lakes and Brainerd and retired USFW specialists. One theme always comes to the top of these discussions; the proposed development will not have a significant negative environmental impact of any magnitude on Star Lake. Yes it will change Star Lake but by all information provided on the project, the White Earth Nation is meeting or exceeding all laws, ordinances, regulations and guidelines for a development of this size and are trying to create an environmentally friendly development.

Nowhere in the EAW or other information provided by the WEN do they talk about their use of Star Lake, either now or in potential expansions. The only mention of boat traffic mentioned would be from people looking at the project from the water, causing damage to the wild rice, which the WEN considers sacred. Rather in the EAW they talk about doing everything in their power to protect the lake and

its wild rice through silt fences, berms and other protective devices. In addition, they plan on restoring significant acres of fields into native grasslands, which will reduce the runoff of all the farm chemicals that historically have ended up in the lake. The intent of this development is to preserve as much of the wild feel as possible.

Because of the Indian Gaming Regulation Act, they are required to build the Resort/Casino on the land that is held in trust for the Minnesota Chippewa Tribes. To do this, they will need to mitigate some wetlands. They are prepared to do this through the approved means both within the State and through the Corps of Engineers, which has jurisdiction over the Trust land. It will result in a reduction of about 12% of the wetlands on their parcels. If you factor in the storm water retention ponds they will be constructing which can be argued are a type of wetland, they will be reducing the total acreage of wetlands by less than 3 acres. Add to that the landscaping plan especially near the shoreline and it might actually improve the overall runoff situation on these parcels.

The development will require a Conditional Use Permit for the parking lot because parts of it falls within the 1000' mark from the OHW mark. They are not asking for any variances from any zoning ordinances in place at the township, county or state level. The township had the opportunity to establish zoning ordinances that might have altered this development, but they chose it wasn't something they wanted to pursue. Reading the description of all the steps the WEN is implementing to insure the development "fits" into the surrounding areas adds to the notion that they are doing everything in their power to make this an attractive, fitting development.

This development has been the topic of conversation around Star Lake since it was leaked in September of 2015. Many of the local residents have a variety of opinions in regards to it. The Star Lake Property Owners Association did a survey of residents late fall of 2015 and the Limited Area Star Lake Comprehensive Plan team also did a survey of residents in 2016. Both surveys showed very similar results, there is a small group of residents that are excited about the development coming, there is a slightly larger group of residents that

are opposed to this development but by far the largest group do not have a strong opinion one way or the other but are not opposed if all the rules and regulations are adhered to, this is the group I belong in. Results of these surveys are both incorporated into the Limited Area Star Lake Comprehensive Plan. The Star Lake Concerned Citizens Group solicited signatures for their "Statement of Concern" of which I am a signer. They gathered about 750 signatures of which about 150 are actually property owners on Star Lake. It has been reported to me that these signatures (including mine without my consent) were submitted to the Corp of Engineers as a petition for EIS. These types of activities have gone on in my opinion to make the opponents seem like a larger group than they actually are.

Looking at the project as a whole, the positives for Star Lake, for Ottertail County and the region as a whole vastly out weigh any negative impacts that can be perceived. My only concern is where are they going to find all the workers they will need. I hope this project moves ahead without further delay.

Sincerely,
Michael B. Donoho

Bill Kalar

From: Bill Kalar
Sent: Friday, June 16, 2017 11:42 AM
To: 'LoriJayne M. Grahn'
Subject: RE: Concern Re: Star Lake Casino

Lori Jayne Grahn – this will confirm receipt of your comments. They will be included as part of the Public Record regarding this matter.

Bill Kalar
Land & Resource Mgt.
218-998-8105



From: LoriJayne M. Grahn [mailto:ljmgrahe@msn.com]
Sent: Friday, June 16, 2017 5:31 AM
To: Bill Kalar
Subject: Concern Re: Star Lake Casino

June 16, 2017

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JUN 16 2017
LAND & RESOURCE

**Bill Kalar -
Director Of Land And Resource Management,**

I am a concerned citizen living in rural OtterTail County. We must keep our rural and lakes country separate from city and economic development that destroys and ruins the very meaning and being of lakes country and rural areas where nature and wildlife, and our natural resources and environment need to exist and be protected from the abuses, the stresses, and destruction that comes from man made activity and development.

The benefits of this and our environments natural resources protection is directly linked to our own present and future survival, plus the owed respect for those dwelling in this area for the purpose of escaping city type activity unrelated to the natural environment, and for preserving mother natures beauty and our wildlife habitats that are treasures we can all learn from, appreciate and experience, and cherish into our future.

The casino should be built and make money in the cities or towns where populations and the economy can be appreciated with no negative impact or loss to our environment, rural areas,

natural resources, and nature and wildlife habitats that are vulnerable and do not have a choice to exist elsewhere, thus we should not promote any questionable development for the sake of money to rural and lakes country at the expense of its health and protection.

Minnesota land is being lost in acres at an alarming rate. This needs to be halted and stopped, and we must have the wisdom and hold the courage to know and make a difference in any pursuit of further economic development and in doing the right thing protecting that which is a priceless benefit to us all that cannot be regained once destroyed, changed, or gone. These choices and actions do affect us all forever.

Sincerely,

LoriJayne M. Grahn

ljmgrahn@msn.com

Pelican Rapids, MN

218-234-6849

Bill Kalar

From: Bill Kalar
Sent: Thursday, June 15, 2017 2:42 PM
To: 'Olav64'
Subject: RE: Star Lake Casino project

Scott Hanson - this will confirm receipt of your comments. They will be included as part of the Public Record regarding this matter.

Bill Kalar
Land & Resource Mgt.
218-998-8105

-----Original Message-----

From: Olav64 [mailto:olav64@loretel.net]
Sent: Thursday, June 15, 2017 2:23 PM
To: Bill Kalar
Subject: Star Lake Casino project

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JUN 15 2017
LAND & RESOURCE

Hello Bill...my name is Scott Hanson and my permanent address is 14321 Oak Ridge Rd, Lake Park MN 56554 and my phone number is 218-532-3644. I am one of four members of the Eagle Point Partnership on the southwest arm of Star Lake where we use and steward the land for hunting and recreation. We purchased this property over 15 years ago based on the beauty of the surrounding area and to enjoy the quality wild life environment that is in the area. When news of the possible casino was brought up our partnership was doubtful that it could be "real" as how could a property that was being discussed gain approval to move forward near to such a delicate lake area...then we saw equipment moving into the land right across the bay from us and read more about the proposed project...that there was consideration for filling in multiple thousands of tons of fill into the lake. We are honestly amazed that this project is still being considered as something that could be approved...the impact to wildlife, deer, birds, fish must be obvious...and if not obvious now, then a full study must be done to gain that clear understanding. I would hope and expect that an evaluation of the environmental impacts would also consider light, noise, traffic on the surrounding community. I can tell you that being directly across the bay from such a structure, looking at that while duck or deer hunting and expecting to see a decrease on wildlife activity is a HUGE concern.

I appreciate you taking the time to consider the thoughts and concerns I have raised. Please feel free to contact me if you have need for any clarification.

Sincerely,

Scott Hanson



Minnesota Association of Townships
805 Central Avenue East • PO Box 267
St. Michael, Minnesota 55376
763-497-2330 • 1-800-228-0296
www.mntownships.org

2/17/17

Kathy -

Please copy and provide
to the commissioners.

Thank you,

(done)

Lee Mindey
Star Lake Twp.

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FEB 22 2017
COUNTY
ADMINISTRATION

6/5/17 Barbara - please take
to Bill Kalou at Land & Resources
Thank you! K.A.



RECEIVED
JUN 15 2017
LAND & RESOURCE

To: Otter Tail County
Board of Commissioners

Date: 2/16/2017

RE: Star Lake Township (SLT) Supervisors Position on Proposed Shooting Star Casino Project.

Star Lake Township (SLT) recognizes that the proposed casino project is complex and controversial, with many stakeholders involved. We have followed with keen interest the unfolding of the Limited Area Star Lake Comprehensive Plan, and the on-going procedural and regulatory processes.

SLT currently has very little statutory jurisdiction over these matters, and scarce financial resources to expend on the issue; so it is that we must trust in our county officials and elected representatives to represent and protect us in these matters to the greatest extent possible.

Amidst all the activity, meetings, public comment/emotion, and barrage of information on this subject; we believe it is important to revisit our core responsibilities as elected officials. To that end, it is our belief that our primary responsibility is to Star Lake Township residents (i.e. voters), the people & families that live and thrive here on a year-round basis, those that call Star Lake Township "home". Secondly, we must also do what we can to protect the rights of "all" of our property owners/tax payers – those new and old.

Integral to our efforts to care for our citizens must be a strong and unwavering commitment to good stewardship of our natural resources. Those of us from a farm background, know & understand the adage of "take care of the land, and the land will take care of you".

It is with these thoughts in mind, that the SLT Board of Supervisors respectfully requests that you insure that this matter receive the most stringent level of environmental review, as well as a review of the socio-economic and public safety concerns involved. It is our understanding that to do so, requires completion of an **Environmental Impact Statement (EIS)**. We believe to do anything less would be a disservice to our citizens, property owners, and our stewardship of the natural resources of Star Lake Township. We thank you for your careful consideration.

Respectfully Submitted:


Lee Mindemann – Chairman

 
Ron Peterson – Vice Chmn Vic Johnson - Supervisor

Bill Kalar

From: Bill Kalar
Sent: Wednesday, June 14, 2017 7:50 AM
To: 'Charles B. Johnson'
Subject: RE: Proposed Star Lake Casino development

Charles B. Johnson - this will confirm receipt of your comments. They will be included as part of the Public Record regarding this matter.

Bill Kalar
Land & Resource Mgt.
218-998-8105

-----Original Message-----

From: Charles B. Johnson [mailto:c.bradjohnson@runbox.com]
Sent: Tuesday, June 13, 2017 6:31 PM
To: Bill Kalar
Subject: Proposed Star Lake Casino development

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JUN 14 2017
LAND & RESOURCE

Mr. Bill Kalar,

My name is Charles B. Johnson and I am a property owner in Ottertail County.

My wife and I are strongly opposed to the destruction of the property and wild life area in the Star lake area, for the proposed casino development.

My family and friends are in 100% support, that the county of Ottertail would conduct an EIS of the proposed casino area development. To be completely straight forward, we expect nothing less, from our county of Ottertail.

We believe this development would have immediate short and long term harmful effects to this eco sensitive area.

I believe this is the wrong place to build anything on. The marsh and wetland area's of Star lake are to valuable to the wild life inhabitants, that don't have a voice in this decision.

Once the destruction begins, it will be too late to rewind the poor choice of land area for this business venture.

We as local residents and our neighbors are still in shock, as to the poor choice, the County of Ottertail is attempting to make here.

We urge you once again, slow down and we request a full EIS to be completed, before any business venture would begin in this area.

Bill, we will be at the meeting June 15th in Pelican Rapids to share our deep concerns in this matter.

For your information, we don't own property on Star lake or belong to the Star lake association. We are just very concerned residents of Ottertail County. We are not in support of our tax dollars being spent in a quick hap hazard way either.

> "EIS" <

Thank you, Charles B. Johnson

Bill Kalar

From: Bill Kalar
Sent: Tuesday, June 13, 2017 11:00 AM
To: 'mpfreemanaz@juno.com'
Subject: RE: Star Lake Casino

Phyllis and Merv – this will confirm receipt of your comments. They will be included as part of the Public Record regarding this matter.

Bill Kalar
Land & Resource Mgt.
218-998-8105



From: mpfreemanaz@juno.com [mailto:mpfreemanaz@juno.com]
Sent: Tuesday, June 13, 2017 10:33 AM
To: Bill Kalar
Subject: Star Lake Casino

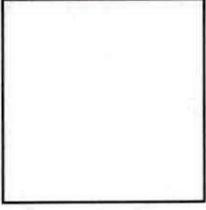
Bill: attached is a letter stating our opinions on the Star Lake Casino. Can you get it to the Co.Commissioners or should we be sending it somewhere else??

Thanks!

Phyllis and Merv

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JUN 13 2017
LAND&RESOURCE (Bk)

1 Simple Trick Removes Eye Bags & Lip Lines In Seconds
FitMomDaily
<http://thirdpartyoffers.juno.com/TGL3142/594006078b57060766ddst04duc>



June 13, 2017

To: Bill Kalar
Land and Resource Management Director

From: Mervin and Phyllis Freeman
34147 Freeman Beach Road
Richville, MN 56576

RECEIVED
JUN 13 2017
LAND&RESOURCE

Re: Proposed Star Lake Casino Development

We want to go on record opposing the proposed Star Lake Casino project. We understand the EAW has been completed, but **if ever an Environmental Impact Study is required, this is it!** We respectfully ask that the OTC Board of Commissioners require that one be done before any decision is made in respect to approval or disapproval of the project. We oppose this project with several concerns.

- **Minnesota rules state that an EIS be done if the project has “potential for significant environmental effects”.** The Commissioners must take this requirement very seriously and request an EIS be completed. We live on Dead Lake, a natural environment lake. Our Bay is filled with migrating waterfowl spring and fall. Because Star Lake is adjacent to and in the same flight pattern, this **migratory flow may be significantly impacted by the activity and light pollution** that will accompany this project.
- The proposed Casino site was given to the Native Americans for wild rice harvest. **The site is actually a slough** at present. The plan calls for a CUP to fill in several acres of the slough! The **impact filling in the area on fish habitat and spawning has not been determined.** What would be the long-term effect on Star Lake water quality? Using native trust land in this manner is appalling to us.
- **Waste management** of this large area constructed on a wetland should be a major concern of the commissioners. What kind of a system will ensure that Star Lake will not be subject to a cumulative effect of pollution to the waters??
- **Infrastructure.** Roads in the area of the proposed casino are already in need of attention. There will need to be a lot of attention paid to traffic patterns and infrastructure to upgrade roads that will be required in the area.
- **Rural character of the area.** What will happen to the peace and tranquility of local property owners?? **Noise, traffic, light pollution** cannot be underestimated. Study must be undertaken to quantify and address this issue.
- **Where will the employees come from?** This area is already happily at full employment. **Who will staff the needed positions for such a large project?** If the project requires a percentage of native Americans—there are very few in this area. We hear they plan to “bus them in”! Where will the employees be housed? There are no housing developments in the area.
- The **social impacts** a casino would have on this area must be addressed. **Who polices the area?** Who will address the **gambling addiction problems** that will inevitably plague the area?

In summary, we feel that for many reasons a very comprehensive scientific review of the total impact of this proposed project is mandated. At the very least an EIS should be required so that mitigating factors to protect this very fragile environment can be identified.

We cannot understand why the Native American community chooses to propose to use this land in this manner. It seems to go against the very reason this acreage was put in trust for their use. It seems a travesty to us. But having done so in a somewhat underhanded manner (buying additional land and keeping it secret), **we must do everything we can to minimize the long-term damage** (And it will do damage!) this project will do to our rural area. While progress is inevitable and we must accept and adapt to change, **this is most definitely not positive change!**

Respectfully,

Mervin Freeman
Phyllis Freeman

Bill Kalar

From: Bill Kalar
Sent: Tuesday, June 13, 2017 7:52 AM
To: 'Marty Schuster'
Subject: RE: Star Lake Casino Development project hearings input

Marty Schuster – this will confirm receipt of your comments. They will be included as part of the Public Record regarding this matter.

Bill Kalar
Land & Resource Mgt.
218-998-8105



From: Marty Schuster [mailto:mschuster@laserdesign.com]
Sent: Monday, June 12, 2017 3:31 PM
To: Bill Kalar
Subject: Star Lake Casino Development project hearings input

RECEIVED
JUN 13 2017
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Bill, Ottertail Commissioners,

I have been involved with hunting and fishing on Star Lake for many years. I would like to register my objection to the development of a casino on Star Lake for the following reasons:

- The location of the Casino and its primarily indoor activities conflict with the primary land use on and around Star Lake which is outdoor activities such as hunting and fishing. Customer intent upon gambling will rarely pack hunting gear for the same trip.
- The heavily weeded nature of this prime waterfowl breeding marsh / lake make it very poor for the water sports supposedly an attraction for the Casino. Heavy weeds make it difficult for water skiing or other fast boat activities.
- The assault of the light pollution to the area would scare off the majority of waterfowl now using this ideal nesting and feeding area for propagation of a wide variety of species of waterfowl, predator and marsh birds and animals, including pheasants now showing up there.
- Paving over acres of land will increase run off from tar based surfaces – further reducing the clarity of the water.
- Pollution from such heavy human concentrated activities will further pollute this pristine wildlife region forever.
- Economic benefit to the area will be felt only by the owners of the casino who do not live locally. So benefit is not local except for a few individuals who seem to be nameless at this point.
- Workers to benefit from jobs at this casino will not be local citizens as local un-employment is relatively low already and the willingness to work in a casino environment is contrary to local citizen habits and orientation. Workers will need to be imported further straining local housing and support resources. This means more police, more housing, more short term hotels for housing, etc.
- Location of a facility like a casino should not be accommodated simply because it is a more convenient location for a casino to get closer to a very small number of local lake dwelling cabins and summer cottages with higher incomes than on or near the tribe's home location. Casinos should be located near a city where there are a lot more people. This casino could easily fail due to distance from customers, the lack of expertise of the owners and to the poor research underlying the premise that it can be economically viable. What is the cost of shutting down such a facility? Who enjoys the blight of a failed casino as seen at Trump's New Jersey casino(s)? If Trump can fail to make money at a casino, how can some rookie owners running a casino a long way from civilization be expected to

make enough profit to keep this alive forever and continually give back to the community around them as a value added member of the community?

Thank you for this opportunity to register my thoughts about this poor choice of location for a casino. I hope to attend the hearing coming soon. Thanks!

Yours,

Marty

C. Martin Schuster
2356 Grays Landing Road
Wayzata, MN 55391
Tel: 952-252-3402
Fax: 952-884-9653
email: mschuster@laserdesign.com

THIS COMMUNICATION CONTAINS CONFIDENTIAL AND PRIVILEGED INFORMATION and is thus for use only by the intended recipient. If you received this communication in error, please contact the sender and delete this e-mail and its attachments from all computers.

From Rod Spidahl, Landowner on Star Lake, Minnesota

As a land-owner and taxpayer on multiple parcels on Star Lake, with a huge project of long term, multiple effects on fish, wildlife, people, waters and so forth, I request the following:

Social Effects: Further study of the social of gambling and casinos in a rural area. This should include studies of crime rates, drug use, land values, additional government services costs for safety, police, medical, gambling addiction rehabilitation and health needs.

Storm Water Runoff: Further study of the impact of storm-water runoff on Star Lake, its birds, fish and water quality including pollutants, filtration, temperature changes to the lake, sediment runoff due to dredging, cutting trees, construction, parking lots and so forth. We have Tullibee fish populations that are sensitive in the deep, clear and cold waters of Star Lake and these support other fish and wildlife—these must be studied.

Impervious Surface, Water and Groundwater: I am unsure as to the total impervious surface area created by the Casino project but I ask to know what is included exactly. Is it parking lots, roads, roofs, buildings? What about the future runoff from the golf course? What about potential effects on wells, groundwater and the Otter Tail River watershed?

Lake Effect Changes and Fish/Wildlife: Now we don't hear much about the golf course or resort, why? What about the proposed marina? Is this being studied for potential impact? The land has been purchased but are we only now studying the impact of part of it? The DNR and Fish and Wildlife need to help us understand what the total impact of the casino and attending projects will be through studies.

Sustainability: As a taxpayer concerned about long term costs and potential failure of the project, I would like our County officials to verify who is funding the Casino? I would also like to know how much taxes will come in for schools and other needs that will arise with those moving in to work there. What has happened in places of rural gambling in terms of long-term effect on taxes, services, infrastructure and the sustainability of gambling? Will the taxes that come in be sustainable in the long term to support the needs?

In light of these concerns, we need the County to provide more than the EAW provides—we need a Mandatory Environmental Impact Statement (EIS) and we need our County Commissioners to help us ask the necessary questions to secure a prosperous and healthy future for Otter Tail County.

Thank you.

*Sincerely,
Rodney A Spidahl*

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JUN 12 2017

LAND & RESOURCE

June 12, 2017

To: Bill Kalar, Land & Resource Management Director

From: Alice Spidahl, representative of family-owned Star Lake property for over 100 years

RE: Proposed Casino

In the spring, while driving north towards 380th Street, I eagerly look for Sandhill cranes that have recently adopted our Star Lake area. In addition, I'm always on the lookout for eagles, osprey, loons, and later in the season, the red-necked grebes. And recently, I was excited to see a pair of swans with cygnets in the lake across Hwy 41 from Star Lake. Then, in early August, while sitting in a boat on a starry night, I thrill to the amazing display of the Perseid meteor shower.

I like the rural tranquility of Star Lake; therefore, I am opposed to altering the current wildlife habitat in the area due to the casino proposal, and I am opposed to light pollution in our rural setting. However, my main concern is for maintaining the fine water quality of Star Lake. If the casino is allowed to exist in this very rural area, it cannot help but have a negative impact on the environment, especially the lake. What if we had a huge amount of rainfall with a storm? With the amount of proposed building and impervious surfaces, run-off problems whether from the business itself, added housing for workers, or the construction of necessary road work, would be detrimental to Star Lake and the adjacent small lakes and wetlands. What about waste water treatment? Has there been adequate and acceptable standards to address possible problems due to equipment failure, natural disaster or human failure? The south arm and extreme west arm of Star Lake are shallow, sensitive areas containing the necessary vegetation for the natural process of revitalizing the lake. Are we willing to forfeit that natural benefit?

I do not understand why native peoples would want to replace a ricing area with a casino. My guess is that they don't. Is it only a few who are interested for personal gain?

Initially, a new casino, like all new businesses, would attract people, but for how long? I've read about casinos thriving in the twin cities area, but that rural casinos struggle. I am curious to see how the Bagley casino (opened in August of 2016) will survive. Do we want the added stress to Star Lake Township of having a possible derelict building and campus in the not so distant future?

There is still much to consider before saying "go ahead" to this project. I hope it will be more thoroughly and thoughtfully researched.

Sincerely,
Alice Spidahl

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JUN 12 2017
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Bill Kalar

From: Bill Kalar
Sent: Thursday, June 08, 2017 1:17 PM
To: 'Bruce Hill'
Subject: RE: The Environmental Assessment Worksheet PUBLIC COMMENTS

Bruce and Linda Hill - this will confirm receipt of your comments. They will be included as part of the Public Record regarding this matter.

Bill Kalar
Land & Resource Mgt.
218-998-8105

-----Original Message-----

From: Bruce Hill [mailto:bahill43@earthlink.net]
Sent: Monday, June 05, 2017 9:58 AM
To: Bill Kalar
Subject: The Environmental Assessment Worksheet PUBLIC COMMENTS

Dear Bill,
Please find attached our letter expressing our view via "public comments" which ends on June 21, 2017.

Bruce and Linda Hill
33917 Downy Drive
Dent, MN 56528

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JUN 08 2017
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Bill Kalar, Land & Resource Management Director

OTC Government Services Center

540 West Fir, Fergus Falls, MN 5653

June 5, 2017

THE ENVIRONMENTAL ASSESSMENT PROCESS COMMENT PERIOD

My wife Linda and I Bruce Hill, 33917 Downy Drive Dent, MN 56528 have lived on Star Lake since September 30th 2005. We are not going to get into TO ACCEPT OR NOT ACCEPT the Star Lake Casino Development, however, we are vehemently opposed to moving forward without ordering an Environmental Impact Statement (EIS).

There is only one STAR LAKE. Star lake has provided many years of fishing, swimming, hunting, wildlife and we value clean safe drinking or surface water. We cannot fathom that the process would move forward without the Ottertail County Board of Commissioners or the Responsible Government Unit (RGU) to approve a need for a more detailed analysis of the potential impacts of the project through the completion of an Environmental Impact Statement (EIS). Our understanding is it takes the questionnaire type format or a standardized list of questions. INSTEAD, THE FOCUS IS ON THE KEY ENVIRONMENTAL SOCIAL AND ECONOMIC ISSUES THAT ARE LIKELY TO RESULT FROM THE PROJECT, AND A DETAILED ANALYSIS OF THESE ISSUES. The EIS also examines whether there are alternative project designs or locations that would result in fewer environmental impacts.

In reviewing the Minnesota Rules 4410.4300 or 4410.4000 is for some projects that do not fall into mandatory environmental review categories outlined, it still may need to go through environmental review if evidence presented by petitioners demonstrates that, the nature of location of the proposed project, THE PROJECT MAY HAVE SIGNIFICANT ENVIRONMENTAL EFFECTS.

It is important to note that the purpose of environment review is not to stop projects, but to collect information on the potential environmental effects of the project and how it can be avoided or mitigated.

As we indicated earlier there is only one Star Lake. The EIS seems to be a small price to pay to insure we protect environmental issues:

- Threat to waters from wasteland treatment and storm water runoff
- Threat to fishing, both north and south exposures to Star Lake traditional spawning areas.
- Threat to birds and wildlife; many species are especially sensitive to disturbance.
- Threat to centuries old wild rice beds, a key hub to vital ecosystems.
- Boat traffic will bring safety and AIS issues.
- Threat to noise and light pollution, degrading water quality and potential harm to wetlands poses significant impacts to fish, waterfowl, wildlife and human quality of life on star lake.

We appreciate the opportunity to be heard during this statement of concern for PUBLIC COMMENTS.

Cordially,

Bruce and Linda Hill

33917 Downy Drive, Dent, MN 56528

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JUN 08 2017
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Amy Busko

From: Amy Busko
Sent: Friday, June 09, 2017 12:56 PM
To: 'bahill43@earthlink.net'
Subject: Comments

Bruce and Linda Hill - this will confirm receipt of your comments. They will be included as part of the Public Record regarding this matter.

Bill Kalar
Land & Resource Mgt.
218-998-8105

Amy J. Busko
Land & Resource Management
Government Services Center
Otter Tail County
540 West Fir Ave
Fergus Falls, MN 56537
218-998-8096

RECEIVED

JUN 09 2017

LAND&RESOURCE

June 6, 2017

Bill Kalar
Land and Resource Director
OTC Government Center
540 West Fir
Fergus Falls, MN 56537

Dear Mr Kalar,

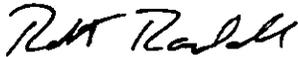
I am writing to express my opposition to the proposed Star Lake Casino for the following reasons.

1. The size of the project is inappropriate and out of scale for tranquil, rural Star Lake and will result in an unwanted community change conceived in the name of economic growth. As a resident of New Jersey, the most densely populated state in the union, I have heard many times how "tax ratables" will lower my taxes. It never happens due to the subsequent increased demands for infrastructure improvements and government services.
2. It is inconceivable that a development of this scale will not adversely affect the purity of the lake water. Yes, I have negatively impacted the water quality of Star Lake, myself. I have pictures of my mother and grandmother washing my diapers in the lake in 1946. Perhaps back then there were not so many of us polluters and the water of Star Lake was clearer than it is today. The parking lots, fertilized lawns, and sewer systems from the casino project are no substitute for woodlands and wetlands in keeping the lake clean and healthy.
3. The project will adversely affect lake wildlife. I'm not a biologist, but it's hard to believe that the lake's loons will enjoy the 24/7 casino sound and light show on the previously quiet south arm, not to mention the increased boat traffic. It is undeniable that the quantity of loons one encounters on Star Lake is very special, indeed, and it will be unfortunate to degrade their environment.
4. Light pollution from the casino project will degrade the environment for those on the lake. I hardly expect the casino to be unlit at night and those megawatts of electricity will light up the sky for miles around. The sparkle and astounding majesty of the night sky is something that has become unknown to many. It exists on clear nights on Star Lake, at least until the casino arrives.

5. Star Lake is quiet at night and sound travels a long way over the water. The background rumble of the city does not exist. You can hear an occasional loon, an owl, and sometimes a voice in the distance. The casino and the traffic will degrade that tranquility.

I am sure that you are very familiar with the items stated above and I understand that money and power generally prevail in the end over the interests in preserving a relatively pristine bit of nature, but I hope, at least, those who are empowered to approve the project understand that, once desecrated, the special places of our earth rarely recover. Certainly, there must be another location on a small lake, already developed and polluted, where not so much will be lost that could be used for the casino.

Sincerely,



Robert Randall
7 Oak Lane
Rumson, NJ 07760



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JUN 05 2017
LAND&RESOURCE

12300 Elm Creek Boulevard • Maple Grove, Minnesota 55369-4718 • 763-445-5000 • Fax 763-445-5050 • greatriverenergy.com

June 2, 2017

Star Lake Line
WO #204188

Bill Kalar
Otter Tail County
Land & Resources Management Director
540 West Fir
Fergus Falls, MN 56537

SUBJECT: Star Lake 41.6 kV Transmission Line Project

Dear Mr. Kalar:

On behalf of Great River Energy I am writing to you regarding the Environmental Assessment Worksheet (EAW) for the Star Lake Casino project. As a connected action with the Casino project, Great River Energy and Lake Region Electric Cooperative (LREC) are proposing to construct a new transmission line and distribution substation. As such, a narrative for the transmission and distribution projects was included in the EAW. Upon review of the sections related to the electrical projects, we wanted to clarify a couple of items that were included into the document.

Page 3, paragraph 2 – Clarification of transmission vs distribution line. ...”replacement of existing overhead *distribution* line with underground *distribution* line.”

Figure 5, sheet 1 of 3 – The map shows the anticipated corridor centerline extending north on Highway 41 to Highway 108. The actual centerline ends at the Star Lake Substation property located in the NE1/4, SE1/4, Section 16.

Figure 6 – The substation disturbance map shows the substation location correctly. However, the approximate corridor centerline should not extend any farther north than this point.

Please contact me if there are any questions or concerns.

Sincerely,
GREAT RIVER ENERGY

Dan Leshner
Sr. Field Representative

DL:jh:\s:\trans\cap_proj\204191StarLake\204188StarLake\LR\LR-ENV\LandRights\Ottertailcounty\OttertailCountyEAWcommentletter.docx

Direct Dial (763) 445-5975

E-mail dlesher@greenergy.com

Fax (763) 445-6775

Bill Kalar

From: Bill Kalar
Sent: Wednesday, June 21, 2017 11:41 AM
To: 'Lynette Bethel'
Subject: RE: EIS comments

Lynette Bethel Johnson – this will confirm receipt of your comments. They will be included as part of the Public record regarding this matter.

Bill Kalar
Land & Resource Mgt.
218-998-8105



From: Lynette Bethel [mailto:lynette_alsinc@prtcl.com]
Sent: Tuesday, June 20, 2017 5:44 PM
To: Bill Kalar
Subject: EIS comments

June 20, 2017

Bill Kalar
Land & Resource Management Director
OTC Government Services Center
540 West Fir
Fergus Falls, MN 56537

RECEIVED
JUN 21 2017
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Dear Bill and members of the Otter Tail County Board of Commissioners:

This letter is coming to you after the Public Information Meeting held in Pelican Rapids on June 15th. I want to thank the officials on the county level for finding a need to have this meeting and for conducting it in a very respectful manner.

I was amazed at all the well informed and “from the heart” comments and concerns that were given by Otter Tail County landowners and tribal members and I agreed with those comments 100 percent. I am a land owner to the west of the proposed casino site on 380th Street.

I just want to highlight my concerns for the record. This is rural Minnesota where the lakes, wetlands, fields and woods should be left in its natural state as much as possible. The effects of a commercial development this magnitude with the massive building and parking lot with the numerous parking lot lights and advertising signs is far from natural. My employment is with a land surveying company and part of the job is applying for approval of subdividing the land for platting or for a conditional use permit or variance. There is a checklist we abide by to draft our drawings to as the part of the submittal process. I see the “hoops” that county land owners have to jump through to get approval based on what they are requesting and the structures on the land such as wetlands, bluffs and impervious surfaces. These projects are on a much smaller scale than the proposed casino. It blows my mind that an EIS would have to be demanded by the county tax payers when it should just be an automatic requirement for a project this size.

To support a commercial development of this magnitude, the county roads will need to be upgraded. How will these upgrades be funded? I was told it would be cost share basis. We are fine with the roads as they are now with no major upgrades needed. So it seems to me that the cost share is 100% casino – the upgrades would not be needed if the casino is not built.

A project of this magnitude will affect the sensitive lakeshore, wetlands, fish and wildlife as well as the social and economic issues and it demands an EIS for the TOTAL project. With gambling and alcohol, come other social issues. I feel we are just inviting more drugs and crime into our county.

I ask you to think about this on a personal level. If this project were being proposed in your back yard, would you want it? My back yard is where I hear and see the cry of the loons and the songs of the birds, a doe and her new born fawn walking across the hayfield, a hen turkey with her brood of chicks feeding on the land and the site of a fishing boat on a quiet morning on the waters of Star Lake. I urge you to escalate the project to an EIS. We will have substantial, irreversible impacts on our environment that we cannot go back and change if an EIS is not done.

Respectfully,
Lynette Bethel Johnson
29352 380th Street
Dent, MN 56528

Bill Kalar

From: Bill Kalar
Sent: Wednesday, June 21, 2017 11:07 AM
To: 'Mike R. Milburn'
Subject: RE: EAW Public Comments - Star Lake Casino

Mike Milburn – this will confirm receipt of your comments. They will be included as part of the Public Record regarding this matter.

Bill Kalar
Land & Resource Mgt.
218-998-8105



From: Mike R. Milburn [mailto:Mike.Milburn@searsimports.com]
Sent: Tuesday, June 20, 2017 5:29 PM
To: Bill Kalar
Subject: EAW Public Comments - Star Lake Casino

Mr. Kalar,

A few thoughts on the proposed casino on Star Lake: My family has considerable ties to Star Lake and Ottertail county since the late 40's and still own property on the lake. You and your fellow commissioners have gotten an earful from both sides of this proposal and I'm sure it wears on all of you by now. Most of the prevailing sentiment is overwhelmingly opposed to this project and rightfully so in my opinion. The optics from an environmental standpoint are painfully obvious and have been thoroughly portrayed by numerous concerned individuals over the past several months. I think that anytime you try to manipulate an environment that is not suitable for what you are trying to accomplish you create a situation that is rife with potential ongoing problems over the long term. I have been witness to more than one wetland conversion that has become problematic.

I will not get into a rehash of the many concerns that have already been voiced which I share, but simply state that we would all be remiss if we did not agree that there is a need for an EIS.

Thanks for your consideration.

Mike Milburn
11239 Xavier Cr
Bloomington, MN 55437
651-236-7565

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JUN 21 2017
LAND & RESOURCE

Bill Kalar

From: Bill Kalar
Sent: Wednesday, June 21, 2017 10:46 AM
To: 'Ty Dayton'
Subject: RE: Proposed Star Casino EAW Comment Attached = Technical report from EOR, Inc.

Mr. Dayton - this will confirm receipt of your E-Mail and the 5 Fed-Ex copies (which I have provided to Kathy Domholt, County Board Secretary for distribution to the Commissioners).

Bill Kalar
Land & Resource Mgt.
218-998-8105

-----Original Message-----

From: Ty Dayton [mailto:ty@slccg.info]
Sent: Tuesday, June 20, 2017 4:04 PM
To: Bill Kalar
Subject: Proposed Star Casino EAW Comment Attached = Technical report from EOR, Inc.

Mr. Kalar,
Please note the attached evaluation from our Environmental Engineering consultant, EOR, Inc. I respectfully request both the cover letter and supporting document be included in the public record for review by the Commissioners. Five hard copies will be Fed-exed today to your attention so the commissioners each have a hard copy if preferred.
Please respond affirmatively that this is received and submitted timely. Thank you.
Ty Dayton

In the spirit of wetlands, wildlife and water protection, Ty Dayton
218-251-1975
Star Lake Concerned Citizens Group
SLCCG
Po Box 41
Dent MN 56528

www.slccg.info

IT'S NOT A DONE DEAL!

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JUN 21 2017
LAND&RESOURCE

1 COPY FOR

SARAH

Commissioner

PERASSI

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JUN 21 2017
LAND & RESOURCE

Provided
to KATHY
OS Repressed
6/21/17
Andrea



REPLY TO ATTENTION OF
REGULATORY BRANCH

DEPARTMENT OF THE ARMY
ST. PAUL DISTRICT, CORPS OF ENGINEERS
180 FIFTH STREET EAST, SUITE 700
ST. PAUL, MN 55101-1678

MAR 24 2017

Regulatory File No. 2015-04407-RQM

Liz Foster-Anderson, Executive Director
White Earth Enterprises, LLC
3282 Highway 59 South Suite 10
Waubun, Minnesota 56589

Dear Ms. Foster-Anderson:

This letter concerns your request for Department of the Army authorization to discharge dredged or fill material into approximately 8.41 acres of wetlands adjacent to Star Lake for the purpose of constructing a casino and attendant features. The project site is in Section 15, Township 135 North, Range 41 West, Ottertail County, Minnesota.

The public notice period for this project was between October, 28, 2016 and November, 28 2016 including the extension we granted to the Environmental Protection Agency. The comments we received in response to the public notice period are attached to this letter. At this time, we are requesting your response to the following comments:

1. Dimensions of the area(s) to be filled, and the depth and total quantity of the fill material to be placed there. Please include the dimensions and configuration of the structure(s), including a single design for the structures. Please note two different configurations of the buildings were submitted with the application. Please include any future plans including but not limited to an RV park or marina.
2. The source of the fill material.
3. Any alternatives considered that would not require filling wetlands, or filling less wetlands and why such alternatives are not practicable. Please include a discussion of the Pine Point Alternative, and the alternative of converting other land into tribal trust land.
4. Please discuss the wetland functions and values on site, including rice, lake-recharge, temperature, and flood reduction.
5. Please discuss wetland impact minimization, including minimization on basins 6 & 19.
6. Please discuss the projects impacts on wildlife habitat: fish, fish spawning, bald eagles, ducks, and other birds. Please discuss minimization and mitigation of impacts.
7. Please discuss the projects impacts on water quality, including snow removal, storm water, dewatering, water runoff, and downstream water quality including minimization and avoidance of impacts.



TO: Mr. Bill Kalar and Commissioners of Otter Tail County
Government Service Center
540 Fir Street
Fergus Falls, MN 56537

6/20/17

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JUN 21 2017

LAND&RESOURCE

FROM: Star Lake Concerned Citizens Group

Dear Mr. Kalar and Commissioners,

We have come to a critical juncture in the county's review of the proposed Star Lake Casino Development. On behalf of the Star Lake Concerned Citizens Group I am submitting this comment and supporting documentation for your consideration as you move through your decision process regarding the Environmental Assessment Worksheet (EAW) submitted by the developer (White Earth Enterprises, LLC).

The enclosed document is a technical review of the submitted EAW by the environmental consulting firm of Emmons & Olivier Resources, Inc. (EOR) retained by SLCCG.

Based upon their evaluation and the information therein, we feel the EAW submitted by developer is inadequate in numerous substantive and procedural respects. Moreover, the EAW and its shortcomings reveal multiple potential and likely environmental impacts.

Significant issues/concerns were found in EAW Sections 4, 9, 11, 13, 15,16,17,18, & 19.

A summary of some of those follows:

1. Substantial, irreversible cumulative impacts;
2. Adverse impacts to water resources, via waste-water treatment and storm-water management project components;
3. Short & long-term impacts to fish, wildlife, and plant resources as a result of the construction process and facility operation;
4. Adverse effects to the visual character of the site;
5. Gross incompatibility of the proposed project and the existing character of the site and surrounding areas; and
6. Negative impacts to transportation systems and highway safety caused by the increase trip generation and year-round operation of the casino and hotel.

Accordingly, it is the expert opinion of EOR, as well as SLCCG, that Otter Tail County should require the developer to conduct an Environmental Impact Statement (EIS) to avoid irreparable impacts to the natural and human environments in and around the project site.

Sincerely and respectfully submitted,

Ty Dayton
President, Star lake Concerned Citizens Group

Star Lake Concerned Citizens Group

PO Box 41

Dent, Minnesota

56528

Technical Review: Star Lake Casino Development Voluntary EAW

June 20, 2017

Meghan Funke, Ph.D.
Kristine Maurer, W.D.C.
Jason Naber, W.D.C.
Spencer J Peck, J.D., M.U.R.P.

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JUN 21 2017
LAND&RESOURCE



Emmons & Olivier Resources, Inc.
651 Hale Avenue North, Oakdale, MN 55128
p: 651.770.8448 www.eorinc.com

Disclaimer

The material presented by this report including, but not limited to, the information, opinions, legal and technical analyses, and recommendations reflect the expert opinion and best judgement in light of the information available at the time of preparation. The report was prepared according to the standards of care, skill, and diligence typically provided in performance of services similar to that contemplated by the Professional Services Agreement between EOR and SLCCG. Use of this report by SLCCG or other third-parties, any reliance on this report, or decisions made based on the report are the sole responsibility of SLCCG or other third-party. Emmons & Olivier Resources, Inc., its owners and employees accept no responsibility for damages of any type incurred or suffered as a result of reliance on or decisions made based on this report. Any and all use of this report shall be deemed to constitute acceptance of these terms.

This report was prepared for:

Star Lake Concern Citizens Group
P.O. Box 41, Dent MN 56528
218-251-1975
<http://slccg.info/>
contact@slccg.info

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Introduction

This report summarizes Emmons & Olivier Resources, Inc. (EOR) review of the Star Lake Casino Development Final Environmental Assessment Worksheet (EAW). The Star Lake Concerned Citizens Group (SLCCG) contracted with EOR to conduct an unbiased, expert review of the White Earth Nation's voluntary Environmental Assessment Worksheet (EAW) for the proposed Star Lake Casino Development. The purpose of the review was to assess the adequacy and findings of the final EAW, and recommend and draft comments to be submitted by the SLCCG during the public hearing period. SLCCG also requested that EOR provide an expert opinion, based on the review described above, as to whether the Responsible Governmental Unit (RGU) should require the White Earth Nation to conduct an Environmental Impact Statement (EIS).

Section-by-Section Review of the EAW

The analysis below presents substantial evidence why Otter Tail County, the Responsible Governmental Unit (RGU), should require the White Earth Nation to conduct a full Environmental Impact Statement (EIS) for the proposed Star Lake Casino development. The subsections below correspond to the relevant section of the voluntary Final EAW.

The Tribal Trust portions of the proposed project area are governed by the Tribal Governance and not subject to Local or State regulations, including Otter Tail County's Shoreland Management District. Any compliance with local and state regulations on the Tribal Trust lands is voluntary. However, large portions of the project are planned to be constructed on fee land. These components must comply with local land use regulations and all other environmental law. Further, the proposer identifies both the fee and trust land as an integrated project. Thus, cumulative and other impacts of the project should be addressed in this manner: despite being on separate parcels with distinct legal status, the hotel, casino, parking lots, and all other components are one integrated project with significant environmental impacts.

Section #4: Reason for EAW Preparation

The Final EAW lists the reason for preparing the environmental review as a "Discretionary: Proposer initiated Environmental Assessment Worksheet". The White Earth Nation's candor and forthright action in initiating an EAW deserves much praise. However, there are several reasons why this project should be prepared as a "Required: EIS":

- A. The RGU should take as instructive that other developments of similar scale, intensity, or use were either denied a Conditional Use Permit or required to complete a full EIS as an EAW was determined to be insufficient.
 - i. Although the Blue Heron Bay Project is larger in size than the proposed Star Lake Casino Development, the type, scale, character, and number of environmental impacts potentially caused by the developments are very similar. These include adverse impacts to water resources, fish and wildlife; increased traffic; water pollution caused by wastewater; increases in air pollution from both stationary and

mobile sources among many other environmental concerns. It is also worth noting both the Blue Heron Bay Project and proposed casino require numerous local, state, and federal permits, suggesting huge potential impacts to human and natural environments.¹

- ii. The County denied a Conditional Use Permit (CUP) for a 30-unit RV park on the west arm of Star Lake. The CUP was denied because of the density of the proposed RV park, the potential impacts to a sensitive portion of the lake, impacts to the surrounding environments, and a lack of adequate water frontage. Three of these reasons clearly apply to the proposed casino—increased density, impacts to the lake, and impacts to the surrounding environment. Each of these issues are discussed in more detail in this memo. The issues strongly indicate the need for a full EIS. The County should follow the precedent set by these denials and require the White Earth Nation to complete an EIS.²
- B. The EAW claims in several instances that future development depends on the success of this project, but no specific plans are currently in place. However, it is the understanding of the SLCCG that the White Earth Nation has purchased a parcel of land north of 380th Street and adjacent to the main body of Star Lake. This parcel could be used for future development related to the proposed casino. For example, this parcel could be used for the “rental cabins or other amenity improvements” (such as a boat ramp, lake access) that the EAW mentions. The RGU should explore the intended use of this parcel, to ensure future development of this parcel is considered in the environmental cumulative impacts of this EAW.
- C. The EAW mistakenly relies on the Limited Area Star Lake Comprehensive Plan (LASLCP) as evidence that the development has been thoroughly planned, reviewed by the community, and will be designed and developed in a way that avoids environmental impacts. Although, the document itself is well intentioned and capably prepared, this plan is too limited in scope to provide sufficient environmental protection.
- D. The project consists of a total floor area of 277,000 square feet being built on a mix of unincorporated and tribal land. Considering both the fee and trust land as an integrated project, this is larger than the mandatory EIS threshold for unincorporated land of 250,000 square feet. (Minn. Rules 4410.4400(11)(B)). Although, the project is located in the Town of Star Lake, towns are considered unincorporated areas. Incorporated areas are only those organized into municipal corporations.

Section #9: Land Use

Section 9 of the EAW requires the proposer to describe the compatibility of the project in relation to local land use, zoning requirements, and resource planning efforts (comprehensive, natural resource, etc.). The EAW includes what appear to be complete descriptions of the existing land use,

¹ *Dead Lake Assoc, Inc., v. Otter Tail Cnty Bd. Commissioners*, 695 N.W.2d 129 (Minn. Ct. App. 2009)

² *DuCharme, et al., v. Otter Tail Cnty Bd. Commissioners*, unpublished (Minn. Ct. App. 2010)

zoning requirements, and existing resource plans, including the Limited Area Star Lake Comprehensive Plan.

This EAW section is deficient in the following specific areas:

- A. The EAW asserts that the large resort and casino is compatible with other, nearby resorts. It describes these resorts as “family-owned operations as well as one church-affiliated site called Camp Joy.” These resorts “cannot be devoted to a commercial purpose for more than 250 days a year,” and the “term “resort” in this context is for “taxation purposes.” In fact, these “resorts” are substantially different than the proposed resort/casino. For example, Spruce Lodge (Dent, MN; www.sprucelodgeresort.com) consists of several adjacent, seasonal cabins, located on the shore of Star Lake. These cabins are small, one-story, detached, single-family buildings. Aerial photography (Google Maps) of the area demonstrates that none of the “resorts” in the area are larger than a large, single-family home. Claiming the 180-room hotel is compatible with single-family homes is highly inaccurate. Further, examples of other resort developments are not sufficient to describe how this resort will be “compatibly integrated into the fabric of the community.” The proposer must provide detailed plans and strategies for mitigating the project’s impact on these small, family-owned resorts.
- B. The proposed casino and hotel will operate year-round. In contrast, the vast majority of surrounding land uses, including the nearby “Resorts”, are only occupied or operated seasonally. The year-round operation will generate considerable use of the local lakes in all seasons, including boating, fishing, sight-seeing, snowmobiling, ATV riding, and other uses. The EAW offers no evidence or information regarding potential impacts caused by this new, intense use of Star Lake or surrounding environments. The EAW also fails to describe or identify efforts to avoid or reduce such impacts, and offers nothing in terms of mitigating the impacts of year-round use of the casino.
- C. The EAW claims, without any evidence or explanation, that a large, commercial facility is compatible with the “rural character” of the parcel and surrounding area as described in the Limited Area Star Lake Comprehensive Plan (LASLCP). This claim cannot be supported by the information or plans provided by the EAW. The proposer should more adequately consider and describe the compatibility of a large hotel and gaming facility with a rural character. The proposer should also provide detailed plans and strategies for mitigating the impact of a large, uncharacteristic commercial use on the area’s rural character.
- D. The EAW fails to present any evidence supporting the claim that the resort is “compatible” with the surrounding land use. The project parcels are currently zoned as Residential and Managed Forest. Parcels immediately adjacent to the project site are zoned for Residential uses. Parcels to the east of the project site include areas zoned for Resorts and Residential uses. A large, year-round commercial facility is not compatible with these land uses.
- E. The EAW should more clearly describe how the project will achieve compatibility with the existing zoning requirements. A large table outlines the zoning and land use regulations for various ordinances. This table includes only conclusory statements, however. For instance,

there is no information about what stormwater management standards are, or how the project meets the standards. The table should specify each applicable standard, and illustrate how the project meets or exceeds these standards.

- F. Current but no Future land use designations are provided in text or Exhibits. This information is provided in the LASLCP, but should also be included and described in the EAW.

Section #11 Water Resources

Section 11 directs proposers to describe surface water and groundwater features on or near the site. The proposer is also directed to “[d]escribe effects from project activities on water resources and measures to minimize or mitigate” those effects.

Wastewater Management

Proposers must describe how wastewater will be managed by the project. The EAW must include the sources, quantities, and composition of all sanitary, domestic, and industrial wastewater produced or treated at the site.

The EAW provides a detailed description of the treatment facility and plans, including several paragraphs discussing the proposed wastewater treatment plant. It includes objective data (i.e. numbers), and more specific information about the design and technical capabilities of the proposed wastewater management system. There are several technical issues for which information is lacking. More importantly, the description of prevention and mitigation actions is deficient.

This EAW section is deficient in the following specific areas:

- A. The maintenance plan for the wastewater treatment system is described as “at some point in the future” sludge will be removed. This estimate is unacceptably vague and suggests the proposer has not considered this issue. The EAW should describe the maintenance plan in detail, include the sludge removal process. Furthermore, the proposer needs to provide specifics about the regulations with which the treatment system must comply and plans for how design and operation will comply with existing regulations.
- B. The EAW should provide more information on whether aeration alone is sufficient to treat the waste. Other supplemental information should include the alternatives considered in selecting this treatment method.
- C. Claims that no surface water discharges from the treatment system will occur are unsupported by any evidence. What about accidental overflow? Treatment cell failure? The proposer should describe redundancies, operational procedures, and contingency plans to avoid, reduce, and mitigate environmental impacts.
- D. The discussion of wastewater irrigation lacks detail and precision. The information below should be presented in the EAW. The proposer should also discuss potential environmental impacts and how those impacts can be avoided, reduced, or mitigated.

- i. Conclusion that no effects to groundwater from wastewater being used as irrigation water is not supported by any evidence. For example, a scheduled period irrigation could overlap rainfall causing large amounts of the wastewater to enter the nearby lakes, wetlands, or quickly infiltrate to the high-water table.
 - ii. What will be the pollutant content of the wastewater used for irrigation? (biological oxygen demand [BOD], total suspended solids [TSS], total phosphorus [TP], fecal coliform, heavy metals, industrial cleaning chemicals, etc.)
 - iii. How will the “automated system” prevent the irrigation being sprayed into wetlands or adjacent properties? There is no evidence or information on this, just a conclusory statement.
 - iv. Who is responsible for growing the wastewater-irrigated crops? To whom and where will the wastewater-irrigated crops be sold or distributed?
 - v. The rate of irrigation is listed as 12 inches. No further details are provided and it is impossible to tell what this rate means.
- E. There is insufficient information to determine if PVC is the correct material for a forcemain that crosses a highway (CSAH 41). This critical junction in the wastewater treatment system needs to be robust and supported by redundancies. A failure of the forcemain could have disastrous results for aquatic and terrestrial plants and wildlife. The proposer should provide more detail regarding this design feature, including industry standards. The EAW should also demonstrate that the treatment system was designed to avoid and reduce potential environmental impacts, and that a contingency plan exists for a failure in the forcemain or other treatment system component.
- F. The EAW fails to consider impacts from the wastewater treatment ponds to migratory birds, and terrestrial animals. The design and operation of the treatment ponds should avoid or reduce such impacts, and the proposer should recommend methods to mitigate impacts.
- G. The EAW should provide more information regarding how estimates of waste generation amounts were calculated. For instance, the number and types of sources, formulas used, and examples of comparable casino/hotel developments.

Stormwater Management

EAW should include an in-depth discussion of stormwater. Required information includes quantities and qualities of stormwater runoff, existing and proposed drainage patterns, and receiving waterbodies. Descriptions should cover pre- and post-development conditions. Proposers must also describe potential environmental impacts as a result of stormwater runoff from the project site, and the associated temporary and permanent erosion, sedimentation, and stormwater pollution prevention plans. Descriptions must include specific information such as practices and locations.

The EAW describes various stormwater management issues and plans. It discusses the issue, including erosion and sediment control activities during construction. It states that a stormwater

pollution prevention plan (SWPPP) will be created, and that post-development runoff will be directed to multiple, on-site stormwater ponds.

This EAW section is deficient in the following specific areas:

- A. The land disturbance required to build the proposed facilities is immense in scope and potential impact. It requires stripping and regrading nearly 250 acres, removing several dozen acres of forested land, with disturbed land exposed for nearly 17 months during construction. Several hundred thousand cubic yards of fill, carried by hundreds of large trucks will be dumped into existing wetlands. Thousands of tons of construction materials and cement will need to be procured, transported to the site, and assembled. All of this activity will occur very close to two lakes. However, the EAW barely mentions the scope and intensity of the construction. In fact, it appears to neglect the subject and summarily rejects any potential impacts. The EAW should discuss the construction process and impacts in more detail, especially disturbances to wildlife and plant communities, erosion and sedimentation BMPs, and construction traffic and noise. The proposer should specifically describe efforts to avoid and reduce environmental impacts, and endorse methods to mitigate the adverse impacts of the construction process.
- B. The discussion of the SWPPP fails to “describe the quantity and quality of stormwater runoff” or BMP locations. This section does not discuss erosion and sedimentation impacts or best management practices for the vegetation removal activities required for the project. The section also fails to describe existing drainage patterns. The description does not mention the MPCA’s Stormwater Manual, which is one of the best sources for guidance for erosion & sediment control and stormwater management. Instead, the description substitutes the required information with quotes from MPCA regarding the importance of stormwater management. This does not demonstrate adequate consideration of or planning for erosion and sediment control or stormwater management.
- C. The discussion of environmental impacts of stormwater runoff is very limited considering the project will include 10 times more impervious surface than pre-development. The details of how the proposer calculated impervious surfaces are inadequate. For instance, does the impervious surface include roofs? The calculations appear to only consider parking lots and roads, but do not describe what will be done with rooftop runoff. Calculations of stormwater volumes and discharge rates are not included. Furthermore, the pollutant treatment ability of the pond is not supported by any evidence or information. This information should be included and the proposer should describe efforts to avoid, reduce, and mitigate environmental impacts.
- D. The discussion regarding the proposed stormwater ponding is inadequate. Although stormwater ponds are an acceptable solution for stormwater management, modern low impact development (LID) or green infrastructure practices would produce significantly better environmental results. However, the EAW does not discuss the use of LID/green infrastructure. It fails to consider any alternatives to ponding, including relocating stormwater BMPs to promote infiltration. The proposer must include a more comprehensive discussion of other stormwater alternatives (landscaping, pervious

pavements, green roofs, etc.) considered before ponding was chosen to reduce stormwater volumes.

- E. This section fails to consider the potential impacts of stormwater ponding on groundwater. This is especially important considering the separation between the bottom of the stormwater pond and groundwater is less than three feet.
- F. Claims that erosion amounts will be reduced as a result of change in land use are unsubstantiated by any evidence. Further, it appears that active agriculture may continue on the irrigated parcels, and any reductions in erosion would not actually occur. The EAW states that the irrigated land will be used for "fodder, fiber and seed crops not for direct human consumption." Without more information about the exact activities on the irrigated parcels, this claim cannot be adequately assessed. Finally, this section fails to consider the potential erosion and pollution impacts of wastewater land application given the close proximity to Star Lake.
- G. The SWPPP submitted for the Conditional Use Permit (CUP) conflicts with the description provided in the EAW. The submitted SWPPP states that "lagoons with Rapid Infiltration Basins (RIBs)" will be installed to manage sanitary sewer waste. The EAW and the SWPPP submitted as part of the CUP should be consistent.
- H. Skimmer pumps and outlets are directed toward a wetland (see Preliminary Erosion Control Plan, pg. 61). This will undoubtedly impact the wetland ecosystems. Alternatives should be considered. Potential impacts should be identified, and methods to avoid, reduce, or mitigate impacts should be described.
- I. The EAW assumes the casino and hotel will be completed on schedule. Although unlikely, project delays could hamper construction progress. There is also a possibility that the development could be altogether canceled part way through construction. The EAW should discuss alternatives and mitigation plans if the construction is delayed or the development is started but not completed.

Surface Waters

EAWs should describe impacts of the proposed project on surface waters. Proposed modifications of all wetlands, and any physical or hydrologic alteration of any surface water or its shoreline, should also be discussed. The EAW identified wetlands as either "public waters wetlands," which are subject to DNR regulation, or wetlands regulated under the Minnesota Wetland Conservation Act.

This EAW section is deficient in the following specific areas:

Wetlands

- A. Wetlands being filled at this site are proposed to be replaced outside of the major watershed. The applicant should demonstrate there are no options for replacement within the minor watershed, then major watershed, before locating wetland credits completely outside the major watershed and, in this case, even outside the Bank Service Area.

Replacing lost wetland function closer to the direct receiving waterbodies should be a priority.

- B. Does the proposed wetland fill acreage within the Tribal Trust Land constitute a significant percentage of the overall wetland acreage adjacent to the Star Lake perimeter? What is the percentage?
- C. The proposer should explain efforts to reconfigure parking and access roads to minimize wetland impacts and the use of BMPs able to support the current wetland hydrology. For instance, was a multi-level parking garage an alternative considered?
- D. How will the project be graded such that runoff currently flowing to Wetland Basin 5 on the east end of project will be managed by a stormwater pond west of the casino and parking? Are there additional BMPs that could be installed to address runoff on the east end of the developed area? Flow lines would be helpful to understand better how proposed BMPs would function.
- E. The proposer should provide a more robust discussion on wetland sequencing, it only discusses minimization and avoidance. The discussion should include alternative locations, and a no build alternative.
- F. Have studies/modeling been completed to identify if the development would significantly affect recharge, temperature, or water quality?

Shoreland/Lakes

- A. The project is located within 1,000 foot shoreland district. Does the current project location and set-back meet watershed and other regulatory set-back recommendation/regulations from shoreland? It is not clear from the information provided that the project complies with these regulations.
- B. What constitutes a "natural shoreline" and how is this being maintained given the proposed development plan fills 6.8 acres of wetland which is contiguous with Star Lake?
- C. How will the project preserve the natural shoreline? It is likely that visitors will trample shoreland buffers or protected shoreline, and snowmobiles and ATVs will use the buffer to access the lake and the casino.
- D. Is it prudent to place wastewater treatment ponds adjacent to Unnamed Lake? Is there potential for contamination? What will be done to mitigate potential issues? What alternatives were considered and why were they rejected? What contingency and mitigation plans will the project have in place?
- E. How will boat parking be prohibited along the shoreline adjacent to the development? Unauthorized parking along the lake with the purpose of accessing the facilities could cause significant damage to the shoreline and the emergent lake fringe. Stating access from Star Lake is prohibited seems in conflict with the statement under section 13 that indicates by purchasing adjacent parcels greater access to ricing vegetation is afforded. It is also likely

that customers of the casino and other facilities may mistakenly attempt to access the resort from the shore.

- F. Given the proximity of roads, parking, and sidewalks to the Lake, how will impacts from road salt and deicing materials be mitigated?
- G. What is the lowest elevation (basement) of the proposed infrastructure? What is the distance and elevation difference from the lowest construction elevation to the 1,329.5ft designated OHWL and 100-yr flood level of Star Lake? Does the current project location/elevations meet watershed and other regulatory set-back recommendation/regulations from flood levels and OHWLs?
- H. What downstream hydrological impacts will the development cause to Ditch 23? The EAW does not consider this issue.

Section #13 Fish, Wildlife, Plant Communities, and Sensitive Ecological Resources

Proposers should include a description of fish and wildlife resources, as well as habitats and vegetation on or near the site. Rare features such as state-listed (endangered, threatened, or special concern) species, native plant communities, Minnesota County Biological Survey Sites of Biodiversity Significance, and other sensitive ecological resources on or in close proximity to the site must be described. Proposers must discuss how the identified fish, wildlife, plant communities, rare features, and ecosystems may be affected by the project, including the introduction and spread of invasive species from the project construction and operation. Finally, proposers must discuss effects to threatened and endangered species.

This EAW section is deficient in the following specific areas:

Fish

- A. The Minn. DNR requested additional study and/or data to identify the potential impacts to fish spawning and rearing areas near the project. The EAW does not discuss this additional data or study.
- B. The EAW states several times that no substantial fish habitats are known within the Project boundaries. However, the DNR NHIS letter indicates the south arm of Star Lake is an important spawning and rearing area. The proposer should specify whether the wetland area within the Trust Land is part of the habitat described by the DNR.
- C. This section states that invasive species have not been identified for Star Lake. However a preceding sentence states there are carp present. Carp are an invasive species.

Wildlife

- A. The Minn. DNR map indicates that 21-30 pairs of breeding waterfowl are found per square mile in the project area. However, it is unclear whether these waterfowl utilize the wetlands that will be filled. The proposer must address this possibility, and also address where the waterfowl will go if displaced. For instance, is there similar available habitat nearby, and if

so, how far away? Are nearby habitat areas able to accommodate increased numbers of breeding waterfowl?

- B. These waterfowl and other migratory birds are an important natural resource to residents as well as a valuable economic resource in terms of seasonal duck hunting. The EAW fails to consider how the noise, traffic, lights, and other sources of pollution and disturbance will affect waterfowl and other migratory birds in terms of migratory behavior and hunting seasons.
- C. The proposer does not adequately discuss how resident populations of plants and animals (turtles, frogs, and insects) with limited or no ability to migrate to other habitats will be affected by construction and the new commercial facility.
- D. Common loons often use the same nesting sites and they prefer back secluded bays and hidden spots of lake shore. Will nesting boxes be installed? How will the project mitigate for lost nesting habitat?
- E. The proposer identifies the project site as habitat area for a "variety of wildlife including deer, small mammals, song birds, other common birds, reptiles, and amphibians." The applicant should provide a more refined and specific list of potential species that could be impacted and respective habitat requirements.
- F. Noise and light pollution will become more of a factor once the casino is built. Increased automotive traffic, the RV park, and events hosted at the hotel/casino will contribute significant light and noise pollution. Light and noise pollution can negatively affect the success of wildlife. The EAW must discuss how to mitigate these impacts on an ongoing basis.
- G. Construction activities for the electrical projects are planned during the spring. The EAW does not discuss why these activities cannot be completed in the winter. This would limit impacts to wetlands, birds, and bats.
- H. The proposer should include documentation of the discussions with the DNR Non-Game Specialist.

Plant Communities

- A. The EAW fails to discuss the wetland classifications, community types, and quality of the wetlands being filled and the habitat value these natural resources provide. The EAW also fails to discuss how that habitat will be replaced within the site or as close to the impact as possible.
- B. The description of Wetland Basin 5 is inadequate. It is unclear whether it has a high relative abundance of native vegetation or whether it supports a diversity of invertebrates and wildlife.
- C. Currently wooded areas cover 34 acres of the project site. The proposed plan would reduce this area to 16.9 acres. Trees and woodland provide an enormous benefit to adjacent water resources by stabilizing soils and taking up nutrients, shading the water surface which helps

mitigate temperature extremes, and provide fallen debris which is used for fish and invertebrate habitat. Trees also supply important habitat for birds and tree roosting bats. The description of the project mitigation activities for potential impacts related to tree loss is inadequate. Proposers should also discuss how changes in water temperature affect fish reproduction.

- D. The proposer indicates a desire to restore native vegetation, but does not discuss from where the seed will be sourced. All seed mixes used to restore native vegetation should be BWSR and/or Minn. DNR approved. The applicant further suggests the proposed native plantings represent grassland, boreal forest, and hardwood forest. Native plantings should be chosen based on current and historical vegetation and use seeds and plants appropriate for the soils and hydrology of the restoration areas.
- E. The EAW should describe mitigation activities for preventing the introduction of terrestrial invasive species during construction. Construction activities involving unclean equipment and vehicles can spread invasive species such as Tansy, wild parsnip, crown vetch, birds foot trefoil, and others
- F. The Star Lake Management Plan identifies a desire to preserve wildlife and habitat and specifically mentions the preservation of vegetation and integrity of the shoreline and shallow water zones (Section D). The proposer must discuss how the project will align with these objectives.
- G. A full review of state-listed species within the county would provide a more robust discussion of additional rare wildlife and plant species for which project development could affect. Species occurrences based on NHIS data does not indicate absence. It could simply mean a particular species was not observed during a survey or that an area has not been surveyed. Furthermore, review of aerial photography is not sufficient to identify species of plants. The proposer should conduct a robust, field survey of the project site and surrounding area to determine the status of state-listed species.
- H. The proposer should provide a map of USGS land cover and historical vegetation.

Sensitive Ecological Resources

- A. The EAW states there are no known occurrences of Northern Long Eared Bat (NLEB) roost trees or hibernacula within one mile. Is this based on most recent mapping (i.e. March 2017)? How does proposed tree removal meet the guidelines set by the U.S. Fish and Wildlife Service Final NLEB rule?
- B. The Information for Planning and Conservation (IPaC) Trust Resources Report suggests 20 migratory bird species of conservation concern, Gray wolf, and NLEB may occur within the project area. Surveys for the electrical project also identified gray wolves, NLEB, and various birds within the project area. If these species are located nearby it is likely some will utilize or be found within the boundaries of the proposed project. The EAW must discuss how the project will mitigate impacts to those species.

- C. Creeping juniper can grow on talus slopes, cliffs, exposed bedrock ridges – are any of these habitats available within the site?
- D. The Minn. DNR directed the proposer to conduct plant surveys for Creeping Juniper and Long-stalked chickweed. Have these surveys been conducted?
- E. The EAW mentions the potential disturbance of red-necked grebes. However, the EAW fails to discuss under what circumstance that will be necessary. The Proposer also stated they will avoid disturbance during breeding season, but fails to describe the specific timing of such disturbances (i.e. May-June).
- F. Otter Tail County is located in the historic range of the Rusty Patched Bumble Bee. Will native plantings be used to provide habitat for pollinators?
- G. There is no discussion of Minn. DNR Native Plant Communities (NPC), Biological Survey (MBS), Regionally Significant Ecological Areas (RSEA), Sensitive Shorelines, Conservation easements, or Lakes of Biological Significance. These are important environmental information and should be included in the EAW. The NPC is mapped in the LASLCP but not in EAW.
- H. Star Lake is identified by Minn. DNR as a lake of Outstanding Biological Significance according to the Lakes of Biological Significance criteria³. This status is used by Minn. DNR to prioritize protection efforts. Star Lake is ranked as “outstanding” for plants; “moderate” for fish (cisco, walleye, and northern pike), and “high” for birds (see chart below). The EAW does not mention this status and does not discuss how project design or mitigation activities will address or protect this status.

Section #15 Visual Impacts

Section 15 asks proposers to describe any scenic views or vistas on or near the project site, as well as potential impacts the project could have on the visual environment. Proposers must identify efforts to avoid, minimize, or mitigate adverse visual effects.

The EAW states that all buildings will comply with applicable building setback, and that ponds will replace pasture. The EAW claims these will not have an adverse impact because irrigation and ponds are “common” in the area. In addition, the EAW states that building lighting will be minimized by best management practices. The electrical projects are also briefly mentioned. These descriptions are vague, and include insufficient information.

This EAW section is deficient in the following specific areas:

- A. The EAW does not discuss the impacts the 85-foot-tall hotel and casino, large support buildings, entry signs, and large parking lots will have on visual environments. Shoreline setbacks will do very little to minimize visual impacts. The proposer needs to consider

³ Minn. DNR Lakes of Biological Significance Criteria factsheet. April 23, 2015. Accessed online from: ftp://ftp.gisdata.mn.gov/pub/gdrs/data/pub/us_mn_state_dnr/env_lakes_of_biological_signific/metadata/lakes_of_biological_significance_criteria_20150423.pdf.

alternatives to avoid or minimize visual impacts. The proposer must also discuss actions to mitigate the visual impacts of a large hotel/casino on a rural, lake-side project site.

- B. The proposer should describe how all signs, parking lots, and buildings will be lit, and how the adverse impacts of lighting will be minimized. This information should include number, wattage, location, and type of lights; types, size, and locations of signs; and plans for how and when the building, signs, and facility grounds will be lit. The proposer should also describe how best management practices, including Dark Sky Lighting practices, will be implemented.

Section #16 Air

In this section, proposers are asked to discuss type, sources, quantities, and compositions of emissions from three sources: stationary sources (buildings), vehicles, and dust and orders. Hazardous pollutants, criteria pollutants, and greenhouse gases must be described. The effects of air pollution should be considered, including sensitive populations, impacts on human health, and applicable regulatory criteria. Finally, the proposer should discuss efforts to assess the projects impacts, and attempts to avoid, minimize, and mitigate potential impacts of air pollution.

The EAW states that emissions from stationary sources will comply with applicable regulations but will have minimal impact, and that no sensitive receptors exist in the area. In addition, the EAW states that the electrical project will only create limited fugitive emissions, and limited emissions from maintenance activities, and that dust impacts from construction activities will be minimized through various BMPs. This discussion appears to include all potential sources. It fails, however, to adequately quantify, or describe composition of pollutants. It also fails to adequately discuss efforts to avoid, minimize, or mitigate these emissions.

This EAW section is deficient in the following specific areas:

Stationary Sources

- A. To which air quality standards will the project adhere? How will compliance occur? The EAW should be supplemented with specific actions and plans.
- B. The assertion that the diesel generator will cause “negligible emissions” is not supported by any evidence. What type of generator is it, and what is its emission profile? How often will the system be tested? How will it be operated during emergencies?

Vehicle Emissions

- A. The conclusion that impacts from vehicle emissions will be minimal is not supported by any evidence. It is impossible to draw conclusions when no modeling/calculations have been performed or reviewed.
- B. The EAW does not appear to consider the vehicle emission impacts of the routine operation of the hotel and casino. For instance, the frequent deliveries of food and other hotel necessities require multiple daily and weekly trips by large delivery trucks traveling

significant distances to this rural location. The proposer should discuss how these operations were considered in estimates and calculations of vehicle emissions.

- C. The EAW briefly mentions that traffic related improvements will help mitigate vehicle emissions, but does not explain how this will mitigate vehicle emissions, or how the improvements were included in estimates or calculations of vehicle emissions. The proposer must provide more detailed information on this issue.

Section #17 Noise

The EAW instructs proposers to discuss sources, characteristics, duration, quantities, and intensity of noise generated during project construction and operation. Proposers should also describe the effect of this noise, including: 1) existing noise levels and sources in the area, 2) sensitive receptors, 3) compliance with applicable noise standards, and 4) impacts of local quality of life. Proposers must present actions that will minimize or mitigate the effects of noise. The EAW fails to achieve the minimum standards of this section. The claims are conclusory at best, and significant amounts of required information are missing.

This EAW section is deficient in the following specific areas:

- A. The EAW does not adequately describe the sources of noise and how the sources of noise were determined. It is unlikely that sources of noise in the area are limited to automotive traffic and boat traffic. Further, the EAW itself suggests this is true, by noting that noise sources are "generally" of these types. The proposer should discuss what other noise sources exist. Considering the project will generate significant new traffic, the proposer should also discuss how much noise the increased traffic will create.
- B. The proposer does not mention any efforts to avoid or minimize noise generation. The proposer also fails to discuss measures to mitigate the effects of noise. This is a required component of the question and should be thoroughly discussed.
- C. The proposer entirely fails to include any detailed information about the characteristics, duration, quantities, or intensity of noise generated during operation. Furthermore, it is inadequate to state that "excessive noise" is not "expected" once construction is complete. The question requests detail and responses should include objective, quantifiable descriptions of all types of noise generated, expected or otherwise. For instance:
 - i. Will music be played in exterior areas (in parking lots, entrances, common areas, swimming pools)?
 - ii. Will special events (concerts, special guests, other events) create noises that are not typical of routine operation?
 - iii. How loud will routine delivery operations (trucks & trailers) be?
 - iv. What quantities, duration, and intensity of noise will the community theater cause?
 - v. What noise will the building HVAC system create?

- D. The statement that no known sensitive receptors exist is unsupported by any evidence. Proposers should include information detailing how this conclusion was reached.

Section #18 Transportation

Section 18 requests information on five transportation related subjects: (1) existing and proposed parking; (2) estimates of traffic generation; (3) peak hour traffic generation estimates; (4) sources of trip generation; and (5) alternative transportation. This EAW section has substantial shortcomings. The project would result in a substantial increase in vehicle traffic and peak traffic flows that could be injurious to the public health, safety and welfare. As a result, the proposer should reconsider this section and provide a more considered, comprehensive discussion regarding the numerous adverse impacts potentially created by this project.

This EAW section is deficient in the following specific areas:

- A. The project would result in a substantial increase in vehicle traffic and peak traffic flows that could be injurious to the public health, safety and welfare:
1. The EAW traffic study concluded that development will be a significant traffic generator. Average Daily Traffic (ADT) increase on CASH 41 estimated to increase by 1,000 to 1,200 daily trips. Peak Hour Traffic (PHT) rates at the casino entrance will also substantially increase to more 222 vehicles an hour. These increases alone will drastically alter the surrounding environment and have adverse impacts on health and safety.
 2. The estimated traffic increase is inaccurate in a number of respects. First, the "comparable sites" are not actually comparable. Southern and Central California traffic is not a reasonable comparison due to huge population differences and year-round versus seasonal traffic differences. No comparable sites in Minnesota are included, and only one Midwest comparison is included in the traffic studies. Second, Gaming Floor Area is not an accurate metric for projecting traffic generation. Using the number of seat, slots, or hotel occupancy would produce more reliable results. Third, the estimates do not seem to include the differences in traffic during weekends and holidays.
 3. The EAW states that the peak hour traffic and the total daily trips fall just short of the thresholds that would trigger a traffic impact study. The proposer should disclose the exact details and methods of the calculations.
- B. The EAW does not present a thorough discussion on traffic congestion. The proposer only presents conclusory information regarding the capacity of the roads. No evidence, calculations, or other verifiable information is presented. The proposer also fails to discuss any efforts to avoid or minimize impacts, or measure to mitigate impacts to transportation systems. Instead, the proposer presents traffic improvements planned by other entities, and improvements that will only minimize congestion in close proximity to the project (turn lanes).

- C. There is no consideration of the potential increase in boat traffic on Star Lake and other nearby lakes. Many of these guests are likely to bring their own boats as several boat ramps are near the development. How will the development mitigate these impacts?
- D. The EAW does not consider the potential increase in snowmobile and ATV traffic during winter months, and potential for guests to access (with or without permission) Star Lake through the proposed project. It is likely that casino guests may also use snow machines on local trails and adjacent lakes. How will the development mitigate these impacts?

Section #19 Cumulative Impacts

This section requires a more comprehensive review of the potential cumulative impacts of the project. Proposers should consider geographic scales, timeframes, and foreseeable future projects that, when considered cumulatively, could cause environmental effects. According to state regulations, "Cumulative potential effects" means the effect on the environment that results from the incremental effects of a project in addition to other projects in the environmentally relevant area that might reasonably be expected to affect the same environmental resources, including future projects actually planned or for which a basis of expectation has been laid, regardless of what person undertakes the other projects or what jurisdictions have authority over the projects." (Minn. Rules 4410.0200, Subp. 11a)

The EAW states that none of the potential environmental impacts will result in cumulative impacts, and that there are no foreseeable future projects that could cause environmental effects. These claims are unsupported by any evidence, and do not even appear to consider the incremental effects of the various environmental impacts potentially caused by this project. This project will likely have significant cumulative impacts based on the project information provided in the EAW. Even if many of these impacts are mitigated, the cumulative impacts of the projects will drastically alter the existing human and natural environments.

The list below briefly summarizes potential impacts to illustrate the incremental impacts this project may cause:

- A. Land Use Compatibility
 - a. Changes to rural character, differences between family-owned seasonal resorts and year-round use of the casino and hotel, increased traffic, increased lighting, commercial use, economic impact on surrounding resorts
- B. Water Resources
 - a. Wastewater management: land application of wastewater, potential pollution of groundwater, impacts to migratory birds
 - b. Stormwater management: impervious surface increases, ponding effects on groundwater, nutrient pollution of adjacent lakes, shortcomings of erosion & sediment control plan
- C. Fish, Wildlife, Plant Communities, and Sensitive Ecological Resources
 - a. Vegetation removal, habitat loss/degradation/disturbance, land use change, construction disturbance of non-migratory species, impacts to existing wetlands,

disturbances of breeding waterfowl, disturbance of listed species and species of concern, effects of noise and light pollution, introduction of invasive species

D. Visual Impacts

- a. Eighty-five (85) foot tall hotel and casino, parking lots, support structures, light pollution, construction processes

E. Air

- a. Increases in stationary and vehicle emissions, dust and pollutant emissions from construction equipment and processes

F. Noise

- a. Increased noise generation, intensity of new sources of noise in rural area, frequency and duration of noise generation in rural area, noise from construction equipment and processes

G. Transportation

- a. Increased daily trip generation, increased peak hour traffic, increased noise, vehicle collisions as a result of traffic increases

H. Future Development

- a. Potential development of parcel north of 380th Street, golf course, cabins, lake access, supporting structures, expanded hotel, new amenities

Conclusion

Based on the information described above, the Voluntary Environmental Assessment Worksheet prepared by the White Earth Nation for the proposed Star Lake Casino Development is inadequate in numerous substantive and procedural respects. Moreover, the EAW and its shortcomings reveal multiple potential and likely significant environmental impacts. Because of these inadequacies, and in light of the significant environmental impacts, it is the expert opinion of the Environmental Review Team that Otter Tail County should require the White Earth Nation to conduct an Environmental Impact Statement for the proposed development to avoid irreparable impacts to the natural and human environments in and around the project site.

The following is a summary of the inadequacies and potential environmental impacts that support the Environmental Review Team's conclusion:

1. Substantial, irreversible cumulative impacts;
2. Adverse impacts to water resources, caused by the wastewater treatment and stormwater management project components;
3. Short- and long-term impacts to fish, wild, and plant resources as a result of the construction process and facility operation;
4. Adverse effects to the visual character of the site;
5. Gross incompatibility of the proposed project and the existing character of the site and surrounding areas; and
6. Negative impacts to transportation systems and highway safety caused by the increased trip generation and year-round operation of the casino and hotel.

EOR Environmental Review Team Members

The following EOR staff contributed to this report:

Meghan Funke, PhD, Limnologist (PhD Freshwater Ecology, BS Civil Engineering, BA Architecture, University of Minnesota – Twin Cities)

Meghan has an engineering background and a PhD in freshwater ecology, a field in which she has completed 10 years of field and research experience. Specializing in the analysis of in-lake water quality and food webs, Meghan uses long-term chemical + biological data to predict changes in lake water quality resulting from changes in phosphorus loading or food web structure and recommends appropriate management practices that improve water quality.

Jason Naber, Certified Wetland Delineator, Biologist (BA Biology, St. John's University)

Jason has 27 years of experience in natural and water resources management, including TMDL implementation, GIS mapping, land & wildlife surveying. Specializing in the development of resource management plans (RMPs), comprehensive wetland management plans (CWMPs), and in the analysis of total maximum daily load (TMDL) studies, Jason serves as a senior project manager and also performs various permitting, plan review, and field inspection programs for Watershed Districts. Jason is a MNDNR pre-approved rare species surveyor and holds a wetland delineation certification from the State of Minnesota.

Kristine Maurer, Ecologist, SWPPP Certification, Certified Wetland Delineator (MS Wildlife Ecology & Environmental Science, Iowa State University; BS Biology, University of St. Thomas)

Kristine Maurer has 5 years of experience as an environmental scientist; specializing in aquatic & wetland sciences. She has worked on the environmental review and preparation of permitting and environmental compliance documents (e.g., EAWs, EISs, CAs, and wetland permits) for over 50 solar sites, 17 wind projects, 10 transmission lines, and three pipeline projects throughout the West and Midwest. Kristine also has a depth of statistic and data analysis skills, including robust experience with ArcGIS and several statistical programs.

Spencer Peck, JD, Sustainable Environments Planner (JD Environmental Law, University of Minn. Law School; MA Urban & Regional Planning, University of Minn. – Twin Cities; BA Political Science, University of Wis. – Eau Claire)

Spencer Peck is a planner and lawyer with 5 years of experience in environmental planning and policy, and environmental law. Spencer's political science background, combined with his planning and legal experience, uniquely positions him to provide insightful, strategic advice to agencies, communities, and organizations in the development, review, and coordination of environmental and natural resource plans and policies. Spencer also has experience with several forms of environmental review, including AUARs; federal housing program certification and renewal; and intergovernmental collaboration on impact statements.

Select Project Experience

Total Maximum Daily Load Studies (TMDLs)

Meghan serves as the technical lead on biological impairment stressor identification studies, point & non-point pollutant source inventories water quality trend analyses, lake water quality modeling, stream load duration curve development, wasteload & load allocations, TMDL report writing, and restoration & protection plan development. She also communicates project results at stakeholder and public meetings, and coordinates with clients on technical work. She has experience with nutrient, dissolved oxygen, turbidity, chloride, and bacteria TMDLs in lakes and streams in MN & OH, including the following completed or in-progress TMDL and WRAPS projects:

Grand Marais Creek Watershed TMDL & WRAPS

Red Lake Watershed District / Project Manager and Technical Lead. Developed the WRAPS in conjunction with development of the 1W1P. Managed all technical work. Lead technical writer.

Bois de Sioux River Watershed TMDL & WRAPS

Bois de Sioux Watershed District / Project Manager & Technical Lead. Developed BATHTUB models for two large reservoirs (Traverse and Mud); led project coordination between MN and the Dakotas; and developed a watershed pollutant reduction strategy to meet individual water body goals. Managed all technical work and client correspondence. Lead technical writer.

Lake Winona TMDL

MN Pollution Control Agency / Project Manager & Technical Lead. Updated the draft TMDL to new MPCA and EPA standards and addressed public and agency comments. Managed all technical work and client correspondence. Lead technical writer.

Maumee River Mainstem TMDL (Ohio)

U.S. Environmental Pollution Agency Region V / Technical Lead. Developed nitrate, phosphorus, TSS, and E. coli TMDLs for three mainstem reaches of the Maumee River for EPA Region V & Ohio EPA. Identified WLAs for over 100 point sources in the watershed, & summarized the contribution of pollutant loads from point vs. non-point sources. Managed all technical work. Lead technical writer.

Leech Lake River WRAPS

Cass County / Technical Lead. Developed first WRAPS with solely a protection focus. Worked with MPCA and DNR to revise their state-wide phosphorus reduction goals for lake protection based on my lake protection tool results. Prioritized lakes for protection using a tool I developed that summarizes lake characteristics, local significance, water quality trends, and phosphorus load indicators; and identifies the source of phosphorus driving in-lake water quality to guide lake management. Managed all technical work. Lead technical writer.

Little Fork River TMDL & WRAPS

Minnesota Pollution Control Agency / Technical Lead. Divided the watershed into two focus areas and led separate technical meetings to focus on stream turbidity in the north, and lake eutrophication in the south. Utilized a room size map of the watershed for stakeholders to "step in" to the watershed and locate water quality problems and potential projects. Managed all technical work and client correspondence. Lead technical writer.

Mississippi River Winona Watershed TMDL

Minnesota Pollution Control Agency / Technical Lead. Worked with MPCA NPDES permit staff to develop some of the first stream nitrate TMDLs to protect aquatic life and stream TSS TMDLs based on the new stream TSS water quality standards. Developed new language to address the volatile solid discharge from WWTPs not being the primary source of TSS driven turbidity. Managed all technical work. Lead technical writer.



Meghan earned a Ph.D. from the Univ. of Minnesota studying nutrient cycles in lakes and wetlands, and has completed over 11 years of field and research experience in aquatic ecology. She also has a general understanding of architecture and engineering from her undergraduate degrees in architecture and civil engineering.

Meghan applies her broad expertise to various water quality and stormwater management projects. She is the technical lead for all of the lake and stream diagnostic, Total Maximum Daily Load, and Restoration and Protection projects at EOR. She also provides water quality expertise to EOR watershed, lake and stream implementation projects.

In addition, she has experience working with stakeholders and the public to identify the causes of biological impairments, inventory non-point & point pollution sources, & to develop nutrient load allocation and reduction scenarios. As a scientific team member, Meghan's technical training in environmental engineering and research experience in limnology contribute to an integrated understanding of aquatic health and water resources management at EOR.

Education

- 2006 Bachelor of Arts in Architecture
Univ. of Minnesota - Twin Cities
- 2006 Bachelor of Civil Engineering
Univ. of Minnesota - Twin Cities
- 2012 PhD - Freshwater Ecology
Univ. of Minnesota - Twin Cities

Professional Affiliations

- American Society of
Limnology & Oceanography
- North American Lake
Management Society

Areas of Expertise

- Limnology
- Aquatic Ecology
- Nutrient Cycling
- Water Quality

Mustinka River Watershed TMDL & WRAPS

Bois de Sioux Watershed District / Technical Lead.

Worked with MPCA to develop an upstream to downstream approach to addressing stream eutrophication in the watershed, by focusing on the upper reaches first and deferring downstream reaches until upper watershed implementation is complete. Developed the first "manage by flow" phosphorus effluent limits for stabilization pond WWTPs to address meeting the new stream eutrophication standards. Managed all technical work and client correspondence. Lead technical writer.

Red Eye River Watershed TMDL & WRAPS

Minnesota Pollution Control Agency / Technical Lead.

To address widespread stream bacteria impairments, coordinated with the SWCD partners to conduct a watershed-wide feedlot windshield survey to determine actual number of livestock in the watershed and erosion or stream access issues. Managed all technical work. Lead technical writer.

Long Prairie River Watershed TMDL & WRAPS

Minnesota Pollution Control Agency / Technical Lead.

Investigated 3 lake chloride impairments and conducted preliminary lake chloride modeling – potentially the first in the country with a sole focus on a lake chloride impairment. Managed all technical work. Lead technical writer.

Pine River Watershed TMDL & WRAPS

Crow Wing Soil & Water Conservation District / Technical Lead.

Developed lake water quality models and TMDLs for two impaired lakes. Prioritized lakes for protection using a tool I developed that summarizes lake characteristics, local significance, water quality trends, and phosphorus load indicators; and identifies the source of phosphorus driving in-lake water quality to guide lake management. Lead technical writer.

Goose River Watershed TMDL & WRAPS

Chisago Soil & Water Conservation District / Technical Lead.

Constructed and calibrated lake water quality models, and determined load reductions needed to meet lake water quality goals. Wrote TMDL report and addressed MPCA, EPA, and public comments. Managed all technical work and client correspondence. Lead technical writer.

Crow Wing River Watershed TMDL & WRAPS

Minnesota Pollution Control Agency / Technical Lead.

Developed a lake protection tool to rank and prioritize unimpaired lakes in this large, lake-dominated watershed. The tool summarizes lake characteristics, local significance, water quality trends, and phosphorus load indicators to identify the source of phosphorus driving in-lake water quality. Managed all technical work. Lead technical writer.

Nemadji River Stressor Identification

Minnesota Pollution Control Agency / Technical Lead.

Led a complete biological stressor identification following the EPA CADDIS process. Lead technical writer.

Rice Creek Southwest Urban Lakes TMDL

Minnesota Pollution Control Agency / Technical Lead.

Modified an existing lake water quality study into an MPCA and EPA approved TMDL. Updated the lake modeling to current conditions and addressed public and agency comments. Managed all technical work. Lead technical writer.

Sauk River Chain of Lakes TMDL

Minnesota Pollution Control Agency / Technical Lead.

Developed approach for modifying William Walker's original 13-lake BATHTUB model to conform to MPCA and EPA TMDL requirements.

St. Clair Lake TMDL

Minnesota Pollution Control Agency / Technical Lead.

Developed a sensitive TMDL approach and point source reduction plan to address aggressive phosphorus load reductions needed to meet a shallow lake water quality goal in a lake that receives significant MS4 drainage and effluent from a municipal WWTP in Detroit Lakes, MN. Managed all technical work and client correspondence. Lead technical writer.

Sunrise River Watershed TMDL & WRAPS

Chisago Soil & Water Conservation District / Technical Team.

Developed protection strategies and goals for unimpaired lakes – a precursor to MPCA's WRAPS – in addition to the traditional TMDL goals and implementation strategies for impaired lakes. Managed all technical work and client correspondence. Lead technical writer.

Chisago Chain of Lakes TMDL & WRAPS

Chisago Soil & Water Conservation District / Technical Team.

Developed protection strategies and goals for unimpaired lakes – a precursor to MPCA's WRAPS – in addition to the traditional TMDL goals and implementation strategies for impaired lakes.

Lake Diagnostic Studies and Management Plans

Meghan is responsible for analyzing in-lake chemical and biological data to identify spatial trends in in-lake water quality and non-point and point pollution sources in the watershed. She develops specific implementation strategies and monitoring recommendations to achieve in-lake water quality goals, she communicates project results at stakeholder and public meetings, and she coordinates with clients on technical work.

Forest Lake Diagnostic Study & Implementation Plan Update

Comfort Lake-Forest Lake Watershed District / Project Manager and Technical Lead.

Wrote the funded Clean Water Partnership grant. Managed project budget and tasks, coordinated stream and lake monitoring, and led stakeholder meetings to gather input on prioritization of watershed BMPs.

Northern Chain of Lakes Diagnostic Study & Implementation Plan

Brown's Creek Watershed District / Technical Lead.

Analyzed in-lake chemical and biological data, constructed a lake model to determine load reductions needed to achieve in-lake water quality goals, lead technical writer, and presented study results to landowners.

Heims Lake Water Quality Study & Management Plan

Comfort Lake Forest Lake Watershed District / Project Manager and Technical Lead.

Managed project, analyzed collected data, and summarized lake water quality and management options in a technical report. Presented results to the Board of Managers.

Moody Lake Wetland Rehabilitation Plan

Comfort Lake Forest Lake Watershed District / Limnologist.

Developed a novel approach to wetland rehabilitation, based on a multi-year iterative implementation of wetland excavation, rehabilitation, spot soil alum treatments, and effectiveness monitoring. Wrote a Clean Water Fund grant for implementation which was funded for over \$400,000.

Upper Mississippi Headwaters Water Analysis

Mississippi Headwaters Board / Technical Lead.

Analyzed biological and water quality data for the upper third of the Mississippi River in Minnesota. Developed fact sheets summarizing water quality conditions, concerns, and goals for individual segments of the Mississippi River, organized by county.

Square Lake Diagnostic Study & Implementation Plan Refinement

Carnelian-Marine-St. Croix Watershed District / Technical Team.

Presented final report to DNR, and assisted in development of a Memorandum of Understanding between the Watershed District and the DNR to temporarily suspend trout stocking for three years due to impacts of trout predation of zooplankton on water clarity.

Moody Lake In-lake Treatment Plan

Comfort Lake Forest Lake Watershed District / Technical Lead.

Analyzed in-lake chemical and biological data, researched applicable in-lake management approaches, and developed a recommended in-lake management approach.

Sand and Long Lake Diagnostic Study & Implementation Plan

Carnelian-Marine-St. Croix Watershed District / Technical Team.

Assisted with in-lake data analysis and technical report writing.

Lower Prior Lake Diagnostic Study & Implementation Plan

Prior Lake-Spring Lake Watershed District / Technical Team.

Analyzed and interpreted lake water quality data to determine effects of upstream lake loading versus watershed loading on lake water quality. Presented results to the Board of Managers and at a public meeting. Coordinated implementation plan development.

Green Lake Eurasian Watermilfoil Study

Middle Fork Crow River Watershed District / Technical Team.

Analyzed and interpreted Eurasian watermilfoil and lake sediment data to predict areas in Green Lake most susceptible to invasion. Developed and presented a scientific poster sharing results at the Minnesota Water Resource Conference.

Grass Lake Watershed Management Plan

Grass Lake Watershed Management Organization / Literature Review Writer.

Wrote a summary of the effects of motorized boat activity on phosphorus release from lake sediments based on peer-reviewed research articles.

Woodpile Lake Management Plan

Brown's Creek Watershed District / Technical Team.

Analyzed in-lake chemical and biological data, constructed a lake model to determine load reductions needed to achieve in-lake water quality goals, lead technical writer, and presented study results to landowners.

Ecosystem Restoration & Assessment

Meghan provides water quality and limnological expertise for all ecosystem restoration & assessment projects at EOR.

Moody Lake Wetland Rehabilitation Project

Comfort Lake-Forest Lake Watershed District / Water Quality Support.

Oversaw water quality components of wetland rehabilitation, including effectiveness monitoring, phosphorus load reductions achieved, and soil alum treatments.

Cranberry Lake Alum Treatment

Crow Wing Soil & Water Conservation District / Limnologist.

Determined alum dosing and oversaw alum treatment.

Moody Lake Aerator

Comfort Lake-Forest Lake Watershed District / Limnologist.

Determined aerator depth and placement. Reviewed dissolved oxygen data to direct system turn on date.

Low Impact Development & Green Infrastructure

Meghan applies her knowledge of nutrient cycling and phosphorus sedimentation dynamics in ponds and lakes to EOR low impact development and green infrastructure projects.

Stormwater Harvesting and Reuse Feasibility Study

Minnehaha Creek Watershed District & the Mississippi Watershed Management Organization / Limnologist.

Developed a stormwater reuse calculator design tool to quantify volume and phosphorus reductions from stormwater harvesting with irrigation reuse. Conducted a literature review of existing stormwater harvesting and reuse programs across the U.S. & abroad.

Minnesota Stormwater Manual Harvest and Use Update

Minnesota Pollution Control Agency / Project Manager.

Developed work plan with MPCA stormwater staff. Managed and oversaw update of the Harvest and Use manual sections. Lead technical writer.

Select Professional Presentations

Funke, Meghan. Stormwater Harvesting and Reuse. 2015 Iowa Water Resources Conference, Ames, Iowa.

Emmons, Brett (EOR), Meghan Funke, Anita Anderson (Minnesota Department of Health), Neal Shapiro (City of Santa Monica), and . Stormwater Reuse Panel: Reemergence of Sustainable Water Management. American Water Resources Association 2015 Meeting, Denver, Colorado.

Funke, Meghan. Moody Sequential Monitoring. 2015 Minnesota Association of Watershed Districts Annual Meeting, Alexandria, MN.

Funke, Meghan. Sequential watershed monitoring for targeted BMP implementation. 2015 MN Water Resources Conference, St. Paul, MN.

(Funke) Jacobson, Meghan. Increased export of ortho-phosphorus to coldwater lakes and its modeled effects on algae growth, hypolimnetic, and metalimnetic oxygen demand. 2014 MN Water Resources Conference, St. Paul, MN.

(Funke) Jacobson, Meghan and Brett Emmons (EOR). Stormwater Reuse Design Calculator. 2013 MN Water Resources Conference, St. Paul, MN.

(Funke) Jacobson, Meghan, Jim Shaver (Carnelian-Marine-St. Croix Watershed District), and Dr. Leif Hembre (Hamline University). Effects of Fisheries Management and the Timing of Stratification on the Eutrophication of Square Lake. 2012 Minnesota Association of Watershed Districts Annual Meeting, Alexandria, MN.

Naber, Jason (EOR) and Meghan (Funke) Jacobson. Integration of Minnesota Pollution Control Agency HSPF Modeling and Watershed and Restoration and Protection studies. 2012 Minnesota Association of Watershed Districts Annual Meeting, Alexandria, MN.

(Funke) Jacobson, Meghan and Chad Anderson et al. (Middle Fork Crow River Watershed Dist.). The relationship between the location of storm- water inlets and stands of Eurasian watermilfoil in Green Lake, Kandiyohi County, MN. 2012 MN Water Resources Conference, St. Paul, MN.

Select Project Experience

Wetland Regulatory Activities & Permitting

Jason has been involved in wetland regulatory activities throughout his entire career; from the days prior to the MN Wetland Conservation Act and through the evolution of our regulatory programs. His involvement includes field services such as delineations, monitoring and regulatory compliance. Jason is a Minnesota State Certified delineator.

Lake Superior Wetland Bank

St. Louis Cnty. Planning Dept. Biologist and consulting TEP Member. Served as a Technical Evaluation Panel advisor for the Wetland Conservation Act LGU. Activities included reviewing wetland banking plan documents and credit release requests for a 23,000 acre wetland bank in NE Minnesota. This included active participation in TEP meetings, technical writing, and site inspections.

RCWD Wetland Bank Site

Rice Creek Watershed District. Biologist.

Prepared technical documentation for a wetland bank associated with a large open space area in the City of Blaine. Coordinated with regulatory authorities to ensure successful credit generation and facilitated the public ditch abandonment necessary to restore wetland hydrology.

Buck Farm Agricultural Mitigation Bank

Iowa Agricultural Mitigation Bank/Private Landowner. PM. Prepared engineering documentation for this wetland agricultural mitigation banks in Iowa. Worked collaboratively with landowners and other wetland professionals to design and construct successful wetland banks. Work included design of restoration activities and preparation of construction documents.

South Wind Farm Agricultural Mitigation Bank

Iowa Agricultural Mitigation Bank/Private Landowner. PM. Prepared engineering documentation for this wetland agricultural mitigation bank in Iowa. Worked collaboratively with landowners and other wetland professionals to design and construct successful wetland banks. Work included design of restoration activities and preparation of construction documents.

Wetland Mitigation Site Hydrology Monitoring and Analysis

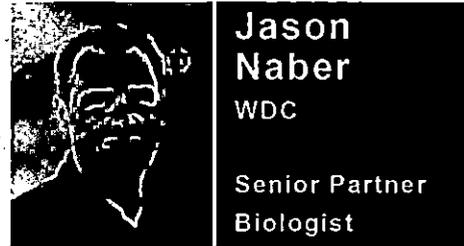
Private Client in northcentral Minnesota. Project Manager. Coordination with the Army Corps on a monitoring plan and well installation protocol. Data analysis and reports were provided to the client for purposes of meeting their 404 mitigation requirements.

Trail Calcareous Fen Hydrologic Monitoring

Private Client in northwestern Minnesota. Project Manager. Coordination with Minnesota Department of Natural Resources on a well installation protocol and permitting. Water level data as well as lab results for each of the samples were used to prepare a monitoring report.

Wetland Management Planning

Jason has led and implemented many comprehensive wetland plans. These plans were conducted for watershed districts and municipalities. In some cases the wetland plans included variations to the Wetland Conservation Act to meet local needs and in the case of the City of Lino Lakes, Section 404 of the Clean Water Act was varied to allow mitigation flexibility through a Special Area Management Plan. Activities in these wetland planning projects included field inventories, plan writing, rule making, public meeting facilitation and legal proceedings.



**Jason
Naber**
WDC

Senior Partner
Biologist

Jason Naber has 28 years of experience in natural resource management and ecological restoration. He has been the project lead for several resource management plans, Watershed Restoration and Protection Strategies (WRAPS) and a One Watershed, One Plan. He is very familiar with environmental regulatory programs, wetland banking and routinely conducts rare species surveys. Jason is an experienced project facilitator. He is an effective communicator and is frequently invited to give technical presentations and participate in educational seminars.

Education

1992 Bachelor of Arts in
Biology, St. John's University

Continuing Education

2002 Rosgen Stream Geomorphology
2005 Systematic Development of
Informed Consent
2012 MN DNR Field Guide Training
for Native Plant Community
Classification
2013 Wetland Delineator Certification
(WDC)
2014 MN DNR Stream Restoration-
Assessment and Monitoring

Areas of Expertise

- Natural Resource Management,
Restoration & Planning
- Watershed Planning
- Wetland Regulatory Process & Planning
- Wildlife Surveys - Prequalified rare
species surveyor (MNDNR)

Professional Activities

- MN Wetland Professional Assoc.
- Instructor for BWSR Lateral
Effect Training Seminars
- Advisor for MN Drainage Manual update
- Advisor for Metro. State Univ.
Science Masters Degree Program
- Advisor for Corps of Engineers' Red
River Watershed Management Plan

City of Lino Lakes Special Area Management Plan (SAMP)

Rice Creek Watershed District & City of Lino Lakes. Project Manager

Coordinated municipal land use planning with resource protection to develop the first SAMP with the USACE for the State of Minnesota. The SAMP was developed from a local wetland plan developed by EOR for the Rice Creek Watershed District and the Lino Lakes Comprehensive Plan written by the City's consultant. The outcome of the SAMP includes a coordinated local, state and federal permitting process. The federal permitting process resulted in a Programmatic General Permit

Rice Creek Watershed Comprehensive Wetland Protection and Management Plan

Rice Creek Watershed District. Project Manager .

Managed several wetland planning efforts that integrated wildlife and vegetation surveys, watershed hydrologic modeling, and wetland functional assessments. Facilitated technical meetings as well as public meetings for wetland values surveys and agency approval processes. Provided solution to long-standing legal standoff between the State of Minnesota, local governing units and landowners.

Prior Lake-Spring Lake Watershed Comprehensive Wetland Plan

Prior Lake Spring Lake Watershed District. Project Manager.

Initiated the project to help the Watershed District identify wetland reestablishment, restoration and protection sites to enhance wetland functions, particularly improving water quality draining to TMDL-listed lakes. Work included heavy participation by local agencies, a field inventory using a MNRAM to assess wetland function, plan writing and the approval process.

Natural Resource Management & Planning

Jason is committed to preserving the integrity of our natural resources for future generations. His signature work involves protecting our resources from threats and improving degraded ecosystems. His vast experience in natural resource management and strong communication skills make him an excellent contributor to multi-faceted planning projects.

Unique Species Management Planning

Brown's Creek Watershed District/ Biologist.

Led a project that conducted surveys and documented unique natural habitats and species found along the Brown's Creek corridor in eastern Minnesota. This information was used to prioritize activities in the watershed district's watershed management plan.

Adaptive Management Plans for MnDNR Scientific Natural Areas

MN/DNR - Scientific Natural Areas, Project Manager.

Conducted field inventories and wrote adaptive management plans for multiple Scientific Natural Areas across the State of Minnesota.

Baseline Property Reports for MnDNR Conservation Easements

MN/DNR - Scientific Natural Areas, Project Manager.

Conducted field inventories and wrote management plans for two DNR-held conservation easements protecting high quality plant communities in northeastern Minnesota.

Waterfowl Production Area Restoration Evaluations

MN/DNR Biologist & Project Manager.

Conducted field inventories on multiple Waterfowl Production Areas near Fergus Falls, MN. Reviewed wetland and prairie restoration activities and prepared a report used to assess project status. This report was used in a DNR-led review of state funded restoration projects.

Seminary Fen Restoration Evaluation

MN/DNR Biologist & Project Manager.

Conducted field inventory on a fen restoration site near Chaska, MN. Activities included a comprehensive vegetation species list along with an evaluation of hydrologic restoration efficacy. Compiled an assessment report used by DNR in their evaluation of this state-funded restoration project.

Baseline Property Reports for MnDNR Conservation Easements

MN/DNR - Scientific Natural Areas, Project Manager.

Conducted field inventories and wrote management plans for two DNR-held conservation easements protecting high quality plant communities in northeastern Minnesota.

Water Management Planning

Water is the basis of life and planning for its long-term availability is critical to the sustainability of our ecosystem. Jason has provided his natural resource expertise in many important water planning projects.

Lake Superior North - One Watershed, One Plan

Cook and Lake County SWCD. Project Manager.

Developed a One Watershed, One Plan for the most highly valued natural resource area in the State of Minnesota. In addition to managing the project, Jason participated in technical committee meetings and did significant plan writing on natural resource related goals and objectives.

Prior Lake-Spring Lake Upper Watershed Volume Reduction

Prior Lake Spring Lake Watershed District. Project Manager.

Evaluated a storage volume constrained watershed for opportunities to retain and reduce runoff through wetland restoration and source reduction strategies. Conceptual modeling of the watershed and development of concept level projects were summarized in a watershed report used to prioritize implementation activities.

Ecosystem Restoration & Assessment

Jason's work in this area includes field inventories, data management, and environmental assessment. Field work required knowledge of local flora including rare and invasive species, and an understanding of ecological restoration. Report writing and database management were important components of each of these projects.

Carlson Island Ecological Stewardship Plan

TC Island Venture/Trammel Crow. Project Manager/Ecologist.

Conducted field work, developed an ecological stewardship plan and provided oversight of restoration activities. Worked closely with the site developer, City of Minnetonka and Minnehaha Creek Watershed District to satisfy site restoration requirements.

Sunrise River Wetland Restoration

Comfort Lake-Forest Lake Watershed District. Project Manager.

Gathered technical data and coordinated with stake holders to write a comprehensive Engineer's Report that evaluated several project components that would help improve downstream water quality and meet flood control and ecological restoration objectives.

Lake Malmedal Drawdown

MPCA, Project Manager.

Evaluated options and prepared a comprehensive plan to implement a lake drawdown to kill invasive carp and improve water quality. Activities included ecological assessment, modeling, and outlet design.

Trout Habitat Improvements

Brown's Creek Watershed District. Project Designer.

The purpose of this project was to create a wetland and infiltration feature in the upper reaches of Brown's Creek which is a state-designated trout stream. This project improved downstream trout habitat by providing thermal protection and water quality improvements. The project included the design of wetland restoration and infiltration basin features, project construction management, inspections, and administration of the construction contract.

Wetland Restoration Feasibility Study for Parley Lake

Minnehaha Creek Watershed District. Project Manager.

Performed a site inventory assessment and created wetland restoration design plans including a rough fish barrier. Advised client on state and federal permitting requirements for project.

TMDL & Watershed Restoration and Protection Strategies (WRAPS):

Conduct EPA-mandated Total Maximum Daily Load studies to develop plans to improve water quality. Develop plans and watershed-based strategies to protect water quality.

Brown's Creek Biotic TMDL

Brown's Creek Watershed District. Project Manager and Biologist.

As project manager and biologist, participated in components of the project that included field surveys, technical evaluation of scientific data, modeling, public meeting facilitation and report writing.

Upper Prior - Spring Lake TMDL Implementation Plan

Prior Lake Spring Lake Watershed District. Project Manager.

Coordinated between technical staff, District staff and stakeholders to write a TMDL Implementation plan designed to improve water quality in Upper Prior and Spring Lakes.

Pope County TMDL and Implementation Plan

Pope County SWCD and MPCA. Project Manager.

Tasks included data interpretation, modeling, report writing, and public involvement. Coordinated closely with local contracting agent (Pope County SWCD) to prepare both a TMDL Report and an Implementation Plan.

Mustinka Turbidity TMDL & Implementation Plan

Bois de Sioux Watershed District & MPCA. Project Manager.

Coordinated with watershed district staff, MPCA and local stakeholders to write a TMDL Implementation Plan for an existing EPA approved Turbidity TMDL.

Pope County 8 Lakes TMDL and Implementation Plan

Pope County SWCD and MPCA. Project Manager.

Tasks included data interpretation, modeling, report writing, and public involvement. Coordinated closely with local contracting agent (Pope County SWCD) to prepare both a TMDL Report and an Implementation Plan.

Little Fork River Watershed Restoration and Protection Strategy (WRAPS)

MPCA. Project Manager.

Jason led this multiyear project which included technical analysis, model review, report writing and an extensive stakeholder involvement process. Key issues for this watershed included stream stability and extensive forestry production within the remote and sparsely populated watershed.

Mustinka River Watershed Restoration and Protection Strategy (WRAPS)

MPCA. Project Manager.

Over a multiyear timeline, the tasks on this project included technical analysis, modeling, an in-field stream stability assessment, report writing and an extensive stakeholder involvement process.

Bois de Sioux River Watershed Restoration and Protection Strategy (WRAPS)

Bois de Sioux River Watershed District & MPCA. Project Manager.

This project includes a multiyear timeline, incorporating technical analysis, modeling, an in-field stream stability assessment, report writing and an extensive stakeholder involvement process. Important to the success of this project is to utilize results of the HSPF model built by EOR to write TMDLs for multiple impairments in the watershed.

Grand Marais Creek Watershed Restoration and Protection Strategy (WRAPS)

Red Lake Watershed District/MPCA. Project Manager.

Jason led this multiyear project which included technical analysis, model review, report writing and an extensive stakeholder involvement process. Key issues for this watershed included stream stability, flooding and agricultural production within the watershed in the Red River Valley (NW MN).

Nemadji River Watershed Restoration and Protection Strategy (WRAPS) Stressor Identification

MPCA. Project Manager/Biologist.

Managed this multiyear effort to identify stressors to the biotic community in this NE MN watershed. Activities included monitoring, review of data, report preparation and meeting facilitation. An assessment of beaver impacts to the riverine system was also included. Key issues in this watershed included land use changes including forestry, barriers to fish passage, red clay soil stability and turbidity impairments.

Red River Valley Biotic TMDL Protocol Development

Minnesota Pollution Control Agency. Project Manager and Biologist.

Responsible for coordinating many technical aspects of a guidance document written for the MPCA. Role as a biologist included natural resource evaluations and research.

Project Experience

Natural Resource Documentation and/or Permitting for Development and/or Other Impact Activities

Environmental Scientist

At previous employment, work conducted for various clients

Contributed to field work, research, report writing, and mapping for projects in support of wind, solar, pipeline, and residential and commercial development projects.

Primary responsibilities include providing water resource and wildlife expertise, wetland delineations, wetland permitting, wetland mitigation and monitoring, environmental impact assessments and related studies, endangered species surveys, eagle surveys, tree surveys, bird and bat impact studies, statistical analysis, NPDES monitoring, and extensive mapping, modeling, and analysis in ArcGIS.

Research and Outreach Roles

WPA Event Coordinator

Wetland Professional Association (WPA), Minnesota

Under my direction and leadership WPA membership double in two years, I balanced the budget, re-wrote the WPA Articles of Incorporation, registered the WPA as a state and federally exempt non-profit organization, initiated online and credit card payment options for membership and events, revamped and organized an annual holiday event, developed a new board position focused on events and speaker coordination, designed a new WPA logo and swag items, initiated a website update, and kept tax filings and state incorporation documents current. Previous positions held in WPA include: Treasurer and Speaker

Master Water Steward

Minnesota Fresh Water Society - Student/Capstone Project

Collaborated with a project partner to design and install a BMP treatment train to capture roof runoff at an urban café and to organize a community water quality outreach event. Café BMPs included dry creek beds, bio-swales, tree trenches, a 1,100 gallon cistern, and a green wall. The community event attracted over 100 people from the neighborhood and involved a leaf raking event, storm drain stenciling, interactive activities and games, and tables hosted by local water authorizes and organizations. Capstone projects came in over \$1,000.00 under budget.

Wetland Health Evaluation Program Leader

Hennepin and Dakota County, Minnesota. Team leader.

Responsible for coordinating a group of volunteers, scheduling field work, instructing volunteers on sampling protocols and the identification of aquatic invertebrates and plants, providing moral support, and working with a variety of people and ages groups.

Graduate Research Assistant

ISU - Department of Natural Resource Ecology and Management

Researched objectives included the identification of biophysical relationships and condition indicators in Iowa prairie pothole wetlands. Responsibilities included project development, selection of 34 study sites, hiring and management of field technicians, fieldwork, lab analyses, management of large datasets, statistical analysis, four oral and three poster presentations at local and international meetings, written reports, newspaper interviews, and communicating with stakeholder groups.



**Kristine
Maurer,
WDC**

Ecologist

Kristine Maurer has 5 years experience as an environmental scientist. She specializes in aquatic & wetland sciences with a focus on environmental compliance (EAWs, MN-WCA, the Clean Water Act, and environmental permitting). She has extensive field experience in resource monitoring and sampling, as well as in taxonomic identification. Kristine also has a depth of statistic and data analysis skills that include parametric and non-parametric models, univariate & multivariate methods, Bayesian models, and the use of Excel, Access, SAS, R, JMP, PCORD, Statistix, and ArcGIS for data analysis.

Education

- 2013 Masters of Science
Department of Natural Resource Ecology and Management
Iowa State University
- 2013 Bachelor of Science
Major: Biology, Minor: Chemistry
University of St. Thomas

Professional Registration

- #1243 MN Wetland Delineator

Additional Training

- 2016 Master Water Steward Certificate
- 2015 Tree Inspector Certification (U of M)
- 2014 Minnesota Construction Site Management Certification
- 2014 Minnesota Design of Construction SWPPP Certification
- 2014 Basic Plant Identification Course
Univ. of Wisconsin
- 2013 5-Day Basic Wetland Delineator Course (Univ. of MN)

Areas of Expertise

- Wetland Sciences/Management
(Delineation, Permits, Functional Assessments, Monitoring, etc.)
- Wind & Solar Permitting
- Environmental Compliance
- Wildlife Surveying

University Research Technician

University of Minnesota - Department of Ecology, Evolution, and Behavior

Project investigated the decomposition of aquatic vegetation in shallow lakes. Responsibilities included preparation of sample equipment and experimental set-up, fieldwork, and data management.

Undergraduate Research Assistant

University of St. Thomas - Department of Biology

Research focused on describing community ecology and landscape characteristics of 100 shallow lakes in MN. Responsibilities included project and protocol development, fieldwork, building field equipment, leading field crews, water chemistry analyses, data management, statistical analysis, and presentations.

Teaching Positions

Teaching Assistant for Iowa Vertebrates

Iowa State University - Department of Natural Resource Ecology and Management

Assisted professor with laboratory and fieldwork preparation, leading laboratory activities, and transportation of students for two, three-hour lab sections per week. Aided students in the use of dichotomous keys and the identification of terrestrial, avian, and aquatic taxa in the lab and in the field. Proctored make-up exams and labs.

Instructor for Path Analysis and SAS Statistical Seminar

Iowa State University - Department of Natural Resource Ecology and Management

Prepared and presented a seminar for faculty and graduate students on path analysis and utilization of SAS for statistical analyses.

Teaching Assistant for General Ecology

Iowa State University - Department of Ecology, Evolution, and Organismal Biology

Responsible for teaching two, three-hour lab sections per week, lecture development, laboratory preparation, competency in laboratory topics and taxa, developing field identification keys, grading rubrics, worksheets, and quizzes, grading of weekly reports, guiding hypothesis and experiment development, implementing data analysis, managing two undergraduate assistants, and transporting students.

Peer Reviewed Publications

Hanson, MA, KD Zimmer, B Herwig, KM Maurer (2015). Co-correspondence among aquatic invertebrates, fish, and submerged aquatic plants in shallow lakes. *Freshwater Science* 34(3).

Maurer KM, TW Stewart, FO Lorenz (2014). Direct and Indirect Effects of Fish on Invertebrates and Tiger Salamanders in Prairie Pothole Wetlands. *Wetlands* 34:735-745.

Maurer KM (2013). Indicators of Iowa prairie pothole wetland condition. *Field Notes* 3:28-30.

Maurer KM, RA Reeves (2013). Fieldwork: Not for the faint of heart. *Field Notes* 3:19-20.

Presentations

Maurer M, Hanson E, Kunst K. Wetland Delineations and the Regulatory Process. Women in Wind Energy Meeting, Bloomington, MN. June 2015.

Maurer KM. Impacts of surrounding landscape characteristics on biophysical components of Iowa prairie pothole wetlands. Iowa Wildlife Society Meeting, Ames, IA. February 2013. (Poster)

Maurer KM, TW Stewart. Assessing ecosystem condition in Iowa prairie pothole wetlands. Iowa Wildlife Society Meeting, Ames, IA. February 2013.

Maurer KM, TW Stewart. Biophysical interactions in prairie pothole wetlands: consequences for macroinvertebrate assemblages and ecosystem condition. Iowa State University Environmental Science Symposium, Ames, IA. December 2012. (Poster)

Maurer KM, TW Stewart. Variables influencing invertebrate communities and within-system relationships in prairie pothole wetlands. Society of Freshwater Science National Meeting, Louisville, KY. May 2012.

Maurer KM, TW Stewart. Biophysical relationships and condition metrics in prairie pothole wetlands. Iowa Water Conference, Ames, IA. March 2012. (Poster)

Maurer KM, TW Stewart. Functional relationships among biophysical components of Iowa prairie pothole wetlands (PPW). Midwest Fish and Wildlife Conference, Des Moines, IA. December 2011.

Stewart TW, KM Maurer. Functional relationships among biophysical components of Iowa prairie pothole wetlands (PPW). Midwest Fish and Wildlife Conference. Minneapolis, MN. December 2010.

Maurer KM, KD Zimmer, B Herwig, and MA Hanson. Partitioning of variance in aquatic invertebrate communities: effects of ecoregion, fish, and macrophytes. Tri-State American Fisheries Society Meeting, Duluth, MN. February 2009.

Maurer KM, KD Zimmer. Influence of macrophytes and fish on aquatic invertebrate populations in Minnesota shallow lakes. University of St. Thomas Spring Research Symposium, St. Paul, MN. April 2008. (Poster)

Maurer KM, KD Zimmer. Influence of macrophytes and fish on aquatic invertebrate populations in Minnesota shallow lakes. Minnesota Chapter of the American Fisheries Society, Alexandria, MN. February 2008. (Poster)

** All experience noted above completed with previous to EOR employment*

Select Project Experience

Ordinance Writing: Sustainable Environments Planner

Review and redraft ordinances for municipal, county, township, and watershed-based agencies. Update and modernize environmental, zoning, subdivision, and other policies. Effectively integrate multiple areas of concern and promote coordination among agency departments, community stakeholders, and governing entities at the local, state, and federal levels. Provide technical legal assistance for a wide range of stormwater management and other water quality projects. Review and revise county, city, and township ordinances to initiate or improve stormwater management.

- **Watershed District Rule Evaluation**
Comfort Lake-Forest Lake Watershed District
- **Ordinance Assistance** - Middle St. Croix Water Mgmt. Organization.
- **Ordinance Assistance** - Chisago Lakes Lake Improvement District.
- **Serpent Lake Communities Ordinance Project**
Crow Wing Soil & Water Conservation District
- **Municipal Ordinance Assistance** - City of Menomonie
- **Low Impact Development Stormwater Mgmt. Guidance Manual**
Ontario Ministry of the Environment & Climate Change,
Subcontractor to Aquafer Beech-Ontario, Canada

Legal & Policy Analysis: Legal Research Assistant*

Authored article regarding the legal status of autonomous vehicles in Minnesota. Coordinated a seminar on the legal and policy challenges of autonomous vehicles. Conducted research for the Minn. Dept. of Transportation regarding speed limit enforcement, travel time and reliability, automobile collisions, privacy, and speed limit enforcement. Evaluated a rural mobility assistance program using qualitative and quantitative methods. Reported results to program administrators and funders.

Policy Analysis: Graduate Assistant*

Worked in collaboration with grassroots community organizations, policy makers, and researchers to provide policy analysis of energy, environment, and development issues. Research focused on creating an innovative policy program to provide financing for energy conservation and on-site renewable energy generation for low-income and minority communities across Minnesota.

Urban Planning: Planning Intern*

Conducted Environmental Assessments of affordable housing projects to comply with federal regulations. Prepared and executed public engagement and outreach activities. Conducted multi-disciplinary economic research and analysis, and redesigned and drafted the City's "Spring 2015 Market Watch" report. Processed development and building permit applications, determined compliance with local ordinances, reported findings and recommendations to elected officials.

* work completed with previous employer(s)



**Spencer
Peck**
JD
Sustainable
Environments
Planner

Spencer Peck has 5 years of experience in urban planning and environmental law, including extensive community service for global agencies and non-profits.

Spencer's political science background, combined with his planning and legal experience, has uniquely positioned him to provide knowledgeable and effective guidance to various agencies, communities, and organizations in the development, review, and coordination of environmental and natural resource planning and policy.

Education

- 2005 Bachelor of Arts in
Political Science
Univ. of Wisconsin - Eau Claire
- 2015 Master of Urban &
Regional Planning
Univ. of Minnesota
- 2015 Juris Doctor
Univ. of Minnesota Law School

Professional Registration

MN Licensed Attorney
MN State Bar Association
American Planning Association

Additional Training

- 2007 Outdoor Educator Certificate
National Outdoor Leadership
School - Lander, Wyoming

Awards & Scholarships

- 2015 John S. Adams Award for Excellence
in Transportation Research
- 2013 Upper Midwest
Human Rights Fellow
U of M Law School
- 2007 Adult Good Samaritan Hero
Award - American Red Cross

Areas of Expertise

Environmental & Energy Law
Environmental Review
Legal Analysis & Advice
Regulatory Compliance
Sustainable Planning

Bill Kalar

From: Bill Kalar
Sent: Wednesday, June 21, 2017 11:02 AM
To: 'Ty Dayton'
Subject: RE: Star Proposed Casino EAW Comment Attached = Army Corps response and comment

Mr. Dayton - this will confirm receipt of your E-Mail and the 5 Fed-Ex copies (which were provided to Kathy Domholt for distribution to the Commissioners).

Bill Kalar
Land & Resource Mgt.
218-998-8105

-----Original Message-----

From: Ty Dayton [mailto:ty@slccg.info]
Sent: Tuesday, June 20, 2017 4:00 PM
To: Bill Kalar
Subject: Star Proposed Casino EAW Comment Attached = Army Corps response and comment

Mr. Kalar,
Please note attached. I respectfully request both the cover letter and supporting document be included in the public record for review by the Commissioners. Five hard copies will be Fed-exed today to your attention so the commissioners each have a hard copy if preferred.
Please respond affirmatively that this is received and submitted timely. Thank you.
Ty Dayton

In the spirit of wetlands, wildlife and water protection, Ty Dayton
218-251-1975
Star Lake Concerned Citizens Group
SLCCG
Po Box 41
Dent MN 56528

www.slccg.info

IT'S NOT A DONE DEAL!

RECEIVED
JUN 21 2017
LAND & RESOURCE



TO: Mr. Bill Kalar and Commissioners of Otter Tail County
Government Service Center
540 Fir Street
Fergus Falls, MN 56537

6/20/17

FROM: Star Lake Concerned Citizens Group

Dear Mr. Kalar and Commissioners,

We have learned through a Freedom of Information Act (FOIA) request that the U.S. Army Corps of Engineers (USACE) has "Closed" the file on the Dredge and Fill Permit application filed by the developer last fall. You will recall that the public comment period for that action concluded on 11/28/16. The USACE reviewed the comments, shared them with the developer in a letter dtd 1/30/17 (attached) and gave the developer 30 days (3/1/17) to provide a resolution or rebuttal of the comments.

In a following USACE letter to the developer dtd 3/24/17 (also attached), the agency provided the developer with thirteen detailed issues/questions as a result of the public comments received. USACE requested the developer to provide responses to each within 60 days (5/21/17), or they would close the file on the permit application. As of 6/16/17 the developer (White Earth Enterprises, LLC) has not responded and the USACE file on this permit is now closed.

SLCCG does not fully understand the full legal implications of this, but do feel it warrants your attention. It also feels like a slight to the many good citizens who took the time and effort to provide an approximate 130+ comment letters during the November 2016 comment period.

More specifically however, the SLCCG respectfully submits that without the required "Dredge & Fill Permit", Otter Tail County should issue a positive declaration for an Environmental Impact Statement to provide the full due diligence that this matter deserves.

Sincerely and respectfully submitted,

Ty Dayton
President, Star lake Concerned Citizens Group

RECEIVED

JUN 21 2017

LAND&RESOURCE



REPLY TO ATTENTION OF
REGULATORY BRANCH

DEPARTMENT OF THE ARMY
ST. PAUL DISTRICT, CORPS OF ENGINEERS
180 FIFTH STREET EAST, SUITE 700
ST. PAUL, MN 55101-1678

MAR 24 2017

Regulatory File No. 2015-04407-RQM

Liz Foster-Anderson, Executive Director
White Earth Enterprises, LLC
3282 Highway 59 South Suite 10
Waubun, Minnesota 56589

Dear Ms. Foster-Anderson:

This letter concerns your request for Department of the Army authorization to discharge dredged or fill material into approximately 8.41 acres of wetlands adjacent to Star Lake for the purpose of constructing a casino and attendant features. The project site is in Section 15, Township 135 North, Range 41 West, Ottertail County, Minnesota.

The public notice period for this project was between October, 28, 2016 and November, 28, 2016 including the extension we granted to the Environmental Protection Agency. The comments we received in response to the public notice period are attached to this letter. At this time, we are requesting your response to the following comments:

1. Dimensions of the area(s) to be filled, and the depth and total quantity of the fill material to be placed there. Please include the dimensions and configuration of the structure(s), including a single design for the structures. Please note two different configurations of the buildings were submitted with the application. Please include any future plans including but not limited to an RV park or marina.
2. The source of the fill material.
3. Any alternatives considered that would not require filling wetlands, or filling less wetlands and why such alternatives are not practicable. Please include a discussion of the Pine Point Alternative, and the alternative of converting other land into tribal trust land.
4. Please discuss the wetland functions and values on site, including rice, lake-recharge, temperature, and flood reduction.
5. Please discuss wetland impact minimization, including minimization on basins 6 & 19.
6. Please discuss the projects impacts on wildlife habitat: fish, fish spawning, bald eagles, ducks, and other birds. Please discuss minimization and mitigation of impacts.
7. Please discuss the projects impacts on water quality, including snow removal, storm water, dewatering, water runoff, and downstream water quality including minimization and avoidance of impacts.

8. Please discuss erosion within the project area, including minimization and avoidance of impacts.
9. Please discuss the impacts, including invasive species impacts of increased boat traffic, and increased sea plane traffic, including minimization and avoidance of impacts.
10. Please discuss the impacts of increased automobile traffic, and increased sea plane traffic, including minimization and avoidance of impacts.
11. Please discuss the environmental impacts of increased housing required to accommodate additional employees including minimization and avoidance of impacts.
12. Please discuss the impacts of the project on aesthetic changes including noise, sewage smells and light and minimization efforts. Please also discuss the effects of the project on fishing, hunting and swimming quality, including minimization and avoidance of impacts.
13. Please discuss the impacts of the project on safety concerns – first responders, hospital, strain on both road safety, increased car traffic, cumulative effects, effects on safety, farm equipment safety, and emergency services including minimization and avoidance of impacts.

As part of our analysis of this project, we must determine whether it complies with the guidelines of Section 404(b)(1) of the Clean Water Act (CWA). These guidelines require that an alternatives analysis be conducted to first determine whether adverse effects on the aquatic ecosystem can be avoided, then whether potential practicable alternatives¹ would result in less adverse effects on the aquatic ecosystem. By law, the Least Environmentally Damaging Practicable Alternative (LEDPA)² is the only alternative which can be permitted by the Corps. The burden of proof to demonstrate compliance with the 404(b)(1) Guidelines rests with the applicant; where insufficient information is provided to determine compliance, the Guidelines require that no permit be issued.

Your project does not require access to, or proximity to, or siting within a wetland to fulfill its purpose. Therefore, it is incumbent upon you to clearly rebut the presumption that upland sites are available and would be less environmentally-damaging than your proposal. The fact that you may not own the upland site is not, by itself, sufficient to rebut this presumption.

Replies should be addressed to:

Robert Q. Maroney
Brainerd Field Office
10867 East Gull Lake Drive NW
Brainerd, Minnesota 56401

¹ The 404(b)(1) Guidelines state that an alternative is practicable if it is available and capable of being done after taking into consideration cost, existing technology, and logistics in light of overall project purposes (40 CFR 230.10(a)(2)).

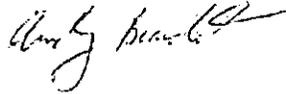
² The LEDPA is the alternative that meets the project purpose(s), is available to the applicant (practicable), and has the least amount of impact to aquatic resources, without having other significant adverse impacts to the natural environment.

Regulatory Branch (File No. 2015-04407-RQM)

If we do not hear from you within 60 days of this letter, we will assume that you are no longer interested in obtaining this permit, and we will close our file.

If you have any questions, please contact Robert Q. Maroney in our Brainerd office at (651) 290-5766 or Robert.Q.Maroney@usace.army.mil. In any correspondence or inquiries, please refer to the Regulatory file number shown above.

Sincerely,

A handwritten signature in black ink, appearing to read "Andrew D. Beaudet". The signature is fluid and cursive, with a prominent initial "A" and a long, sweeping underline.

Andrew D. Beaudet
Chief, Northwest Section

Enclosures:
Comments to public notice



REPLY TO ATTENTION OF
REGULATORY BRANCH

DEPARTMENT OF THE ARMY
ST. PAUL DISTRICT, CORPS OF ENGINEERS
180 FIFTH STREET EAST, SUITE 700
ST. PAUL, MN 55101-1678

30 JANUARY 2017

Regulatory File No. 2015-04407-RQM

Ms. Liz Foster-Anderson
White Earth Enterprises, LLC
3282 Highway 59 South Suite 10
Waubun, Minnesota 56589

Dear Ms. Foster-Anderson:

We are enclosing for your information correspondence we received as a result of our public notice that described your project.

It is our policy to give you the opportunity to give us your proposed resolution or rebuttal of these comments. Any response should be sent to this office so that potential resolutions or rebuttals can be considered in our final evaluation. If we receive no response within thirty (30) days of this letter, we will presume that no response is intended, unless an extension is requested.

In the interim, we will continue to evaluate your application. If you have any questions, please contact Mr. Robert Maroney in our Brainerd office at (651) 290-5766 or Robert.q.maroney@usace.army.mil. In any correspondence or inquiries, please refer to the Regulatory file number shown above.

Sincerely,

A handwritten signature in black ink, appearing to read "R. Maroney", written over a horizontal line.

Robert Q. Maroney
Project Manager

Enclosure(s):
Public Comments on Compact Disk

Bill Kalar

From: Bill Kalar
Sent: Wednesday, June 21, 2017 10:56 AM
To: 'Leah Moore'
Subject: RE: Proposed Casino EAW comment

Leah Moore – this will confirm receipt of your comments. They will be included as part of the Public Record regarding this matter.

Bill Kalar
Land & Resource Mgt.
218-998-8105



From: Leah Moore [mailto:moore597@umn.edu]
Sent: Tuesday, June 20, 2017 4:13 PM
To: Bill Kalar
Subject: Proposed Casino EAW comment

RECEIVED
JUN 21 2017
LAND & RESOURCE

Dear Mr. Kalar,

I am writing you as a concerned citizen about the possible casino development project on Star Lake. I have several concerns that I will discuss in this letter, and request that further investigation of this project's impact on the environment and surrounding area be completed with an Environmental Impact Statement (EIS) before the development is approved.

My first concern involves the destruction of natural wetland and placement of impervious surfaces in the area adjacent to the wetland and lake. This development will increase the impervious surface from its existing 4.7 acres to 20.2 acres. That is an increase of 15.5 acres of impervious surface. As you know, rainfall is naturally filtered through the ground and processed by the earth before draining into our lakes and waterways. Per the U.S. Department of the Interior, 1 inch of rain falling on 1 acre of land is approximately 27,154 gallons of water (<https://water.usgs.gov/edu/earthrain.html>). Per the Ottertail county governmental website the average annual precipitation is 26.56 inches in Ottertail County (<http://www.co.otter-tail.mn.us/632/Climate>). Now let us consider this math. One inch of rain on 1 acre is 27,154 gallons of water, multiplied by 26.56 inches of precipitation per year, times 15.5 more acres of impervious surface; that is an astounding 11,178,758 gallons of water each year that is naturally filtered through the ground before it runs into our wetlands and lake that will no longer be naturally filtered due to the addition impervious surface. Over 11 million gallons of water containing oil and dirt from cars and RVs, garbage, fertilizer, salt and ice treatments, and potentially human waste will just be running into the surrounding wet land and directly into the lake. In addition, 7.4 acres of wetland that would normally help filter this water runoff is going to be filled in and can never be replaced, further compromising the water quality of the lake and destroying natural habitat. The run off ponds constructed in Becker and Roseau will do nothing for the quality of Star Lake. If this project was not being built directly on and adjacent to a wetland and lake the extra runoff could potentially be mitigated by raingardens or some other form of added filtration system, but this project is planned to be built directly on and adjacent to a wetland and lake. As stated in the Environmental Assessment Worksheet (EAW), there is less than 3 feet between the planned water runoff holding ponds and the seasonably high ground water table. This is not adequate for

water runoff holding ponds per the MN Pollution Control Agency. This is simply unacceptable for the water quality and health of our natural habitat and its wildlife. The EAW does not fully explain how the development will handle this increase in water runoff and this alone is reason enough to require an EIS to further investigate the environmental impact of this project being built so close to the lake.

As you know, water quality is extremely important to the citizens of this area, the area wild life, birds, and fish in Star Lake and the surrounding lakes. In addition to the run off problems discussed above, the waste treatment plan is extremely worrisome. Per the EAW the proposed waste-water treatment area will be located adjacent to the wetland and Star Lake and is “the most adequate means of managing site waste water”. The term “most adequate” is not synonymous with safe. Although the EAW discusses minimum standards for maintaining this waste-water treatment system, and cites that nearby cities use this type of water-treatment system, the nearby cities do not have their treatment systems directly next to a wetland and lake. In the event of a failure or simply an above average rain fall this could be catastrophic for not only the immediate area but for all of Star Lake and its adjoining Dead Lake. Hot human sewage draining into the close by wetland and Lake is an extreme health hazard for resort goers and landowners alike. The EAW states that this project is meant for families. No doubt young children will be swimming close by and any type of malfunction in this system could cause extreme health problems for swimmers. Along with the potential health hazards to swimmers, this type of pollution would have a negative impact on fish and anglers, waterfowl and wildlife in the area, and increase the growth of algae in the lake. Algae not only decreases the aesthetic beauty of the area but has a devastating effect on the fish population due to decreasing the oxygen levels in the water. Blue green algae can even kill animals and people if they consume enough of it. Considering the final planning for the design of the waste-water system is not even complete, further investigation with an EIS is absolutely necessary to prevent potential health risks that this type of treatment system could cause. An EIS would allow further investigation into alternative treatment systems or configurations that would be safer. In addition, the EAW states that this type of treatment system may have periods where odors from the waste water system will be noticed. This is a beautiful rural area and having the smell of human waste in the air is unacceptable for landowners and resort goers alike. People do not visit or buy homes and pay taxes in this area to have the smell of human waste in the air.

In addition to the pollution to the water and possible health risks, this is a rural area and is meant to be left as one. Bright neon lights and flood lights flashing in the sky are not consistent with the beauty of this area. Increased traffic, garbage, and noise pollution will have a significant negative impact on the wildlife, birds, farmers, hunters, and outdoorsmen that call this area their home. It is not consistent with the rural setting of this beautiful area and should not be ignored.

Finally, I would like to address the environmental impact of potential future expansions that are not addressed in the EAW. The EAW clearly states that future expansion may include expansion of the hotel and gaming areas, expansion of the RV park, and the addition of rental cabins. What they have already proposed will cause a devastating effect on this lake’s water quality, the area’s wild life, and its natural beauty. The unknown plans of the gaming facility and resort’s expansion will only further increase the pollution and potential health hazards to the environment. This is a wetland and should be treated as one. The area is not fit to house a commercial development of this size and the traffic, noise, and human pollution that comes with it.

Once the water quality of a lake is compromised it is impossible to restore. Once wetland is destroyed it is impossible to restore. As you heard at the meeting last Thursday, the citizens of this area request an Environmental Impact Statement to ensure the land, water, and wild life in this area are being protected. Please listen to our heartfelt

concerns and conduct an EIS to ensure this land and water stays clean and beautiful for our generation and the generations to come. Please feel free to contact me with any questions or for further discussion.

Thank you for your time,

Leah Moore

29761 380th St.

Dent, MN 56528

moore597@umn.edu

612-750-2689

June 18, 2017

To: Otter Tail County
Dept. of Land and Resources
ATTN: Mr. Bill Kalar
540 West Fir
Fergus Falls MN 56537



From: Becky Mindemann

SUBJECT: EAW Comments RE: Star Lake Development

Dear Mr. Kalar and Otter Tail County Commissioners

I have 3 concerns that I would like to bring to your attention.

1. USACE Dredge & Fill Permit.

- a. The Corps of Engineers correspondence to Liz Foster-Anderson dated March 24, 2017, Regulatory File No. 2015-04407-RQM. A copy is included. This letter requests responses to 13 comments and none have been received as of 6/16/2017. The COE has now closed the file on the request for authorization to discharge dredged or fill material into 8.41 acres of wetlands adjacent to Star Lake due to the failure of the developer to properly respond.

2. Alternate Site.

- a. The Corp of Engineers requested information referencing comment #3, about "any alternatives considered that would not require filling wetlands, or filling less wetlands and why such alternatives are not practicable. Please include a discussion of the Pine Point Alternative, and the alternative of converting other land into tribal trust land".
- b. A letter detailing this alternative sent to Mr. Maroney, of the COE, from Ms. Stephanie Williams, a White Earth tribal member, dated July 13, 2016, discusses the Pine Point location. A copy is included. She states, "The feasibility study that was conducted by Klas I-Robinson in 2015 states that a site in Pine Point has the same or better economic potential, yet this information seems to be entirely omitted from the applications submitted for the Star Lake Casino site".
- c. On December 1, 2016, the EPA, M. Peter Swenson, chief of the Watershed and Wetlands Branch, wrote Mr. Chad Konickson, chief regulatory branch, COE, that the proposed EAW stated purpose 6d does not justify/require this project be next to a lake. A copy is included. "The Clean Water Act Section 404 (b)(1) Guidelines require that the applicant demonstrate there are no practical alternatives available that would have a less adverse impact on the aquatic environment for non-water dependent activities. The Guidelines

presume that less damaging upland alternatives are available for these activities unless demonstrated otherwise by the applicant. The applicant must follow a sequence of steps to be in compliance with the Guidelines: which include avoidance, minimalization, and compensation for unavoidable impacts. The applicant must present a reasonable range of alternatives that avoid and minimize impacts to aquatic resources on-site to the maximum extent possible. Based on the information reviewed, EPA objects to the issuance of a Section 404 permit for this project until the Corps of Engineers (Corps) include the following in their public interest review: 1) Broaden the basic project purpose. As currently state, the basic project purpose indicates that the development must be adjacent to Star Lake. Since the project is not water dependent, adjacency to a lake, or any waterbody, is not necessary and narrows the choice of alternatives.”

3. As was stated at the public meeting on 6/15, the proposer failed to include parcel #56000100070000 which is the split parcel of approximately 12.4 acres located in Section 10. This property is directly on the lake and gives lake access to the project. This was not a mistake. I feel the proposer wanted this land to be separate from the total project to avoid dealing with lakeshore ordinances right now. Longtime residents know that this area is known for fish spawning. Docks or a marina would bring more environmental issues. In the March 24, 2017 COE memo to Ms. Foster-Anderson, 13 responses are needed. Comment #1 requested future plans for a marina, #6 wildlife habitat, #9 invasive species impacts of increased boat traffic and seaplane traffic, #10 increased traffic-including seaplanes. The COE clearly realizes that there will be increased lake use. Why would a marina or numerous docks be allowed in this area, when Pierre Ducharme was denied the same a few years ago?

In conclusion, there is evidence that WEN did look at the Pine Point location, but chose Star Lake instead when a lake site was not necessary, as to their stated purpose from EAW page 6, subparagraph d. All the environmental issues this location is causing could have been eliminated by a more suitable location. Why did they choose Star Lake? They chose it because they really did want a waterfront resort. By not including docks, marina or other purposes for that water front property in their plans, they have failed to include, and tried to hide, that expensive piece of lake shore in the total project. AN EIS MUST BE DONE.

Respectfully submitted,
Becky Mindemann 32739 380th St. Dent MN 56528





REPLY TO ATTENTION OF
REGULATORY BRANCH

DEPARTMENT OF THE ARMY
ST. PAUL DISTRICT, CORPS OF ENGINEERS
180 FIFTH STREET EAST, SUITE 700
ST. PAUL, MN 55101-1678

MAR 24 2017

Regulatory File No. 2015-04407-RQM

Liz Foster-Anderson, Executive Director
White Earth Enterprises, LLC
3282 Highway 59 South Suite 10
Waubun, Minnesota 56589

Dear Ms. Foster-Anderson:

This letter concerns your request for Department of the Army authorization to discharge dredged or fill material into approximately 8.41 acres of wetlands adjacent to Star Lake for the purpose of constructing a casino and attendant features. The project site is in Section 15, Township 135 North, Range 41 West, Ottertail County, Minnesota.

The public notice period for this project was between October, 28, 2016 and November, 28, 2016 including the extension we granted to the Environmental Protection Agency. The comments we received in response to the public notice period are attached to this letter. At this time, we are requesting your response to the following comments:

1. Dimensions of the area(s) to be filled, and the depth and total quantity of the fill material to be placed there. Please include the dimensions and configuration of the structure(s), including a single design for the structures. Please note two different configurations of the buildings were submitted with the application. Please include any future plans including but not limited to an RV park or marina.
2. The source of the fill material.
3. Any alternatives considered that would not require filling wetlands, or filling less wetlands and why such alternatives are not practicable. Please include a discussion of the Pine Point Alternative, and the alternative of converting other land into tribal trust land.
4. Please discuss the wetland functions and values on site, including rice, lake-recharge, temperature, and flood reduction.
5. Please discuss wetland impact minimization, including minimization on basins 6 & 19.
6. Please discuss the projects impacts on wildlife habitat: fish, fish spawning, bald eagles, ducks, and other birds. Please discuss minimization and mitigation of impacts.
7. Please discuss the projects impacts on water quality, including snow removal, storm water, dewatering, water runoff, and downstream water quality including minimization and avoidance of impacts.

8. Please discuss erosion within the project area, including minimization and avoidance of impacts.
9. Please discuss the impacts, including invasive species impacts of increased boat traffic, and increased sea plane traffic, including minimization and avoidance of impacts.
10. Please discuss the impacts of increased automobile traffic, and increased sea plane traffic, including minimization and avoidance of impacts.
11. Please discuss the environmental impacts of increased housing required to accommodate additional employees including minimization and avoidance of impacts.
12. Please discuss the impacts of the project on aesthetic changes including noise, sewage smells and light and minimization efforts. Please also discuss the effects of the project on fishing, hunting and swimming quality, including minimization and avoidance of impacts.
13. Please discuss the impacts of the project on safety concerns – first responders, hospital, strain on both road safety, increased car traffic, cumulative effects, effects on safety, farm equipment safety, and emergency services including minimization and avoidance of impacts.

As part of our analysis of this project, we must determine whether it complies with the guidelines of Section 404(b)(1) of the Clean Water Act (CWA). These guidelines require that an alternatives analysis be conducted to first determine whether adverse effects on the aquatic ecosystem can be avoided, then whether potential practicable alternatives¹ would result in less adverse effects on the aquatic ecosystem. By law, the Least Environmentally Damaging Practicable Alternative (LEDPA)² is the only alternative which can be permitted by the Corps. The burden of proof to demonstrate compliance with the 404(b)(1) Guidelines rests with the applicant; where insufficient information is provided to determine compliance, the Guidelines require that no permit be issued.

Your project does not require access to, or proximity to, or siting within a wetland to fulfill its purpose. Therefore, it is incumbent upon you to clearly rebut the presumption that upland sites are available and would be less environmentally-damaging than your proposal. The fact that you may not own the upland site is not, by itself, sufficient to rebut this presumption.

Replies should be addressed to:

Robert Q. Maroney
Brainerd Field Office
10867 East Gull Lake Drive NW
Brainerd, Minnesota 56401

¹ The 404(b)(1) Guidelines state that an alternative is practicable if it is available and capable of being done after taking into consideration cost, existing technology, and logistics in light of overall project purposes (40 CFR 230.10(a)(2)).

² The LEDPA is the alternative that meets the project purpose(s), is available to the applicant (practicable), and has the least amount of impact to aquatic resources, without having other significant adverse impacts to the natural environment.

If we do not hear from you within 60 days of this letter, we will assume that you are no longer interested in obtaining this permit, and we will close our file.

If you have any questions, please contact Robert Q. Maroney in our Brainerd office at (651) 290-5766 or Robert.Q.Maroney@usace.army.mil. In any correspondence or inquiries, please refer to the Regulatory file number shown above.

Sincerely,


Andrew D. Beaudet
Chief, Northwest Section

Enclosures:
Comments to public notice

July 13, 2016

Mr. Robert Q. Maroney, Project Manager
US Army Corps of Engineers
180 5th St. East, Ste. 700
St. Paul, MN 55101-1678

Dear Mr. Maroney,

My name is Stephanie Williams and I am a White Earth enrolled tribal member. I'm writing you this letter to share my opposition to the Star Lake Resort and Casino Project. This project has many negative environmental impacts, both for the people of Star Lake and surrounding communities as well as the lake itself and, more importantly, the entire Star Lake Eco System. Both the CWA and the WCA require that impacts to aquatic resources be avoided if practicable alternatives exist. The feasibility study that was conducted by Klas I-Robinson in 2015 states that a site in Pine Point has the same or better economic potential, yet this information seems to be entirely omitted from the applications submitted for the Star Lake Casino site.

Commercially developing this vital wetland so close to the shores of Star Lake is very short-sighted, thoughtless and is a complete misuse of money and resources. The proposed building site is located directly on sensitive wetlands containing critical habitat for many native plants and wildlife species.

This wild ricing site on Star Lake has been used for many generations of the Minnesota Chippewa Tribe for gathering of wild rice and other sacred plants. Destruction of this site by the Shooting Star Casino developers will harm these critical natural and cultural resources while preventing future generations from being able to learn about and experience all that Mother Earth has to offer.

There are several environmental impacts that will have perpetual negative effects on the Star Lake and Dead Lake fisheries habitats and the entire eco system, due to: the inevitable wastewater release, removal of organic material and replacement soil for elevation of the building site, the high volume of constant human disturbance, and many other unnatural disturbances that occurs with this type of enterprise .

Please properly elevate the environmental review process to the more comprehensive, ENVIRONMENTAL IMPACT STATEMENT level to insure all aspects are taken into consideration.

Please, as an alternative to this destruction, consider a more suitable site for this development that would greatly reduce the negative impact to the environment. Leaving this Star Lake wild ricing trust land parcel in its present, natural state for all current and future generations of the Minnesota Chippewa Tribe to wisely use and cherish these resources as our ancestors have for centuries.

Thank you for your consideration and appropriate action in this manner.

Sincerely,

Stephanie Williams

White Earth Tribal Member ID # 408B29004



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5
77 WEST JACKSON BOULEVARD
CHICAGO IL 60604-3590

DEC 12 2016

REPLY TO THE ATTENTION OF

WW-16J

Mr. Chad Konickson
Chief, Regulatory Branch
St. Paul District Corps of Engineers
180th 5th Street East, Suite 700
St. Paul, Minnesota 55101

RE: White Earth Band of Chippewa Indians Public Notice No. 2015-04407-RQM

Dear Mr. Konickson:

The U. S. Environmental Protection Agency has reviewed the above referenced public notice dated October 28, 2016, and related materials. The White Earth Band of Chippewa (Band) has applied for a Clean Water Act Section 404 permit to discharge fill material into approximately 8.41 acres of wetlands and temporarily impact 1.01 acres of wetlands. The purpose of the proposed project is to construct a commercial development to provide revenue and entertainment. Included in the construction plan would be the following: casino, lodging, restaurants, conference center, offices, parking and roadways.

The Clean Water Act Section 404 (b)(1) Guidelines (Guidelines) require that the applicant demonstrate there are no practicable alternatives available that would have a less adverse impact on the aquatic environment for non-water dependent activities. The Guidelines presume that less damaging upland alternatives are available for these activities unless demonstrated otherwise by the applicant. The applicant must follow a sequence of steps to be in compliance with the Guidelines; which include avoidance, minimization, and compensation for unavoidable impacts. The applicant must present a reasonable range of alternatives that avoid and minimize impacts to aquatic resources on-site to the maximum extent possible.

Based on the information reviewed, EPA objects to the issuance of a Section 404 permit for this project until the Corps of Engineers (Corps) include the following in their public interest review:

- 1) Broaden the basic project purpose. As currently stated, the basic project purpose indicates that the development must be adjacent to Star Lake. Since the project is not water dependent, adjacency to a lake, or any waterbody, is not necessary and narrows the choice of alternatives.

- 2) The compensatory mitigation must be acceptable to the Corps, and be consistent with the federal mitigation rule. The mitigation bank that the applicant proposes to use is not within the same watershed as the wetland impacts.

Mr. Robert Maroney of your staff, extended the public notice comment period to December 12, 2016. If you have any questions please contact Janice Cheng of my staff at (312) 353-6424.

Sincerely,



Peter Swenson, Chief
Watersheds and Wetlands Branch

cc: Robert Maroney, Corps of Engineers, St. Paul District
Liz Foster-Anderson, White Earth Enterprises, LLC

Bill Kalar

From: Bill Kalar
Sent: Wednesday, June 21, 2017 9:49 AM
To: 'Brenda Ebanks'
Subject: RE: Star Lake Casino EAW Comments

Brenda Ebanks – this will confirm receipt of your comments. They will be included as part of the Public Record regarding this matter.

Bill Kalar
Land & Resource Mgt.
218-998-8105



From: Brenda Ebanks [mailto:brenaubstr@gmail.com]
Sent: Tuesday, June 20, 2017 4:02 PM
To: Bill Kalar
Subject: Star Lake Casino EAW Comments

Mr. Kalar:

Attached are my comments concerning the proposed Star Lake Casino Development. Thank you for the opportunity to provide input on why I believe this project should be escalated to an EIS.

Respectfully,

Brenda Ebanks
39605 Galaxy Road
Dent, MN 56528

RECEIVED
JUN 21 2017
LAND & RESOURCE

June 20, 2017

Mr. Bill Kalar
Land & Resource Management Director
OTC Government Services Center
540 West Fir
Fergus Falls, MN 56537.

Re: Star Lake Casino Development – EAW comments

Mr. Kalar and Otter Tail County Board of Commissioners:

I respectfully submit that there is a need for an EIS for the Star Lake Casino Development project for some of the reasons and examples I describe below.

Item 1 (p.1) Project Title versus Item 6 a&b (p.3) Project Description

What truly is the focus of this project? Is it a “casino” or a “resort”? These two terms are NOT synonymous or interchangeable; they have totally different meanings and target markets. The Project Title (casino) is inconsistent with the Project Description (resort).

Item 2 (p.1): Proposer: No proposer is identified (only a contact person).

According to Minnesota Rules 4410.0200 Subpart 68, the proposer means, “the person or governmental unit that proposes to undertake or direct others to undertake a project.” The Proposer should be the entity that has applied for or would receive the approval for the project or the governmental unit that will undertake the project and not a consultant, attorney, or other entity or person representing the proposer.

- What entity is the proposer of this entire project? WEN? Shooting Star Casino? Central Minnesota Land Co? Other?
- There are different ownership titles to the various parcels of land which makes it confusing to understand who the ultimate project proposer really is.
- What are the implications of having a project that spans multiple parcels, different landowners, and different jurisdictions?

Item 6b (p.3): Project Description

Per the EAW: *The project will permanently convert former farmsteads, farmland, open space and wetlands into a resort facility. ... The facility will operate 7 days a week, 24 hours a day, with a target demographic focusing on families.*

More details should be provided about the resort features and amenities, and what phases they are planned for. In particular, the proposer should provide additional details about the gaming aspect. For instance: What types of gaming? How many slot machines? Table games? Other types of gaming? Poker? How frequently might there be gaming tournaments, various

promotions and giveaways that draw larger than average crowds to the casino and how will the increase in visitors (and traffic) be managed?

Also, p. 38 [Item 17 (4)] mentions an outdoor community theater; this is the first mention I have ever heard of an outdoor theater (it is not in the earlier description in item 6). The proposer needs to provide more information about the size, noise level, and events/activities that would occur at the outdoor community theatre (for instance, might this be an amphitheater with live music and bands? What about fireworks on July 4th or New Year's Eve?)

Since this will be permanent, we better make sure we thoroughly understand what this project is proposing (current and future phases) and all the related impacts (environmental and otherwise). Permanent is permanent; there is no going back.

An EIS would be the mechanism to provide the additional thorough analysis necessary to fully understand what is being proposed and the various implications (current and future, as well as the cumulative effects).

Item 6d (p.6) Project Purpose and Beneficiaries

The proposer says *"The purpose of the project is to provide a resort with a gaming facility, hotel, and conference center within the lakes region. ... Gaming revenues would be used to address Tribal employment, education, healthcare, housing, self-government, and economic development. Gaming revenues would also be used to fund the restoration and preservation of cultural sites"*

Again ... is it a resort or a casino? The proposer only mentions "gaming revenues" ... what about revenues from the hotel, conference/event center, restaurants, bar, gift shop, etc.?

More information should be provided as to the estimated/projected revenue and when the people of White Earth could expect to see the identified benefits. Furthermore, I think an EIS could take a look at the taxation elements of such revenues and what (if anything) would come back to Otter Tail County. It is my understanding that Minnesota casino gambling doesn't provide any revenue in the form of taxes to Minnesota. There are fees however, that compensate the state to some extent for inspections and other items in the tribal agreements with the state.

Item 14 (p. 34) Historic Properties

The Tribal Trust Land was originally purchased and designated for the tribe for wild ricing. There is both oral and documented history of this area being a campground during the ricing season. The following was taken from one of the Star Lake project documents prepared by Blondo Consulting, posted on Otter Tail County's webpage:

Section 5.1.3 Ricing on Star Lake: White Earth oral tradition tells us that Star Lake has long been utilized as ricing grounds. Articles found in the Fergus Falls newspaper can confirm this in recent history. ... From the Fergus Falls Daily Journal, August 18, 1941: "A large band of Indians – men, women, and children – are encamped at Star Lake for the annual harvest of wild rice. They came from the Indian reservations to the north, and

report the best crop of rice in many years ...The Indians are encamped on a plot of ground the government purchased from Henry Tenter, Jr., a few years ago." A search of Otter Tail County plat maps at the Otter Tail County historical society does show that the U.S Government did in fact purchase a 15-acre portion of the project parcel from Henry Tenter, Jr., around 1938. The area has a long and rich history with Native American groups. Not only was it an important place to harvest wild rice, but Ottertail County is also thought to be "rich in mounds and relics ... In the townships of Everts, Girard, Amor, Perham and Star Lake, numberless mounds are found of every shape and size, together with many sites of prehistoric villages."

The report by Blondo Consulting also states: "It is further recommended that a monitor be present when ground-disturbing activities take place ... due to a strong Native American oral tradition surrounding Star Lake." Here is the link to the OTC website where you can find the complete report: <http://www.co.otter-tail.mn.us/DocumentCenter/Home/View/9434>

What is the proposer's strategy for protecting and preserving (and not destroying) historical and archaeological sites and artifacts? Given the wild ricing history, including ricing camps, this would seem an obvious reason to look into this further. I believe it is important to make sure that all history and potential artifacts unique to this area are protected and preserved. Once ground-breaking activities take place there is no going back.

Item 18 (p. 39) Transportation

Traffic during construction and once operational is a major concern. The surrounding roads are curvy, have limited visibility due to hills/valleys, and have no shoulders. These roads are shared by postal carriers, sanitation trucks, automobiles, motorcycles, other heavy duty trucks, farm vehicles, bicycles, and pedestrians alike. I have to cross Cty Rd 41 to get to my mailbox and again today a large truck came way too fast around the corner of 41 and Galaxy Road heading north. A few years ago there was a rollover at this same corner.

Most of the traffic discussion in the EAW has to do with the primary roads in the area (State Hwy 108, County Highways 41, 24 and 35). There will also be increased traffic and issues on the local township roads. For example, 380th Street is a dead end gravel road that is along the northern perimeter of the proposed development. This roadway is currently used by a small family resort, a bible camp, seasonal cabin owners and a few year-round residents. There are many pedestrians, young and old, including a deaf child, that often walk this road, oftentimes with pets alongside them. Their future safety has to be addressed as visitors to the proposed development are likely to drive down the road just to see what is down there.

Thank you for your consideration. I am hopeful that the processes that have been established to protect our citizens (OTC and WEN), our visitors and our environment will be strictly adhered to with respect to this project and that you will agree, after reviewing the comments from citizens and agencies, that this development project does meet the NEED for an EIS.

Respectfully,

Brenda Ebanks, 39605 Galaxy Road. Dent, MN 56528

Bill Kalar

From: Bill Kalar
Sent: Wednesday, June 21, 2017 9:37 AM
To: Karen.kromer@state.mn.us
Subject: RE: MPCA Comment Letter - Star Lake Casino Development

WRONG ADDRESS - SEE
RESENT ATTACHED
(310)
6/21/17

Hi Karen – as per Elizabeth Tegdesch’s request, this will confirm receipt of MPCA’s comments regarding the proposed Star Lake Casino.

Bill Kalar
Land & Resource Mgt.
218-998-8105



From: Tegdesch, Elizabeth (MPCA) [<mailto:elizabeth.tegdesch@state.mn.us>]
Sent: Tuesday, June 20, 2017 1:44 PM
To: Bill Kalar
Cc: Kromar, Karen (MPCA); Card, Dan (MPCA); Wilde, William (MPCA); Getman, Roberta (MPCA); Krueger, Gary (MPCA); James, Tim (MPCA); Ziegler, Jim (MPCA)
Subject: MPCA Comment Letter - Star Lake Casino Development

Attached are the Minnesota Pollution Control Agency’s comments on the Star Lake Casino Development Environmental Assessment Worksheet. A paper copy will follow by U.S. mail.

Please acknowledge receipt of this comment letter to Karen Kromar at Karen.kromar@state.mn.us

Thank you.

Elizabeth Tegdesch
Environmental Review and EQB Support
Minnesota Pollution Control Agency
520 Lafayette Road N
St. Paul, MN 55155 / 651-757-2100
elizabeth.tegdesch@state.mn.us

RECEIVED
JUN 21 2017
LAND&RESOURCE

Bill Kalar

From: Bill Kalar
Sent: Wednesday, June 21, 2017 9:43 AM
To: 'Karen.kromar@state.mn.us'
Subject: MPCA Comment Letter - proposed Star Lake Casino

Hi Karen – as per Elizabeth Tegdesch’s request, this will confirm receipt of MPCA’s comments regarding the proposed Star Lake Casino.

Bill Kalar
Land & Resource Mgt.
218-998-8105





520 Lafayette Road North | St. Paul, Minnesota 55155-4194 | 651-296-6300

800-657-3864 | Use your preferred relay service | info.pca@state.mn.us | Equal Opportunity Employer

June 20, 2017

Mr. Bill Kalar, Director
Land & Resource Management
Otter Tail County
Government Services Center
540 West Fir
Fergus Falls, MN 56537

Re: Star Lake Casino Development Environmental Assessment Worksheet

Dear Mr. Kalar:

Thank you for the opportunity to review and comment on the Environmental Assessment Worksheet (EAW) for the Star Lake Casino Development project (Project) located in Star Lake Township, Otter Tail County, Minnesota. The Project consists of development of a gaming/hotel facility, recreational vehicle park, and wastewater treatment and storage facilities. Regarding matters for which the Minnesota Pollution Control Agency (MPCA) has regulatory responsibility and other interests, the MPCA staff has the following comments for your consideration.

Permits and Approvals (Item 8)

Please note the Project will require a Clean Water Act Section 401 Water Quality Certification (401 Certification) or waiver from the MPCA to verify compliance with state water quality standards. For further information about the 401 Certification process, please contact Jim Brist at 651-757-2245 or Bill Wilde at 651-757-2825.

Water Resources (Item 11)

Groundwater

- The EAW cites the abandonment of two water supply wells, UN 515836 and UN579322. Figure 13 shows only well 515836.
- The EAW does not provide the drilling log, well construction log, or registration information regarding the 6 inch production well installed at the Project site.
- The planned location of the second production well does not appear to be shown on any of the maps.

Stormwater

- During construction, the Project has the potential to discharge sediment to several surface waters including lakes and wetlands. Sheet 1 of the Preliminary Erosion Control Plan (SWPPP) identifies areas where silt fence will be installed as the required down gradient sediment control. The Stormwater Pollution Prevention Plan (SWPPP) shows a single line of silt on the borders of all the surface waters. However, the General National Pollutant Discharge Elimination System/State Disposal System Construction Stormwater Permit (CSW Permit) will require that a 50-foot natural buffer is preserved around the surface waters and that the undisturbed areas are identified in the SWPPP. If this is not feasible and the 50-foot buffer must be encroached, then the SWPPP must specify the use of redundant down gradient sediment controls to provide equivalent protection as a 50-foot buffer.

- There are no plans identified in the preliminary SWPPP that indicate exposed soils will be stabilized within 14 days on any portion of the Project site where land disturbance has temporarily or permanently ceased as will be required by the CSW Permit. The SWPPP will need to show the locations where the temporary erosion prevention covers will be applied along with the timeline for completing them. The erosion prevention utilized during the construction is particularly important to retaining sediment on the Project site during the construction. The Project proposer must also incorporate phased soil disturbing activities to minimize the duration of exposed soils on the Project site. Questions regarding CSW Permit requirements should be directed to Roberta Getman at 507-206-2629.
- The EAW indicates that the Project proposer will install stormwater basins to treat stormwater from the new impervious surfaces due to high water tables that prevent the use of infiltration as the method to reduce the stormwater volume generated by the development. The Project proposer should also consider other methods of volume reduction such as incorporating stormwater harvest and reuse, green roofs, pervious pavement, and/or bioretention for at least part of the water quality volume. Information on bioretention can be found in Minnesota's Stormwater Manual at: <https://stormwater.pca.state.mn.us/index.php?title=Bioretention>.

In addition, the MPCA Low Impact Design (LID) webpage provides a description and examples of LID features and links to other resources. The website is located at: <https://www.pca.state.mn.us/water/stormwater-management-low-impact-development-and-green-infrastructure>.

Wetlands

- In addition to the requirements in the SWPPP, the 401 Certification program requires that the Project proposer provide additional detail on proposed/expected in-water best management practices (BMPs) to ensure that Project construction will not result in an increase in total suspended solids (TSS)/sediment entering nearby surface waters not proposed for impact. A 401 Certification often includes conditions requiring documentation of in-water BMPs and requires consistency with Minnesota Department of Natural Resources (DNR) manual "Best Practices for Meeting DNR General Public Waters Work Permit GP-2004-001."

Contamination/Hazardous Materials/Wastes (Item 12)

The EAW indicates Phase I and II Environmental Site Assessments (ESA) were conducted at locations within the Project site. Phase I identified several issues of concern such as past use of the Project site as a cabinet shop, potential burn pits/mounds, outdoor solid waste disposal areas, and drum disposal area. The Phase II ESA was apparently conducted without oversight from the MPCA Remediation Division, and the ESAs were not provided with the EAW. Because of this, it is not possible for the MPCA to assess if the investigations conducted were sufficient to evaluate all potential areas of concern and what, if any, additional investigation and possible remediation of the Project site is required prior to development.

State law requires that persons properly manage contaminated soil and groundwater they uncover or disturb - even if they are not the party responsible for the contamination. The MPCA recommends the Project proposer enroll the Project in the MPCA's Brownfields Program to receive liability assurances and necessary technical assistance in managing the contamination. For some properties, special construction might be needed to prevent the further spreading of the contamination and/or prevent vapors from entering buildings or utility corridors. Information regarding the Brownfields Program can

Mr. Bill Kalar
Page 3
June 29, 2017

be found at: <https://www.pca.state.mn.us/waste/brownfields>. Questions regarding the Brownfields Program should be directed to Gary Krueger at 651-757-2509.

Further, page 28 of the EAW states: "Following removal and disposal of the debris piles, additional soil samples were collected from beneath the burn pits, debris areas, and drum disposal area. Minor soil impacts were identified in one area. This information was reported to the MPCA. The MPCA responded that the project site location does not require additional corrective action." Please note that the MPCA was contacted regarding a surface spill from a tank and the response was regarding the spill and was not in reference to the other areas of concern identified at the Project site.

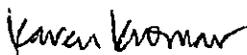
Air (Item 16)

Dust and Odors

- The EAW indicates the use of calcium chloride for dust suppression. Please note that this substance has the potential to contaminate groundwater and surface waters. There is a non-chloride alternative that has been used successfully for erosion control and may work better than chloride to contain dust suppressants. Additional information for this particular product is available at: <http://centraisalt.com/x-hesion-dc.htm>. There may also be additional non-chloride containing dust suppressant products available.

We appreciate the opportunity to review this Project. Please provide your specific responses to our comments and notice of decision on the need for an Environmental Impact Statement. Please be aware that this letter does not constitute approval by the MPCA of any or all elements of the Project for the purpose of pending or future permit action(s) by the MPCA. Ultimately, it is the responsibility of the Project proposer to secure any required permits and to comply with any requisite permit conditions. If you have any questions concerning our review of this EAW, please contact me by email at Karen.kromar@state.mn.us or by telephone at 651-757-2508.

Sincerely,



Karen Kromar
Planner Principal
Environmental Review Unit
Resource Management and Assistance Division

KK:bt

cc: Dan Card, MPCA, St. Paul
Bill Wilde, MPCA, St. Paul
Roberta Getman, MPCA, Rochester
Gary Krueger, MPCA, St. Paul
Tim James, MPCA, Detroit Lakes
Jim Ziegler, MPCA, Detroit Lakes

Bill Kalar

From: Bill Kalar
Sent: Tuesday, June 20, 2017 1:37 PM
To: 'clilienthal@brainerd.net'
Subject: RE: Proposed Shooting Star Casino on Star Lake

Jim Lilienthal – this will confirm receipt of your comments. They will be included as part of the Public Record regarding this matter.

Bill Kalar
Land & Resource Mgt.
218-998-8105



From: clilienthal@brainerd.net [mailto:clilienthal@brainerd.net]
Sent: Tuesday, June 20, 2017 12:49 PM
To: Bill Kalar
Subject: Proposed Shooting Star Casino on Star Lake

I am a retired DNR Area Fisheries Supervisor who has hunted waterfowl on Star Lake. I am deeply concerned that the environmental foot print of the proposed casino will have a negative impact on waterfowl use, waterfowl hunting, and Star Lake's great undeveloped wild rice bays. It is this location that is not fitting for such a massive and invasive development. It is high time that laws that permit siting on a location that is a historic Native American wild rice harvest access be examined. I have nothing against casinos, but this site is about as environmentally unsuited as a site could be. I support the need for an EIS. Jim

Lilienthal 7643 Bear Road, Cushing MN 56443 Ph. 218-575-2203

Sent from [Mail](#) for Windows 10

RECEIVED
JUN 20 2017
LAND & RESOURCE

Bill Kalar
Land and Resource Management Director
Otter Tail County Government Services Center
540 West Fir
Fergus Falls, MN 56537

RECEIVED
JUN 20 2017
LAND & RESOURCE

June 20, 2017

Dear Bill:

This letter is in response to the request for public comments regarding the Environmental Assessment Worksheet pertaining to the White Earth Band's proposed casino/hotel/convention/entertainment complex on Star Lake in Otter Tail County.

According to the OTC Shoreland Management Ordinance an EAW is intended to be a brief document to help decide whether a proposed action has the potential for significant environmental effects and, in the case of a private action, whether it is of more than local significance. ***"If the action meets these criteria, an environmental impact statement (EIS) should be prepared."***

The proposed development on Star's south arm represents massive potential negative impacts on some of the most important and environmentally sensitive land and wet lands in the county. What happens on Star doesn't stay on Star. It flows directly downstream to Dead Lake, eventually to Otter Tail and then into the Otter Tail River. The project will potentially result in significant environmental effects that can only be evaluated in a comprehensive Environmental Impact Statement (EIS).

The EAW of record has numerous errors, omissions and speculative unsubstantiated conclusions. The complexity of the "split jurisdictions" (Federal, State, County and Township) adds a dimension that can only be addressed with a requirement by the RGU for a comprehensive EIS. A project of this magnitude that will ***forever alter*** the existing environmental balance of Star's ecosystem requires escalation of the EAW to a thorough broad-based EIS.

My concerns and observations with respect to the EAW include the following:

- **(Page 1)** The project's listed proposer, Liz Foster-Anderson, is reportedly no longer serving as the Executive Director of the White Earth Enterprises, LLC and therefore cannot currently be the "contact person". Further, White Earth Enterprises, LLC is not registered with the MN Secretary of State as either a domestic or foreign entity. As of June 16, 2017, Central Minnesota Land Company L.L.C. (entity created to acquire the project's "fee land") has an inactive status with the MN Secretary of State and was administratively

dissolved on March 1, 2017. This suggests the proposer's instability and questionable capacity to carry out the proposed development planning, environmental analysis or eventual potential construction. Should the project planning continue, the County must take steps to require cash deposits, performance bonds and other means to protect OTC and its taxpayers from a project melt-down during any phase.

- **(Page 7)** Related to the above, there appears to be inconsistency between the applicant and the record ownership of subject property: Title to the proposed parcel is held by the U.S. Government in trust for the benefit Minnesota Chippewa Tribe. The original intent when the land was acquired in the 1930s was to provide access to the several Minnesota Chippewa Bands (including WEB) for wild rice harvesting in Star Lake's abundant rice beds. No legal documentation from the Minnesota Chippewa Tribe (beyond a statement from a WEB representative) granting the White Earth Band the authority to develop this property commercially for the benefit of a single band is provided.
- **(Page 1)** The Project Location section includes an erroneous Tax Parcel Number for the fourth parcel listed, making research on the proposed building site difficult if not impossible. The EAW was certified as complete and accurate.
- **(Page 1 and 40)** A much more significant omission is the exclusion of the fee land parcel acquired by Central Minnesota Land Company LLC on the north side of 380th street providing 12 acres and 1,000+ feet of shoreline on the main body of Star Lake. The developers paid \$ 350,000 for this parcel as a part of their quiet (secret) acquisition the fee land required to support the proposed casino/hotel/convention facility on the Trust Land. I believe this parcel's tax number is 56000100070000.

The omission of this lake shore parcel throughout the EAW analysis is very material as it provides the proposed "family resort" facility with extensive potential future development ***and lake access*** which is ignored in the EAW. It is the obvious location of the rumored future marina. Described as a "family resort", lake access will be a highly probable future addition.

It is misleading that this material feature is ignored and glossed over with the following EAW statement ***"There are no other known future projects in the vicinity of the proposed project area for which a basis of expectation has been laid that would interact with the environmental effects of the proposed project."*** The EAW requires full disclosure and analysis of cumulative potential effects. The future plans for this lake shore parcel are both material

and probable enough that the implications need to be specifically included in an EIS for examination.

- **(Page 6)** Similar to the above deficiency, the EAW states: ***“If the project is successful, future stages may include expansion of hotel and gaming areas, expansion of the RV parking area, addition of rental cabins, and/or golf course, or other amenities.”*** The EAW requires a full disclosure and analysis of the cumulative potential effects. It is not acceptable for the proposers to dismiss the need for an examination of the cumulative environmental effects with the statement ***“...As planning for these future stages begin, the need for a new environmental review will be evaluated and appropriate reviews will be conducted.”***
- **(Page 8)** The EAW states ***“...The project is not subject to the Farmland Protection Policy Act, (FFPA) or the Minnesota State Ag Land Preservation and Conservation Policy as no federal or state funds will be used for the project.*** This statement ignores the fact that the total project includes substantial electrical line and substation requirements provided by Lake Region Electric Cooperative (LREC). This service will involve both the Fee and Trust Land areas. LREC is a substantial recipient of subsidized federal government financing through the Rural Electrification Administration. The level of federal financing involved in financing the project’s electrical service needs should be disclosed and analysis should be conducted on the ***“Not subject to...”*** claim above.
- **(Page 8 and 10)** In the description of the existing land use and compatibility, the EAW requires description of the existing uses on the site and ***“adjacent to and near the site”***. The proposers describe in some detail the site area yet minimize the adjacent existence of the most densely populated parts of Star Lake, by referring to them as ***“...the surrounding land use for the proposed project consists of an abandoned golf course, residences, farmsteads, cultivated farmland and undeveloped wooded and wetland areas.”***

This description may be satisfactory for an EAW as a brief summary, but a comprehensive EIS would acknowledge and examine the existence of more than 120 year-round and seasonal residences, small resorts and church camps which exist in close proximity to the project site along 380th Street, Bright Star Road, Spruce Loop, Star Land Shore Drive, Star Ridge Drive, Krueger Loop, Hunters Beach and C H 41. (Source – OTC GIS data base). These are the closest neighbors to the proposed project and their existence should be called out, not minimized. The serious implications

specific to them as neighbors should be studied in an EIS, including the effects of traffic, noise, sewage pond odors, public safety, loss of enjoyment, crime and property values.

- **(Page 9 and 12)** The EAW contains a material and misleading error where it incorrectly states that ***“...Otter Tail County, in collaboration with the White Earth Nation, recently adopted the Limited Star Lake Comprehensive Plan on January 3, 2017.”***

More correctly, OTC explicitly **did not adopt** the plan. The final plan released on December 2016 included the following disclaimer:

The Limited Area Star Lake Comprehensive Plan is NOT intended to be formally adopted as a County Comprehensive Plan under Minnesota Statute Chapter 394, nor is it intended to be adopted as the basis for any official controls under this same statute. Rather, the intent is to take a comprehensive look at development related issues in this limited area of Otter Tail County to determine if a formally adopted Comprehensive Plan and Official Controls are needed to address subarea development concerns.

An example of the inadequate analysis within the “Plan” is where it attempts to minimize the social and public safety implications of the proposed project with its statement: ***“Goals and objectives developed through the planning process also resulted in project design measures that will minimize project impacts...”*** (including) ***“...assessment of traffic impact and implementation of mitigation measures based on increased traffic volumes.”*** A major deficiency of the traffic analysis is that it was based on historical average traffic counts and linear projections forward. It fails to analyze the frequency and impact of peak traffic conditions.

The 24-7-365 planned casino and resort operation with weekend and special evening events (as so heavily promoted by the existing Mahnommen Shooting Star Casino) will potentially cause great multiples of the Plan’s traffic assumptions. The RGU should require a comprehensive EIS that employs more rigorous and realistic analytical assumptions. The existing inadequacy of State 108 and County 41 to handle current traffic levels speak for themselves. Turn lanes and improved signage and lighting will not be adequate for the project as currently configured.

The “Limited Area Star Lake Comprehensive Plan” attempted to address social/economic/infrastructure concerns was developed—in large part— by the developer with a vested interest and obvious conflicts of interest. The Plan does not adequately address costs and sources of funding, and provides no

assurance that the identified social, safety and infrastructure concerns can or will actually be addressed. The Plan is at best a guide for County officials, but has no legal standing and there is no definitive plan to resolve the issues identified. Its use throughout the EAW as a basis to support conclusions and representation of the facts is unsupported and inappropriate.

(Page 9) With respect to zoning, the EAW states ***“...Adjacent to the project, Star Lake is identified is designated as a General Development Lake... typically large and highly developed, and can generally withstand higher levels of additional development.”*** Further, the proposers state the Shoreland Management ordinance does not apply to the Trust Land, only to the Fee Land within 1000 feet of lake shore. The proposers further state that ***“Due to the locations of CSAH 41 corridor and the Shoreland Management District, boundary,...the county has determined that portions of the project located within the 1,000 foot shoreland district on the west side of CSAH 41 will be regulated under the NE standards. The project on the eastern side of CSAH 41 will conform to the GD lake standards.”*** Several points need to be made with respect to these claims.

Large and highly developed? Nothing could be farther from the truth when those criteria are applied to the Star south arm. In all respects, the south arm is the poster child for a body of water that should be administered and protected as a Natural Environment body of water. Further, the un-named NE lake is connected by culvert under County 41, directly connecting to the sensitive south arm of Star. Most importantly, the OTC Shoreland Ordinance (V.3.1.) **explicitly provides** for Sensitive Areas to be protected through the application of Natural Environment Standards. This concept was successfully ordered and defended in the DuCharme campground proposal on Star’s west arm in 2010.

At an absolute minimum, the DNR lake classification restrictions for Natural Environment lakes must be applied to the total development proposal and an EIS should be ordered to include analysis under those provisions.

As further support of the south arm meeting defined Sensitive Area criteria, please refer to Exhibits (photos) #1, #2, #3.

1 picture is an aerial photo taken over the south arm and includes a good portion of the proposed project area looking to the south. It was taken last fall, 2016. The south arm of Star Lake and a portion of Dead Lake further to the south can be seen. The federal Trust Land approximate boundaries are outlined in black. This is where the proposed hotel/gaming/restaurant complex is to be located. Please note the X is the ice ridge on the Trust Land from which the next two photos were taken.

#2 picture. Also taken last fall, is standing on the ice ridge looking south. The south arm of Star is shallow, sensitive and a critical component of water quality and wild life habitat in the entire Star and Dead Lakes water shed. It cannot be argued (as the proposers attempt to argue) that this area meets General Development without the application of the "Sensitive Areas" clause where Natural Environment criteria are applied.

#3 picture is taken standing on the ice ridge looking north – Directly focusing on the Trust Land upon which the proposed hotel, event center, restaurants and casino are seeking approval from federal authorities. It is also the area where the project proposes to fill with 450,000 +/- cubic yards of sand and gravel, and drive 100+ foot pilings to support their hotel facility.

Some have argued that OTC has no control over what happens on the federal Trust Land and that OTC jurisdiction applies only to the Fee Land. In part that is true. But in a very important part, it is not accurate. In reality, OTC's roll as the Regulating Governmental Unit (RGU) requires full consideration of the ***cumulative*** effects of the ***total project***. What happens on the Trust Land, doesn't stay on the Trust land, and vice versa. It is imperative for the RGU (OTC) to call for a full **environmental impact statement** in order consider the combined effects of both the Fee and Trust land portions of the proposed project.

- **(Page 20)** The entire section on water resources, wastewater systems and their environmental effects (pages 16-24) is somewhat technical for this layman. However, its conclusions on page 20 are of major concern and call for further detailed scientific analysis and the inclusion of redundant systems and increased capacity. Specifically, the EAW asserts (underlining added for emphasis):
 - ***"Therefore we do not anticipate any detrimental effects to the environment as a result of the proposed land application of the treated effluent."***
 - ***"At some point in time in the future, sludge will need to be disposed of properly and permitted in accordance with regulations..."***
 - ***"There will be no surface water discharge of treated wastewater so there are no anticipated detrimental effects to the water quality of Star Lake or any surrounding water bodies."***
 - ***The NPDES permit states that wet ponds shall have dead storage that has a volume of 1,800 cubic feet/acre draining to***

the pond and have live storage (bounce in the permanent water pool for rate control purposes) to retain a 1 inch rain event over all new impervious surfaces...

- ***It is not anticipated that there will be negative effects on the groundwater table as a result of the dewatering process described above.***

The proposer's well supply, waste water treatment and storm water runoff plans may well meet minimum standards and regulations. However the proximity to the two lakes and their Sensitive Areas, the water tables related to the facility elevations, pump-over from west and east #41 would seem to require substantially more than just meeting minimums. It is concerning that their assurances are qualified ("do not anticipate") while the consequences of "anticipating" incorrectly are potentially catastrophic.

The EAW does not seem to consider the numerous near-by residences that draw water from shallow sand point wells. The plans to meet the "100 year, 24 hour rain event of 6.13 inches" seems dreadfully inadequate based on the changing severe weather patterns and recent year summer storm experiences. The unique challenges of parking lot spring snow pile melt off (with all its pollutants) are not acknowledged or given special care. In summary, for a whole host of reasons, an EIS analysis of all the water related systems need to be conducted and systems beefed up (or project scaled down) to provide assured protection of the adjacent environment and water resources.

- ***(Page 26) Wet land replacement. The plan to mitigate the environmental loss to the Star Lake basin by replacing the lost wetlands on a 2:1 basis in Roseau and Becker Counties does nothing positive for Star Lake, Otter Tail County or downstream waterways. This translates into depleted wetland resources with no compensating or offsetting benefits to the Star Lake watershed, i.e. a significant environmental effect.***
- ***(Page 27) The EAW states "Under Federal and State laws, the gaming and supporting operations will be located on the tribal trust land. The remaining hotel and conference center facilities will be attached to the gaming facilities on tribal trust land..." An EIS would require an analysis of project alternatives, including the environmental conclusions under a "no-build" scenario.***

We submit there are reasonable project alternatives that have not been evaluated or disclosed by the proposers which could substantially reduce the disturbance of the environmentally sensitive south arm of the lake. The proposed dredge and fill of the 14.5 acres of federal Trust Land could potentially be eliminated.

For example, what if the proposers scaled down their project and divided it—gaming only to the more suitable northwest corner (only) of the Trust Land and a more modest family resort facility on the buildable portions of the Fee Land? This approach might eliminate—or at least substantially limit—intrusion (dredging and filling) into the south arm marshes to the square footage required for gaming only.

Such a variation could generate additional commercial real estate taxes for OTC to help pay for the incredible infrastructure and public safety needs that this project will generate. This alternative would not necessarily resolve the many concerns listed above, but should be thoroughly analyzed in an EIS.

The proposers have also failed to disclose or examine alternative project locations and configurations on other White Earth Indian Reservation land. Some tribe members have called for reinvestment and expansion of the Mahnomen Shooting Star Casino as an alternative. WEB correspondence also indicates the existence of an alternative project site known as Pine Point. Neither of these alternatives have been considered or discussed in the EAW.

(Page 27) The EAW format requires discussion of how the project will change the number or type of watercraft on any body of water. The proposer states that “No anticipated physical effects, modifications or alterations to surface water features... are planned or expected for Star Lake... Construction of docks or decking is not planned along the water edge of the project...no significant change in the number or type of watercraft... is expected... ”

This statement once again ignores (see page 2 above) the proposers ownership of the contiguous parcel 12 acre parcel with extensive lake shore north of 380th street. Further, the construction of the proposed facility will materially increase “gawker” traffic and curiosity seekers deep into the south arm. This portion of the lake is not suitable for most recreational boating and is subject to minimal activity at present. This is a potential material environmental impact not considered in the EAW.

Float plane traffic, with all its noise, safety and aquatic invasive species risks, has also not been addressed in the EAW. An additional issue is the potential (probable) increased ATV and snowmobile traffic in the south arm of Star

(and overland from the north and west) during the winter months. These risks and mitigation / control need to be fully analyzed in an EIS.

(Page 31) The proposer states: ***“Minimal information was available for the Unnamed Lake to the west of CSAH 41. No fish species information was available, and no invasive species were identified.*** The fact that “minimal information available” is the very reason why a more in depth analysis required by an EIS should be ordered.

(Page 36) The proposer states: ***“Visual impacts from the lighting will be minimized by utilizing best practices, including Dark Sky Lighting practices, down lightings, shorter light poles, color of light, and ground surface reflectivity.”*** The issue of lighting has only been addressed in a cursory way. While this is a useful summary of intent, it is lacking in detailed analysis considering its potential impact. A specific lighting plan for the entire facility, including the parking lot and ingress /egress access should be provided for public review. The environmental impact of lighting on the migratory and nesting birds and other wildlife require analysis.

(Page 38) The proposer states: ***“Twice per year (spring and fall) it is anticipated that there may be brief periods where odors increased due to the turnover within the wastewater ponds caused by high to low (and vice versa) temperature fluctuations.”*** And ***“ Noise generated...will primarily traffic noise from cars entering and leaving the facility, and noise from use of outdoor facilities such as the swimming pool and community theater.***

These environmental impacts are minimized by the proposer. Local residents who visit the nearby city of Perham are well aware of the putrid and noxious odors emitted by their waste water ponds intermittently throughout the year, especially in the summer. To subject cabin owners, resort guests, church campers and the numerous near-by residents (see page 3 above) to these odors represents a material environmental effect that should be more closely examined in an EIS.

Further, the negative effect on the Environment and Neighborhood from promotional and entertainment “bells and whistles” including out-door concerts, fire-works, truck and tractor pulls, steam threshing shows and all other potential additional entertainment options being considered for the proposed casino/ hotel/conference facility should be disclosed.

Other Concerns Not Discussed

- The EAW does not discuss the potential for the proposed dredge and fill activity involving 450,000 +/- cubic yards of sand and gravel fill (in order to prepare the building site to support the building structure) to result in pressure related elevation and rotational shift. Said another way, the added unnatural weight could force the existing base outward following the path of least resistance into the south arm of Star and forming unnatural sand bars or islands. There is precedence for this unintended consequence on Star Lake when the County 41 bridge was constructed over the west arm to replace the former culvert.
- The size and scope of the project and incomplete consideration of detrimental social, economic, safety and infrastructure issues on the surrounding townships require the rigors of a full EIS. The 24-7-365 nature of the propose casino/hotel/convention center complex presents special challenges to all environmental and public safety concerns. The EAW minimizes or does not address many hazards that may be created, both on land and water. Initial versions of the development proposal included a potential marina and camp ground.

We do not believe the developers should be allowed to split the baby into pieces from a permitting and environmental review standpoint. That is, as proposed, the gaming/hotel/conference/entertainment facility on the Trust Land is fully dependent on all the infrastructure proposed for the Fee Land. Correspondingly, the parking lot, sewage treatment and all other related infrastructure are meaningless without the proposed Trust Land hotel and casino.

The **entire project** needs to be considered as a whole entertainment complex, and all alternatives which could minimize the detrimental environmental consequences should be identified, evaluated and considered. In the county's role of RGU, this can be accomplished. Such an approach would also allow the proposers to disclose their subsequent plans for the shoreline property on the "big lake" that they have not addressed.

Thank you for the opportunity to express our views and concerns.




Stuart and Corinne Peterson
Star Lake Residents
31494 395th Street
Dent, MN 56528

Bill Kalar

From: Bill Kalar
Sent: Tuesday, June 20, 2017 10:54 AM
To: 'Lee Mindemann'
Subject: RE: Lee Mindemann EAW Comments RE: SSC Proposal

Lee Mindemann – this will confirm receipt of your comments. They will be included as part of the Public Record regarding this matter.

Bill Kalar
Land & Resource Mgt.
218-998-8105



From: Lee Mindemann [mailto:lee@mindemann.net]
Sent: Tuesday, June 20, 2017 9:58 AM
To: Bill Kalar
Cc: Doug Huebsch; Wayne Johnson OTC; Lee Rogness; Roger Froemming; John Lindquist
Subject: Lee Mindemann EAW Comments RE: SSC Proposal

Gentlemen - Please see the attached files for both my personal comments regarding the Star Lake Casino Development and two supporting letter from the USACE regarding the public comments for the federal dredge & fill permit.

Thank you for your careful consideration.

Lee

RECEIVED
JUN 20 2017
LAND & RESOURCE

6/19/17

TO: Otter Tail County
Dept. of Land & Resources
ATTN: Mr. Bill Kalar
540 West Fir
Fergus Falls, MN 56537

FROM: Lee Mindemann, 32739 380th St., Dent, MN 56528

SUBJECT: EAW Comments RE: Star Lake Casino Development

Dear Mr. Kalar & Otter Tail County Commissioners

We are year-round residents and property owners on Star Lake and live approximately one mile to the east of the fee status land purchased in conjunction with the proposed Star Lake Casino Development.

I have reviewed the EAW document and respectfully submit the following concerns:

1. EAW Para. 5 – **Project Location:**

- a. The EAW document lists four Tax Parcel Numbers for Fee Title Land, the last of which is misidentified as 5600150108001. A study of the GIS Property Tax search would seem to indicate the correct parcel # is 56000150108001. Perhaps a simple mistake, but nevertheless an inaccuracy on a document submitted by the proposer and certified as “complete” by OTC for submission to the EQB. This error is made on page 1; how many other errors might there be in the following 40 pages of the final EAW document?
- b. Missing from the list of parcel #'s is 56000100070000 which is a split parcel of approximately 12.4 acres located in Section 10, on the land immediately north of 380th Street bordering the fee land parcel# 56000150109000 located in Sect.10.
- c. Is this omission also a mistake? Or is the developer intentionally not including this parcel within the scope of the EAW? MN Rules 4410.4400 speaks to the requirement of connected actions or phased actions being included in the cumulative effects of the total project.
- d. It would seem less than honest of the proposer to suggest that the Section 10 parcel is not related to, or connected to the total project – for two reasons.
 - i. The proposer acquired these 12.4 acres of generally unbuildable land for \$350,000 (that equates to \$28,225 per acre!). The significant cost alone would indicate the proposer has a clear intent to utilize the land. If not, should not this raise issue with the validity of the developer’s business plan?

- ii. Most importantly, this parcel would provide access to the main basin of Star Lake for the guests of the expanded hotel, RV park, and new rental cabins proposed for a future phase. See Para. 6e. of the EAW.
- iii. This recreational access to the main body of the lake negates the proposer's suggestion that there would be "no significant change in the number or type of watercraft on Star Lake". (EAW Pg. 28, Para. 11. b. iv. b.).

e. Given the absence of any mention of any plans regarding the Section 10 parcel in the submitted EAW, (which would surely fall within "related or connected actions", MN Rules 4410.4400, subp 1.) should not this require the type of further review that an Environmental Impact Statement would provide?

2. EAW Pg. 5, Para. 6c. **Project Magnitude:**

- a. The EAW states gross floor space as being 277,000 square feet.
- b. MN Rules 4410.4400, subp. 1 (Mandatory EIS Categories. Subpart 1. Threshold Test.) "An EIS must be prepared for projects that meet or exceed the threshold of any subparts 2 to 25." Subpart 11B stipulates "For new construction of an industrial, commercial, or institutional facility...equal to or in excess of the following thresholds, expressed as gross floor space....1) unincorporated area, 250,000 square feet...".
- c. The proposal is well above the stated EIS threshold and therefore an EIS is mandatory.

3. EAW Pg. 31, Para. 13a. **Fish, wildlife, plant communitites.....etc.** states: "According to the DNR, there are several fish species known to be present in Star Lake, including bullheads, crappies, sunfish, bass, northern pike, walleye, perch, and carp." Conspicuously absent from the EAW is any mention of Tulibeas (Cisco), for which Star Lake is known to have a large & healthy population. This is even more suspect, given much discussion and published concerns regarding the general decline both in Cisco population, and the number of lakes supporting this species.

Star Lake is also known to have a healthy population of the Common Loon (the 2016 DNR count reported 70), which is another species that is sensitive to warming waters, and could be at increased risk due to potential negative environmental impacts resulting from the proposed development.

I also take exception to the proposer's assertion that the unnamed lake west of Hwy 41 has minimal information and therefore is unimportant to this discussion. Year-round residents know first-hand that this lake has a healthy nesting population of Trumpeter Swans. This lake has a very robust ecosystem and is classified as an "Environmentally Sensitive Lake" by the DNR, "AND" *it drains directly into Star Lake*. To position a sewage lagoon on fee status land in close proximity, immediately "uphill", and well within OTC Shoreline Management Ordinance jurisdiction is a potential environmental travesty. If there is a waste-water spill at some time for whatever reason, we're all going to be

wondering “what were they thinking?” Whether it be for human error, equipment failure, or a natural disaster – it will be the placement that will be deemed the true culprit.

4. RECENT DEVELOPMENT CONCERNS:

- a. The Corps of Engineers has temporarily closed the “Dredge & Fill Permit” application filed by the developer last fall. This action was taken due to the developer’s failure to respond to the agency’s requirement that they respond within 60 days (5/21/17) to the summary of concerns expressed in the 30-day public comment period which ended 11/28/16. See attached USACE letter dtd 3/24/17. I find it difficult to understand how the RGU (OTC) can make a determination on the submitted EAW, or in good faith take public comments on the EAW document, when the developer has not yet responded to the last public comment period.
- b. I have been told by OTC personnel on more than one occasion “that this all hinges on what the fed (that being the USACE) does with the dredge & fill permit. Seems to me, OTC ought to be very careful doing anything until that becomes clear.
- c. As of 6/16/17, “White Earth Enterprises LLC” is not registered with the MN Secretary of State as either a domestic or foreign entity. Should not this be a point of concern for OTC?
- d. Again, as of 6/16/17, “The Central Minnesota Land Company”, the entity that is listed as the property owner of the subject fee status land acquired last year has an “inactive status” with the MN SoS (rather it is shown as administratively dissolved 3/1/17). Also of note, mailed correspondence to the same, has recently come back as undeliverable.
- e. Also, I have been told that Ms. Liz Foster-Anderson, Executive Director, White Earth Enterprises, the Project Manager for the proposed development, and who is listed as the contact person in the EAW, is no longer employed by that organization.

Sub-points c., d, & e. above may appear to be minor or insignificant separately, but taken all together seems to taint the creditability and frankly the sustainability of the proposer’s organization and its plans for this development.

For all the above reasons, I respectfully request and strongly encourage the Otter Tail County Commissioners to approve a positive declaration for an Environmental Impact Statement, to provide the time and the proper due diligence for this development.

CC: Otter Tail County Commissioners

Respectfully,

Lee Mindemann



REPLY TO ATTENTION OF
REGULATORY BRANCH

DEPARTMENT OF THE ARMY
ST. PAUL DISTRICT, CORPS OF ENGINEERS
180 FIFTH STREET EAST, SUITE 700
ST. PAUL, MN 55101-1678

30 JANUARY 2017

Regulatory File No. 2015-04407-RQM

Ms. Liz Foster-Anderson
White Earth Enterprises, LLC
3282 Highway 59 South Suite 10
Waubun, Minnesota 56589

Dear Ms. Foster-Anderson:

We are enclosing for your information correspondence we received as a result of our public notice that described your project.

It is our policy to give you the opportunity to give us your proposed resolution or rebuttal of these comments. Any response should be sent to this office so that potential resolutions or rebuttals can be considered in our final evaluation. If we receive no response within thirty (30) days of this letter, we will presume that no response is intended, unless an extension is requested.

In the interim, we will continue to evaluate your application. If you have any questions, please contact Mr. Robert Maroney in our Brainerd office at (651) 290-5766 or Robert.q.maroney@usace.army.mil. In any correspondence or inquiries, please refer to the Regulatory file number shown above.

Sincerely,

A handwritten signature in black ink, appearing to read "R. Maroney", written over a horizontal line.

Robert Q. Maroney
Project Manager

Enclosure(s):
Public Comments on Compact Disk



REPLY TO ATTENTION OF
REGULATORY BRANCH

DEPARTMENT OF THE ARMY
ST. PAUL DISTRICT, CORPS OF ENGINEERS
180 FIFTH STREET EAST, SUITE 700
ST. PAUL, MN 55101-1678

MAR 24 2017

Regulatory File No. 2015-04407-RQM

Liz Foster-Anderson, Executive Director
White Earth Enterprises, LLC
3282 Highway 59 South Suite 10
Waubun, Minnesota 56589

Dear Ms. Foster-Anderson:

This letter concerns your request for Department of the Army authorization to discharge dredged or fill material into approximately 8.41 acres of wetlands adjacent to Star Lake for the purpose of constructing a casino and attendant features. The project site is in Section 15, Township 135 North, Range 41 West, Ottertail County, Minnesota.

The public notice period for this project was between October, 28, 2016 and November, 28, 2016 including the extension we granted to the Environmental Protection Agency. The comments we received in response to the public notice period are attached to this letter. At this time, we are requesting your response to the following comments:

1. Dimensions of the area(s) to be filled, and the depth and total quantity of the fill material to be placed there. Please include the dimensions and configuration of the structure(s), including a single design for the structures. Please note two different configurations of the buildings were submitted with the application. Please include any future plans including but not limited to an RV park or marina.
2. The source of the fill material.
3. Any alternatives considered that would not require filling wetlands, or filling less wetlands and why such alternatives are not practicable. Please include a discussion of the Pine Point Alternative, and the alternative of converting other land into tribal trust land.
4. Please discuss the wetland functions and values on site, including rice, lake-recharge, temperature, and flood reduction.
5. Please discuss wetland impact minimization, including minimization on basins 6 & 19.
6. Please discuss the projects impacts on wildlife habitat: fish, fish spawning, bald eagles, ducks, and other birds. Please discuss minimization and mitigation of impacts.
7. Please discuss the projects impacts on water quality, including snow removal, storm water, dewatering, water runoff, and downstream water quality including minimization and avoidance of impacts.

8. Please discuss erosion within the project area, including minimization and avoidance of impacts.
9. Please discuss the impacts, including invasive species impacts of increased boat traffic, and increased sea plane traffic, including minimization and avoidance of impacts.
10. Please discuss the impacts of increased automobile traffic, and increased sea plane traffic, including minimization and avoidance of impacts.
11. Please discuss the environmental impacts of increased housing required to accommodate additional employees including minimization and avoidance of impacts.
12. Please discuss the impacts of the project on aesthetic changes including noise, sewage smells and light and minimization efforts. Please also discuss the effects of the project on fishing, hunting and swimming quality, including minimization and avoidance of impacts.
13. Please discuss the impacts of the project on safety concerns – first responders, hospital, strain on both road safety, increased car traffic, cumulative effects, effects on safety, farm equipment safety, and emergency services including minimization and avoidance of impacts.

As part of our analysis of this project, we must determine whether it complies with the guidelines of Section 404(b)(1) of the Clean Water Act (CWA). These guidelines require that an alternatives analysis be conducted to first determine whether adverse effects on the aquatic ecosystem can be avoided, then whether potential practicable alternatives¹ would result in less adverse effects on the aquatic ecosystem. By law, the Least Environmentally Damaging Practicable Alternative (LEDPA)² is the only alternative which can be permitted by the Corps. The burden of proof to demonstrate compliance with the 404(b)(1) Guidelines rests with the applicant; where insufficient information is provided to determine compliance, the Guidelines require that no permit be issued.

Your project does not require access to, or proximity to, or siting within a wetland to fulfill its purpose. Therefore, it is incumbent upon you to clearly rebut the presumption that upland sites are available and would be less environmentally-damaging than your proposal. The fact that you may not own the upland site is not, by itself, sufficient to rebut this presumption.

Replies should be addressed to:

Robert Q. Maroney
Brainerd Field Office
10867 East Gull Lake Drive NW
Brainerd, Minnesota 56401

¹ The 404(b)(1) Guidelines state that an alternative is practicable if it is available and capable of being done after taking into consideration cost, existing technology, and logistics in light of overall project purposes (40 CFR 230.10(a)(2)).

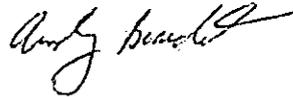
² The LEDPA is the alternative that meets the project purpose(s), is available to the applicant (practicable), and has the least amount of impact to aquatic resources, without having other significant adverse impacts to the natural environment.

Regulatory Branch (File No. 2015-04407-RQM)

If we do not hear from you within 60 days of this letter, we will assume that you are no longer interested in obtaining this permit, and we will close our file.

If you have any questions, please contact Robert Q. Maroney in our Brainerd office at (651) 290-5766 or Robert.Q.Maroney@usace.army.mil. In any correspondence or inquiries, please refer to the Regulatory file number shown above.

Sincerely,



Andrew D. Beaudet
Chief, Northwest Section

Enclosures:
Comments to public notice

Bill Kalar

From: Bill Kalar
Sent: Tuesday, June 20, 2017 8:23 AM
To: 'Gregory Peterson'
Subject: RE: Proposed Star Lake Casino

Gregory Peterson - this will confirm receipt of your comments. They will be included as part of the Public Record regarding this matter.

Bill Kalar
Land & Resource Mgt.
218-998-8105

-----Original Message-----

From: Gregory Peterson [mailto:g_p_peterson@comcast.net]
Sent: Monday, June 19, 2017 8:46 PM
To: Bill Kalar
Subject: Proposed Star Lake Casino

RECEIVED
JUN 20 2017
LAND & RESOURCE

Hello:

My comments are technical in nature as I am a degreed systems engineer with decades of experience.

Th initial study is obvious that it's superficial in nature. Most of the content is generic and easily obtained from common internet sources. It does not address any detailed technical concerns such as:

-impact on site prep and ore samples needed for ground stabilization. Not long term potential of ground settling. Likely no history available for massive soil removal underneath a lake. No structural input to date for maintaining stability of building. If ground settle the building could be condemned. The risk here at a minimum is moderate.

- shoring up of the interface to the water to prevent erosion is critical too. Ground can and will shift of too much pressure is exerted in winter if ice gets thick and it will. The impact on a breach here will be devastating. Cracks to the building could occur if not taken into account.

-there is simply no technical on the construction process let alone the total impact on the lake during construction let alone on site prep. I have never seen such a weak and superficial report on the environment on a proposed major construction project.

This is simply an attempt for overlook the details and tKe huge risks with a significant area lake and furthermore with the impact on dead lake too.

It is so obvious that a more detailed study is needed to include details of the construction process and mitigation plan. This project could impact the lake for many many decades and deteriorate it current beauty.

Please think about it and demand the more detailed environmental study.

Regards,

Gregory Peterson

Sent from my iPhone

Bill Kalar

From: Bill Kalar
Sent: Tuesday, June 20, 2017 8:25 AM
To: 'Rick Saffrin'
Subject: RE: Proposed Star Lake Casino

Rick Saffrin - this will confirm receipt of your comments. They will be included as part of the Public Record regarding this matter.

Bill Kalar
Land & Resource Mgt.
218-998-8105

-----Original Message-----

From: Rick Saffrin [<mailto:rick@saffrinfinancial.com>]
Sent: Monday, June 19, 2017 8:02 PM
To: Bill Kalar
Subject: Proposed Star Lake Casino

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JUN 20 2017
LAND & RESOURCE

My wife and I have a lake home on Dead Lake, in addition We have an 80 acre farm near Dent. We are concerned that this casino will have a terrible impact on the neighborhood. I have no doubt the original reasoning for the acreage originally set aside for the native Americans was for the purpose of traditional wild rice harvesting which makes much sense. Changing this harvesting to preying on the foolish and addicted gamblers makes no sense and I'm sure would not resonate with the legislators and judges who gave these acres to the tribe. Star Lake like Dead Lake are quiet natural environment lakes which have been protected from over development for some years. Please...please continue to be good stewards of our resources. Trading beautiful wild rice beds for neon lights and poor souls losing their hard earned money to chance seems clearly wrong. I plead with you to do the right thing and recommend an environmental impact statement be completed.

With much concern,
Richard Saffrin
Conservationist and Naturalist at heart

Richard S. Saffrin, ChFC, CLU
13911 Ridgedale Drive
Suite 150
Minnetonka, MN 55305
952-945-9607

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Bill Kalar

From: Bill Kalar
Sent: Tuesday, June 20, 2017 8:18 AM
To: 'Eric Peters'
Subject: RE: To Bill Kalar and County Commissioners.docx

Eric Peters - this will confirm receipt of your comments. They will be included as part of the Public Record regarding this matter.

Bill Kalar
Land & Resource Mgt.
218-998-8105

-----Original Message-----

From: Eric Peters [mailto:epete54481@yahoo.com]
Sent: Monday, June 19, 2017 8:58 PM
To: Bill Kalar
Subject: To Bill Kalar and County Commissioners.docx

RECEIVED
JUN 20 2017
LAND & RESOURCE

Star Lake Property Owners Association

Comments for EAW

6/19/17

To Bill Kalar and County Commissioners:

The Star Lake Property Owners would like to express its concerns with the current Shooting Star Casino proposal.

Under the Land Use Compatibility:

We completely disagree that the rural character of the surrounding area will not be maintained. This states that this will be compatible with existing land use identified within the Star Lake Comprehensive Plan. This Plan is based on the assumption that the casino is built and the area will be further developed in conjunction with casino development. The current characteristic is rural and the current proposed development is not compatible. Development is inevitable, but this proposed development does not fit within the character of the existing resorts and will have impacts on those businesses who have struggled to keep the doors open due to rising property taxes and expansion restrictions. As part of the comprehensive plan, one of the major concerns from the public was maintaining the rural character.

Zoning Compatibility:

The development does not meet structure height, minimum impervious surface, open space requirements on the Trust Land. All other developments and landowners are required by law to meet these expectations. Although, Ottertail County may not have the ability to enforce these rules on Trust Land, you can understand the frustration with the public that they do not have to follow the same rules set forth to protect Star Lake. The EAW states that when these are combined with fee land that they meet these requirements. They should not be able to combine these two jurisdictional different properties to make it look like they have met the requirements.

Water Resources:

The concerns we have in regards to the potential impacts to the water resources is the most important to Star Lake and Dead Lake property Owners. The first concern is the destruction and filling of 7.4 acres of critical wetlands to the south bay of Star Lake. The disturbance of another 1 acre for a period of time during construction. The effects caused by destroying these wetlands adjacent to Star Lake need to further examined. Once these wetlands are filled there is no restoring to the original state or function of that wetland.

The Wastewater System proposal may meet MPCA requirements and other communities use them. But the location of this system and the detrimental effects it would have if there was some kind of failure to the system. With the proximity to the Natural Environment Lake that flows into Star Lake and eventually into Dead Lake, it would have negative impacts on the water quality of the watershed.

Stormwater runoff is another major concern during the construction and after the completion of the project. With just a preliminary plan submitted for review for this EAW, the amount of exposed soil has cause for great concern to potential overland flows into Star Lake or unnamed lake. The biggest concern is not whether the plan is approved by the MPCA, its whether it is implemented by the developer and is inspected on a regular bases to maintain compliant with their plan. All of these issues would cause great irreversible harm to Star Lake and a more thorough study needs to be done to mitigate these effects.

Fish, Wildlife, plant communities:

Although there is not planned impacts to shoreline or below the OHW, the size and placement of this proposal with have an impact on wildlife, fish and plant communities. The south arm provides spawning habitat for all species of fish and would be impacted by runoff, destruction of vegetation, and change in water quality. The nesting birds which include the red-necked grebe, bald eagles, swans, and other types of waterfowl. The red-necked grebes have been documents to nest on Star Lake and State and Federal laws protect the birds and their nests from disturbance. The response in the EAW states that it is possible these birds will be disturbed during construction. We need a response on how these disturbances will be avoided?

Visual:

The height of casino and hotel complex, lighting from parking lot and hotel rooms will forever change the landscape on Star Lake and surrounding area. These have visual impacts to people who enjoy the rural setting, recreational opportunities, and on the wildlife who thrive on Star Lake and its shores.

Cumulative potential effects:

This EAW states that there will be no accumulative effects from foreseeable projects. This is completely false due to the fact there is planned expansion to development. There are going to be accumulative effects and this should be part of the current EAW. This is a requirement of submitting an EAW and it has been omitted from this proposal. We will never know the accumulative effects of this proposal because it will be built in phases. This eliminates the voice of the Star Lake area residents on any future proposals.

Sincerely,

Star Lake Property Owners Association

Bill Kalar

From: Bill Kalar
Sent: Tuesday, June 20, 2017 8:15 AM
To: 'Sheri Milburn'
Subject: RE: Star Lake Casino Project

Sheri Milburn – this will confirm receipt of your comments. They will be included as part of the Public Record regarding this matter.

Bill Kalar
Land & Resource Mgt.
218-998-8105



From: Sheri Milburn [mailto:docstar12@gmail.com]
Sent: Tuesday, June 20, 2017 6:36 AM
To: Bill Kalar
Subject: Star Lake Casino Project

RECEIVED
JUN 20 2017
LAND & RESOURCE

June 20, 2017

Dear Mr. Kalar:

As a property owner on Star Lake, as well as a concerned citizen, I am writing to express my hope that an EIS be conducted before the proposed casino project is approved.

Clearly, the environmental, social, and economic risks have been explored, and the results demand further review of this project, reported to be the largest commercial enterprise in Ottertail County history. To ignore these potential risks, and grant project approval before conducting a thorough study of long-term effects would be nothing short of criminal, in my opinion.

Thank you for your thoughtful consideration.

Sincerely,

Sheri Milburn

Bill Kalar

From: Bill Kalar
Sent: Tuesday, June 20, 2017 8:00 AM
To: 'Linda Olson'
Subject: RE: Star Lake casino EAW

Linda Olson – this will confirm receipt of your comments. They will be included as part of the Public Record regarding this matter.

Bill Kalar
Land & Resource Mgt.
218-998-8105



From: Linda Olson [mailto:3deltas@gmail.com]
Sent: Monday, June 19, 2017 4:20 PM
To: Bill Kalar
Subject: Star Lake casino EAW

To the Ottertail Co. Board

I have two major concerns regarding the Star Lake Casino project.

My first concern is the increased traffic volume on Highway 41. With a volume of traffic that is estimated to more than quadruple by 2020 (p. 23 of the EAW), the risk of accidents along this only corridor to our lake access would put residents and guests in danger. This is unacceptable.

I am also concerned about increased boat traffic and the likelihood of contamination of our lake by AIS. Regarding boat traffic (referenced as Phase II at the June 9, 2016 meeting at Dent, MN) I'm concerned about the safety of my children and grandchildren. If lake traffic increases by the 100 slips that was proposed, our guests and family will no longer be able to enjoy learning to waterski or taking pontoon rides to visit favorite pelican, eagle or loon sightings.

Please ask for a more detailed study- EIA

Thank you for your consideration.

Linda & Greg Olson
33163 380th St
Sent from my iPad

Sent from my iPad

RECEIVED
JUN 20 2017
LAND & RESOURCE

Environmental Assessment Worksheet

Project Title: Star Lake Casino Development

Comment Deadline: June 21, 2017

Project Description: Otter Tail County is announcing the release of an Environmental Assessment Worksheet (EAW) for the proposed Star Lake Casino Development (project). The proposed project is a resort with a gaming facility, hotel, restaurants, conference center, RV park, and associated support buildings and parking. The project incorporates potable water treatment and wastewater treatment systems. Connected actions involve a new transmission line segment, a new distribution substation, and replacement of an existing overhead transmission line with an underground transmission line, as proposed by Great River Energy and Lake Region Electric Cooperative. The new transmission line segment will serve the electric load for the proposed Star Lake Facility.

The EAW may be obtained from the May 22nd EQB Monitor (<https://www.eqb.state.mn.us/eqb-monitor>) and via the County's website (<http://www.co.otter-tail.mn.us/1263/Proposed-Shooting-Star-Casino-Resort>). The public comment period begins on May 22nd and ends June 21st, 2017. Written comments may be sent to: Bill Kalar Land and Resource Management Director Otter Tail County Government Services Center 540 West Fir Fergus Falls, MN 56537 or via email: bkalar@co.ottertail.mn.us

In addition to the written public comment period, a Public Information Meeting will be held June 15th at the Pelican Rapids School Auditorium from 7:00 pm to 9:00 pm. The Public Information Meeting will provide the public an opportunity to participate in the public comment period with public testimony and an opportunity to gather information regarding the project. A decision about the need for a more detailed analysis of the potential impacts of the project through the completion of an Environmental Impact Statement will be made by the Otter Tail County Board following the close of the public comment period.

Responsible Governmental Unit (RGU): Otter Tail County

RGU Contact Person:

Bill Kalar
Land and Resource Management Director
Government Services Center, 540 West Fir
Fergus Falls, MN 56537
218-998-8095
bkalar@co.ottertail.mn.us

Bill Kalar

From: Bill Kalar
Sent: Tuesday, June 20, 2017 7:58 AM
To: 'JANET moore'
Subject: RE: Comments on EAW

Janet Moore – this will confirm receipt of your comments. They will be included as part of the Public Record regarding this matter.

Bill Kalar
Land & Resource Mgt.
218-998-8105



From: JANET moore [mailto:ONTWINLAKES@msn.com]
Sent: Tuesday, June 20, 2017 12:19 AM
To: Bill Kalar
Cc: JANET moore
Subject: Comments on EAW

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JUN 20 2017
LAND & RESOURCE

Dear Mr. Bill Kalar,

I am writing to you because of my concern of filling a wetland that was put into a "trust" by the federal government, so that the Indian tribe could maintain a part of their cultural heritage of harvesting wild rice, that would be passed on to generation after generation. This area is a special wetland which is in a very rural area, with all the beauty that nature has to offer. At the Pelican Rapids meeting last week an Indian woman from this tribe, stated the importance of wild rice in their peoples lives.

Wetlands are a very delicate eco system that can be destroyed easily, from storm water runoff from impervious surfaces. example: parking lots driveways, sidewalks, roads, rooftops, camper tops at RV parks. The storm water ponds that are planned to treat the storm water runoff is not adequate to treat a back to back big storm or an above average wet season. There is important operating and routine maintenance that goes along with these storm water ponds. This person needs to have the proper credentials, that shows they are qualified and the documentation needs to be recorded and turned into a state or federal agency that proves maintenance is properly done. Most of the city lakes in Mpls. and St. Paul are impaired because of storm water that has run into them over the years because of improper storm water management practices. Millions of dollars are spent yearly trying to clean them up. Even Fergus Falls city lakes are impaired from storm water.

Wetlands are also home to many other plants and animals and are important to the migration of the birds. Once destroyed they can't be re created. Also at the meeting in Pelican Rapids one of the Indian woman commented that she never had a chance to vote on this casino development plan. How can a few tribe members undo a "trust", that promised the other tribe members their right to the harvesting of wild rice in this perfect natural setting.

The open water treatment of the sanitary sewage system is not adequate for the amount of water that will be directed to them. The odor from this will be unscrupulous. How could anyone expect a beautiful lake that is used by people for recreational purposes be exposed to the stench of human sewage. The city of Perham a few years ago, had such a problem with human sewage that the odor could be smelled as you were driving down the highway. The odor was so bad that it was a gagging sensation if you smelled it. This proposed casino development area is not adequate to properly sustain the sewage discharge. If there is any runoff to the lake of this sewage, it would be devastating to the lake and the lakes that receive water from Star Lake.

Also how is the impervious surfaces going to be maintained in the winter months, Are they going to be oversalted so that too will be seeping into our Minnesota shallow aquifers and also to the lake to destroy the natural water

plants and fish and wildlife. Salt application should only be applied by a certified person otherwise it will destroy and environment very quickly over a few years. The salt doesn't go away. It stays forever and changes the natural setting. We don't need this beautiful lake to be impaired with salt, that will also destroy the natural wetland.

The night sky of star lake is magnificent. The stars are unbelievable. And the moon rises are breath taking. This is something that is very important to me and many other people. This beautiful setting will be destroyed by an abundance of parking lot lights, building outdoor lighting and casino marquees. This will also mess up the migration of birds.

Once the south arm of star lake is impaired with phosphorus and sediment and chlorophyll and other other contaminants, the algee will multiply and explode. Because the south arm is a shallow lake the potential for blue green algee to form and prosper is another potential hazard. This type of alge is toxic and can kill any animal or human that swallows enough of it. There are children that swim in the lake and they are known to swallow water in varying degrees.

Minnesota is a leader in trying to preserve and reverse the damage done in the past to our beautiful natural resource of water. Wetlands are home to many animals and plants. The Wetland Conservation Act (WCA) regulates draining, filling, excavating and other actions impacting wetlands. Their first line of action is the avoidance of filling or excavation of wetlands. This area is not a place for this type of developemant. There is no good reason to build this type of developemant so close to body of water that will destroy it. It will be destroyed for the birds and animals and plants, but also the amount of humans that enjoy this lake and the receiving lakes of the water from star lake.

Governor Dayton issued an executive order "12 - 4 that said to avoid direct or indirect impacts from activities which destroy or diminish the quantity, quality, and biological diversity of Minnesota's wetlands."

Also " Minnesota Statutes section 103A.201 subdivision 2b states that wetlands of Minnesota provide public value by conserving surface waters, maintain and improve water quality, preserve wild life habitat, provide recreational opportunities, reduce natural run off, provide for floodwater retention, reduce stream sedimentation, contribute to improve subsurface moisture, help moderate climate change, and enhance natural beauty of the landscape."

I hope that and Environmental Impact Statement will be ordered for this proposed development. We have too much to loose. We know too much of the consequences that are looming to happen to this beautiful setting. There is no reason to destroy this area. This trust land should remain in its natural state for the Indian tribe to use as their ancestors did.

Thankyou for the opportunity to comment on this proposed developement.

Respectfully,

Janet Moore

29761 380th st.

Dent, Mn. 56528

612-718-1946

From: Bill Kalar
Sent: Monday, June 19, 2017 1:16 PM
To: 'T KRAUS '
Subject: RE: Star Lake Casino Development

Tom and Claire Kraus – this will confirm receipt of your comments. They will be included as part of the Public Record regarding this matter.

Bill Kalar
Land & Resource Mgt.
218-998-8105



From: T KRAUS [mailto:bear12r@embarqmail.com]
Sent: Monday, June 19, 2017 1:03 PM
To: Bill Kalar
Subject: Star Lake Casino Development

Tom and Claire Kraus
874 Oriole Lane
Chaska, MN 55318
33189 380 Street
Dent, MN 56528

June 18, 2017

Mr. Bill Kalar
Land and Resource Management Director
Government Services Center
540 Fir Street
Fergus Falls, MN 56537

RECEIVED
JUN 19 2017
LAND & RESOURCE

We have a home on 380th Street and are very concerned regarding the entire Star Lake Casino Development plan. We feel very strongly that a stringent Environmental Impact Study must be completed before this project moves forward.

The area is a very quiet rural area where we go on weekends to enjoy peaceful family time, watch the wildlife with grandchildren, fish and just relax. The proposal for a casino, 180 room hotel, bar, restaurants, RV park, event center and supporting infrastructure does not fit the area and its sensitive lakeshore environment. There are numerous reasons; such as, how will it affect the sensitive wetlands, water treatment and runoff concerns, the roads are not large enough to handle the additional traffic including the construction vehicles and later buses and increased number of vehicles. 41 is a very narrow two-lane road with minimal or no shoulders.

Not only does this entire project not fit the area, we are concerned with what the effect will be on bird flyways and nesting areas along with the effect on fishing habitats. However, our major concern is with the dredging and fill of the 8.4 acres of wetland. What is the quality and type of fill that will be used? We live about 4 miles from state highway 101 and the Minnesota River crossing between Chanhassen and Shakopee. About three years ago, due to river flooding and the necessity to close the crossing during the flooding, the state raised a portion of the approach over the wetlands that leads to the bridge. For two summers previous to that work, a pair of swans had nested in the wetlands where we had never seen them before. The work on the access road included the pounding in of pilings (which we could hear 4 miles away) – the swans left and we have not seen them since. What will be affected around Star Lake as

they dredge the wetland, fill and pound in pilings! We had seen a pair of sandhill cranes in the area of 41 and 380th Street. Will they return????

We are also concerned regarding the wastewater treatment and other possible runoff. Star Lake is currently a pristine lake which has outlet to Dead Lake then to Ottertail. What happens if there is detrimental runoff or water treatment failure?

There are so many environmental impacts and detrimental outcomes associated with the project that we feel very strongly that a full EIS must be completed. Please give this your full and careful consideration.

Respectfully,
Tom and Claire Kraus

Bill Kalar

From: Bill Kalar
Sent: Monday, June 19, 2017 1:12 PM
To: 'Lindgren, Tim G.'
Subject: RE: Environmental Assessment Worksheet - Star Lake Casino Development Written Comments

Tim and Amy Lingren – this will confirm receipt of your comments. They will be included as part of the Public Record regarding this matter.

Bill Kalar
Land & Resource Mgt.
218-998-8105



From: Lindgren, Tim G. [mailto:Timothy.Lindgren@gd-ms.com]
Sent: Monday, June 19, 2017 12:22 PM
To: Bill Kalar
Subject: Environmental Assessment Worksheet - Star Lake Casino Development Written Comments

Hi Bill,

Attached are our written comments on the Star Lake Casino Development EAW.

Regards,
Tim & Amy Lindgren

RECEIVED
JUN 19 2017
LAND & RESOURCE

6/19/17

Otter Tail County
Dept. of Land & Resources
ATTN: Mr. Bill Kalar
540 West Fir
Fergus Falls, MN 56537

SUBJECT: EAW Comments RE: Star Lake Casino Development

Dear Mr. Kalar & Otter Tail County Commissioners

We are year-round residents and property owners on Star and I am a past president of the SLPOA.

Many of our concerns with the EAW document will be addressed in the SLCCG response, but we would like to focus on a couple of key concerns, namely the sensitive nature of the South arm of the lake and the magnitude of the disturbance (quantity and duration), especially during the construction phase that this project will inflict.

Throughout the EAW document the proposer refers to the General Development lake classification of Star Lake. Here are some reasons why we feel that classification is inadequate to address environmental concerns.

Back in 2007 the SLPOA had a vote on whether the property owners wanted to pursue changing the lake classification from General Development to Natural Environmental. The board was looking for a 2/3's majority to pursue this change and the measure was voted down by only 8 votes. In 2010 the DNR released information on Intra-Lake zoning. I believe that if the proposal had been to reclassify the South and West arms of the lake as Natural Environmental it would have passed easily. The main point here is that the majority of property owners on Star Lake care about preserving and protecting the lake for future generations.

Both the Minnesota DNR and the EOT SWCD have published documents that expound on the merits of the South and West arms – for example this excerpt from page 72 of the EAW:

Stands of hardstem bulrush, wild rice, and common cattail are scattered along the shoreline of the entire lake; however, the largest stands are located in the south bay and the west arm. Emergent aquatic plants provide valuable fish and wildlife habitat, and are critical for maintaining good water quality. They protect shorelines and lake bottoms, and can actually absorb and break down polluting chemicals. Emergent plants provide spawning areas for fish such as northern pike, largemouth bass, and panfish. They also serve as important nursery areas for all species of fish. Because of their ecological value, emergent plants may not be removed without a DNR permit. To maintain the excellent water quality and angling that this lake has to offer, it is imperative to preserve the quality of the aquatic habitat.

I also recently came across this article from the Fergus Falls Journal

<http://www.fergusfallsjournal.com/2009/09/county-denies-rv-park/>

Note also that section 6d of the EAW states - The proposed RV park would fulfill a need for such facilities within the County.

Here is one excerpt from that article:

“Commissioner Doug Huebsch said his concern was the west arm of Star Lake being environmentally fragile whether it’s classified as a general development or natural environment lake.”

At one of hearings:

A Department of Natural Resources (DNR) representative opined that relators' 30-unit proposal would have "cumulative impacts on this body of water," and stated that this "particular arm of the lake screams for natural environment classification,"

And in fact one of the reasons cited for denying the RV park project was that the General Development standard was inadequate to guide the development.

The EAW also fails to address recommendations made by the DNR in their WPA responses below:

- 1) Surveys should be conducted for these species (colonial water bird nesting colony, long-stalked chickweed, and creeping juniper) in the area of impact.
- 2) The area should be surveyed for wild rice and impacts considered.
- 3) Additional study or data to determine the consequences of disturbance to south arm spawning areas.
- 4) Reviewing the 2000 Star Lake Water Quality Assessment Program in association with the WPA application to insure compatibility.

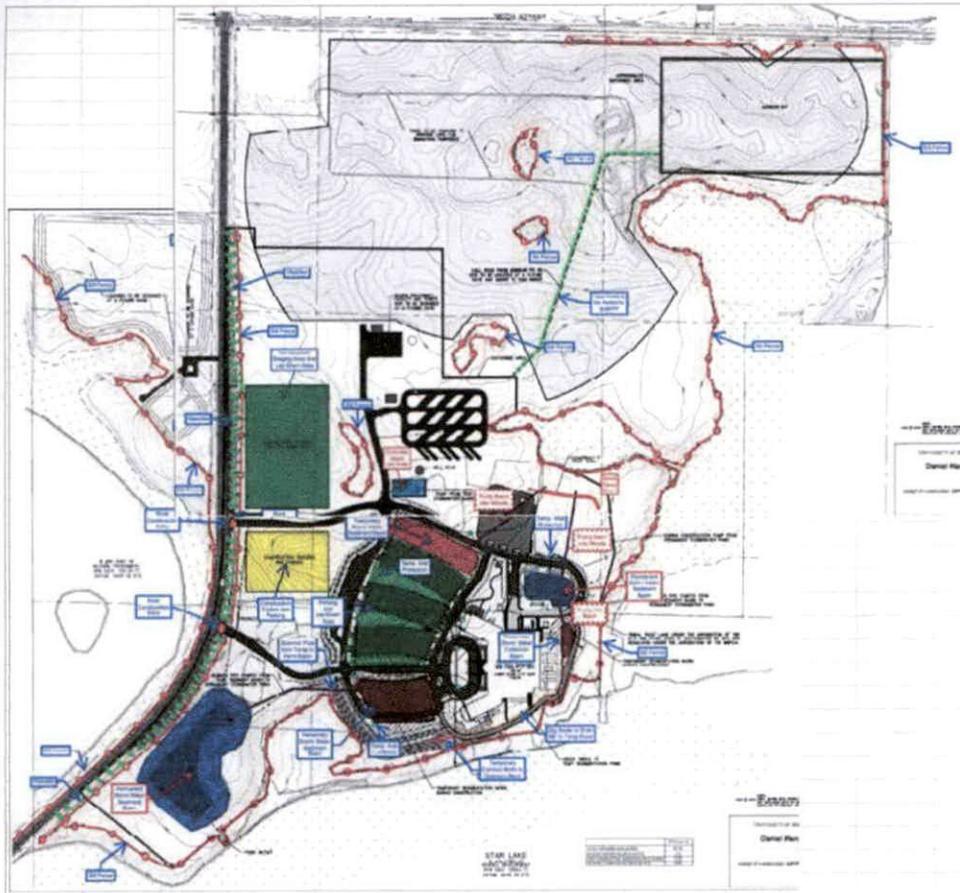
Our recommendation is that a survey of the South arm per the "Minnesota's Sensitive Lakeshore Identification Manual" should be performed. The point here being, as with the proposed RV Park – the General Development standard is inadequate to guide this proposed development..

The other area of concern is the amount and duration of disturbance in the proposed site.

Some info about size and duration of impact per the EAW

- 1) Trust Land = 14.57ac, 8.79ac above OHWL, 6.17ac wetland – Net 2.62ac buildable before dredge and fill
- 2) *It is anticipated that approximately 96 acres of the total site will be excavated or graded as a part of construction activities.*

Most of the other acreage will also be disturbed – borrow pits, removal of trees and installation of irrigation system on 65 acres, WWTS, SWPPP, staging area, parking area, haul roads, utilities – about the only area that won't be disturbed is the "unfilled" wetland area and remaining wooded area (see diagram from EAW below). So essentially about 40 ac of wetland and 17 ac of remaining forest hopefully won't be disturbed, but about 75% of the project area will be. It is going to be a wasteland.
- 3) Duration – the EAW says July-17 to Nov-18 or 17 months. Based on the Bagely Casino I would not trust this estimate, I believe that project took significantly longer than planned, and I know there was at least one instance where there was a work stoppage. In the What-If category, what happens if they excavate/grade 96 acres of land without proper stabilization and there is a work stoppage? What-If the duration of the project is significantly longer than planned? And based on Bagely what is probability that this will occur?
- 4) What is the estimated number of heavy truck trips to the site – about the only thing we know from the CUP is 422,000 yds of fill in the 1000' shoreland zone for the parking area/roads, which would be over 21,000 belly dumps or 42,000 standard dumps. This is only a subset of the trips that will be needed and doesn't address Trust Land at all or RV park or WWTS or SWPPP. How many total yds of fill? How many Cement trucks? How many trucks with building supplies? How many cranes, backhoes, graders, etc.?
- 5) What is the Environmental Impact of this much disturbance (dust, noise, emissions, removal of natural habitat) over this duration of time? I believe the SMO requires that a "Extractive Use Site Development and Restoration Plan" be prepared, has this been done? Just another reason this project screams for an EIS.



A couple of other facts from the EAW

Section 15 states - *Relatively minor changes in elevation and dense tree cover in the surrounding area will result in relatively minimal impacts to the viewshed.*

- Woods/Forest before – 34 ac, after 16.9ac
- 422,000 yds of fill for parking/roads in 1000' Shoreland zone alone.

This does not sound like relatively minor changes to us.

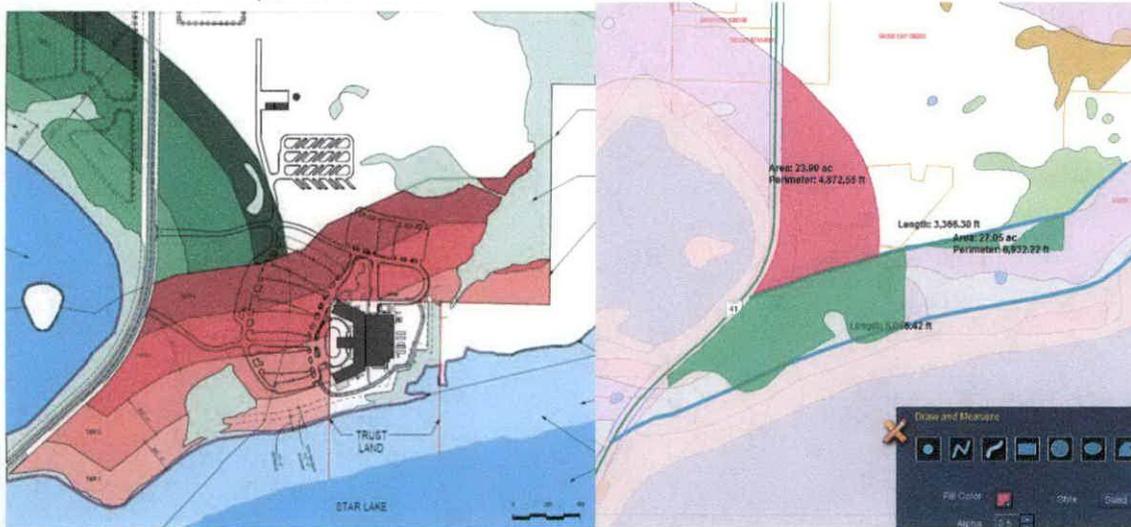
Impervious surface includes 20.2 ac of parking and roads, 1.5 ac substation, 2.4 ac of buildings, as well as a 3.9 ac concrete lined stormwater pond and 8 ac of concrete lined wastewater treatment pond.

In a 2013 Star Lake Lake Assessment published by the EOT SWCD it states that the total impervious area of the entire Star Lake Watershed in 2000 was 178 ac.. This is a significant increase in impervious area for our watershed, located primarily within the 1000' shoreland zone of Star Lakes South arm.

We also have a number of questions/issues with their impervious surface calculations.

- 1) All of the numbers in the Combined Shoreland Development Area East of County Rd 41 are incorrect. Should I trust any of the numbers?
 - a) Star Lake 2,056,561.92 sf s/b 2,056,651.92
 - b) Unnamed Lake 646,949.95 sf s/b 646,929.95 sf
 - c) Total 2,707,263.70 sf s/b 2,703,581.87
- 2) Are there really only 12.56ac of the 20.2ac of impervious area are in the 1000' SMO zone?
- 3) Should we be combining the measurements for Star & Unnamed SMO zones or evaluating each of them independently?
- 4) Are concrete lined wastewater and stormwater ponds really pervious surfaces?
- 5) Should we be including wetland areas that are to be dredged and filled in the calculation?

- 6) Has anyone validated that any of the measurements are correct? I get a significantly different shoreland development area from the OTC website maps compared to the developer – 50.95ac compared to 62ac?



Pg's 32-34

It is possible these birds (red-necked grebe) will be disturbed during construction. Disturbance during the breeding season can cause the birds to abandon the nesting site

In general, terrestrial wildlife resources located within the proposed project area will be disturbed by construction activities. Wildlife located within the project area will be displaced to areas adjacent to or in the vicinity of the project with similar habitat availability.

It is possible these birds (loons) will be disturbed during the construction.

This needs more study – what environmental impact will this project have?

You also likely recall the motion from the CUP application meeting

Motion: A motion by Trites, second by Bailey to table until the Environmental Review process is complete and allow the Developer: 1. Time to consider a redesign minimizing both the ecological & other potential impacts on a highly sensitive area.

The proposer has made absolutely no changes in the footprint or location of building, parking, roads, etc. for this project to mitigate the environmental impact. Are we supposed to believe that marginally or in some cases not meeting the SMO standards for a General Development lake is adequate? And are we supposed to believe that patrons of a Resort Casino on a lake are NOT going to use the lake? What happens to the Natural Shoreline when patrons start dragging their paddleboards, canoes, and kayaks down to the lake? Or clear an area for a lawn chairs, blankets, and coolers? How about the fall when they bring their duck boats? Or in the Winter when they take their ATV's and snowmobiles and drag their portable ice houses from the parking lot to the South arm? How does the Casino plan to protect the natural shoreline?

And what if thousands of gallons of sulfate rich wastewater were inadvertently discharged into the lake or wetland? As little as 10 mg/l of sulfates has been shown to be detrimental to wild rice and the wastewater would likely have levels around 100-200 mg/l.

The bottom line is that this project will completely change the hydrology of this important wetland buffer area. Water circulation and groundwater recharge will decrease, water temperatures will rise, dissolved oxygen content will be reduced, and there will be increases in a number of pollutants. For the above

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reasons, we respectfully request that Otter Tail County require that an Environmental Impact Statement be completed.

Respectfully,
Tim & Amy Lindgren
32122 N Rosewood Dr
Dent, MN 56528

Bill Kalar

From: Bill Kalar
Sent: Wednesday, June 21, 2017 11:45 AM
To: 'jbirch1656@aol.com'
Subject: RE: Proposed Star Lake Casino

Jeff and Karen Birch – this will confirm receipt of your comments. They will be included as part of the Public Record regarding this matter.

Bill Kalar
Land & Resource Mgt.
218-998-8105



From: jbirch1656@aol.com [mailto:jbirch1656@aol.com]
Sent: Tuesday, June 20, 2017 8:12 PM
To: Bill Kalar
Subject: Fwd: Proposed Star Lake Casino

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6/20/17

Mr. Kalar,

I have owned property on the West Arm of Star Lake since 1998. Much of the area in the West Arm is in a natural state and quite serene. I'm sure you recall a few years ago, we, on the West Arm, had to fight another battle to try and prevent a trailer park from being built on property across the bay from us. Luckily, the residents were able to prevail, in that the West Arm would not be able to handle all the traffic generated by another resort, nor would the wildlife that inhabits this area. It was not compatible to the surrounding area.

We now face the same dilemma, only on a much larger and more dangerous scale. The South Arm of Star Lake is an area that is vastly important to the wildlife in the area. Countless birds, waterfowl, deer and other wildlife use this as a sanctuary. Not to mention, this area is also incredibly important to fish, using it as a spawning grounds. Another crucial point of the South Arm are the aquatic plants that grow there, as they do much to keep the waters of Star Lake clean.

If the casino is built, the cumulative impact to this area would be substantial, and irreversible. Once this is started, we can't go back. The amount of fill required to fill the WETLANDS to deem the site buildable, will be unbelievable. The waste and septic water generated will certainly have adverse effects on the area. Warm water run off from the parking lot will eventually make it's way into the lake as well. This is not the place to build a large casino complex. It is truly incompatible with the existing character of the site and surrounding areas.

At almost every intersection you come to on 41, and 108, there are curves and hills. These intersections, at times, are dangerous right now! Imagine what they will be like with hundreds of cars traveling these roads 24/7? I can't believe it is worth rerouting and rebuilding a road structure to accommodate. When will it end?

Before it's too late, before we are unable to go back, I ask you to please recommend that an EIS Study be completed. There is too much at stake if we do not ensure the safety, and sanctity of Star Lake and the surrounding area. I thank you for your attention to this matter.

Respectfully,

Jeff and Karen Birch
Maple Grove and the West Arm of Star Lake

From: Bill Kalar
Sent: Wednesday, June 21, 2017 11:50 AM
To: 'Jon Skow'
Subject: RE:

Jon Skow - this will confirm receipt of your comments. They will be included as part of the Public Record regarding this matter.

Bill Kalar
Land & Resource Mgt.
218-998-8105

-----Original Message-----

From: Jon Skow [mailto:jpskow3@gmail.com]
Sent: Tuesday, June 20, 2017 9:49 PM
To: Bill Kalar
Subject:

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Mr. Kalar,

My name is Jon Skow. I live on the north shore of the north bay of Dead Lake. Have for almost 20 years. I was here for the battle of BHB and that shaved years off of my life. Wife wanted to leave because of what that would have done to this lake. I wanted to stay and fight for it. She left... Got a new wife... and a new fight to try to protect the "goose that lays the golden ones ". You know, we all revolve around the "lakes " here. Lake Country Gardens
Lakes 99.5 radio
Heart of the Lakes Elementary
Lakes Loader Service
And on and on...
You fly over this joint and it looks like a big lake with a bunch of islands. The "feel " of this area and what draws people here is that it is one of the last unspoiled places with water in Minnesota shy of the BWCA. I, personally have no desire to go to the Brainerd area because they sold paradise and put up a parking lot. I truly believe that this casino thing will not happen. Enough smart people around I hope. If it goes to an EIS, I know that it won't fly because of the obvious. That being said, it saddens me to know what kind of money and time has been wasted on this. Mine included. I don't have too many fights left in me. Used to love a good scrap. I wish that the County would adopt some policy regarding development of the lakes that keeps people coming here for the beauty of it. Not for potential, short term revenue. Money comes and goes. Screw up the interconnected, fragile lakes, and this place is nothing. Saw it happen in SW Minnesota where I grew up. They drained the sloughs, one guy now farms what 30 guys used to. Monsanto got rich and the little towns dried up and blew away. I'm sorry for the "novel " Bill. But I have been so heartbroken my whole life watching it all be "sold". I will be carried out of my home on Dead Lake (or off of it hopefully).

Please listen to common sense. Guys like me. And Tribal members who have enough guts to speak for themselves. The developers and Tribal Counsel Members do not have the best interest in mind of their own people, much less you or me.

Respectfully,

Jon Skow

38256 County Highway 35

Dent, Mn

218 842 4212

Sent from my iPhone

Bill Kalar

From: Bill Kalar
Sent: Wednesday, June 21, 2017 11:47 AM
To: 'Nancy Palubicki'
Subject: RE: Star Lake Casino

Nancy Palubicki – this will confirm receipt of your comments. They will be included as part of the Public Record regarding this matter.

Bill Kalar
Land & Resource Mgt.
218-998-8105



From: Nancy Palubicki [mailto:dnpstar@arvig.net]
Sent: Tuesday, June 20, 2017 8:51 PM
To: Bill Kalar
Subject: Star Lake Casino

I hope you are reconsidering the Star Lake Project. An environmental study must be done, as no individual would ever be allowed to fill in several acres of a state owned lake, so why would this commercial venture be allowed?!

My largest concern is traffic if this went through. We live on Highway 41 with the lake across the road from our house. We do foster care, so have new children every year that must learn to be careful when crossing the road to the lake. There are curves on both sides of us, and many people ignore the 35 MPH speed limit, making it dangerous with our normal traffic flow. With a casino on our road, it would be even more dangerous.

Star Lake is envied by area lake residents that wish their lakes could be as clear as Star. Let's keep it that way.

Say no to a casino.
Sincerely,
Nancy Palubicki
39737 County Highway 41
Dent, MN 56528

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Attn. Bill Kalar

I am writing to you in regards to the proposed casino in Star Lake Twp.

Please consider the environmental impact of this casino complex in this pristine lake area. I don't think any rules, regulation or restrictions can protect this area from what the damage could be in this sensitive Lake area. Just the 24 hr. lighting non-stop will change the landscape. The odor from lagoons, the huge increase of traffic is a safety concern of major proportion and water and land pollution.

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Coaches are not even
"family hearts", they
are places for gambling,
adult entertainment and
not for children. They
do not generate dollars
at surrounding towns.

Please, the time it takes
to do a FIS is short and
the knowledge gained is
huge and valuable in
the preservation of state lands
and surrounding lakes
and land.

Cornie Nelson
13043 Merry Meadows
Detroit Lakes, MN.

Bill Kalar

From: Bill Kalar
Sent: Friday, June 23, 2017 8:35 AM
To: 'jason gorr'
Subject: RE: EAW 30 day comment response for Star Lake Casino Proposal

Jason Gorr – this will confirm receipt of your comments.

Bill Kalar
Land & Resource Mgt.
218-998-8105



From: jason gorr [mailto:jasongorr2@gmail.com]
Sent: Wednesday, June 21, 2017 9:02 AM
To: Bill Kalar
Subject: EAW 30 day comment response for Star Lake Casino Proposal

My Kalar,

Please find my attached Comments and referenced support letters for submittal and your review within the 30 day comment period for the Star Lake Casino Proposal.

Thank you, with respect.

Attachments:

- Jason **EAW comments** for 30 day
- Interview on WR and Wetlands
- Jim Lilienthal letter for Star
- Rondeau Statement of Concern Regarding the Star...

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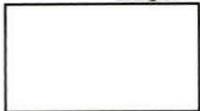
Jason Gorr

218.562.4322

Email: JasonGorr2@gmail.com

Website: <http://communitywatersolutions.net/>

Facebook: <https://www.facebook.com/COMMUNITYWATERSOLUTIONS/>



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Statement of Concern on the Star Lake Casino and Resort Site

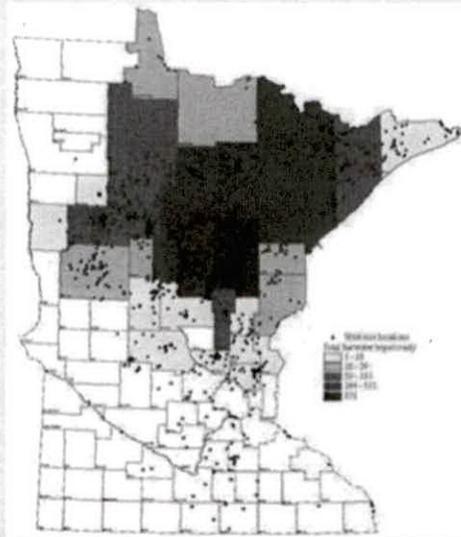
I have hunted and fished in Ottertail county for many years. I am concerned that this development represents yet another threat to the future recreational use (waterfowl hunting and production) on a recognized waterfowl migration corridor. The 1930 sale of this tract of land to the White Earth Nation was to enable access for the harvest of wild rice on Star lake and was a compatible land use decision. The development of this site as proposed, may not be a good business and certainly is not a compatible land use decision from an environmental standpoint. It seems to me, the rules/laws that require a certain ownership rather than a rational business decision are driving the site of this development. In this day and age aren't we better then that. Let's work together to find another site, so that the sensitive nature of the proposed site is not compromised.

We don't need the noise and disruption at this remote site. I want my children to enjoy waterfowl hunting as I have at this site. In my over forty years, as a DNR Area Fisheries Supervisor (now retired) and in my current volunteer positions, I have evaluated hundreds of shoreline development projects and few are more troubling to me than this proposed site. This is not a compatible land use decision.

James Lilienthal
7643 Bear Rd.
Cushing, MN 56443

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Interview On Monday, July 25, 2016, With Ray A Norgaard (DNR)



Question 1: Jason-SLCCG

Could you quote on the total number of rice lakes (of importance) the DNR had identified in your previous/current works of survey and inventory? I see in the 2008 Wild Rice Document that Star Lake made that list.

Response 1: Ray Norgaard-MN DNR

Star Lake is one of only four sites in Otter Tail Co. specifically identified by harvesters surveyed in 2006 as a destination for harvesters.

(see http://files.dnr.state.mn.us/fish_wildlife/wildlife/shallowlakes/wild-rice-harvester-survey-2007.pdf). According to the survey, during 2006, over two-thirds (2,413 total trips, 70.5%) of all wild rice harvesting trips were in Aitkin, St. Louis, Itasca, Crow Wing or Cass counties (See Figure 2.1 and Appendix F, Table F.2). The next five counties with the highest number of trips (698 total trips, 20.4%) were Becker, Clearwater, Beltrami, Lake and Hubbard counties. Out of 28 counties identified as being visited for wild rice harvesting, these top ten counties total 90.9 percent of all wild rice harvesting trips. The following map is found in the 2008 report.

Question 2: Jason-SLCCG

In your experience, would you assess that increased motorboat usage on emerging and existing wild rice beds as being one of the major immediate threats to existing stands of Wild Rice?

Response 2: Ray Norgaard-MN DNR

As noted in the Executive Summary of the 2008 report to the legislature

(http://files.dnr.state.mn.us/aboutdnr/reports/legislative/20080215_wildricestudy.pdf)

"Important threats that impact local stands of natural wild rice include changes in local hydrology due to dams and channelization, water-based recreation and shoreland development, and mining and other industrial activities. Although the impacts are to local stands, the cumulative effect of these threats can have statewide implications." Certainly motorboat use can be very damaging to specific stands of wild rice. While wild rice can be removed by the cutting action of engine props, it is most easily damaged during the floating leaf stage by prop wash, wave action, and contact with boat hulls, as well as the direct cutting of stems.

Question 3: Jason-SLCCG

You had also mentioned that Ringnecked/Mallard/Teal/Wood Ducks, Trumpeter Swans, and Canada Geese are some key users of Wild Rice, as far as Waterfowl goes?

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Response 3: Ray Norgaard-MN DNR

That is correct. Although many people think only about waterfowl feeding on wild rice grains, all stages of wild rice growth provide food resources including dead stems. Where wild rice occurs the emerging stems in early summer provide protection for duck broods and molting hens as well as a micro-habitat for invertebrates. The stems, leaves and roots are also heavily used by Canada geese, trumpeter swans, and muskrats. As an annual grass the seed production is attractive to fall migrants particularly waterfowl but also rails and songbirds. Spring migrants benefit from residual seeds and the invertebrates attracted to the decaying straw. As a result, wild rice lakes and streams are breeding and nesting areas for many species. The Canadian Wildlife Service, for example, has found extensive waterfowl use of wild rice introduced into Saskatchewan outside of its normal range. Observations in the late 1970s found 83% of the waterfowl in June, 84% in July, 79% in August, and 99% in October were using wild rice habitat versus non-wild rice habitat (Peden, Donald G. 1977. Waterfowl use of exotic wild rice habitat in northern Saskatchewan. Canadian Field-Naturalist 91(3): 286-287. Also attached).

Question 4: Jason-SLCCG

Could you also clarify my point I made in the notes too where it was referenced there were 17 species of concern associated with Wild Rice? Was that information referenced in your MN DNR Wild Rice Inventory/Study (2008)?

Response 4: Ray Norgaard-MN DNR

Yes. Minnesota birds that utilize wild rice habitat and are listed in Tomorrow's Habitat for the Wild and Rare as species of special concern.

Birds of Special Concern	Life Cycle Stage
American Black Duck	Breeding and migration
Lesser Scaup	Migrant
Northern Pintail	Migration, Rare Breeder
Trumpeter Swan	Breeding and migration
American Bittern	Breeding and migration
Least Bittern	Breeding and migration
Red-necked Grebe	Breeding and migration
Common Loon	Breeding and migration
Sora Rail	Breeding and migration
King Rail	Casual migrant
Virginia Rail	Breeding and migration
Yellow Rail	Breeding and migration
Black Tern	Breeding and migration
Bobolink	Foraging and migration
Rusty Blackbird	Foraging and migration
Sedge Wren	Breeding and migration
Bald Eagle	Foraging and migration

A Sincere Thank You to Mr. Ray Norgaard of the Minnesota Department of Natural Resources from the Star lake Concerned Citizens Group (SLCCG) to for taking the time

to answer our questions. Ray is an active MN DNR employee out of the Fergus Falls Office, a renowned expert on Wild Rice, wetlands, and the former Shallow Lakes Program Supervisor with the agency. We hope everyone finds the information as interesting as we did!!

EAW Public Comment Submittal

Bill Kalar

Land & Resource Management Director
Ottertail County Services Center
540 West Fir
Fergus Falls, MN 56537

Mr. Kalar & Commissioners,

I would like to thank you for the opportunity to submit public comment on the EAW for the Star Lake Casino Proposal. Our family has a small cabin and land on the South Side of South Arm on Star Lake and I have paid very close attention to this entire process. Believe me when I say I've dedicated a LARGE portion of my recent life to investigation the facts, effects, and proposed repercussions of this project scope.

➤ On page 10, under section **9. Land Use**

b. Discuss the project's compatibility with nearby land uses, zoning, and plans listed in Item 9a above, concentrating on implications for environmental effects.

"Even with the rural character of the surrounding lands, the project is compatible with existing land use identified within the Limited Star Lake Comprehensive Plan area boundary."

I see this above claim as **false and inaccurate** as:

- LSLCP is not an accepted guidance plan by the county, not did the proposer or county allow the current users of the area a representation in the process.
 - Due to the fact this bay is a prime habitat for waterfowl species dating back hundreds of years, basically as far back as historical records were kept in the area it has also been a prime destination for hunters. This capability to support such a great habitat is dependent on several things, but amongst the most important are water quality, lack of disturbance, food, cover, and nesting / brood rearing areas. This scale of large commercial development in such a central and close to shore location on this bay scoffs at the importance and priorities sound developmental practices are. To think that this adhered to the OTC Shoreland ordinances nor is fair with previous rulings is astounding to me. We cannot make exceptions nor allowances that jeopardize our resources.
 - For instance, two existing duck clubs (dating back over 70 years on South Arm Bay), and numerous Star Lake (South Arm Bay) Property owners, prioritize the immediate area's Waterfowl as a primary cornerstone for their property's value and longtime use.
 - Duck hunting history goes back hundreds of years in the area and has a great history and continued tradition with a large following from not only local residents, but hunters that travel great distances across MN and other states.
 - Large numbers of other duck hunters annually utilizing the immediate area around the proposed site would also be negatively impacted (many hunters utilize various public and private accessed and boat into bay). Further study and representation is needed.
 - Many of those traveling hunters bring tourism dollars to the OTC area as well. Without viable use of the resource, that would relocate or end. They (hunting community / MN DNR) are not represented in the study misrepresented as a Comprehensive Plan, despite OTC repeatedly stating this is not an accepted Comp Plan Guidance Document. How is that ethical or allowed? Further study and representation is needed.
 - MN DNR has studied, surveyed, and documented that hunter recruitment is an issue with younger hunters and the number one concern is that hunter access is drastically reduced and public opportunities being taken away.

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- Through communication with Current MN DNR Staff & Retired MN DNR & USFWS Staff, I've referenced expert testimonies that concerns on probable and potential negative impacts are valid and warranted. Plus, they are not sufficiently nor fairly represented in this EAW OR the LSTCP. (See *Jim Lilienthal Letter, Tony Rondeau Letter, & Ray Norgaard interview attachments*)
 - Through introducing increased **large commercial disturbance and wetland removal / alteration** on this secluded, sensitive shoreline it is inevitable this resource would be severely impacted. (see Tony Rondeau's – retired USFW Letter)
 - Many of the more rare and dwindling populations of waterfowl (both game and non-game) are especially sensitive to sound, light, and proximity of humans, buildings, mowers, and automobiles. This is easily verifiable with studies and Biologist's testimony. Provided mitigations for onsite lighting and vegetative shielding are entirely inadequate in this regard. They do not take into account the affiliated light or noise with staff vehicles, delivery vehicles, customer vehicles, increased local traffic disturbances associated and it's effects on critical game and non-game waterfowl species found locally. Therefore more study is needed and proposal modified to reflect that action.
 - According to MN DNR's recommendation in a recent letter to the proposer and RGU the species that warranted more study as it is an identified colonial nester – **Red Necked Grebe** that is documented in their records to utilize the areas on South Arm Bay.
 - This EAW has no reference to compliance to that notification and request
 - In fact, I've personally documented their presence and nesting success again in 2017 and shared that with the MN DNR recently (details attached to this submittal). *Our family and friends have long seen these grebes in these same areas annual and as a Ornithology and Biologically educated individual I can attest that these unique habitats are increasingly rare and need to be recognized and protected for the valued gems that they are. Star Lake is in a very small minority of OTC lakes that have these nesting birds, and is a part of an even smaller percentage of MN Lakes capable to support their colonies and needs.*
 - According to the MN DNR this Proposed Project would "LIKELY" disturb them. What's interesting though is how due to the Freedom of Information Act, we can see that the proposer adjusted that correspondence and submitted in this EAW that this project could "potentially" disturb them. **How is this acceptable?** The only reason we knew of that is the MN DNR communicated this action in an email corresponded. Where else have corners been cut in this document and truths been modified to suit? This EAW is inaccurate, inadequate, and unreliable.

- Specifically, supportive services for parking lots, introducing WW Treatment and ponds, as well as removing critical and central existing wetlands (and negatively effecting all other nearby wetlands though removing water recharge capabilities w/ impervious surfaces rerouting runoff) will all be HIGHLY INCOMPATIBLE with not only hunters, but the valuable resources of:
 - Water Quality
 - Wild Rice Beds (MN DNR documented areas of value located immediately adjacent to the proposed site and definitely within the AREA OF INFLUENCE if not the actual footprint)
 - Potential failures of proposed Wastewater Treatment Facilities (force main breaks / blocks / backups, or Liftstation Pump failures leading to overland spills
 - Synthetic Liner (or Concrete) failure on WWT Ponds or negligent maintenance and treatment practices all create that potential
 - These potentials are real and happen annually in MN (MPCA reference available). Resulting fines don't retroactively replace resources to original quality and are very rarely levied even on multiple violators.
 - But,,, if there were ever a drastic violation history and MPCA had reason to act, truly what repercussions and more importantly, what assurances would **enforcement effectiveness** be since it would be a state department essentially trying to enforce a sovereign nation's business??

- Starting on page 25, Section 11) Water Resources iv) Surface Waters a) Wetlands - Describe any anticipated physical effects or alterations to wetland features such as draining, filling, permanent inundation, dredging and vegetative removal. Discuss direct and indirect environmental effects from physical modification of wetlands, including the anticipated effects that any proposed wetland alterations may have to the host watershed. Identify measures to avoid (e.g., available alternatives that were considered), minimize, or mitigate environmental effects to wetlands. Discuss whether any required compensatory wetland mitigation for unavoidable wetland impacts will occur in the same minor or major watershed, and identify those probable locations.

- NONE of the water quality or wild rice or wildlife or fisheries or recreations increases are adequate or accurately represented in this EAW.
- To claim this will not negative impact surrounding wetlands, waters, bird/fish species, wild rice stands, nor likely increase boat traffic on the Lake and Surrounding lakes is simply either ignorant, wishful thinking, or downright deceptive. How is it possible that a 180 room hotel with 25 RV spots, and assumedly potential large clientele (1000 car lot) not going to attract a significant increase in use on nearby public accesses? This isn't even taking into account the inadequately described potential new expansion they indicated in RV spots, cabins, golf course, etc...

➤ **Page 19 of 41 - Environmental Effects of the Project Wastewater Treatment System**

"The wastewater treatment system design has been designed to provide the facility the most adequate means of managing site wastewater, while protecting the surrounding surface water, groundwater, and adjacent land...."

> "There will be no surface water discharge of the treated wastewater so there are no anticipated detrimental effects to the water quality of Star Lake or any surrounding water bodies...."

I would specifically like to add this for your consideration. As a certified and trained Water and Wastewater Operator who has extensive work and assistance on MN Tribal Water and Wastewater Treatment systems while working as the MN Tribal Circuit Rider under an EPA Region V Contract for over 12 years, I've seen a lot of proposed designs and plans and a lot of REAL world operations, violations, budget shortfalls, system mismanagements, overland spills, and line blockages/backups. Please fully understand and let me stress that you can't back this 'train up'. Sure the design may be 'adequate' as the developer puts it. Or the system capabilities are specified to operate properly if MPCA permits it, and I have no reason to doubt that technology or permit process.

What the OTC Commissioner really need to think about though and why I disagree with this EAW and this proposal are:

- As the RGU of the project your role isn't to permit the WW treatment obviously as that would be the MPCA, but it is solely your duty to protect the fragile ecosystems and environment this is entirely too close too.
- The proposer references 37 other spray irrigation WW treatments similar to this in the state. I contest they are NOT similar in that the ones specifically referenced in nearby communities such as Perham and NYM are different in the following ways:

- They are COMMUNITY SYSTEMS; this is in support of a less critical need in response to a PRIVATE, large commercial business NOT dependent on being in this location therefore avoidance of such close proximity to wetlands is totally avoidable.
- The other systems directly referenced and the vast majority of the other 37 most likely would NOT be located so close to such critically sensitive wetlands and shoreline.
- Although Engineers are tasked with proper design and MPCA is tasked with approval and permit specs, **YOU as the RGU** are tasked with determining if proper protections are allowed in this proposal to adequately protect and preserve the surrounding environment.
- I contest that due to the local lands / waters unique attributes and sensitivities, the Project puts undue threats in close proximity and risks irreparable, permanent harm the gem of a lake and wild rice ecosystems highly prized and utilized by Star Lake residents and visitors dating back thousands of years.
- What happens if:
 - Any of the WW lines break or lift pumps break and cause below or above ground sewage spills?
 - Pond liners rupture or leak?
 - Irrigation lines break or aren't properly zoned, tested, or loads applied.
 - Internal budget, training, operator capabilities cause mismanagement and system capabilities aren't met?
 - Any myriad of REAL WORLD mistakes or emergencies NOT foreseen in system designs or MPCA permits?

Please don't rely on another agency to stop this or point out that the removal of important buffers, introduction of new and highly threatening contaminants with strong BOD, Grease, Solvents, Nutrients, etc. on such close proximity to Star and Unnamed Lakes and wetlands.

OTC as the RGU is the exclusive watchdog on this matter and needs to recognize their unique and critical role they play in this process. In my mind this requires they demand an EIS, which I believe for these and many other strong reasons would also reveal this project is not properly suited for this portion of OTC.

Thank you for allowing me comment and please know I support and want to enable your taking of this next step of EIS recommendation.

Sincerely,

Jason Gorr – Breezy Point, MN

Cabin is at: Starland Shores Drive, Dent, MN

218.562.4322 / jasangorr2@gmail.com

Bill Kalar

From: Bill Kalar
Sent: Friday, June 23, 2017 8:42 AM
To: 'wroge.randy'
Subject: RE: Check with Commissioners in MILLACS COUNTY. I spoke with one he will tell you what there dealing with in regards to cost of providing foster care for INDIAN CHILDREN .He told me we should do whatever we could to stop a Casino in OTTER TAIL COUNTY. THA

This will confirm receipt of your comments.

Bill Kalar
Land & Resource Mgt.
218-998-8105



From: wroge.randy [mailto:wroge.randy@gmail.com]
Sent: Wednesday, June 21, 2017 1:38 PM
To: Bill Kalar
Subject: Check with Commissioners in MILLACS COUNTY. I spoke with one he will tell you what there dealing with in regards to cost of providing foster care for INDIAN CHILDREN .He told me we should do whatever we could to stop a Casino in OTTER TAIL COUNTY. THANKS.

Sent from my Sprint Samsung Galaxy S® 6.

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Bill Kalar

From: Bill Kalar
Sent: Friday, June 23, 2017 8:40 AM
To: 'Harriett Reed'
Subject: RE: Letter of concern on Star Lake Casino

Harriet Reed – this will confirm receipt of your comments.

Bill Kalar
Land & Resource Mgt.
218-998-8105



From: Harriett Reed [<mailto:reed5th@hotmail.com>]
Sent: Wednesday, June 21, 2017 11:38 AM
To: Bill Kalar
Cc: Harriett Reed
Subject: Letter of concern on Star Lake Casino

Please refer to the attached document and forward to all concerned parties

Sent from Mail for Windows 10

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Harriett and Russel Reed
32403 Starland Shore Dr. Dent MN 56528
218-457-1564 reed5th@hotmail.com

June 20, 2017

Mr. Bill Kalar
Mr. Wayne Johnson, District 2 Commissioner
All Ottertail County Commissioners

Gentlemen,

As property owners and tax payers of Ottertail County and more specifically Star Lake Township, we would like to address our concerns pertaining to the proposed casino on Star Lake. We have read various articles and attended the meeting in Pelican Rapids in our effort to be as informed as possible on the scope of this project.

As long time residents on MN lakes, we fully understand the impact that man can have on this very fragile and extremely valuable asset of our state. We accept the fact that we live with many restrictions on our property that do not apply to other properties in the state; i.e. setbacks, lot sizes, impervious materials, vegetation management, to name a few. It is our understanding that all restrictions are in place to protect waterways used by residents of our county as well as the many visitors who bring valuable revenue to our area. We also realize that our taxes, by nature of location on water, are higher resulting in valuable revenue for the county. We have also dealt with the many restrictions placed on our property and permits that are required before making any adjustments to our property. We respect these restrictions as we realize that their purpose is to protect the lake. With all of this in mind, we are immensely concerned that the county commissioners of a county that depends on our waterways would consider a project that will deplete natural protection to Star Lake; i.e. a wetland. The impact on the habitat of the south arm of Star Lake has the potential to reduce the fishing, hunting and wildlife observation that bring many to our lake.

Of equal concern is safety. Having lost a child to a careless driver, we realize that an accident can, and does, happen in a wide variety of situations. However, having grandchildren that are becoming of an age to drive, we find it very difficult to understand how this county is going to be able to upgrade the many highways that are in less than average, much less premier, condition. It is also imperative to study the availability of emergency services as we are a rural county dependent on volunteers who are already quite strapped in their ability to offer medical and fire services.

Having been involved with another project on another lake, it is beyond our understanding how waste water ponds can be located anywhere in this project. We know that this project was required to pump waste water approximately 2 miles away from the watershed and purchase additional land to build the ponds. A failed pond would do irreparable damage to the lake.

In closing, it is prudent to remember the lessons learned with the Dead Lake project. That failure by the Ottertail County commissioners to order an EIS resulted in years of court battle costing the citizens of this county a tremendous amount of money and routing resources that would have been spent at local businesses to lawyers paid by the property owners of Dead Lake. It is far more environmentally, fiscally and socially responsible to cover all bases and order an EIS.

Respectfully

Harriett and Russel Reed

Bill Kalar

From: Bill Kalar
Sent: Friday, June 23, 2017 8:39 AM
To: 'Ty Dayton'
Subject: RE: Proposed Star Lake Casino EAW review comment

Ty Dayton - this will confirm receipt of your comments.

Bill Kalar
Land & Resource Mgt.
218-998-8105

-----Original Message-----

From: Ty Dayton [mailto:ty@slccg.info]
Sent: Wednesday, June 21, 2017 10:40 AM
To: Bill Kalar
Subject: Proposed Star Lake Casino EAW review comment

Mr. Kalar,
Please note the attached comment regarding the proposed Star Lake Casino. Thank you.
Ty Dayton

In the spirit of wetlands, wildlife and water protection, Ty Dayton
218-251-1975
Star Lake Concerned Citizens Group
SLCCG
Po Box 41
Dent MN 56528

www.slccg.info

IT'S NOT A DONE DEAL!

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June 21, 2017

Mr. Bill Kalar
Otter Tail County Land and Resource Management Director
OTC Government Services Center
540 Fir Street
Fergus Falls, MN 56537

Re: Star Lake Casino Proposed Development – Comment on Environmental Assessment Worksheet Review (EAW) - Submitted 6/21/17

Mr. Kalar,

Careful planning of future development should not be reactive to proposed development. Rather, it should be thoughtfully aligned with appropriate land use compatibility and measured against a variety of economic, social and environmental standards.

In this case, several of the developer's EAW conclusions rely on a study that was jointly commissioned by Otter Tail County (the RGU assigned to this review) and White Earth Nation Tribal Council.

The first page of the study states this about its "Intent": "The Limited Area Star Lake Comprehensive Plan (LASLCP) is NOT intended to be formally adopted as a County Comprehensive Plan... Rather, the intent is to take a comprehensive look at development related issues in this limited area of Otter Tail County ..." A study whose projections and conclusions are based on many assumptions and projections has absolutely no merit as a document to support the developer's Environmental Assessment Worksheet.

The following sections of the EAW reference the LASLCP to support its assertions:

- Section 9. a. ii., Land Use Plans
- Section 9. b., Land Use Compatibility
- Section 9. b., Land Use Plans Compatibility
- Section 18. a. 4), Transportation – Traffic Data

As such, I respectfully ask the commissioners to require the developer to build its case for this project based on fact and science, not conclusions based on projections found in the LASLCP – a document not officially adopted by the RGU - to support its conclusions in the final draft of the EAW.

In the absence of reasonable supporting documentation from original sources regarding Land Use Plans and compatibility and Transportation Traffic Data, I respectfully urge the commissioners to require the developer to submit a broad based Environmental Impact Statement to support its proposal.

Leonard (Ty) Dayton
398 Waycliffe Drive North
Wayzata, MN 55391

Bill Kalar

From: Bill Kalar
Sent: Friday, June 23, 2017 8:47 AM
To: 'John Carlson'
Subject: RE: EAW comments

John and Renae Carlson – this will confirm receipt of your comments.

Bill Kalar
Land & Resource Mgt.
218-998-8105



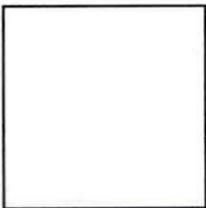
From: John Carlson [mailto:jcarlson@tendyne.com]
Sent: Wednesday, June 21, 2017 1:42 PM
To: Bill Kalar
Subject: EAW comments

To: Bill Kalar, Land and Resource Management Director

From: John V. and Renae Carlson, St. Michael, MN

John Carlson
Tendyne Holdings, Inc.
2825 Fairview Avenue North
Roseville MN 55113
651-289-5500 Main
651-289-5501 Fax

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Bill Kalar, Land & Resource Management Director

Email: bkalar@co.ottertail.mn.us

The following are our comments related to the Star Lake Casino EAW.

My family first came to Star Lake in 1960 as my brother and I attended Camp Aquila. We purchased property and built a cabin on Star Lake because it was less populated as it is farther away from the Fargo-Moorhead metro area. We like the quiet and natural beauty of the lake, Star Lake is a hidden Minnesota gem, in my opinion. I have a video of 7 loons swimming just off our dock, how many lakes do you even see that many loons at one time? If I wanted to go to a casino I would drive to one, there are 18 casinos in the state of Minnesota – Casinos are on the decline. My neighbors have cabins on Star Lake because they want to enjoy the lake – fishing, boating, swimming, water skiing, relaxing. One of my sisters lives on Lake Owasso in Shoreview in the Twin Cities, a nice lake to look at but get in and out of the water and you are covered in green slime. Lake Owasso, like most lakes in the Twin Cities are under stress due to over development and over use of fertilizer creating unclean water. Building a casino on the lake will do harm to the natural beauty and ecosystem of the area and make it more like the lakes in the twin cities, who wants that? You will replace the destroyed wetland by building double the wetland in another part of the state. How do you build a wetland that is even comparable to one that is being destroyed?

Star Lake is not an easy place to get to. It is estimated that the traffic from Fargo-Moorhead will double to get to the casino and back again. They will drive the 16 miles on Highway 108, from Pelican Rapids to Highway 41, one of the most dangerous, hilliest and windiest roads in the state of Minnesota, we call it roller coaster road. I cannot imagine that much increased traffic on Highway 108 from people driving to and from Fargo-Moorhead as they might have had a drink or two or three at the casino. The cost to the county to improve Highway 108 to make it safer would be cost prohibitive as a lot of the curves are around lakes, ponds and private property.

The casino, if built should be near a larger population area or major road, not in the rural area of Star Lake. Ottertail County – You are trying to put a square peg in a round hole – it does not fit. Please make the right decision and do an EIS!

John V. and Renae Carlson

414 Rambling Creek Circle SE

St. Michael, MN 55376

(763) 458-9387

Bill Kalar

From: Bill Kalar
Sent: Friday, June 23, 2017 8:48 AM
To: 'Dennis Cornelius'
Subject: RE: star lake EAW comments

Dennis Cornelius – this will confirm receipt of your comments.

Bill Kalar
Land & Resource Mgt.
218-998-8105



From: Dennis Cornelius [<mailto:dcornel@amconconstruction.com>]
Sent: Wednesday, June 21, 2017 1:55 PM
To: Bill Kalar
Subject: star lake EAW comments

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JUN 22 2017
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Attached please see comments regarding the EAW

Dennis Cornelius
dcornel@amconconstruction.com

June 21, 2017

RGU

Attn: Bill Kalar –Land & Resource Management Director
Ottertail County
Government services Center
540 West Fir
Fergus Falls, MN 56537
218-998-8095
bkalar@co.ottertail.mn.us

Subject: Star Lake Casino Development
Environmental Assessment Worksheet (EAW)

Dear Mr Kalar,

As a property owner and concerned citizen on Star Lake I am offering the attached comments regarding the Star Lake Casino Development Environmental Assessment Worksheet. Although we are not necessarily opposed to the Casino Development we are concerned that the EAW does not adequately address potential social, economic and environmental impacts that this project will bring to both Star Lake and surrounding areas.

As an economic development opportunity for the County I can understand the county's interest in having the development proceed, However given the nature of the project it does not appear that this type of business will add the historical multiplier effect for each dollar spent in a community but does have a high potential for an adverse impact on the community.

This project begs to be expanded to a full Environmental Impact Statement to ensure all impacts on community as a whole are taken under consideration. Taking the time now to either validate the EAW or discover potential issues with the project will be well spent vs discovering problems post construction. The big losers with overlooked problems will be the Community and county resulting in un-anticipated impacts and their related cost.

Please take to time to do this right and proceed with the EIS. Time is not of the essence on this project. Protecting the quality of our community is!

Dennis & Pam Cornelius
Lake: 32263 280th St, Dent MN
Perm: 6570 Goldenrod Lane, Maple Grove MN

Enclosure (EAW comments)

Subject: Environmental Assessment Worksheet Comments
Dennis & Pam Cornelius
June 21, 2017

Environmental impacts issues: (controls/measures)

- **Parking lot run off/impervious surface storm water management measures. (page 21-22 Storm water management)**
 - The EAW addresses specific flow/control rates for managing the site's storm water impact. As a developer/contractor in the Minneapolis metro area we are hearing from several of the watershed district that the current standard which are based on the 100 year rain event and bounce impacts on ponds are showing signs of distress due to the frequency of high intensity storms which rather than reflect a single 100 year event are occurring on a more frequent/intense basis (i.e. within 24-48 hours of each other) resulting in a greater impact on the storm infrastructure that anticipated. What provisions are being considered if in fact the frequency of storms noted are not an anomaly but a new norm? Given the close proximity of the holding ponds to the south arm's environmentally sensitive aquatic plant/species what will the impact be to the bay if the system fails to sustain water quality discharges as proposed? Who will be monitoring significant event effects?
 - The storm water management plan addresses the impervious area but does not appear to take into consideration the irrigation field scheduled for waste water discharge. We understand that this is technically not an impervious condition requiring storm water management control that the planned vegetation will result less surface run off than the previously farmed land and timing of irrigation will attempt to avoid rain events minimizing surface run. However, our experience with the field parallel to 380th ST. schedule for the waste water discharge historically has overflowed 380th during heavy rain events. (i.e. prior to recent work in the field there were three distinct erosion channels diverting water over 380th St.) What impact will discharge of waste water /residual nutrients/chemicals from the irrigation field have on quality of the lake if a combined storm saturated site and subsequent irrigation results in significant surface runoff? Several hundred feet of the shoreline abuts this irrigation field. But for 380th street, direct discharge from this irrigated field potentially will flow to the lake. Have alternate locations for this irrigate field been consider? (I.e. west of country road 41 adjacent to the holding ponds to reduce potential direct discharge to the lake? Why risk this potential of polluting the lake by placing the discharge area so close to the lake?
 - Typically a storm water management system has a binding agreement between the governing agency, (I assume the county RGU and property owner) for annual inspection, event reporting, and maintenance plan tied to bond /escrow. What measures are being established and what control will the county have relative to impervious discharge on sovereign land? Who is the responsible party tasked with monitoring/regulating the storm water system once the project is built and operational (i.e. Future sediment in ponds/cleaning/pond overflow due to excess capacity)? The fox or the Chicken? If system fails can the Conditional Use permit for the site be lifted as condition of the

system failure?

- **Waste water treatment (page 18-20 Wastewater System Description)**

- Report identifies a two stage open cell water treatment containment with subsequent irrigation of treated waste water. Following concerns are offered for consideration
 - Odor: Typically open cell water treatment cells rely on aerobic and anaerobic bacterial action to breakdown organic pathogen/fecal matter. In addition to general treatment plant odor the bacteria goes thru an annual transition in the spring and fall resulting a significant odor issue. (Example would be odors similar to what you smell at sugar beet plants and other municipal waste treatment plant using this type of system.) The EAW is not clear specifically on how odors are going to be controlled at this facility. In addition we are concerned with the additional nuisance odor from land irrigation of the pond effluents. Our concern is the detrimental effect these odors will have on the aesthetics, property value and quality of life on properties within the zone of impact. Given the prevailing winds in this area lake properties east and south east of the site will be impacted by these odors. Further documentation of odor control needs to be addressed.
 - Environmental contamination concern: Based on the EAW the “MPCA does not have treatment limits for contaminants contained in the wastewater to be used for irrigation purposes outside of a fecal coliform limit that will be established by MPCA.” This is a concerning fact give that annually over 20 million gallons of treated wastewater will be discharged over 65.5 acres of land fronting on Star Lake. What studies relating to this project have been done to determine what detrimental chemicals may be discharged and accumulate on this site? Assuming subsequent infiltration into the soils what risks are there associated with both shallow and deep wells located in this area?
 - The exhibit drawings delineate the layout of the 65.5 acres schedule for irrigation utilizing a center pivot irrigation system. Given the irregular shape the acreage I suspect that irrigating the 65.5 acres of land will be difficult. Drawing ZP100 indicates an irregular arch for the center pivot systems that seem unusual. How will the system prevent over spray onto 380th and into wetlands projecting into the designated area. Is it realistic to assume that 65.5 acres are irrigated utilizing this type of system or does the method need further evaluation? If the full 65.5 acres are needed to accommodate the 12” annual discharge how will the discharge be handled if the irrigated area is reduce? Should a buffer along 380 be established to prevent wind driven over spray of wastewater onto 380th?
 - As part of the Conditional Use permitting process will there be a permanent waste water treatment easement established over the 65.5 acres of irrigated land? What assurance does the county have that this land area will not be modified in the future given the proposed phases for the project without some

type of restriction of future use of this land? (i.e. expansion of RV park/golf course/cabins)

- **Well water: (Page 23 Water Appropriation)**

- This section of the report addresses the intent to install 6" water wells on site. It further notes that they performed a 24 hour test indicating no draw down on the water table concluding the new wells will not have a detrimental impact on the water quality or capacity of the aquifer. The following concerns are offered regarding this conclusion:
 - The report identifies deep wells within local area but does not identify/address the numerous sand point wells in the area which are in the typical 20-30 depth. On the point immediately east of the project site there are over 65 properties with numerous shallow wells. How will the added demand on the lower aquifer impact the shallow wells quality and availability of water?
 - The aquifer that the local deep wells and the new proposed wells will drawing from is estimated to be 80-110+ ft. Although the tests performed on the 6" well did not indicate draw down on the aquifer over the 24 hour test I question the adequacy of this test. Star Lake is a unique lake given that the depths extend up to 90ft. The concern I would raise regarding documented aquifer draw down is given the aquifer and depths of star are comparable isn't it reasonable to assume you would not see any appreciable drawdown give the hydraulic head afforded by the mass of Star Lake? A prime example of failure to address well impacts on an aquifer is what has happened to White Bear Lake in the Metro area. Will the added impact of 2 new 6" wells have a detrimental impact on level of star lake over time?

- **Dark Sky Lighting Scheme (stated Goal page 12)**

- The stated goals on page 12 address an intent to implement a Dark Sky Lighting Scheme minimizing light pollution. The current entry sign schedule for the project is scheduled to be 65 ft. + height, illuminated on a 24 hr. basis and I would be an active LED action signs with frequent light level changes/flashing conditions. As part of the conditional use permit is it feasible to limit size/illumination impact on south arm, traffic distraction?

Traffic (safety/Impact Concerns) (page 39 Transportation) (stated goals page 12)

The EAW report seems to minimize what is potentially a significant impact on the local county and state highways servicing this project. The traffic study developed addressing this project is an excellent tool for projecting statistical probability of trip counts to on various site access roads but woefully overlooks potential safety throughout the local road network. Local residents and seasonal property owners are familiar with conditions but introducing transient visitors with limited knowledge of conditions and mixing it with potential alcohol related driving by post casino visitors is adding a dimension which is not captured by the limited scope report. God forbid a fatality at some of the conditions noted below. Further study and remediation measures need to be considered relating to the traffic impact as a result

of this proposed project. To brush off the issues with a statement that long term traffic improvement are being considered by Ottertail County with limited foresight on how the issues will be addressed or financed is only kicking the can down the road when now is the time to influence solutions to safety conditions.

The following is a general recap of specific conditions surrounding the project and does not even consider outlying areas such as Lake Lida loop and other potential hazard areas within the area of influence.

- Mn Highway 108 & CR 41 intersection (north Major Intersection)
 - Visibility /safety
 - Large knoll to west/view obstruction East
 - Seasonal sun blindness both east & west
 - Speed
 - Local traffic vs casino (i.e. car/trailer, sightseeing, inattentive drivers unfamiliar with area/impaired drivers)

- E-W traffic on Mn Highway 108 (east of CR 41 to Public Landing) Northside of star lake
 - Visibility/safety
 - historically speed control issues
 - Multiple vehicle access areas/pedestrians on roadway
 - De-acceleration/acceleration of boat/vehicles at public landing

- Highway 108 south to Galaxy Resort
 - Visibility/safety
 - Heavy pedestrian traffic/crossing from private property to shore line
 - Resident vehicle access from private property to 41
 - Traffic entering/exiting at Galaxy resort
 - Extremely dangerous corner immediately south of Galaxy. (observed non-local visitors encountering maneuvering issues at curve) (approach speed does not address hazard/no clear alert to hazard)
 - Rumble bars embedded approaching curve to alter driver to hazard
 - Acceleration/de-acceleration/by pass at galaxy entrance

- CR 41 & West Arm Bridge
 - Visibility /Safety
 - Bridge used by families for day fishing at pedestrian walk area/below bridge
 - Several cabins immediately adjacent to CR 41
 - Speed issues

- 380th St & CR 41 intersection
 - Visibility/safety
 - Large knoll to south (obstructed vision)
 - Speed (N-S speed 55+ with low speed access or crossing intersection)
 - 380th Blind intersection approaching from south

- Future main entrance Casino property & CR 41 intersection
 - Visibility/safety
 - Consider location (limited unobstructed view of on-coming traffic) (hill at 41 & 380 and curve at wetland to the south)
- CR 41 & CR 35 (south major intersection)
 - Visibility/safety
 - History of inattentive/impaired drivers missing T in road/stop sign
- General items
 - CR 41 is a 2 lane highway with relatively narrow drive lane with no shoulder and steep ditches
 - Roadway shared by local lake pedestrian, bicycle and vehicle traffic
 - Evaluate Casino impact on use/road enhancement need now and not in future
 - Consider adding pedestrian trails/bike trails adjacent to roadway to separate pedestrian/bicycles in high traffic areas.

The EAW does not address the social and economic impact on local service/housing/Health/safety

- Fire department (local fire protection)
 - Dent fire department capacity/training (i.e. multiple story structures/fire code inspections/life safety)
 - Current equipment/training (need for protection of new building type? (i.e. multi store/large floor plate etc.)
- EMT
 - Dent fire department capacity/training (voluntary members)
 - Response time
- Hospital (capacity/concerns)
 - Perham
 - Pelican Rapids
 - Fergus Falls
- Police enforcement
 - Traffic impact/enforcement (state/county/tribal involvement)
 - Civil disobedience/crime potential/drugs & alcohol
 - Sovereign Nation access/jurisdiction
- Financial impact (who is responsible) Based on current information available it appear at a minimum the following immediate impact as a result of the project need to be identified and addressed.
 - Infrastructure improvements (enhanced highway safety)
 - Public service expanded staffing needs/equipment
 - Law enforcement
 - Highway patrol
 - County (satellite substation?)

- Tribal (Sovereign nation status/policing?)
- Future Monitoring action (follow up effectiveness /future action plans if casino impact projections/corrective actions are not effective. Who gets stuck with the future costs?)
- Why isn't the county and White Earth establishing a Joint Powers Agreement with both financial and service responsibilities identified at a minimum. Appears entire cost impact of the project will be falling in the laps of the local community without a joint agreement for services with White Earth Nation.

Work force/local opportunities

- Projected 500 employee base (source)
 - Source of employees
 - Impacted on surrounding communities
 - Dent
 - Vergas
 - Pelican Rapids
 - Earhart
 - Amor
 - Impact on surrounding community school districts
 - Housing stock
 - (I. E. what are lessons learned from Morton MN, Hankinson ND with remote Casino locations similar to this project?)

Resort/Casino project general concerns

Although addressed by the EAW in passing, the fact that there is potential shoreline development (rental cabins) /golf/recreation opportunities for the undeveloped land these potential uses need to be factored into the overall impact of this project. The county should not allow fragmented development of a large parcel when it is obvious that the acquisition of the surrounding property will ultimately be brought back to the county as a smaller component of the overall project in the future. A full environmental study needs to encompass the potential impact of balance of the parcel not just Phase I of the plan. I.e.

- Shore-land development (cabins/resort)
 - Density control
 - Water/sewer/storm management infrastructure to the extensive water frontage /proposed capacity
 - Shoreline preservation
- Lake access/use
 - DNR
 - Docks
 - Shallow bay management (acquired shoreline excellent aquatic plant that need to be preserved)
 - Fishery
 - Invasive species
 - Marina
 - Boat ramp/access
 - Lake water quality/invasive species control

- Marina impact/public access controls
- Golf course
 - Irrigation (additional wells/water needs)
 - Fertilizers/chemicals impacting adjacent water quality

Bill Kalar

From: Bill Kalar
Sent: Friday, June 23, 2017 8:52 AM
To: 'D Smith'
Subject: RE: Casino

David Smith – this will confirm receipt of your comments.

Bill Kalar
Land & Resource Mgt.
218-998-8105



From: D Smith [mailto:smithdairydent@gmail.com]
Sent: Wednesday, June 21, 2017 2:44 PM
To: Bill Kalar
Subject: Casino

My name is David Smith, I am a dairy farmer and live 1 1/2 miles from the proposed casino. I am very concerned about the environmental impact of the casino.

Of particular concern is the waste water system. The 65 acre field that the waste water is going to be irrigated on to has not had a good crop for many years because it is always too wet.

I am concerned that there will be runoff into nearby wetlands when they apply 12 inches of waste water over the summer onto ground that is already saturated most of the time. The center pivots will be stuck in the mud and it will be a huge mess!

I believe an EIS must be done before this project can go forward.

Respectfully,

David W. Smith
35931 co. hwy.41
Dent ,mn. 56528

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JUN 22 2017
LAND & RESOURCE

Bill Kalar

From: Bill Kalar
Sent: Friday, June 23, 2017 8:54 AM
To: 'Carlson, Verna (GC)'
Subject: RE: Star Lake Casino Development Comments

Verna Carlson – this will confirm receipt of your comments.

Bill Kalar
Land & Resource Mgt.
218-998-8105



From: Carlson, Verna (GC) [mailto:CarlsonV@District279.org]
Sent: Wednesday, June 21, 2017 2:53 PM
To: Bill Kalar
Subject: Star Lake Casino Development Comments

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Dear Bill Kalar and OTC Committee Members,

I am a seasonal homeowner on Star Lake. I would like to comment on the EAW for the proposed Star Lake casino which I have read carefully.

The impact that the Star Lake Casino Development would have on the environment requires further and extensive study. I don't think every aspect of the Casino project has been carefully looked at or addressed in the EAW. Water quality issues and the effect of wildlife habitat are big concerns. Taking away delicate wetlands that help filter water and provide and foster the wildlife will certainly have a devastating effect for Star Lake. Replacing them, as well as open space, with a facility with so many operational needs and requirements that will likely grow, needs careful, thorough environmental study. While the EAW addresses many aspects, it does not cover all the ramifications for Star Lake – its water, its fauna, its wildlife and the people who come to enjoy its natural beauty, whether they are homeowners or not. I am 52 years old, and I our family has owned a cabin on Star Lake since I was a child. I have spent hours and hours, since I was 5, wading, swimming and walking on the beach of Star Lake. I say this because over the years I have observed the water quality of and the natural environment around Star Lake change. Although it is listed as acceptable, it deteriorated over the years. It has more algae growth, a huge abundance of big snails(that I never saw as a child), much fewer minnows(hardly any compared to 45 years ago as well as other tiny fish that I used to catch in my nets as a child. It has fewer to no frogs, toads, snakes, turtles and newts. I have not seen a snake at star lake for 20 years nor a newt. I used to catch 30 frogs in a day as a child – now I might see one a summer. There are fewer birds(except more eagles) There are fewer butterflies and dragonflies. This has been a disturbing loss over the years. The impact of environmental pollution and development has already taken a huge toll on Star Lake. A Casino with all the facilities needed to operate it now and in the future will absolutely speed up the environmental degradation. I am not a scientist, and cannot adequately comment on specifics but it doesn't take a scientist to understand that this project will change Star Lake for the worse.

I would also like to comment on the proposed waste water treatment system. If I understand it correctly, it will meet "minimum requirements." It will be right next to the lake as I understand it. I am not an engineer but I would think the "minimum requirements" should not be the bar that is set for this facility given what would happen if there was some kind of failure or accident.

I would also like to comment on the lights and noise the Casino would produce. People come to Star Lake to enjoy nature. A casino would ruin everyone's experience of the lake. The lights would be seen from near and far. It would affect the night sky near and far. There would be flashing signs. There would be noise from cars, music, the operational facilities, not to mention

boisterous, loud casino goers sitting at the outdoor bar and restaurant. These are not compatible with the area's character or with the experience people expect to have when visiting or living on the lake. It will also, of course, affect the wildlife that is left in a negative way. And it is heartbreaking to even think of how this will affect the landscape and surrounding area.

I read the EAW. It covers many issues but not adequately. It does not sufficiently cover the environmental impact and social impact this casino project would have on Star Lake and the surrounding area. Minnesota is losing what it is known for – Beautiful Clear Lakes. They are precious to all people. Other sites should be looked at for this project - next to a lake destroys the lake.

An Environmental Impact Statement needs to be done on the Star Lake Casino Development project.

I hope you will take into consideration my comments.

Sincerely,
Verna Carlson

Bill Kalar

From: Bill Kalar
Sent: Friday, June 23, 2017 9:12 AM
To: 'Olson, Theresa (DNR)'
Subject: RE: DNR Comments on the Star Lake Casino Development EAW

Hi Ms. Olson – this will confirm receipt of the DNR's comments.

Bill Kalar
Land & Resource Mgt.
218-998-8105



From: Olson, Theresa (DNR) [mailto:theresa.olson@state.mn.us]
Sent: Wednesday, June 21, 2017 3:18 PM
To: Bill Kalar; 'liza@whiteearth.com'
Cc: Kestner, Nathan (DNR); Albrecht, Rita (DNR)
Subject: DNR Comments on the Star Lake Casino Development EAW

Mr. Kalar, Thank-you for the opportunity to comment on the Star Lake Casino Development EAW. Attached are MN DNR comments. Please let me know that you have received these, and if you have any questions. Thank-you, Theresa Olson.

Theresa Olson
Assistant Regional Manager | EWR

Minnesota Department of Natural Resources
2115 Birchmont Beach Road NE
Bemidji, MN 56601
Phone: 218-308-2682
Fax: 218-755-4066
Email: Theresa.olson@state.mn.us
www.mndnr.gov

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NATURAL RESOURCES



DEPARTMENT OF NATURAL RESOURCES

NORTHWEST REGION
ECOLOGICAL & WATER RESOURCES
2115 BIRCHMONT BEACH RD NE
BEMIDJI, MN 56601

June 21, 2017

Bill Kalar
Land and Resource Management Director, Otter Tail County
Government Services Center
540 West Fir
Fergus Falls, MN 56537
bkalar@co.ottertail.mn.us

Subject: Star Lake Casino Development Environmental Assessment Worksheet

Dear Mr. Kalar:

The Department of Natural Resources (DNR) appreciates the opportunity to review the Star Lake Casino Development Environmental Assessment Worksheet (EAW). As you will see, our comments contained herein are significant in content and extent. The lack of details makes the EAW challenging to assess. Key functions of an EAW are to determine whether an EIS is needed, inform ways a project can be modified to lessen or avoid impacts, and to provide decision makers, project proposers, and the public access to information regarding the project and impacts of the project. Environmental rules require that environmental documents be used as guides in issuing, amending, and denying permits (MN Statute 4410.0300 Subp. 3). We do not believe the information contained in this EAW is adequate for the County to make a completely informed decision about the potential for or significance of possible environmental impacts.

We do believe this information can be reasonably obtained, and have suggested below ways in which the EAW could be improved. DNR recommends postponement of the decision until the EAW can be augmented with additional information recommended in the following comments. Comments are laid out in two sections, General Comments on overall document, and Specific Comments regarding information on specific pages.

General Comments

- The lack of construction and architectural details makes the EAW challenging to assess. For example, additional details on what kind of curbing would be used, how many windows and which way the buildings face, and if storm drains would be open would be helpful in assessing impacts to birds, amphibians and reptiles. Turtles and amphibians have a difficult time navigating some styles of curbing, open storm drains are fatal for turtles, and bird strikes on windows are a concern. DNR recommends including further detail of specific of site development.
- Star Lake has been designated a lake of biological significance, ranked as "outstanding" (definition can be located at: ftp://ftp.gisdata.mn.gov/pub/gdrs/data/pub/us_mn_state_dnr/env_lakes_of_biological_signific/metadata/lakes_of_biological_significance_criteria_20150423.pdf). This lake has plant, fish and bird resources that classify this lake as outstanding. Out of the

1449 lakes, ponds, wetlands and impoundments in this database (note that Minnesota has nearly 12,000 waterbodies classified as lakes), 704 are ranked as outstanding. DNR recommends including this in the EAW and have measures identified to protect the lake and water as well as the wildlife that live there.

- DNR recommends including the following information: 1) how close the building will be to water (if they are compatible with State and County setbacks, recommend disclosing the distances of the setbacks in the EAW; or if they do not meet and are not required to meet due to tribal trust status, disclose that information) and 2) future development of the shoreline. There are a few places that are ambiguous. For example on page 31 "...in addition, as the tribal trust parcel was landlocked, by purchasing adjacent properties, this allows great access to the rising vegetation for harvesting." This implies boat access to water from the property. When it is a casino, will there be demand to launch boats to collect wild rice from the property? Where will that disturbance lead? Ricing typically occurs after the nesting season, but in time, the access will become more obvious and use will increase, potentially harming lakeshore vegetation. Later in the document it mentions that boating traffic may increase. DNR recommends further describing how much, where, if there will be a demand for a dock, and any plans to address these demands.
- Information is lacking regarding ongoing management of the lands associated with the project. DNR recommends more detail on how landscaping and grass will be maintained, what type of vegetation would be allowed, how invasive species would be controlled, etc. Ongoing management actions will also have impacts to wildlife using that newly grassed area (e.g., bird nests, turtles moving to nest or moving across to get to other wetlands, etc). DNR recommends if any of the area will be hayed on the agricultural areas, late haying (after Aug 1), fall to spring tree/shrub removal (i.e., not during the nesting season), and thoughtful invasive species control (proper ID of the species, and targeted approaches).
- DNR recommends the use wildlife friendly erosion control be included in the project. Options include: non-welded plastic mesh, rectangular mesh, materials that are natural fiber or biodegradable; NOT photo degradable.
- DNR recommends the development of a plan for management of invasive species on the property. Any vegetation management on site should have plans to control invasive species.

Specific Comments:

- Page 9 Question #9 a. ii: DNR recommends describing how the Limited Star Lake Comprehensive Plan recommendations that are associated with this project will be implemented. DNR received a letter dated February 2, 2017 that stated "...the Limited Area Star Lake Comprehensive Plan is NOT intended to be formally adopted as a County Comprehensive Plan under Minnesota Statute Chapter 394, nor is it intended to be adopted as the basis for any official controls under this same statute." Also DNR recommends describing how this project is compatible with the Ottertail County Local Water Management Plan (<http://www.co.otter-tail.mn.us/490/Water-Management-Plan>) and with the Star Lake Lake Water Quality Assessment Program or LAP study completed in 2000.
- Page 9 Question #9 a. iii: The first paragraph identifies Unnamed Lake (56-487) as a Natural Environment Lake (NE) but does not go on to describe the NE lake classification as it did for the General Development Lake classification. DNR recommends the EAW include the description of

the NE Lake classification as follows: Natural Environment Lakes are generally small, often shallow lakes with limited capacities for assimilating the impacts of development and recreational use. Also DNR recommends defining what the setbacks are for sewage treatment facilities for both the NE lake classification and the General Development classification.

- Page 10 Question # 9 b.: The conclusion that the project is compatible with the surrounding area is not well supported in the EAW. The proposed structure within the shoreland district will be 85 feet high whereas the surrounding developments have a maximum structure height of 20 feet for commercial and 25 feet for residential. DNR recommends further explaining how and why it is compatible given that the most prominent commercial use in the area is identified as a seasonal corner store.
- Page 11 Question #9 c.: DNR recommends describing how the potential incompatibility would be mitigated (see comment above). The mechanism is not identified.
- Page 16 Question #11 a. i: The EAW states that “According to the Minnesota Department of Natural Resources (DNR),...or any outstanding resource value water.” DNR recommends correcting according to the below information.
 - MN DNR’s NHIS letter states: According to the DNR Habitat and Population Evaluation Team (HAPET) Breeding Pair Accessibility Maps, approximately 21 – 30 pairs of waterfowl birds per square mile are present in the project area.
 - Also, Star Lake has been identified by DNR as a lake of high outstanding biological significance (see general comments). These lakes have an exceptional fishery, are important wild rice lakes, have high plant richness and quality, and may contain endangered, threatened, special concern or several species of lake birds in greatest conservation need. Star Lake has been identified as being highly sensitive to the introduction of phosphorus (<https://gisdata.mn.gov/dataset/env-lakes-phosphorus-sensitivity> and http://files.dnr.state.mn.us/eii/factsheets/phosphorus_concentration.pdf).
 - The EAW states “Star Lake is identified as by DNR Wildlife as a Wild Rice Lake...” DNR recommends adding information about wild rice lakes and the significance (see <http://www.dnr.state.mn.us/regulations/wildrice/index.html>).
- Page 16 Question #11 a. i: DNR recommends the document also clarify that Star Lake has been on MPCA’s list of impaired lakes for mercury since 2008, and the lake has an EPA Category of 5 meaning that the lake requires a total maximum daily load (TMDL) plan by 2020. A TMDL is a pollution budget and includes a calculation of the maximum amount of a pollutant that can occur in a waterbody and allocates the necessary reductions to one or more pollutant sources (<https://www.pca.state.mn.us/water/statewide-mercury-reduction-plan>). DNR recommends stating in the EAW how this project would meet a TMDL standard that will be in place by 2020. Also, the EAW should reference that these are classified as public waters and under DNR jurisdiction.
- Page 17 Question #11 a.ii: DNR recommends describing the depth to groundwater and groundwater aquifer under the proposed wastewater treatment ponds, and measures to ensure those aquifers will not be polluted by the wastewater treatment ponds.
- Page 19 and 20- Waste treatment ponds are going to be established adjacent to wetlands (i.e. Unnamed Lake) and within the 1000’ shoreland area. DNR recommends describing how much wastewater would be put onto the agricultural lands in gallons per day, and any impacts that

may be associated with the wastewater or storm water to nearby wetlands, including those on the both sides of the road, and runoff effects from the wastewater application to fields to any wetlands adjacent to those fields.

- Page 25, discussion of construction dewatering and groundwater: DNR recommends discussing the potential for groundwater contamination from construction. Because the groundwater is only 8' deep or less in areas, there is a potential during construction of footings etc., for the project to reach groundwater. The EAW discusses the water level but does not discuss contamination potential from oil spills and other construction contaminants.
- Page 26, DNR recommends further describing how the project would avoid and/or minimize development and impacts on wetlands as a 75' setback does not seem adequate to protect wetland and ricing vegetation from construction impacts, operational impacts, and runoff from impervious surfaces. DNR also recommends describing the type of wetlands that will be disturbed and if the replacement of wetlands will be of the same type (<http://www.dnr.state.mn.us/wetlands/types.html>).
- Page 31 first paragraph under Fish, Wildlife, and Plant Communities: Wild rice harvesting is regulated by DNR (<http://www.dnr.state.mn.us/regulations/wildrice/index.html>) or when within the existing boundaries of the White Earth, Leech Lake, Bois Forte, Grand Portage, Fond du Lac, and Mille Lacs Indian Reservations is managed by the respective reservation wild rice committees. DNR recommends clarifying this role in the EAW.
- Page 31, under Fish, Wildlife, and Plant Communities: the EAW states that Invasive species have not been identified for Star Lake. Purple Loosestrife was documented in an area along the east shoreline and adjacent land across the road from the lake back in the early 1990's. There was some control effort done (e.g. pulling of plants, chemical spraying, potential biocontrol), however it should be determined whether this still exists. DNR Fisheries has Star Lake as a managed purple Loosestrife site in the Area Invasive Species Site Plan (see attached).
- Page 32: DNR recommends strengthening the language as birds (such as red-necked grebe among others) will likely be disturbed during construction unless the project is not constructed during the time they are present.
- Page 34: DNR is encouraged to see that native vegetation is being considered. DNR recommends using a mix developed by BWSR (http://www.bwsr.state.mn.us/native_vegetation/index.html). By adopting lists from BWSR, it will both increase diversity and likely success of establishment. DNR also recommends using MNTaxa (http://www.dnr.state.mn.us/eco/mcbs/plant_lists.html), to determine which native species have been documented in Otter Tail County, and preferentially select appropriate species to use. Some additional resources to further improve the success/ecological value of their restoration efforts include: http://files.dnr.state.mn.us/assistance/backyard/gardens/native_plant/nativelandscaping.pdf, and <http://www.dnr.state.mn.us/gardens/nativeplants/suppliers.html>.
- Page 34: DNR recommends expanding BMP details in order for appropriate assessment of the impacts (e.g., "BMPs will be used to prevent stormwater runoff"). The EAW mentions "dark sky lighting" (P 36) but does not provide a reference. DNR recommends adding a reference and explicitly stating what activities/actions are going to be taken, or at a minimum, provide a few examples of BMPs that are being considered. Because light may affect species and their interaction with habitat, there are ways to diminish light issues, such as different types of bulbs,

globes that direct light downward, etc. DNR recommends adding these mitigation measures into the project planning.

- Page 34: While the EAW acknowledges that bird nests may be encountered during construction, DNR recommends explicitly stating what species would be impacted and ways to minimize harm to these nests.
- Page 36: DNR recommends expanding on the visual section. The EAW states that the casino and hotel will be visible, but no other information to assess the impacts. According to the EAW, there will not be a treed buffer along the shoreline. Not only will the buildings be visible from this bay, it may be visible from the lake. Because the EAW does not provide details or drawings, DNR is unable to determine the impact on the birds from building glass or structure visual effects (i.e. windows possible for bird strikes).
- Page 38: DNR recommends expanding the information about generator noise associated with RV parks such as decibels expected and possible time period. Generator noise can also impact wildlife, and DNR recommends discussing how this noise may disturb wildlife.

Again, DNR appreciates the opportunity to comment. If you have any questions regarding these comments, please contact Theresa Olson at Theresa.olson@state.mn.us or at (218) 308-2682.

Sincerely,



Theresa Olson
Assistant Regional Manager for Ecological and Water Resource

CC: Liz Foster-Anderson (liza@whiteearth.com), Nathan Kestner, Rita Albrecht

Bill Kalar

From: Bill Kalar
Sent: Friday, June 23, 2017 9:14 AM
To: 'Carrie Harthun'
Subject: RE: Star Lake Casino Concerns

Carrie Harthun – this will confirm receipt of your comments.

Bill Kalar
Land & Resource Mgt.
218-998-8105



From: Carrie Harthun [mailto:carrieharthun@hotmail.com]
Sent: Wednesday, June 21, 2017 3:27 PM
To: Bill Kalar
Subject: Star Lake Casino Concerns

Hello!

I am writing to you to express my concern regarding the Star Lake Casino project. I am asking for a complete and thorough environmental study to be considered. Otter Tail County has always worked hard to protect our lakes and wetlands. People living in these areas are required to obtain permits, often needing to go before a board to justify and gain approval before doing anything to their lakeshore or even homes. If an already established dwelling on a lake needs to go through so much red tape for the well being of that lake, then a casino should most definitely need much more assessment than that. Think of the wildlife alone. All of the birds, deer, fish, and many, many other animals that call this undeveloped area their home. The impact on them will be overwhelming and destructive. It is not the same as building in an empty field on the edge of town. It is an area that is peaceful, private and undeveloped. It is a lake and wetlands area. It is destroying nature. Please seriously consider a full environmental study for this project.

Sincerely,

Carrie Harthun
30693 Co Hwy 3
Fergus Falls, MN 56537

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JUN 22 2017
LAND & RESOURCE

Bill Kalar

From: Bill Kalar
Sent: Friday, June 23, 2017 9:17 AM
To: 'John Heine'
Subject: RE: Comments on Star Lake Casino Development project EAW

John Heine – this will confirm receipt of your comments.

Bill Kalar
Land & Resource Mgt.
218-998-8105



From: John Heine [mailto:johnheine@usiwireless.com]
Sent: Wednesday, June 21, 2017 3:06 PM
To: Bill Kalar
Cc: contact@slccg.info
Subject: Comments on Star Lake Casino Development project EAW

Mr. Kalar,

My comments on the Star Lake Casino Development project EAW are attached.

Regards,
John Heine

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JUN 22 2017
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June 21, 2017

VIA E-MAIL: bkalar@co.ottertail.mn.us
Otter Tail County Board of Commissioners
Government Services Center
540 West Fir
Fergus Falls, MN 56537

Please consider these comments, attached supporting materials and referenced publicly available materials as public comments on the Environmental Assessment Worksheet for the Star Lake Casino Development project (the "Project").

The EAW is deficient because it does not identify the proposer of the Project.

The identification of the proposer is a required element of an EAW. Minnesota Rules 4410.1200(A). "Proposer" means, "the person or governmental unit that proposes to undertake or direct others to undertake a project." Minnesota Rules 4410.0200 Subpart 68. The identification of the proposer is also an essential element in determining the completeness and accuracy of the EAW. See, e.g., Minnesota Rules 4410.0200 Subpart 60 ("Phased action' means two or more projects to be undertaken by the same proposer").

Liz Foster-Anderson, Executive Director, White Earth Enterprises, LLC, is listed as a "contact person" in section 2 of the EAW. Identification of a contact person may be in addition to, not in lieu of, identification of a project's proposer. See Minnesota Environmental Quality Board, EAW Guidelines: Preparing Environmental Worksheets (2013) p. 7. As of June 20, 2017, White Earth Enterprises, LLC is not, and has never been, registered with the Minnesota Secretary of State as a domestic or foreign limited liability company authorized to conduct business in the State of Minnesota.

Persons representing the Shoot Star Casino and, ostensibly, the White Earth Nation, have presented themselves in public meetings and written submissions relating to the Project. Yet, no tribal sovereign entity or tribal commercial entity or Minnesota commercial entity has been put forth as the Project's proposer. Without a definite proposer, the Board of Commissioners cannot conduct the due diligence necessary to grant permits, contract for joint services, assess legal liabilities, extract financial assurances, or enforce performance.

The EAW is deficient in identifying the need for and status of required permits.

The EAW states that the White Earth Nation has granted authority to build the Project on the part of the project located on the trust land parcel. Title of the trust parcel is held by the United States of America in trust for the Minnesota Chippewa Tribe. Authorization by the

Minnesota Chippewa tribe for the Project on the trust parcel should be demonstrated in a complete social and economic review as a part of an Environmental Impact Statement.

The EAW states that an application for a federal permit to discharge fill material into wetlands was submitted in May 2016. This does not reflect the current status of the federal permitting process. By letter dated March 24, 2017, the United States Army Corps of Engineers request that the applicant respond within 60 days to substantive questions raised by the public comments submitted on the federal permit and demonstrate its ability to meet the criteria in Section 404 of the Clean Water Act. The unanswered questions put forth by the Corps, standing alone, establish the potential for significant environmental effects that warrant an Environmental Impact Statement. In fact, the Corps' questions offer a good beginning in establishing the scope of an EIS for the Project.

The Project does not comply with standards set forth in the Otter Tail County Shoreland Management Ordinance.

- **The Project does not comply with the SMO vertical setback requirement.**

The EAW states that the "building" complies with the vertical setback requirement of the Otter Tail County Shoreland Management Ordinance. However, the setback requirement applies to a "structure" and not only to a building. Given the plain language and purpose of the vertical setback requirement, the 1,000-vehicle parking lot on the fee land within the shoreland management zone is necessarily subject to the requirement that any structure be at least three feet above the highest known water level of the lake.

- **The Project does not comply with the SMO impervious surface area limit.**

Section IV.8.B. of the Shoreland Management Ordinance provides:

1. Total impervious surface coverage of lots must not exceed 25% of the lot area, of which buildings must not exceed 20% of the lot area. . . .
4. Surface area of a lot physically separated (i.e. public, private road right of-way or easement) from itself or another, cannot be included for purposes of the impervious surface calculation.

The proposed private roadways between Highway 41 and the Casino parking lots separate the lots of the project "from itself." If each of these separated parts of the lots is considered by itself, there are several lots that clearly do not meet the impervious surface coverage limits of the Shoreland Management Ordinance. The Project does not comply with the Ordinance. Further, the failure to meet the impervious surface area limits is presumptively

an environmentally significant effect that warrants further study in an Environmental Impact Statement.

The EAW is deficient in its review of historical and archeological resources.

The Environmental Assessment Worksheet (“EAW”) failed to account for a previously identified archeologically significant site in the “area of impact” – right in the center of the proposed casino project. Whether this omission was deliberate or was an oversight, it calls into question the thoroughness and accuracy of the archeological assessment submitted in support of the EAW. Further assessment should be undertaken in the context of and Environmental Impact Statement.

Blondo Consulting, LLC was hired to perform an archeological survey of the casino project site. Blondo’s “Phase I/II Archaeological Reconnaissance Survey of the Star Lake Casino Site, Dent, Otter Tail County, Minnesota 56528 Township 135N Range 41W Section 15” was completed August 22, 2016 and submitted as part of the supporting materials for the EAW. <http://www.co.ottertail.mn.us/DocumentCenter/Home/View/9434>

For the powerline project connected with the development, a “Phase IA Cultural Resources Assessment” was performed by Merjent, Inc. for Great River Energy and submitted March 8, 2016 “in support of the proposed Star Lake 41.6 kilovolt (kV) Transmission Line and Distribution Substation Project (Star Lake Project).” <http://www.co.ottertail.mn.us/DocumentCenter/Home/View/9432> (pp. 5-7).

Merjent’s report outlines the procedures to be followed in reviewing and identifying a study area:

Merjent reviewed and followed the published guidelines for conducting cultural resources literature reviews in Minnesota. The Minnesota State Historic Preservation Office (SHPO), located in the Minnesota History Center in St. Paul, maintains the state’s prehistoric and historic archaeological site files, historic standing structure inventory files, and field survey reports. A study area encompassing a 1- mile radius around the transmission line route was established. Merjent examined the current topographic maps and aerial photographs to understand the modern land use of the study area and to provide a baseline for examining the historic maps and documents. On March 4, 2016 Merjent Cultural Resource Specialist Dan Born examined site files maintained at the Minnesota State Historic Preservation Office (SHPO).

From its review of SHPO records, Merjent identified two previously identified sites of archeological interest in Township 135N Range 41W Section 15: 21-OT-95 and 21-OT-96. Both are shown on the map of the Merjent survey prepared for LREC (OTC Doc 9432 at p. 9). <http://www.co.otter-tail.mn.us/DocumentCenter/Home/View/9432>. (See map attached) Merjent did not analyze site 21-OT-95 in depth because it was outside the area of impact for the proposed powerline.

Blondo should have followed the same procedure. But, Blondo's survey only noted site 21-OT-96 in its expanded review, and failed to identify the previously recorded site -- site 21-OT-95 -- that is located directly in the area of impact for the casino project. A complete and competent archeological review for the Project would have accounted for site 21-OT-95. The EAW includes a letter dated October 7, 2016 from Cayla Olson, White Earth Tribal Historical Preservation Officer, concurring with the recommendations of Blondo Consulting's survey and report. However, there is no indication that the Tribal Historical Preservation Officer reviewed the Merjent report that identified the previously known site omitted from Blondo's report.

Environmental Review of the Project should include necessary improvements to public safety services that are connected actions.

The "Limited Area Star Lake Comprehensive Plan" (the "plan") identifies needs for substantial increases in emergency, medical, fire and law enforcement services in the Project area. <http://www.co.otter-tail.mn.us/DocumentCenter/Home/View/9713> (at pp. 41-44). The EAW does not take into account the limited availability of local resources to provide emergency services or the environmental impact of the projected annual 200 to 275 calls for and trips to the Project area for such services. An Environmental Impact Statements is required to address the environmental, social and economic consequences of the significant demands the Project would place on emergency medical services, police and fire protection and how the hundreds of emergency calls to the Project area would affect the environment.

Environmental Review of the Project should include roadway improvements that are connected actions.

The "Limited Area Star Lake Comprehensive Plan" (the "plan") identifies a number of roadway improvement projects that would be necessitated by the Project. The EAW does not take into account these connected actions and their potentially significant environmental effects

The plan recognized that the Casino project would increase traffic, and its estimates of the increase attributable to the Casino are substantial. The plan states (at p. 48) that the plan's "roadway system assessment included a more detailed review of County Highway 41 from the intersection of State Highway 108 to County Highway 35" because this segment of roadway had an "anticipated increase in ADT [Average Daily Traffic] as a result of the immediate proposed development." (emphasis added)

The plan's traffic projections show the substantial impact of the Casino project on highway needs. In the plan, Figure 13 shows base daily traffic from 2011; Figure 16 shows projected traffic for 2020, 2030 and 2040 without the Casino project; and Figure 18 shows projected traffic for those same years with the Casino project.

The plan estimated that from 2011 to 2020 traffic would increase as follows:

- At State 108 just west of the intersection with north County 41: without the Casino, 7.8%; with the Casino, 64.1%.
- At County 41 just north of the intersection with State 108: without the Casino, 16.5%; with the Casino, 53.2%.
- At State 108 just east of the intersection with south County 41: without the Casino, 6.4%; with the Casino, 70%.
- At County 41 just south of the intersection with State 108: without the Casino, 9.6%; with the Casino, 151%.

If the traffic projections of the plan are correct, then the Project contributes substantially to the scope and impact on the environment of the planned roadway improvements. These connected actions should be considered in a comprehensive and complete review of connected actions within an Environmental Impact Statement.

Anticipated increased use of the lake needs further study.

The EAW (at page 27) states, that "no significant change in the number or type of watercraft... is expected" as a result of the Project. However, The "Limited Area Star Lake Comprehensive Plan" (the "plan") characterizes the Project as lake-oriented: "The Star Lake development is intended to have more of a north woods lodge environment and an atmosphere that caters to families and lake enthusiasts." <http://www.co.otter-tail.mn.us/DocumentCenter/Home/View/9713> (at pp. 41-44, emphasis added). A thorough and accurate environmental review must account for the environmental impacts of the watercraft that "lake enthusiasts" will inevitably bring to the Project area.

Traffic Projections for the Project need further study

The "Limited Area Star Lake Comprehensive Plan" (the "plan") predicts substantial increases in emergency, medical, fire and law enforcement services in the Project area. <http://www.co.otter-tail.mn.us/DocumentCenter/Home/View/9713> (at pp. 41-44).

In a comment letter submitted to the County in response to the draft "Comprehensive Plan," the Minnesota Department of Natural Resources noted that the projected traffic attributable to the Project needed more study. In particular, the DNR faulted the plan's trip generation methodology, noting that the "comparable" projects from which the Project's traffic projections were derived were not comparable because, among other things, they were mainly from projects in California, Oregon and Washington (only one comparable project was from the Midwest). A proper and complete analysis would include projects of similar location, size, and amenities. Proper comparative methodology would look to places with similar seasonal weather (and traffic) variations, to derive accurate average and peak traffic projections. Neither the EAW nor the plan note that, for many of the referenced "comparable" projects, the trip generation analyses was performed as part of an Environmental Impact Statement.

Even if the peak traffic estimates in the plan are valid, the EAW does not consider the impact of the estimated 200-plus vehicles an hour turning in or out of the Project's entrances to Highway 41 A thorough analysis undertaken in an Environmental Impact Statement would consider the potential impact upon, existing vehicle traffic, pedestrians, bicyclists, and farm equipment operations.

Sincerely,

John Heine
johnheine@usiwireless.com
4001 44th Avenue South
Minneapolis, MN 55406

Bill Kalar

From: Bill Kalar
Sent: Friday, June 23, 2017 9:22 AM
To: 'FRED CHUTE JR'
Subject: RE: EAW comment period, proposed SAtar Lake Casino

Fred Chute Jr. – this will confirm receipt of your comments.

Bill Kalar
Land & Resource Mgt.
218-998-8105



From: FRED CHUTE JR [mailto:FCHUTE@msn.com]
Sent: Wednesday, June 21, 2017 3:52 PM
To: Bill Kalar
Subject: EAW comment period, proposed SAtar Lake Casino

To: Bill Kalar, Land and Resource Management Director
Otter Tail County Commissioners

RECEIVED
JUN 22 2017
LAND & RESOURCE

Dear Mr. Kalar and Commissioners:

I have been visiting the South Arm of Star Lake every year since I was 9 years old. I am currently 67. In this almost 60 year period, I have become very familiar with the ecological features of the South Arm, and the significant ecological sensitivity of this very shallow and wildlife-filled basin of Star Lake.

The Minnesota rules state that an EIS shall be ordered for projects that "have the potential for significant environmental effects." It is extremely clear to me that the proposed Casino development has the definite potential for significant environmental effects. I almost can't imagine a scenario in which that statement would be more true.

I have read the report from the Army Corps of Engineers regarding the wetland alteration permit; I have read the detailed comments from the Minnesota Department of Natural Resources regarding the EAW; and I have read the recent detailed technical report on the EAW prepared by Emmons & Olivier Resources (EOR).

All of these reports confirm in the most emphatic of terms that this proposed project would have significant environmental effects, and that therefore a procedure of following the Minnesota statutes requires taking the next step of an Environmental Impact Statement. Accordingly, I urge you to take the step of calling for an EIS on this proposed project. Thank you for your thoughtful consideration.

Sincerely,

Fred Chute, Jr.
405 Arthur Street
Hopkins, MN 55343

Bill Kalar

From: Bill Kalar
Sent: Friday, June 23, 2017 9:26 AM
To: 'Scott Red'
Subject: RE: Star Lake EIS

Scott Red – this will confirm receipt of your comments.

Bill Kalar
Land & Resource Mgt.
218-998-8105



From: Scott Red [mailto:scottred@rocketmail.com]
Sent: Wednesday, June 21, 2017 4:48 PM
To: Bill Kalar
Cc: Scott David
Subject: Star Lake EIS

RECEIVED
JUN 22 2017
LAND & RESOURCE

Mr. Kalar,

As a Minnesota resident who has lived throughout the state, I am very familiar with regional lakes and wetlands. I view these as valuable resources. I grew up in the twin cities, I resided throughout my 20's in the st cloud area, my parents have held land on star lake since 1992, I take yearly fishing trips to red lake and lake of the woods, and for the past 3 years I have partaken in a weeklong trip throughout the boundary waters.

I have seen what Metro lakes have turned into. With restrictions on limits of fish a person may safely consume. Vast plumes of algae from street run-off. And, the proliferation of invasive species(both vegetative and fish).

Throughout central Minnesota, added human footprints on lakes like Mille lacs and the chain lakes has again introduced over and over a proliferation of invasive species to our valued lakes and wetlands.

When we take trips up to the boundary waters we all abide by one common rule: no trace left behind. As so many of our lakes become littered with human debris and refuse, and with non-native vegetation becoming more and more common, why would we want to introduce that cancer to an unaffected and relatively healthy lakes region like that of Ottertail county?

It seems everyday I come across an article online, within our star tribune or other newspaper, or some other social media application where people are united together or being called-to-action over a human betrayal of earth's natural resources. In many cases a neutral-minded individual could assess the situation and be convinced that the ends may justify the means. But, what is the ends in this situation? The amenities that the casino will bring to the county is already available in nearby towns. The revenue generated by the casino to the county will be a short-lived boon before surrounding land will inevitably be depressed of value(see Mille Lacs Area). And, to justify these arguable ends, it is proposed that the casino fills in wetland native and essential to our area?

It seems fundamentally wrong and borderline illegal to allow this to happen. If a lakeshore owner attempted to fill in this amount of area, the county would likely seize their property. But, in this case, out of greed and blindness, the county has tried to railroad this through.

Please, whatever you decide to do, please consider the longterm future of our area lakes. If at the end of the day the casino gets built, then the area residents will have to live with the inevitable fallout, but please don't short change the process. Call for the study, let's make this official and let the cards play out.

Thank you for the time you have taken to read this lengthy submittal.

Scott Moore
612-720-3073

3626 Fillmore St S, Fargo, ND 58104
29761 380th st, Dent MN 56528

Bill Kalar

From: Bill Kalar
Sent: Friday, June 23, 2017 9:24 AM
To: 'debmn@mac.com'
Subject: RE: EAW review (USE THIS ONE)

OK, we will use this one.

Bill Kalar
Land & Resource Mgt.
218-998-8105

-----Original Message-----

From: debmn@mac.com [mailto:debmn@mac.com]
Sent: Wednesday, June 21, 2017 4:14 PM
To: Bill Kalar
Subject: EAW review (USE THIS ONE)

Sorry Bill, I didn't realize there were quite a few invisible line breaks randomly inserted that make it harder to read, and only showed up when I converted it to PDF.

This one has been cleaned up. You can throw the other away, if you like. It's exactly the same in all other respects.

Thanks,

RECEIVED
JUN 22 2017
LAND & RESOURCE

EAW Review: Star Lake Casino

To:
Bill Kalar,
Land & Resources,
Otter Tail County
bkalar@co.ottertail.mn.us

From:
Deb Wallwork,
30301 383rd St.
Dent, MN 56528
debmn@mac.com

I am an artist and year-round resident of Otter Tail County. I have a cabin on the West Arm of Star Lake.

In my work, in my photographs and films, I explore aspects of the complex relationships between humans and the landscape. I've made a film about wild rice harvesting at White Earth, and I am familiar with the deep respect that Native people have for wild rice.

I believe we too, have those deep bonds with landscape. We, too, sense that Creation is sacred, as the tribal members who came to the recent EAW meeting at the Pelican Rapids High School so eloquently expressed.

As you drive around Otter Tail County, and encounter a great blue heron rising from a slough, lifting its wings and taking flight, as I did yesterday, it gives us a thrill that we can't explain. The flickering dark leaves of an oak tree canopy in late August— when it's been steeped in sunlight all summer, and casts, on the lawn, a cooling shade— is a thrill to our senses. A row of those oaks, or even better, a forest of those oaks, as you can see looking across the vista at Inspiration Point, is amazing to behold.

I keep a photograph in front of me as I work on this EAW review. It's a stunning picture. It was taken by a drone above the trust land with the fee land to the north and west. The foreground of the photograph is dominated by fifteen or so acres of trees that will be destroyed to make room for the casino and parking lot. The trees are full grown, crowded together. Recent studies show trees provide shelter for one other and actually communicate by releasing chemicals in the earth under their bright canopies.

Likely this is a remnant of the oak/maple forest which is so prevalent here. That's the ecological niche that eventually springs up wherever the land is left vacant for a long time. Perhaps the original farmer left them to have as a wood lot for his winter stove.

Shoreline trees, we know now, are vitally important to the health of the lake. They prevent erosion and keep run-off from going into the lake.

Behind the trees is the South bay, shining blue. And in-between are the wild rice sloughs, which are easily distinguished from the land by their golden color.

We have a word for our enjoyment of all that sensory delight. That's the term they use in the EAW, and it's what they refer to where they talk about visual buffer zones, and visual screening, and devote a whole section to, in Section 15. You don't have to be an artist to understand it, or feel it.

The instinctive pleasure that we get from looking at a landscape is the reason we designate certain roads as scenic highways. It's why our particular landscape in Otter Tail County, as expressed by the printmaker Charles Beck, is beloved in all of Minnesota and western North Dakota, and why they are found on the walls of Lake Region Hospital. That love of landscape is the reason we have an eleven million dollar facility called the Prairie Wetlands Learning Center in Fergus Falls, so all our fifth graders can go out, rain or shine, winter or summer, to learn about prairie plants and identify animal tracks.

That is why the EAW concerns itself with land use, and the visual and ecological impact of a change in our landscape.

In Otter Tail County, there does seem to be a general consensus about the value of wildlife and our scenic beauty. We erect giant statues of pelicans and loons and otters. We have many outdoors clubs: The Fish and Game Club, Ducks Unlimited, even a Prairie Chicken Society. Recently a Fergus Falls resident spent three days painting a huge mural of a monarch butterfly that has just alighted on a milkweed blossom down on the River Walk of the Otter Tail River.

Many in the County, however, think of it as agricultural. That's how this EAW characterizes it. But the fact is, only half our land is farmable. Along the center of our County lies the glacial moraine of the Erhard Hills which gives us our vistas, our many lakes and sloughs, our prime hunting land, the state parks, the scenic byways, and all the little resorts and associated rural endeavors that can find a way survive in these remote areas. That's where Star Lake is located.

The testimony of people of those who choose to live here in the rural landscape matters.

The objections to this development from local residents cannot just be dismissed as not-in-my-backyard. We all know this area also attracts many urban dwellers, who come here to get away, and contribute to our economic viability. That's why they are here. Because of the aesthetics of our prairie pothole lakes and farmland.

The EAW states in Section 15. "No known scenic views or vistas are located in proximity of the project and the surrounding area." I believe residents would strongly disagree. Both nearby roads MN-108 and CH-24 are designated as Scenic Byways.

I see very few people in the Dent area, whether on the lake or not, excited about this development.

I myself am just learning, that the people who live here do so despite the fact that the economic outlook may be tough. We could reside elsewhere, we could move to Fergus or Detroit Lakes or Fargo-Moorhead. We chose to live here. And the reasons why have been made clear in the public input and public commentary on this casino which were not included in the EAW.

To me, the Star Lake/ Dead Lake nexus is an ecological treasure.

I bought a cabin in this area because, in an area where the lakes have been settled for a hundred years, and where our shorelines are increasingly crowded, the Star Lake area still retains much of the wild nature of what came before.

Through this review process, I've discovered that the people who are my neighbors share these values. I am very surprised at the strength of people's emotions about this development.

On this lake, we have many people- not all- but many, who know exactly what they've bought into. We do not mow to the lakeshore. We don't use Chem-Lawn. We live with crabgrass and clover and and skunks that tear up our lawns looking for grubs.

I choose to live with a natural shoreline because I can go down to my dock at dusk, and see a night heron calling to its kind from the dead tree on my shore. From my dock, with its lily pads and wild rice and emergent lake weeds, I can take our kayak out to the wilder slough at end of the lake, find the mergansers hidden in the rushes, and glide right up to the loons.

My neighbors are all people who bought this land as hunting land, and what they are here for is for the sight of hundreds of ducks of many varieties rising from the south bay of the lake, after feeding on wild rice, as they do, in the fall.

All of us are people who love the outdoors. We enjoy the quiet, and the trills and twitters of birds, which you can hear in that stillness, along with the lapping of lake water, the cry of a marsh hawk, and the silence after.

We come here to get away, to experience the absence of the noise and bustle that development brings.

These are facts that contribute to the issue of compatibility.

I have looked closely at the EAW, and in my view, it is missing a lot of information that would characterize our lake. I am speaking particularly to Section 9A and B, LAND USE.

The EAW is inadequate in part because it doesn't consider the connected actions or cumulative effects related to the casino proposal.

According to the Minnesota code, even though the county has jurisdiction only over the fee land, they still must consider the environmental impact on the adjoining trust land. Those actions are connected. It's development by the same parties, and they are not independent— either one would not be happening without the other.

The EAW references only one connected action; the power line proposal. The fee and trust land proposals, the parking lot and landscaping on the fee land, the water treatment on fee land are also connected actions with the development. So the cumulative environmental impact must be considered.

Any anticipated action on the fee land parcel north of 380th street is a connected action. Figures attached to the environmental assessment do include that parcel in the project area. It was included in the wetland survey conducted on behalf of the developer. So the parcel north of 380th Street, especially because it would provide access to the lake, is a crucial connected action for any environmental assessment.

The EAW glosses over other anticipated future projects on the fee lands mentioned at the public meetings; a golf course, marina, and waterpark, which would have major environmental consequences.

In the Minnesota rules it says that even if actions aren't connected, if they affect the same resource, then the governing body doing the environmental review has to take those projects into account. So even if they have a cumulative effect on the same environmental region or watershed, that has to be considered. The Supreme Court in the Carver vs Kadiyhi spelled out the standard for cumulative impact.

In Section 9B, the developer asserts the project is compatible with the existing land uses, yet completely fails to demonstrate that assertion. There are 21 areas small family-owned operations. The most prominent commercial area they cite is the lake store at the intersection at MN-108 and CH-41.

So what the EAW articulates is a large commercial development planned for 24/7 operation, 365 days of the year. What the facts set forth in this section demonstrate is that this commercial development is not compatible, but rather, distinct from the 21 parcels already in the area.

The examples given in this section that cite regional resorts of more or less similar scale are not comparable either. Maddens is on a sand bottomed lake, not a sensitive wetland, and it is in an area that is already fully developed. Homestead RV Park is much much smaller.

Thumper Pond is not on the lake, it's close to nearby population centers, of Ottertail and Perham. Black Bear Casino is on an exit off the highway. None are on a remote back road in a rural area with very little infrastructure or emergency services.

None of these examples demand an extraordinary wetland fill of 450,000 tons. The only

fair conclusion to draw is that this portion of the EAW is completely inadequate. It does not even attempt to grapple with the issues of building in this location.

The intended purpose of the Star Lake Limited Comprehensive Plan is to ensure that the public need is being incorporated into the planning process for this area. The EAW refers back to that plan for support. However, without the implementation portion of the plan laid out, it falls short of that purpose. Complete comprehensive planning includes identifying community values and desires first and then planning projects based upon them.

I was present at the sessions where public input was gathered for the Star Lake Limited Comprehensive Plan. We were not allowed to make statements about our concerns, but limited to asking questions. This format meant that very little public input was gathered, as only four or five people were able to ask questions, and the developer team took up most of each questioner's time.

The second public input opportunity, we were given red sticky dots which we could place on goals and objectives that were pre-determined by a public relations firm representing the casino.

Nevertheless, none of the data collected from the public is included in this section of the EAW.

The developer did have this information. I'm going to quote here from a preliminary 'study area review' that was written by SRF for the Limited Star Lake Comprehensive Plan and EAW process.

More than 61 percent of the total acreage of Star Lake and Dead Lake Townships is covered in lakes and ponds... More than 15 percent is covered in forested wetlands and emergent wetlands... There are very few developed areas. The map highlights the extent of natural features, including deciduous forest (green), open water (blue), and emergent herbaceous wetlands (light blue).

"The sheer acreage and geography of these water bodies determines how the remainder of the land can be used... The large yellow areas represent dedicated pasture as well as lands which cannot or have not been farmed. Otter Tail County encourages participation in the Conservation Reserve Program (CRP), and many of yellow areas likely participate in this program..

There are several small resorts around Star Lake and Dead Lake (purple). It is noteworthy that there are [few] common commercial uses such as restaurants, convenient stations, or grocery stores. The proposed Star Lake resort and casino *will be the first intensive commercial establishment.*"

The South Arm is maybe a thousand acres connected to the four thousand or so acres in the main body of the lake. On the National Wetlands Inventory map that the part of the lake where the casino would be located is mostly shallow wetlands.

These wetland shoreline areas are continuous for 4-5 miles around the west side of the South Bay adjacent to the trust land. This area fits many of the criteria of a natural environmental lake. Less than three dwellings per mile of shoreline. Shallow, swampy shoreline. Less than 15 feet deep.

The EAW fails to mention that Star Lake is ranked by the DNR as a lake of Outstanding Biological Significance, outstanding because it ranks in three of the four areas: fish spawning, wild rice, and the presence of unusual nesting colonies.

Under LAND USE, the application doesn't mention that there is existing land use of the south bay by recreational hunters and fisherman. The two established hunting lodges testify to this area's prior land use and rural character.

That Star is a DNR designated wild rice lake that is still harvested and, more importantly, feeds a host of migratory waterfowl is a reason for careful further study. Paul Radomski from the DNR told me in an email, that while a wild rice inventory has recently been done, more study would be needed to link the significance of rice beds to the migratory birds that use this part of the lake.

According to the DNR, Star is one of the top loon breeding lakes in the County. Looking at the loon inventory, if I am reading it correctly, we'd be number two. Loons are probably the most precious non-game wildlife resource in terms of tourism, scenic value, and a source of summer visitor satisfaction. They provide viewing pleasure and are an audible delight for all the lakes residents.

Every night in the summer, when I am staying my cabin on the West Arm, I hear a full chorus of loons. I hear the South Bay loons calling back and forth with ours on the West Arm. Loons are also constantly flying back and forth, — no doubt looking for mating partners, and because, while loons need the protection of for their nests, they use the deeper water in the main body of the lake to fish.

This interconnectedness is also true of the fish spawning areas on the South Bay. The DNR's Lake Finder states that Star Lake is one of the best fishing lake in the County, and says this South Bay area is essential to the productivity of the whole lake. So what happens on the South Bay does affect the whole lake, and impacts, in turn, the Star/ Dead Lake watershed.

We have five active osprey nests on Star. I believe the EAW does not adequately investigate where eagles may be nesting. Last time I was on the South Arm there were three eagles soaring and spinning above the lake. There may well be more nests in the area than this EAW identifies.

This EAW fails to even mention, much less investigate, the area around the natural environmental Unnamed Lake. The trumpeter swans that were nesting there last year have not returned to their nests this spring. Unfortunately, the noise and human activity involved with the electrical contractors putting in that infrastructure, only a few hundred yards away, may have disturbed them.

Wildlife will be disrupted by the construction and operation of the Casino. The DNR said that construction will likely disturb the breeding colonies of red necked grebes on the South Bay. This EAW deliberately understates these concerns.

Lights, noise and human activity disrupt wildlife. The EAW says the parking lot will have downward-directed street lights. But even as they attempt to mitigate that light pollution, signage for this 24-7 operation will have intense lights meant to be seen for miles around.

Light pollution presents a great loss to the area residents. Our brilliant night sky is one of the valuable aesthetic qualities of the rural experience. Star Lake without that incredible rich tapestry of the stars overhead, will never again be the same Star Lake.

In Otter Tail County we value our rural heritage, and especially the abundant wildlife and scenic beauty. Yes, economic development matters, but we must balance it with environmental concerns. At the moment, we lack the workforce for the jobs we already have in this area, and Dent area residents have been clear about their priorities.

I believe the issue of compatibility in Section 9a and 9b is a key issue. In both ecological terms, and aesthetic terms, this development does not fit well *in this location*. We have a unique natural resource that residents and visitors all enjoy. That is what draws people to our county, and ultimately, what provides the economic engine.

There may be solutions that would mitigate these factors, but analysis of those alternative will not happen without an EIS. Elevating this process to an EIS would reassure us that every possible measure is being taken to protect these valuable natural assets, our wildlife and our sensitive wetland areas.

Bill Kalar

From: Bill Kalar
Sent: Friday, June 23, 2017 9:29 AM
To: 'JACKOLYN/DAVID'
Subject: RE: EAW, for proposed Shooting Star Casino, Star Lake

Jackie Verdin – this will confirm receipt of your comments.

Bill Kalar
Land & Resource Mgt.
218-998-8105



From: JACKOLYN/DAVID [mailto:verdifam4@comcast.net]
Sent: Wednesday, June 21, 2017 8:25 PM
To: Bill Kalar
Subject: EAW, for proposed Shooting Star Casino, Star Lake

RECEIVED
JUN 22 2017
LAND & RESOURCE

Dear Mr. Kalar,

I implore you to make sure an EAW is completed for this proposed Casino project. I am against building a casino, conference center, resort, rv park. I feel that Star Lake is the worst possible place to build this project.

I have been spending every summer on Star Lake since I was a young child. My father grew up coming to Star Lake, there is over 5 generations of memories on Star Lake for my family. Just thinking of going up to the lake and enjoying all it has to offer, swimming, fishing, bird watching, star gazing. It brings a calming peace over me. When I think of Star Lake it is nature, family fun and relaxation. Which to me, is the way it should be.

I am opposed to the whole project. However if it is going to happen, I would like to make sure it has as little impact on the environment as possible. It is really concerning when you are talking about filling in wetlands and developing on almost three hundred acres. Filling in wetlands is destroying wildlife habitat. But putting in such a large development is shocking. So many trees and land is going to be demolished. The water treatment facility is very concerning. Where could it possibly go? The water runoff alone from the parking lots and RV parks is going to have a huge impact on the lake and wildlife around it. There is going to be to great of an impact on the land, the wildlife and the lakes around it.

One thing that is so confusing for me, is the roads into this casino. If you have ever driven on the roads leading to Star Lake, you can clearly see that it is scary driving those roads at night. There is no room for expansion. There are parts of the road that is subject to flooding. So clearly

there is no space to expand into a 4 lane. But if it cannot be expanded, then how will the roads hold up to 5-6 hundred people traveling on a weekly bases? It is scary coming around a curve or over a hill sometimes and there is nowhere near that amount of traffic now. Not to mention how it will be in the winter.

I don't want this casino to be built, but I really don't want to see this project approved only to have it fail. Then all of the animal habitats, wetlands, trees, and hundreds of acres of beautiful natural land destroyed for nothing.

Thank you so much for taking the time to read my concerns. This is a very serious matter for all involved.

Jackie Verdin
110 Dale Street West
South Saint Paul, MN 55075
651-675-6484

Bill Kalar

From: Bill Kalar
Sent: Friday, June 23, 2017 9:30 AM
To: 'Orin Score'
Subject: RE: Proposed Star Lake Casino Development - EAW Comment

Orin Score - this will confirm receipt of your comments.

Bill Kalar
Land & Resource Mgt.
218-998-8105

-----Original Message-----

From: Orin Score [mailto:orin.score@gmail.com]
Sent: Wednesday, June 21, 2017 8:39 PM
To: Bill Kalar
Subject: Proposed Star Lake Casino Development - EAW Comment

Our family has been on Star Lake (380th St) since 1939. We have seen a lot of development since my grandfather built the cabin but it has still retained it's relaxed, secluded, closeness to nature that we have all come to love and enjoy. My family's concerns are primarily the following:

1. An irreversible change to the natural habitat and the fish and wildlife that inhabit it today. This will be caused by the building process, the huge amounts of landfill to be brought in, stormwater runoff, and the presence of large numbers of people in a sensitive area.
2. The traffic congestion and resulting danger to anyone using the existing road system which is full of blind spots, curves, animals after dark, and cabins close to many of the roads.
3. Resulting traffic increases on both roads and lake will have negative long term impacts on residents. Why purchase all the shoreline on the North side of their property if they do not have long range plans to put in a marina?? Not considering those impacts as well ignores the possible impact to that shoreline and fish hatchery.

Needless to say, we are opposed to this development. There are better alternatives than to risk the long term impacts to our fish, wildlife, and community.

Respectfully,

Orin Score

326 Soo Line Rd, Hudson WI

32465 380th St, Dent MN

RECEIVED
JUN 22 2017
LAND & RESOURCE

Bill Kalar

From: Bill Kalar
Sent: Friday, June 23, 2017 9:35 AM
To: 'david nordick'
Subject: RE: Casino Project

David Nordick – this will confirm receipt of your comments.

Bill Kalar
Land & Resource Mgt.
218-998-8105



From: david nordick [mailto:dj3417@hotmail.com]
Sent: Wednesday, June 21, 2017 8:46 PM
To: Bill Kalar
Subject: Casino Project

Sent from Windows Mail

RECEIVED
JUN 22 2017
LAND & RESOURCE

Ottertail County Board of Commissioners June 18, 2017

I attended the meeting which was held at the Pelican Rapids High School on June 15, 2017, to listen to testimony regarding the Environmental Assessment Worksheet for the proposed casino project. I thought this meeting would be a waste of your time, as well as the citizens in attendance. The reason that I felt that way was earlier meetings, concerning this project, held at the Dent MN School, indicated that Ottertail County in conjunction with the White Earth Nation were working together to push this project forward. I do believe all of the white boards used to present information bore not only the White Earth Nation logo but also the logo of Ottertail County.

At the June 15 meeting you all appeared to be genuinely interested in the information presented to you by not only Ottertail County citizens, but the information presented by citizens of the White Earth Nation.

As the elected leaders of Ottertail County, I am sure you realize the decisions that you make concerning this project will affect many lives for years to come. While the project may generate revenue for Ottertail County, I fear the damage done to Star Lake, the surrounding area, and the residents of not only the Star Lake area but all of Ottertail County will outweigh any benefits.

Respectfully submitted

David B. Nordick

Bill Kalar

From: Bill Kalar
Sent: Friday, June 23, 2017 8:56 AM
To: 'Robert Russell'
Subject: RE: Comment on Star Lake Casino EAW

Thanks Bob.

Bill Kalar
Land & Resource Mgt.
218-998-8105



From: Robert Russell [mailto:Robert@russellawoffice.com]
Sent: Wednesday, June 21, 2017 3:09 PM
To: Bill Kalar
Cc: David Hauser
Subject: Comment on Star Lake Casino EAW

Bill,

Please see attached as my comments to the EAW on behalf of the Star Lake Concerned Citizens Group.

Thank you.

Bob Russell

Robert L Russell
Attorney at Law
220 West Washington Avenue, Suite 103
Fergus Falls, MN 56537
Phone: 218-998-6400
Fax: 218-998-6404

RECEIVED
JUN 22 2017
LAND & RESOURCE

June 21, 2017

VIA E-MAIL TO bkalar@co.ottertail.mn.us

Bill Kalar,
Land & Resource Management Director
OTC Government Services Center
540 West Fir
Fergus Falls, MN 56537

Dear Mr. Kalar:

This comment is submitted on behalf of the Star Lake Concerned Citizens Group ("SLCCG"), a nonprofit corporation under Minnesota law operating as a tax-exempt organization under Section 501(c)(4) of the Internal Revenue Code. The principal purpose of this comment is to challenge the unsupported assertions in the Environmental Assessment Worksheet ("EAW") that "[s]tate, county, and township governments have no jurisdiction over the Tribal Trust lands" EAW, p. 8, and that "[t]he Tribal Trust portions of the proposed project area are governed by the Tribal Governance and not subject to Local or State regulations, including the Shoreland Management District," *id.* at p. 10.¹ To analyze what SLCCG submits is a faulty premise, to-wit, the county has no jurisdiction over

¹
See also references in the EAW to Tribal Trust Land not being subject to the Otter Tail County Shoreland Management Ordinance ("Ordinance") and the building to be placed on the trust land will not require a Conditional Use Permit ("CUP") because it will be located on trust land, *id.* at p. 9; as well as the footnote to the table on "Zoning Compatibility" at p. 12, stating "[t]he Tribal Trust Land is not subject to the Otter Tail County Shoreland Management Ordinance."

the trust lands, it is necessary to review the relevant treaties, statutes and case law that establish the basis and limits of state and local jurisdiction and the acquisition of the land by the United States of America for the Chippewa Tribe. This comment will also address the unexplained relationship between the White Earth Band of the Chippewa Tribe and the owner of the surrounding land over which the EAW acknowledges the County has jurisdiction, and the implications of that relationship on the need for an Environmental Impact Statement (“EIS”).

A basic understanding of the historical underpinnings of federal Indian policy is essential to understand what the County can and cannot do with respect to the proposed casino to be built on land held in trust by the United States for the Chippewa Tribe.

THE CHIPPEWA TRIBE AND FEDERAL INDIAN POLICY

The Chippewa Tribe of Indians of Minnesota is a federally-recognized Indian tribe organized under the Indian Reorganization Act of 1934 (“IRA”), 48 Stat. 984 (1934), codified at 25 U.S.C. § 461 *et seq.* See 67 Fed.Reg. 46,328, 46,330 (July 12, 2002). The Tribe’s history of interaction with the federal government goes back much further, however. Congressional dealings with the Chippewas located in what later became Minnesota began with the Prairie du Chien Treaty of 1825, 7 Stat. 272, which attempted to settle inter-tribal conflicts among the Chippewas, Sioux, Iowas, and the Sacs and Foxes, by drawing lines (in what is now Minnesota and Wisconsin) between the “respective countries” of the different tribes, dividing the Chippewas from the Sioux living to the south. The Treaty of August 5, 1826, 7 Stat. 290, bound the Lake Superior band of Chippewas (who had not attended the 1825 negotiations) to the 1825 Treaty and reaffirmed that agreement for the

whole Chippewa Tribe. In 1827, the Treaty of August 11, 1827, 7 Stat. 303, settled the segment of the line dividing the Chippewa "country" from that of the Menominees, left open by the 1825 Treaty.

Thereafter, from 1837 to 1855, the Federal Government entered into five treaties of cession with the Chippewas, in which the Indians ceded various lands on their side of the Chippewa-Sioux line marked by the Prairie du Chien Treaty of 1825. See Treaty of July 29, 1837, 7 Stat. 536 (referenced as the 1837 Treaty of St. Peters); Treaty of 1842, 7 Stat. 591; Treaty of August 2, 1847, 9 Stat. 904; Treaty of August 21, 1847, 9 Stat. 908; Treaty of September 30, 1854, 10 Stat. 1109; and Treaty of February 22, 1855, 10 Stat. 1165. By the 1854 Treaty and in the course of further cessions, "the Chippewas were divided into the Chippewas of Lake Superior and the Chippewas of the Mississippi and were treated as separate parties. By this treaty these two large subdivisions of the Chippewa Nation agreed on a north-south boundary line running through the eastern part of Minnesota which effected a division of the Chippewa country between them." Chippewa Indians of Minnesota v. United States, 80 Ct.Cl. 410, 462 (1935), *affirmed* 301 U.S. 358, 57 S.Ct. 826, 81 L.Ed. 1156 (1937).

The nation's official policy toward Indian tribes at this time proceeded from the premise that the "several Indian nations [constitute] distinct political communities, having territorial boundaries, within which their authority is exclusive...." *Worcester v. Georgia*, 31 U.S. (6 Pet.) 515, 556-57, 8 L.Ed. 483. (1832). The Constitution granted Congress the authority both "[t]o regulate Commerce ... with the Indian Tribes and to make treaties, U.S. Const., Art. I, § 8, cl. 3; Art. II, § 2, cl. 2, [and Congress] had determined by law and by treaty 'that all intercourse with [the tribes] would be carried on exclusively by the Federal

Government.” County of Yakima v. Confederated Tribes and Bands of Yakima Indian Nation, 502 U.S. 251, 257, 112 S.Ct. 683, 116 L.Ed.2d 687 (1992). It was then well established that within reservations, state and local jurisdiction would not exist. *Id.*

Federal policy toward Indians dramatically changed in the late 19th century, however, when Congress terminated the process of treaty-making with individual tribes, 25 U.S.C. § 71, and moved to a policy of allotment and assimilation. In 1887, Congress enacted the General Allotment Act, 25 U.S.C. § 331 *et seq.*, 24 Stat. 388, also known as the Dawes Act, the purpose of which was the eventual assimilation of the United States Indian population into the general population and the gradual elimination of Indian reservations. The Dawes Act authorized the President to select Indian reservations for the allotment of land in severalty to the Indians residing on those reservations. It further provided that the Secretary of Interior would issue initial patents for each allotment to the individual Indian allottee under which the United States would continue to hold the allotted land in trust for the benefit of the allottee for a period of 25 years. At the conclusion of the trust period, the United States was to issue another patent conveying the land to the allottee in fee simple. In 1906, Congress amended the General Allotment Act through the Burke Act, 34 Stat. 182, 25 U.S.C. § 349, which authorized the Secretary of the Interior to immediately issue fee patents to competent Indian allottees without waiting the entire twenty-five years required under the Dawes Act.

In 1934, Congress once again drastically changed federal policy toward Indian tribes when it turned away from allotment and assimilation through the passage of the Indian Reorganization Act (“IRA”), 25 U.S.C. §§ 450 *et seq.* Its purpose was to stop the loss of Indian lands through the allotment process and re-establish tribal governments and land

holdings. Among the steps taken to achieve these goals, the IRA terminated the further allotment of reservation lands, extended unexpired trust periods on allotted lands, and empowered the Secretary of the Interior to acquire lands to be placed into trust status exempt from state and local taxation. 25 U.S.C. § 463, 465. The IRA also “permitted tribes to organize and adopt constitutions with a congressional sanction of self-government, and it permitted tribes to form business committees or business corporations.” 25 U.S.C. § 476.

ACQUISITION OF THE TRUST LAND BY THE UNITED STATES OF AMERICA

As stated above, part of the Indian Reorganization Act of 1934, now codified at 28 U.S.C. § 5108 (formerly 25 U.S.C. § 465), authorizes the acquisition of land by the Secretary of the Interior for Indian use:

The Secretary of the Interior is authorized, in his discretion, to acquire, through purchase, relinquishment, gift, exchange, or assignment, any interest in lands, water rights, or surface rights to land, within or without existing reservations, including trust or otherwise restricted allotments, whether the allottee be living or deceased, for the purpose of providing land for Indians.

Title to any lands or rights acquired pursuant to this Act of the Act of July 28, 1955 (69 Stat. 392), as amended (25 U.S.C. 608 et seq.) shall be taken in the name of the United States in trust for the Indian tribe or individual Indian for which the land is acquired, and such lands or rights shall be exempt from State and local taxation.

The East Half of Government Lot Three (3) of Section Fifteen (15), Township One Hundred Thirty-five (135), Range Forty-one (41) of Otter Tail County was acquired by a deed to the “United States of America, In Trust For _____” dated March 1, 1938, filed for record in the Office of the Otter Tail County Recorder on August 6, 1938, in Book 192 of

Deeds, p. 332. A corrective deed dated September 1, 1938, recorded September 3, 1938, in Book 192 of Deeds, p. 371, conveyed the land to the "United States of America, In Trust for the Minnesota Chippewa Tribe." Copies of the deeds are attached as Exhibit One (1).

In response to a recent Freedom of Information Act Request to the United States Department of Interior, Bureau of Indian Affairs ("BIA"), the documentation received indicates the land was acquired for wild rice camps (for \$600, admittedly only of historical interest), that the executive committee of the Chippewa Tribe was to manage the use of the rice camps being acquired and that, if it desired, the Chippewa Tribe could set aside any specific tract for the use of a particular band. See documents attached as Exhibit Two (2).

An extract of the original government survey of Star Lake Township (Township 135, Range 41) is attached as Exhibit Three (3). It shows Government Lot Three contains 30.00 acres. Case law is clear that when a deed conveys an east half of a government lot, there is no presumption that the parties intended a division by a line running equidistant from the east and west lines of the lot that may unequally divide such area, but rather the presumption is that the conveyance is by area. Cogan v. Cook, 22 Minn. 137, 1875 WL 3878 (Minn.1875). No evidence has been presented in the EAW to verify the western boundary of the trust land has been established so as to divide Government Lot Three (3) into western and eastern parcels of equal acreage. The County needs to know exactly where the boundary separating the trust land from the fee land is located so as to ascertain the extent of its authority both east and west of that line.²

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An exchange of deeds between the fee owner and the United States to specifically

The EAW is deficient in not adequately identifying the western boundary line between the trust and fee land so the impact of any differences in the County's jurisdiction over trust and non-trust land can be applied.

EAW INCORRECTLY PRESUMES COUNTY HAS NO JURISDICTION OVER TRUST LAND

While an accurate description of the origin of Indian law and possibly of public perception, it simply is not true to say a state has no regulatory authority over Indian land. As the United States Supreme Court wrote in Nevada v. Hicks, 533 U.S. 353, 361-362, 121 S.Ct. 2304, 150 L.Ed.2d 398 (2001):

Our cases make clear that the Indians' right to make their own laws and be governed by them does not exclude all state regulatory authority on the reservation. State sovereignty does not end at a reservation's border. Though tribes are often referred to as "sovereign" entities, it was "long ago" that "the Court departed from Chief Justice Marshall's view that 'the laws of [a State] can have no force' within reservation boundaries. *Worcester v. Georgia*, 6 Pet. 515, 561, 8 L.Ed. 483 (1832)." *White Mountain Apache Tribe v. Bracker*, 448 U.S. 136, 141, 100 S.Ct. 2578, 65 L.Ed.2d 665 (1980). "Ordinarily," it is now clear, "an Indian reservation is considered part of the territory of the State." U.S. Dept. of Interior, Federal Indian Law 510, and n. 1 (1958), citing *Utah & Northern R. Co. V. Fisher*, 116 U.S. 28, 6 S.Ct. 246, 29 L.Ed. 542 (1885); see also *Organized Village of Kake v. Egan*, 369 U.S. 60, 72, 82 S.Ct. 562, 7 L.Ed.2d 573 (1962).

That is not to say that States may exert the same degree of regulatory authority within a reservation as they do without. To the contrary, the principle that Indians have the right to make their own laws and be governed by them requires "an accommodation between the interests of the Tribes and the Federal Government, on the one hand, and those of the State, on the other." *Washington v. Confederated Tribes of Colville Reservation*, 447 U.S. 134, 156, 100 S.Ct. 2069, 65 L.Ed.2d 10 (1980); see also *id.*, at 181, 100

define the boundary line would create the need for action by the federal government, which in turn would trigger application of the National Environmental Policy Act ("NEPA"), 42 U.S.C. §§ 4321 to 4370h; See pp. 18-19 *infra*.

S.Ct. 2069 (opinion of REHNQUIST, J.). “When on-reservation conduct involving only Indians is at issue, state law is generally inapplicable, for the State’s regulatory interest in encouraging tribal self-government is at its strongest.” *Bracker, supra*, at 144, 100 S.Ct. 2578. When, however, state interests outside the reservation are implicated, States may regulate the activities even of tribe members on tribal land, as exemplified by our decision in *Confederated Tribes*.

Accordingly, it is well established that state regulatory control may be exercised in the interest of conservation, even where (unlike the instant case) usufructuary rights³ have been granted to a tribe. The United States Supreme Court wrote, in Minnesota v. Mille Lacs Band of Chippewa Indians, 526 U.S. 172, 119 S.Ct. 1187, 143 L.Ed.2d 270 (1999):

Although States have important interests in regulating wildlife and natural resources within their borders, this authority is shared with the Federal Government when the Federal Government exercises one of its enumerated constitutional powers, such as treaty making. U.S. Const., Art. VI, cl. 2. [Citations omitted.] Here, the 1837 Treaty [of St. Peters] gave the Chippewa the right to hunt, fish, and gather in the ceded territory free of territorial, and later state, regulation, a privilege that others did not enjoy. Today, this freedom from state regulation curtails the State’s ability to regulate hunting, fishing, and gathering by the Chippewa in the ceded lands. But this Court’s cases have also recognized that Indian treaty-based usufructuary rights to not guarantee the Indians “absolute freedom” from state regulation. *Oregon Dept. Of Fish and Wildlife v. Klamath Tribe*, 473 U.S. [753], at 765, n. 16, 105 S.Ct.3420[, 87 L.Ed.2d 542 (1985)]. We have repeatedly reaffirmed state authority to impose reasonable and necessary nondiscriminatory regulations on Indian hunting, fishing, and gathering rights in the interest of conservation. See *Puyallup Tribe v. Department of Game of Wash.*, 391 U.S. 392, 398, 88 S.Ct. 1725, 20 L.Ed.2d 689 (1968); *Washington v. Washington State Commercial Passenger Fishing Vessel Assn.*, 443 U.S. [658], at 682, 99 S.Ct. 3055[, 61 L.Ed.2d 823 (1979)]; *Antoine v. Washington*, [420 U.S. 194] at 207-208, 95 S.Ct. 944[, 43 L.Ed.2d 129 (1975)]. This “conservation necessity” standard accomodates both the State’s interest in management of its natural resources and the Chippewa’s federally guaranteed treaty rights.

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For Indians, a usufructuary right is a “right, privilege, or immunity ... with respect to hunting, trapping, or fishing or the control, licensing, or regulation thereof.” 18 U.S.C. § 1162(b).

Minnesota is also one of six states that Congress has expressly granted jurisdiction over specified areas of Indian country⁴ within its boundaries (excepting, however, the Red Lake Reservation itself). Pub.L. 280, 18 U.S.C. § 1162 (for state jurisdiction over criminal matters), 28 U.S.C. § 1360 (for state jurisdiction over civil matters). 28 U.S.C. § 1360 provides:

(a) [Minnesota and five other states] shall have jurisdiction over civil causes of action between Indians or to which Indians are parties which arise in the areas of Indian country . . . to the same extent that such State has jurisdiction over other civil causes of action, and those civil laws of such State that are of general application to private persons or private property shall have the same force and effect within such Indian country as they have elsewhere within the State. . . .

(b) Nothing in this section shall authorize the alienation, encumbrance, or taxation of any real or personal property, including water rights, belonging to any Indian or any Indian tribe, band, or community that is held in trust by the United States or is subject to a restriction against alienation imposed by the United States; or shall authorize regulation of the use of such property in a manner inconsistent with any Federal treaty, agreement, or statute or with any regulation made pursuant thereto; or shall confer jurisdiction upon the State to adjudicate, in probate proceedings or otherwise, the ownership or right to possession of such property or any interest therein.

Although Pub.L. 280 granted the six states broad criminal jurisdiction over offenses committed by or against Indians within Indian country, the United States Supreme Court held in Bryan v. Itasca County, 426 U.S. 373, 96 S.Ct. 2102, 48 L.Ed.2d 710 (1976) that

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The Indian Country Act at 18 U.S.C. § 1151, defines "Indian Country" for federal criminal jurisdiction but the United States Supreme Court has recognized that it also generally applies to questions of civil jurisdiction. DeCoteau v. District Court for Tenth Judicial Dist., 420 U.S. 425, 427, n. 2, 95 S.Ct. 1082, 43 L.Ed.2d 300 (1975). Case law has established that "Indian Country" includes land held in trust by the United States. HRI, Inc. v. E.P.A., 198 F.3d 1224 (10th Cir.2000), *amended on denial of rehearing*; Citizen Band Potawatomi Indian Tribe of Oklahoma v. Oklahoma Tax Comm'n, 888 F.2d 1303 (10th Cir. 1989), *cert. granted*, 498 U.S. 806, 111 S.Ct. 37, 112 L.Ed.2d 14, *aff'd in part, reversed in part on other grounds*, 498 U.S. 505, 111 S.Ct. 905, 112 L.Ed.2d 1112 (1991), *on remand* 932 F.2d 1355 (1991).

Congress' conferral of jurisdiction over civil matters was more limited. In *Bryan*, the Supreme Court recognized that "a grant to States of general civil regulatory power over Indian reservations would result in the destruction of tribal institutions and values." Cabazon Band of Mission Indians, 480 U.S. 202, 208, 107 S.Ct 1083, 94 L.Ed. 2d 244 (1987). But that had clearly not been Congress' intent. To avoid this result, the Supreme Court in Bryan "interpreted § 4 [of Publ.L. 280] to grant States jurisdiction over private civil litigation involving reservation Indians in state court, but not to grant general civil regulatory authority." Cabazon, 480 U.S. 202, 208, 107 S.Ct. 1038, 1087. Cabazon adopted the following test for determining whether Pub.L. 280 permits enforcement of a particular state civil enactment on reservation lands: "if the intent of a state law is generally to prohibit certain conduct, it falls within Pub.L. 280's grant of criminal jurisdiction, but if the state law generally permits the conduct at issue, subject to regulation, it must be classified as civil/regulatory and Pub.L. 280 does not authorize its enforcement on an Indian reservation." *Id.* at 209, 107 S.Ct. 1083. "The shorthand test," the Court added, "is whether the conduct at issue violates the State's public policy." *Id.*

The Cabazon Court added, however, that resolution of the criminal as opposed to civil/regulatory question does not end the inquiry:

Our cases, however, have not established an inflexible *per se* rule precluding state jurisdiction over tribes and tribal members in the absence of express congressional consent. "[U]nder certain circumstances a State may validly assert authority over the activities of nonmembers on a reservation, and ... in exceptional circumstances a State may assert jurisdiction over the on-reservation activities of tribal members." *New Mexico v. Mescalero Apache Tribe*, 462 U.S. 324, 331-332, 103 S.Ct. 2378, 2385, 76 L.Ed.2d 611 (1983) (footnotes omitted).

Id. at 215, 107 S.Ct. 1083 (footnotes omitted) (quoting New Mexico v. Mescalero Apache

Tribe, 462 U.S. 324, 331-332, 103 S.Ct. 2378, 76 L.Ed.2d 611 (1983)). The inquiry whether State jurisdiction is pre-empted “is to proceed in light of traditional notions of Indian sovereignty and the congressional goal of Indian self-government, including its ‘overriding goal’ of encouraging tribal self-sufficiency and economic development.” *Id.* at 216, 107 S.Ct. 1083. See also Moe v. Confederated Salish and Kootenai Tribes, 425 U.S. 463, 478-80, 96 S.Ct. 1634, 48 L.Ed.2d 96 (1976).

The Minnesota Supreme Court has recognized that preemption analysis must be employed to determine if a state may exercise its authority absent express consent from Congress:

State jurisdiction over Indians is governed by federal statutes or case law. See *[State] v. Stone*, 572 N.W.2d [725] at 728 [1997]; see also *National Farmers Union Ins. Cos. V. Crow Tribe of Indians*, 471 U.S. 845, 855-56, 105 S.Ct. 2447, 85 L.Ed.2d 818 (1985). The United States Supreme Court has approved an analytical framework for determining whether state law applies to an Indian in Indian country. See *California v. Cabazon Band of Mission Indians*, 480 U.S. 202, 207, 210, 107 S.Ct. 1083, 94 L.Ed.2d 244 (1987) (“public policy test” superceded by Indian Gaming Regulatory Act 25 U.S.C. §§ 2701-2721 (1988) with respect to Class III gaming, see generally *United States v. E.C. Invs., Inc.*, 77 F.3d 327 (9th Cir. 1996)). Under this framework, state law does not generally apply to tribal Indians on their reservation absent express consent from Congress. See *id.* At 207, 107 S.Ct. 1083. However, even absent such express consent, a state may exercise its authority if the operation of federal law does not preempt it from doing so. See *id.* At 215, 107 S.Ct. 1083.

State v. R.M.H., 617 N.W.2d 55, 58 (Minn. 2000), *rehearing denied*. In a more recent case, State v. Davis, 773 N.W.2d 66 (Minn. 2009), *cert. denied*, 559 U.S. 1069, 130 S.Ct. 2111, 176 L.Ed.2d 725 (2010), after analyzing the scope of Public Law 280, the Minnesota Supreme Court again discussed the need to undertake a preemption analysis where there has not been an express delegation of jurisdiction from Congress:

In the absence of an express delegation of jurisdiction from Congress, courts engage in a preemption analysis. This analysis balances the federal interests of promoting tribal sovereignty and Indian self-governance and autonomy and any state interests in order to determine whether the state law at issue may operate. *Three Affiliated Tribes of the Fort Berthold Reservation v. Wold Engineering*, 476 U.S. 877, 884, 106 S.Ct. 2305, 90 L.Ed.2d 881 (1986) (“[W]e have formulated a comprehensive pre-emption inquiry in the Indian law context which examines not only the congressional plan, but also ‘the nature of the state, federal, and tribal interests at stake, an inquiry designed to determine whether, in the specific context, the exercise of state authority would violate federal law.’” (quoting *White Mountain Apache Tribe v. Bracker*, 448 U.S. 136, 145, 100 S.Ct. 2578, 65 L.Ed.2d 665 (1980))); see also *California v. Cabazon Band of Mission Indians*, 480 U.S. 202, 216, 107 S.Ct. 1083, 94 L.Ed.2d 244 (1987) (“Decision in this case turns on whether state authority is pre-empted by the operation of federal law; and ‘state jurisdiction is pre-empted ... if it interferes or is incompatible with federal and tribal interests reflected in federal law, unless the state interests at stake are sufficient to justify the assertion of state authority.’” (quoting *New Mexico v. Mescalero Apache Tribe*, 462 U.S. 324, 333-34, 103 S.Ct. 2378, 76 L.Ed.2d 611 (1983))).

...

In *California v. Cabazon Band of Mission Indians*, 480 U.S. 202, 107 S.Ct. 1083, 94 L.Ed.2d 244 (1987), the Court recognized that it had not adopted an “inflexible *per se* rule precluding state jurisdiction over tribes and tribal members in the absence of express congressional consent.” *Id.* at 214-15, 107 S.Ct. 1083. And the Court has held that States can, on occasion, regulate matters occurring on Indian reservations even in the absence of express Congressional consent. See, e.g., *Rice v. Rehner*, 463 U.S. 713, 715, 103 S.Ct. 3291, 77 L.Ed.2d 961 (1983) (upholding state authority to require a state license for on-reservation store’s sale of liquor); *Washington v. Confederated Tribes of the Colville Indian Reservation*, 447 U.S. 134, 156-57, 100 S.Ct. 2069, 65 L.Ed.2d 10 (1980) (upholding state authority to collect sales and cigarette taxes from reservation sales to nonmember Indians); *Moe v. Confederated Salish and Kootenai Tribes*, 425 U.S. 463, 483, 96 S.Ct. 1634, 48 L.Ed.2d 96 (1976) (upholding state authority to collect sales tax from smokeshops on reservation).

...

... In *Cabazon*, California sought to apply state law regulating bingo to games operated by recognized Indian Tribes on reservations located in California. [480 U.S.] at 204-05, 107 S.Ct. 1083. The Tribes sued to enjoin enforcement of the state regulation. *Id.* at 206, 107 S.Ct. 1083. The Court first found that the state regulation at issue did not fall within the scope of Public Law 280. *Id.* at 211-12, 107 S.Ct. 1083. The Tribes argued that because Congress had not expressly granted the State jurisdiction to

regulate bingo, the State could not regulate on-reservation activity. *Id.* at 214, 107 S.Ct. 1083 (“Because the state and county laws at issue here are imposed directly on the Tribes that operate the games, and are not expressly permitted by Congress, the Tribes argue that the judgment below [that precluded operation of the state law] should be affirmed without more.”). The Court rejected this “inflexible *per se* rule.” *Id.* at 214-15, 107 S.Ct. 1083.

Instead of a *per se* rule, the Court conducted a preemption analysis to determine whether the state law could operate. Under this analysis, “state jurisdiction is pre-empted ... if it interferes or is incompatible with federal and tribal interests reflected in federal law, unless the state interests at stake are sufficient to justify the assertion of state authority.” *Id.* at 216, 107 S.Ct. 1083 (quoting New Mexico v. Mescalero Apache Tribe, 462 U.S. 324, 333, 334, 103 S.Ct. 2378, 76 L.Ed.2d 611 (1983))). This inquiry requires that we “weigh the competing interests at stake” within the “specific factual context” presented. [*State v. R.M.H.*, 617 N.W.2d at 64.

Id. at 69-72. In Footnote Five (5) to its decision in Davis, the Minnesota Supreme Court noted the U.S. Supreme Court’s formulation of the preemption question in *Three Affiliated Tribes* “does not seem to depend on a finding of exceptional circumstances. See 476 U.S. at 884, 106 S.Ct. 2305.” Davis at p. 73. “And in *Cabazon*, the Supreme Court expressly stated that it had adopted a *per se* rule precluding state action without a balancing of interests only in the special area of state taxation. 480 U.S. at 215 n. 17, 107 S.Ct. 1083.” *Id.*

Whether or not one must find exceptional circumstances in order to apply state and/or local statutes or ordinances to on-reservation activities of tribal members, the balancing test itself:

... must be conducted against the backdrop of the traditional notions of Indian sovereignty as well as the strong federal policies of promoting tribal self government, which necessarily includes the “overriding goals” of furthering tribal self sufficiency and economic development. [*New Mexico v. Mescalero*, 462 U.S. [324] at 335, 103, S.Ct.[2378,] at 2386-87[, 76 L.Ed.2d 611 (1983)]]. See also *Cabazon*, 480 U.S. at 216, 107 S.Ct. At 1092. The extent to which state authority would interfere with these purposes is to be

considered, but the state's regulatory interest is weighed substantially where it can identify how the on-reservation activity creates an impact off-reservation that would require state intervention. See *Mescalero* at 335-36, 103 S.Ct. At 2386-88.

Cayuga Indian Nation of New York v. Village of Union Springs, 317 F.Supp.2d 128, 146 (N.D.N.Y.2004). In Cayuga, the Court determined that it could not find exceptional circumstances to warrant application of a local government's building or zoning ordinances to regulate the building activities of a tribe on its trust land; the tribe had its own zoning and building ordinances. *Id.* at 147, n. 18. Gobin v. Snohomish County, 304 F.3d 909 (9th Cir.2002), *cert. denied*, 538 U.S. 908, 123 S.Ct. 1488, 155 L.Ed.2d 228 (2003) is another case where the court stated there were no exceptional circumstances to allow the county to exercise jurisdiction over reservation fee lands, but in Gobin the tribes had their own ordinance that established use and density restrictions as to which the developer had complied and obtained conditional approval of a twenty-five home development project.

The EAW is deficient in not identifying what components should be considered in conducting a balancing test to determine if and to what extent the County can consider the environmental impacts of the development on the trust land and an EIS is necessary to properly address this issue.

IF THE EAW HAD PROPERLY ANALYZED THE BALANCING TEST, AN EIS WOULD BE NEEDED, WHETHER OR NOT THE STANDARD TO BE APPLIED IS "EXCEPTIONAL CIRCUMSTANCES"

To properly consider what level of regulation the County can assert over trust land, it is necessary to consider the extent of any other federal or tribal authority over it. The EAW does not discuss to what extent, if any, tribal ordinances would govern development

on the trust land nor, for example, reference what if any environmental review must be conducted as to its proposed use pursuant to tribal regulation.

Nor is the scope of federal jurisdiction discussed in the EAW, possibly because it is a more cumbersome topic than it may initially appear. A starting point would be the role of the Bureau of Indian Affairs ("BIA"), which is part of the Interior Department and responsible for the administration and management of over 55 million acres of land held in trust by the United States for Native American tribes and their members. Bureau of Indian Affairs https://en.wikipedia.org/w/index.php?title=Bureau_of_Indian_Affairs&oldid=784355300 (last visited June 20, 2017).

Section 20 of the Indian Gaming Regulatory Act ("IGRA"), codified at 25 U.S.C. § 2719, prohibits gaming activities on land acquired by the Secretary of the Interior in trust for the benefit of an Indian tribe after October 17, 1988, unless certain exceptions therein stated apply. If none of the other exceptions apply, the Secretary may nonetheless approve the use of trust land acquired after said date if:

(A) the Secretary, after consultation with the Indian tribe and appropriate State and local officials, including officials of other nearby Indian tribes, determines that a gaming establishment on newly acquired lands would be in the best interest of the Indian tribe and its members, and would not be detrimental to the surrounding community, but only if the Governor of the State in which the gaming activity is to be conducted concurs in the Secretary's determination;

25 U.S.C. § 2719(b)(1). The law is well established that where the Secretary of Interior is presented with a request to take fee land into trust, an EAW must be considered by the BIA and a determination made whether or not an EIS is required. Tomac, Taxpayers of Michigan Against Casinos v. Norton, 433 F.3d 852 (D.C.Cir.2006); City of Roseville v. Norton, 219 F.Supp.2d 130 (D.D.C.2002); see South Dakota v. U.S. Dept. of Interior, 423

F.3d 790 (8th Cir.2005), *rehearing and rehearing en banc den.* (2006) (lawsuit seeking to prevent the placement of land into trust was delayed for completion of an environmental assessment in accordance with the National Environmental Policy Act). (This may explain why the developer has not requested the Secretary of Interior to take the fee land into trust.)

In this case, the land was transferred to the United States in trust back in 1938, so there is no current action required of the BIA that would compel its completion of an EAW for the trust land on which the casino is to be built.

Another federal agency that could have jurisdiction to require an EAW is the National Indian Gaming Commission (“NIGC”), an independent federal regulatory agency within the Department of the Interior, established by Congress in 1988 pursuant to the IGRA. National Indian Gaming Commission https://en.wikipedia.org/w/index.php?title=National_Indian_Gaming_Commission&oldid=784712408 (last visited June 20, 2017).

IGRA defines several classes of gaming, subjecting each to a different regulatory scheme. Class I gaming means social games solely for prizes of minimal value or traditional forms of Indian gaming engaged in by individuals in connection with tribal ceremonies or celebrations. 25 U.S.C. § 2703(6). Class II gaming includes bingo and card games except for “banking” card games like baccarat, chemin de fer, and blackjack. 25 U.S.C. § 2703(7). In order to conduct class II gaming, a tribe must adopt a gaming ordinance or resolution and have it approved by the NIGC. 25 U.S.C. § 2710(b)(1)(B) (requiring NIGC approval of gaming ordinance or resolution). The NIGC must give its approval “if the proposed ordinance meets certain specified conditions.” North Cnty. Cmty.

Alliance, Inc. V. Salazar, 573 F.3d 738, 744 (9th Cir.2009), citing 25 U.S.C. § 2710(b)(2). Class III gaming means all forms of gaming that are neither class I nor class II gaming, including banking card games and slot machines. *Id.* at 741, citing 25 U.S.C. § 2703(8). For class III gaming, both a tribal gaming ordinance or resolution approved by the NIGC and a tribal-state compact approved by the Secretary of the Interior must be in place. Amador Cnty., Cal. V. Salazar, 640 F.3d 373, 376 (D.C.Cir.2011), citing 25 U.S.C. § 2710(d)(1)(A), (2)(C) (gaming ordinance or resolution), and 2710(d)(1)(C) (tribal-state compact).

For class II gaming, a tribe must also issue “[a] separate license ... for each place, facility, or location on Indian lands at which class II gaming is conducted. 25 U.S.C. § 2710(b)(1). The NIGC does not approve those licenses but, as of 2008, a tribe must “submit to the Chair [of the NIGC] a notice that a facility license is under consideration for issuance at least 120 days before opening any new place, facility, or location on Indian lands where class II ... gaming will occur.” 25 C.F.R. § 559.2(a). There is no statutory requirement that the compact for class III gaming identify gaming sites. Most statutory and regulatory provisions governing gaming ordinances and licenses apply equally to class III gaming. See 25 U.S.C. § 2710(d)(1)(A)(ii) (class III gaming ordinance must “meet[] the requirements of subsection (b) of this section”); 25 C.F.R. §§ 522.2, 559.1-2.

The White Earth ordinance for class II and class III gaming was last amended in 2009 and was approved by the Acting Chairman of the NIGC on October 23, 2009, as evidenced by attached Exhibit Four (4). The Tribal-State Compact for Control of Class III Blackjack on the White Earth Band of Chippewa Reservation in Minnesota was approved by the Secretary of Interior effective October 3, 1991. 56 Fed. Reg.No. 192, 50222 (1991).

The Tribal-State Compact for Control of Class III Video Games of Chance on the White Earth Band of Chippewa Reservation in Minnesota was approved by the Secretary of Interior on November 8, 1991. Exhibit Five (5) reflects the cover letter of approval from the Department of Interior and the first and last pages of the video games compact.

Exhibit Four (4), the White Earth Band of Chippewa Indians Class II and Class III Gaming Ordinance, indicates it only applies to "gaming operations within the boundaries of the White Earth Reservation." Nothing could be found indicating the trust land involved here qualifies as part of the White Earth Reservation. 25 U.S.C. § 5110 authorizes the Secretary of Interior "to proclaim new Indian reservations on lands acquired pursuant to any authority conferred by this Act, or to add such lands to existing reservations." The procedures for the Secretary of the Interior to proclaim already held trust land as a reservation are set forth in a Handbook promulgated by the Department of Interior entitled "Acquisition of Title to Land Held in Fee or Restricted Fee Status (Fee-to-Trust Handbook)," Release # 16-47, Version IV (rev. 1), Issued: 6/28/16, Section 3.4, hereto attached as Exhibit Six. Step 4 of the process enumerates the following as a requirement:

7. Submission of proof of compliance with the [National Environmental Policy Act]. ... Reminder: Any Federal action requiring approval by the Secretary must be in compliance with NEPA. ... [i]f the use of the property [will] change[], an EA is needed for the determination of the FONSI statement.

Consequently, if the developer decides to ask that the trust land be declared a reservation, an EAW will be required for the NIGG to determine if an EIS is required with respect to the trust land.

The EAW is deficient in discussing permits and approvals required when it fails to state that the NIGC would have to conduct an Environmental Assessment if the Tribe requests the trust land be given reservation status.

Instead of asking that the trust land be declared a reservation, the White Earth band of the Chippewa Tribe could attempt to amend its gaming ordinance, which would require approval by the Secretary of Interior. Under IGRA, the NIGC is required to approve a gaming ordinance or resolution "by not later than the date that is 90 days after the date on which any tribal gaming ordinance or resolution is submitted to the Chairman ... if it meets the requirements of this section." 25 U.S.C. § 2710(e). Courts routinely interpret this provision as creating a mandatory deadline for agency action. See, e.g., AT & T Corp. v. Coeur d'Alene Tribe, 295 F.3d at 906 n.9 (an agency's tacit approval of a gaming ordinance under § 2710(e) is a final agency action for purposes of the APA); Massachusetts v. AQUINNAH, No. 13-13286-FDS, 2015 WL 7185436 at *6 n.4 (D. Mass. Nov. 13, 2015) ("A gaming ordinance is automatically approved by the NIGC, by operation of law, if it does not act on the ordinance within 90 days."); cf. Gottlieb v. Peña, 41 F.3d 730, 731 (D.C. Cir. 1994) (contrasting § 2710(e), a mandatory deadline for agency action, with the "ten-month period for final agency action on applications for correction of Coast Guard records," a discretionary deadline for agency action). This 90 day time limit conflicts with the time needed to conduct an environmental review under NEPA and one court has ruled that this negates the need to do an environmental review:

NEPA "is our basic national charter for protection of the environment." 40 C.F.R. § 1500.1(a). NEPA imposes on federal agencies certain "'action-forcing' procedures that require that agencies take a 'hard look' at environmental consequences" of major federal action. *Robertson v. Methow*

Valley Citizens Council, 490 U.S. 332, 350 (1989); see also 42 U.S.C. § 4332. Those procedures are designed to “insure [sic] that environmental information is available to public officials and citizens before decisions are made and before actions are taken,” 40 C.F.R. § 1500.1(b), and to “help public officials make decisions that federal agencies contemplating “major Federal action[]” prepare an environmental impact statement (“EIS”) analyzing that action. See 42 U.S.C. § 4332; 40 C.F.R. § 1502.3. “NEPA directs that, ‘to the fullest extent possible ... public laws of the United States shall be interpreted and administered in accordance with [it].” *Westlands Water Dist. v. Nat. Res. Def. Council*, 43 F.3d 457, 460 (9th Cir. 1994) (quoting 42 U.S.C. § 4332 (1988)). Therefore, NEPA applies “unless the existing law applicable to such agency’s operations expressly prohibits or makes full compliance with one of the directives impossible.” *Jones v. Gordon*, 792 F.2d 821, 826 (9th Cir. 1986) (quoting 115 Cong.Rec. 39703 (1969)).

...

Our court has recognized two circumstances where an agency need not complete an EIS even in the presence of major federal action and “despite an absence of express statutory exemption.” *San Luis & Delta-Mendota Water Auth. V. Jewell*, 747 F.3d 581, 648 (9th Cir. 2014). First, an agency need not adhere to NEPA “where doing so ‘would create an irreconcilable and fundamental conflict’ with the substantive statute at issue.” *Id.* Second, in limited instances, a substantive statute “displaces” NEPA’s procedural requirements. *Id.* This case falls into the first category.

...

There is no question that it would be impossible for NICG to prepare an EIS in the ninety days it has to approve a gaming ordinance. The Supreme Court in *Flint Ridge [Development Co. V. Scenic Rivers Ass’n of Oklahoma]*, 426 U.S. 776 (1976)] recognized that

[d]raft environmental impact statements on simple projects prepared by experienced personnel take some three to five months to complete, at least in the Department of Interior.... Once a draft statement is prepared, [Council on Environmental Quality] guidelines provide that ‘[t]o the maximum extent practicable’ no action should be taken sooner than 90 days after a draft environmental impact statement (and 30 days after the final statement) has been made available for comment.

Flint Ridge, 426 U.S. at 789 n. 10. In keeping with the Supreme Court’s analysis, we have previously assumed that it takes an agency at least 360 days to prepare an EIS. See *Jones*, 792 F.2d at 825.

NEPA's regulations confirm that an agency cannot prepare an EIS in ninety days, ...

This conclusion is consistent with NIGC's informal analysis of its own NEPA obligations. NIGC published a draft NEPA Handbook in 2009 that says: "In some cases, the NIGC's statutory requirements are inconsistent with NEPA. The following NIGC action(s) have been determined to fit into this category: ... Approval of Tribal gaming ordinances or resolutions as provided in § 2710 of the IGRA, which must be completed within ninety (90) days of submission to the NIGC." 74 Fed. Reg. 63,765, 63,769 (Dec. 4, 2009).

... NIGC's approval of the Tribe's gaming ordinance without conducting a NEPA environmental review did not violate NIGC's obligations under NEPA because "where a clear and unavoidable conflict in statutory authority exists, NEPA must give way." *Flint Ridge*, 426 U.S. at 788.

Jamul Action Committee v. Jonodev Chaudhuri, Chairwoman of the National Indian Gaming Commission, 837 F.3d 958, 961-965 (9th Cir. 2016).

The EAW is deficient in discussing permits and approvals required when it fails to state that the approval of the NIGC would be required for the Tribe to amend its ordinance for class II and III gaming.

If the developer intends to amend its gaming ordinance to avoid the need for environmental review at the federal level, then it appears that neither the BIA or the NIGC have any ability to conduct an environmental review of the proposed development on the trust land. This, however, is inconsistent with Congress' purpose in passing NEPA, as stated in 42 U.S.C. §§ 4321 and 4322, the latter statute reading:

(a) The Congress, recognizing the profound impact of man's activity on the interrelations of all components of the natural environment, particularly the profound influences of population growth, high-density urbanization, industrial expansion, resource exploitation, and new and expanding technological advances and recognizing further the critical importance of restoring and maintaining environmental quality to the overall welfare and development of man, declares that it is the continuing policy of the Federal Government, in cooperation with State and local governments, and other concerned public and private organizations, to use all practicable means and measures, including financial and technical assistance, in a manner

calculated to foster and promote the general welfare, to create and maintain conditions under which man and nature can exist in productive harmony, and fulfill the social, economic, and other requirements of present and future generations of Americans.

(b) In order to carry out the policy set forth in this chapter, it is the continuing responsibility of the Federal Government to use all practicable means, consistent with other essential considerations of national policy, to improve and coordinate Federal plans, functions, programs, and resources to the end that the Nation may—

- (1) fulfill the responsibilities of each generation as trustee of the environment for succeeding generations;
- (2) assure for all Americans safe, healthful, productive, and esthetically and culturally pleasing surroundings;
- (3) attain the widest range of beneficial uses of the environment without degradation, risk to health or safety, or other undesirable and unintended consequences;
- (4) preserve important historic, cultural, and natural aspects of our national heritage, and maintain, wherever possible, an environment which supports diversity and variety of individual choice;
- (5) achieve a balance between population and resource use which will permit high standards of living and a wide sharing of life's amenities; and
- (6) enhance the quality of renewable resources and approach the maximum attainable recycling of depletable resources.

(c) The Congress recognizes that each person should enjoy a healthful environment and that each person has a responsibility to contribute to the preservation and enhancement of the environment.

In furtherance of the foregoing, Congress included in the NEPA the following direction:

All agencies of the Federal Government shall review their present statutory authority, administrative regulations, and current policies and procedures for the purpose of determining whether there are any deficiencies or inconsistencies therein which prohibit full compliance with the purposes and provisions of this chapter and shall propose to the President not later than July 1, 1971, such measures as may be necessary to bring their authority and policies into conformity with the intent, purposes, and procedures set forth in this chapter.

42 U.S.C. § 4333.

The preemption analysis discussed *supra*, pp. 11-14, “examines not only the

congressional plan, but also 'the nature of the state, federal, and tribal interests at stake,' State v. Davis, 773 N.W.2d at 69; "state jurisdiction is re-empted ... if it interferes or is incompatible with federal and tribal interests reflected in federal law, unless the state interests at stake are sufficient to justify the assertion of state authority." *id.* (*citations omitted*).

In this case, however, the state and federal interests coincide. The Minnesota Environmental Policy Act, passed as Chapter 412 of Minnesota Session Laws 1973, in what is now Minn. Stat. § 116D.02, Subd. 1, almost exactly duplicates the policy of NEPA as set forth in 42 U.S.C. § 4331(a). The minimal changes are shown by ~~strikeout~~ and underlining below:

The ~~Congress~~ legislature, recognizing the profound impact of man's activity on the interrelations of all components of the natural environment, particularly the profound influences of population growth, high-density urbanization, industrial expansion, resource exploitation, and new and expanding technological advances and recognizing further the critical importance of restoring and maintaining environmental quality to the overall welfare and development of ~~man~~ human beings, declares that it is the continuing policy of the ~~Federal state~~ [g]overnment, in cooperation with ~~State federal~~ and local governments, and other concerned public and private organizations, to use all practicable means and measures, including financial and technical assistance, in a manner calculated to foster and promote the general welfare, to create and maintain conditions under which man and nature can exist in productive harmony, and fulfill the social, economic, and other requirements of present and future generations of ~~Americans~~ the state's people.

If not for the happenstance, good fortune and/or intentional effort by the developer to avoid an EAW at the federal level because the land was put into trust before 1988 and/or its likely choice to amend the White Earth gaming ordinance to avoid any environmental review by the NIGC, there would be an environmental review of what is proposed for the trust land. It is not known if either the BIA or the NIGC followed the Congressionally

mandated review of their statutes and regulations as set forth in 42 U.S.C. § 4333 to recommend changes that would require an environmental review of the use of the trust land for a casino. Nonetheless, when coupled with the State's strong interest in conserving its natural resources (*supra* at p. 8), the balancing test would weigh strongly in favor of environmental review of the development of the trust land, by the state since in this instance the federal government has no authority to do so.

A full-fledged review of the proposed development on the trust land should have been included in the EAW as the state's (and federal government's) interest in protecting the environment outweighs the interests of tribal sovereignty and Indian self-governance, autonomy and economic development. An EIS must be completed to include the tribal land in the scope of the County's review.

THE EAW IS DEFICIENT IN NOT ADDRESSING THE CUMULATIVE IMPACT OF THE PROJECT AS PROPOSED FOR BOTH THE TRUST AND FEE LAND

The EAW states, under Item 19, "Cumulative potential effects", the following: There are no predicted project environmental effects that will combine with any other known projects within the environmentally-relevant area that will result in cumulative potential effects." This assertion, however, is again based on the stated, incorrect, presumption that the county has no jurisdiction over tribal trust lands.

It is the County's obligation to consider what is proposed for the Trust land as it relates to the cumulative impacts of the entire project. From talking to County Attorney David Hauser, I believe he would agree with the statement that you cannot ignore the cumulative impact of a project where part of it involves or affects land over which you have

limited or no jurisdiction. So, for example, if you were building a damn on the border between Canada and the United States, you would have to consider the cumulative effects of the project on the environment on both sides of the border. It is also my understanding that a Star Lake Concerned Citizens representative had a conversation with a DNR representative familiar with the DNR's environmental review of the Fargo-Moorhead flood diversion project and that review considered the environmental impacts on the North Dakota side of the Red River.

The County should not and cannot ignore what is proposed for the Trust land. So, for example, the size of the casino itself, if built on non-trust land, would mandate an EIS based upon its gross floor space exceeding 250,000 square feet. Minnesota Rules 4410.4400 Subp. 11.B. Nonetheless, the EAW would have you believe that you should not concern yourself with the cumulative effects of locating, building and maintaining this structure, let alone taking 15 acres of environmentally sensitive land, and turning it into a modern day play-land, simply because it is all happening on trust land. That is preposterous!

Minnesota Rules 4410.1000 Subp. 4, states that "Multiple projects and multiple stages of a single project that are connected actions or phased actions must be considered in total when determining the need for an EAW, preparing the EAW, and determining the need for an EIS." "Connected actions" is defined in Minnesota Rules 4410.0200, Subp. 9c as involving two projects if the reviewing authority determines they are related in any of the following ways:

- A. one project would directly induce the other;
- B. one project is a prerequisite for the other and the prerequisite project is not

justified by itself; or

C. neither project is justified by itself.

The development on the Trust land is connected to the proposed use of the fee land. The cumulative impact of these connected actions, totally ignored in the EAW, mandates the preparation of an Environmental Impact Statement. As the Minnesota Supreme Court wrote in Citizens Advocating Responsible Development v. Kandiyohi County Board of Commissioners, 713 N.W.2d 817 (2006):

After consideration of the legislative history and the purpose of the environmental review rules, we conclude that the point of the “cumulative potential effects” criterion is to put the proposed project into context. The criteria aims to determine whether the project, which may not individually have the potential to cause significant environmental effects, could have a significant effect when other local projects already in existence or planned for the future are considered. This purpose recognizes the fact that the environment is a dynamic system wherein one action may have an effect on another, or when considered in conjunction with another. Therefore, with the EQB’s general intent in creating the “cumulative potential effects” criterion before us, we proceed to determine what the EQB intended the scope of the cumulative potential effects review to be.

...

Accordingly, we conclude that a cumulative potential effects analysis is limited geographically to projects in the surrounding area that might reasonably be expected to affect the same natural resources—for instance, a nearby lake—as the proposed project.

...

The legislature and the EQB have required RGUs to determine whether a proposed project would have significant environmental effects. The “cumulative potential effects” criterion requires consideration of other local projects because such projects could well contribute to the potential environmental effects of a proposed project. If a governmental body is allowed to strategically ignore pertinent local activities when conducting environmental review, the legislature’s and EQB’s intentions will not be fulfilled.

Id. at 829-831.

The EAW is deficient in not addressing the cumulative impact of the project as proposed for both the trust and fee land.

THE EAW IS DEFICIENT IN IDENTIFYING THE PROPOSER AND THE NECESSARY RELATIONSHIP THAT WILL HAVE TO BE DEVELOPED BETWEEN THE PROPOSER, THE WHITE EARTH BAND OF THE CHIPPEWA TRIBE AND THE COUNTY AND LOCAL GOVERNMENT UNITS TO SUPPORT THE PROJECT

A check of the documents recorded with the Otter Tail County Recorder using the *Laredo* system the morning of June 21, 2017, indicates that the fee land is still held in the name of Central Minnesota Land Company, LLC.⁵ The EAW, however, indicates in Item Two (2) the “Proposer” is a Contact Person, Ms. Liz Foster-Anderson, Executive Director of the White Earth Enterprises, LLC. Initially, a contact person is not presumably the proposer. Secondly, a check of the Minnesota Secretary of States records as of this date does not show such a company as being registered with the office as either a domestic or foreign limited liability company authorized to do business in the State. Significantly, there also is no explanation of what is the relationship is between whomever the Proposer is and the land owner, nor the relationship between the White Earth Band of the Chippewa Tribe and either the land owner or Proposer. What happens on the trust land will obviously impact the fee land and *vice versa*; the EAW should address who will have what rights and obligations to properly develop and maintain both tracts. An inadequate contractual relationship between the involved parties may adversely affect any environmental safeguards intended to protect the fee and/or trust land during construction or upon completion of the project.

⁵

Conveyed to it by deeds dated July 15, September 8, September 30, and November 30, all in 2015, recorded July 20, September 14, October 2, and December 3, all in 2015, as Document Nos. 1161496, 1164177, 1165176, and 1167930 respectively.

The EAW is deficient in identifying the parties that will have oversight over the fee land and the trust land, the relationship between them, and whose responsibility it will be to protect the environment.

In a project of this magnitude, there will also be reliance upon law enforcement personnel, fire departments and emergency responders from the surrounding area; the need for such services and the manner of providing them will impact traffic routes, noise levels, etc., none of which have been considered in the EAW. Necessary joint power agreements between the County, Tribe, Proposer, and local government units pursuant to Minn. Stat. § 471.59 should have been identified as a prerequisite to initiation of the project.

Without an understanding of the relationship between the Tribe, the Proposer, the County and local units of government, the EAW is deficient and an EIS should be required.

BOATING IMPACTS ON STAR AND DEAD LAKE ARE NOT ADEQUATELY ADDRESSED IN THE EAW

Under Item 11, Water Resources, the EAW states:

Construction of docks or decking is not planned along the water edge of the project. Therefore, watercraft will not have access to the project facilities. Additional boat traffic could be generated as a result of the project, but this would be limited primarily to transient and pass through traffic. As such, no significant change in the number or type of watercraft on the Unnamed Lake or Star Lake is expected due to the proposed project.

See also Item 13, Fish, wildlife, etc., p. 33 of the EAW("The project does not plan to construct any amenities that will induce or support boat traffic, and the potential for

introduction of aquatic invasive species is anticipated to be minimal.”) There is no factual basis to support the presumption that building a resort (with a 180 guest room hotel, 25 RV parking spots, 216 seat bar and grill, 255 seat buffet restaurant and a 400 seat event center) on Star Lake and immediately adjacent to Dead Lake (the latter a Natural Environment lake), both well known fishing lakes with public accesses, will not draw people to the area with their boats, pontoons, etc. to enjoy the water. If parking is going to be available for buses (as stated under Item Six (6) of the EAW), then certainly there will be parking for vehicles pulling watercraft. The EAW makes no effort to document the boating that now occurs on either Star or Dead Lakes, the amount of that associated with using the public accesses or provide any basis to gauge how such usage will be affected by this large development. Nor does the fact that the County and the DNR have authority to regulate boat usage on Minnesota lakes excuse the failure to address these issues. Dead Lake Association, Inc. V. Otter Tail County, 2005 WL 221773 *6 (Minn.App.2005). In Dead Lake, the Court of Appeals reversed the District Court’s determination that an EIS was not needed, directing “particular attention” be “paid to that which was virtually absent in the EAW-the impact of increased boating activities.” *Id.*

The EAW is deficient in not adequately addressing the potential boating impacts of the project on both Star and Dead Lakes and an EIS should be ordered.

CONCLUSION

In Minnesota Ctr. For Envntl. Advocacy v. Minn. Pollution Control Agency, 644 N.W.2d 457 (Minn.2002), the Minnesota Supreme Court held that the standards of review

laid out in the Minnesota Administrative Procedure Act applied to environmental review cases. *Id.* at 464. The rules promulgated under the Minnesota Administrative Procedure Act state that "The party proposing that certain action be taken must prove the facts at issue by a preponderance of the evidence, unless the substantive law provides a different burden or standard." Minn. R. 1400.7300, subp. 5 (2005). Thus, at the County level, it is the Proposer's burden to show that there are no potential significant environmental effects. Citizens Advocating Responsible Development v. Kandiyohi County Board of Commissioners, 413 N.W.2d at 832-833. The Proposer has not met its burden and a comprehensive EIS should be ordered.

ROBERT L. RUSSELL
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Fergus Falls, MN 56537
Telephone No. (218) 998-6400
robert@russelllawoffice.com

Attorney for Star Lake Concerned
Citizens Group

cc: David Hauser

DEED RECORD No. 192

Minnesota Uniform Conveyancing Blank No. 1

TO

Filed for record this 6th day of August A. D. 1927, at 4 o'clock P. M. P. A. Anderson Register of Deeds. By Deputy.

INSTRUMENT

No. 286227

Taxes for the Year 1927 on the lands described within, paid this 6th day of August 1927

P. M. REE, Co. Treas.

By Beulah Bond Deputy.

Taxes paid

and transfer entered this 6th day of August A. D. 1927

WM. LINCOLN, Co. Auditor.

By Deputy.



This Indenture, Made this 1st day of March, 1927, between Henry Dexter, Jr. and Clara Dexter, his wife,

of the County of Otter Tail and State of Minnesota part of the first part, and United States of America, Land Trust Fund

of the County of and State of part of the second part, Witnesseth, That the said part of the first part, in consideration of the sum of Six hundred and no/100 (\$600.00) DOLLARS, to them in hand paid by the said part of the second part, the receipt whereof is hereby acknowledged, do hereby Grant, Bargain, Sell, and Convey unto the said part of the second part, their heirs and assigns, Forever, all the tract or parcel of land lying and being in the County of Otter Tail and State of Minnesota, described as follows, to-wit:

The east half of government lot three (3) of section fifteen (15) in township one hundred thirty five (135) north of range forty one (41) west of the Fifth Principal Meridian. For the consideration aforesaid, the first part do hereby grant and convey unto the second part, their successors and assigns, the right of ingress and egress across government lot three (3) and the west half of government lot three (3) of said section, township and range, to the land hereby conveyed, but it is understood and agreed that, whenever such right of ingress and egress is exercised across said land to the tract here by conveyed, the person exercising such right shall close the gates whenever they travel over said land to and from the tract hereby conveyed.

It is covenanted and agreed that the said part of the second part, their heirs and assigns, Forever, And the said part of the first part, for themselves, their heirs, executors and administrators, do covenant with the said part of the second part, their heirs and assigns, that they are well seized in fee of the lands and premises aforesaid, and have good right to sell and convey the same in manner and form aforesaid, and that the same are free from all incumbrances,

And the above bargained and granted lands and premises, in the quiet and peaceable possession of the said part of the second part, their heirs and assigns, against all persons lawfully claiming or to claim the whole or any part thereof, subject to incumbrances, if any, hereinbefore mentioned, the said part of the first part will Warrant and Defend.

In Testimony Whereof. The said part of the first part hereunto set their hands: the day and year first above written.

In Presence of H. A. Hammers, A. V. Still, Henry Dexter, Jr., Clara Dexter

State of Minnesota, County of Otter Tail, On this 3rd day of March, 1927, before me, a Notary Public within and for said County, personally appeared Henry Dexter, Jr. and Clara Dexter, his wife to me known to be the persons described in, and who executed the foregoing instrument, and acknowledged that they executed the same as their free act and deed.



H. A. Hammers, Notary Public, Otter Tail County, Minnesota. My commission expires Dec 22, 1927.

INSTRUMENT

No. 286229

Taxes for the Year 1927 on the lands described within, paid this 6th day of August 1927

P. M. REE, Co. Treas.

By Deputy.

Taxes paid

and transfer entered this 7th day of August A. D. 1927

WM. LINCOLN, Co. Auditor.

By J. E. Johnson Deputy.

Office of State Office of Revenue, Minn., 1927

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Minnesota Uniform Conveyancing Blank No. 1

INSTRUMENT	INSTRUMENT
No. 286232	No. 286232
Taxes for the Year 1927 on the lands described within, paid this 2nd day of Sept 1927	Taxes for the Year 1927 on the lands described within, paid this 3rd day of September 1927
P. M. REE, Co. Treas.	P. M. REE, Co. Treas.
By Deputy	By Deputy
Taxes paid	Taxes paid
and transfer entered this 2nd day of Sept A. D. 1927	and transfer entered this 2d day of September A. D. 1927
WM. LINCOLN, Co. Auditor	WM. LINCOLN, Co. Auditor
By Deputy	By Deputy

Filed for record this 2nd day of Sept A. D. 1927, at 10:15 o'clock A. M. By P. A. Anderson, Register of Deeds. Deputy.

TO
 Correction Deed
 This Indenture, Made this 1st day of September, 1927, between Henry Dexter, Jr., and Clara Dexter, his wife

of the County of Otter Tail and State of Minnesota, parties of the first part, and United States of America, as Trust for the Minnesota Chippewa Tribe, of the County of _____ and State of _____ party of the second part,

Witnesseth, That the said parties of the first part, in consideration of the sum of Five Hundred and no/100 (\$500.00) DOLLARS, to them in hand paid by the said party of the second part, the receipt whereof is hereby acknowledged, do hereby Grant, Bargain, Sell, and Convey unto the said party of the second part, its successors, heirs and assigns, Forever, all the tract or parcels of land lying and being in the County of Otter Tail and State of Minnesota, described as follows, to-wit:

The east half of government lot three (E 1/2 Govt. L. 3) of section fifteen (15) in township one hundred thirty five (135) north of range forty one (41) west of the Fifth Principal Meridian for the consideration aforesaid, the first parties do hereby grant and convey unto the second party, its successors and assigns, the right of ingress and egress across government lot two (2) and the west half of government lot three (W 1/2 Govt. L. 3) of said section, township and range to the land hereby conveyed, but it is understood and agreed that, whenever such right of ingress and egress is exercised across said land to the tract hereby conveyed, the persons exercising such right shall close the gates whenever they travel over said land to and from the tract hereby conveyed.

This deed is given to correct that certain warranty deed executed by the first parties, dated March 1, 1928, and recorded August 6, 1928, in Book 192 of Deeds, page 332.

We have and to hold the Same, Together with all the hereditaments and appurtenances therunto belonging or in anywise appertaining, to the said party of the second part, its heirs and assigns, Forever. And the said parties of the first part, for themselves, their heirs, executors and administrators, do covenant with the said party of the second part, its heirs and assigns, that they well and lawfully possess, well used in fee of the lands and premises aforesaid, and have good right to sell and convey the same in manner and form aforesaid, and that the same are free from all incumbrances,

And the above bargained and granted lands and premises, in the quiet and peaceable possession of the said party of the second part, its successors, heirs and assigns, against all persons lawfully claiming or to claim the whole or any part thereof, subject to incumbrances, if any, hereinafore mentioned, the said party of the first part will Warrant and Defend.

In Testimony Whereof, The said party of the first part hereunto set their hand at the day and year first above written.

In Presence of
 H. A. Hammers
 Lyle H. Smith
 Henry Dexter, Jr.
 Clara Dexter

State of Minnesota.
 County of Otter Tail
 On this 1st day of Sept, 1927, before me, a Notary Public within and for said County, personally appeared Henry Dexter, Jr. and Clara Dexter, his wife to me known to be the person described in, and who executed the foregoing instrument, and acknowledged that they executed the same as their free act and deed.



H. A. Hammers, Notary Public, Otter Tail County, Minnesota
 My commission expires Dec 22, 1928

leads, duly, 2d, and, part, ARS, refer, and transfer entered this, A. D., By, signing, d part, 1 to in, id year, Mins, 1927

3609

WILD RICE CAMP SITES
 (Purchases completed according to Agency
 files as of July 12, 1939)

County	Tract No.	Lake	Reservation in or adjacent	Descriptions	Sec.	Twp.	Range	Acres
Itasca	1	Sugar	Leech Lake	Lots 1 & 2,	14	146N	29W	79.90
"	62	Bowstring	Leech Lake	Beginning at the southwest corner of lot 6 of Sec. 22, Twp. 147 N., Range 26 W., 5th P. M., and running N. along the section line 40 rods, thence E. & parallel with the south line of the said Lot 6, to the meander line, thence southeasterly along said meander line to its intersection with the south, east & west line of said Lot 6, thence W. on said east and west line to the point of beginning, containing, more or less,				20.00
Cass	55	Leech	Leech Lake	W. 30 acres of Lot 3, & Lot 4,	19	143	28	
"	55	"	"	Lot 1,	30	143	28	100.00
"	59	Mud	"	Lots 2 & 3	28	144	26	81.75
"	63	Laura	"	Lots 1 & 2,	36	141	27	89.61
Mille Lac	50	Onamia	Mille Lac	Lots 4 & 8 of govt lot 4,	31	42	26	
"	51	Ogeche	"	Lots 4, 5, 6 & SW $\frac{1}{4}$ NW $\frac{1}{4}$	5	42	27	
"	52	Ogeche	"	" 1 & 2,	8	42	27	248.30
Aitkin	54	Minnewawa	Mille Lac	NE $\frac{1}{4}$ SE $\frac{1}{4}$ & Lot 5,	32	49	23	72.50
"	60	Swamp	"	Lots 10 & 11	26	46	25	77.15
Otter Tail	56	Star	White Earth	E $\frac{1}{2}$ of govt Lot 3,	15	135	41	15.00
Becker	58	Basswood	White Earth	Lots 1 & 2, E $\frac{1}{2}$ NE $\frac{1}{4}$,	35	142	37	129.15
Crow Wing	61	Dean	Mille Lacs	Lots 1 & 2	18	136	25	106.11
Total acreage - - - -								1,019.47

COPY

Consolidated Chippewa Agency
Cass Lake, Minnesota
October 19, 1937
Consolidated Chippewa Agency
Cass Lake, Minnesota
October 19, 1937

Mr. A. L. Hook
Land Field Agent
311 Federal Office Building
Minneapolis, Minnesota

Dear Mr. Hook:

In reply to your letter of October 6, in regard to options on wild rice camps in this jurisdiction, we wish to submit the following list of preferences:

- | | |
|--|-----------|
| 1. Bowstring Lake, Womack Lodge, | \$1500.00 |
| 2. Squaw Lake, Tract 55, 100 acres | 2000.00 |
| 3. Sand Lake, Tract 59, 81.75 acres | 490.50 |
| 4. Laura Lake, Tract 63, Cass County, 89.61 acres | 1250.00 |
| 5. Minnewawa, Tract 34, 72.50 acres | 725.00 |
| 6. Red Sand, Tract 53, 71 acres | 800.00 |
| 7. Ogechee, Tract 22, Lots 7 & 8, Sec. 5-42-27 | 400.00 |
| 8. Dean Lake, Tract 61, Aitkin County, 106.11 acres | 1450.00 |
| 9. Basswood Lake, Tract 58, 129.15 acres | 1291.50 |
| 10. Onamia Lake, Tracts 50, 51, & 52, 250 acres | 1545.00 |
| 11. Swamp Lake, Tract 60, Aitkin County, 77.15 acres | 400.00 |
| 12. Star Lake, Tract 56, 15 acres | 600.00 |
| 13. Shoel Lake, Tract 57, 40.60 acres | 700.00 |

The option on Bowstring Lake, which included the purchase of the Womack Lodge, should be pushed, as we understand the doors and windows of this lodge are being taken and we should gain possession as soon as possible. We also should have a wild rice camp site on Squaw Lake and Sand Lake at the very earliest possible time. Both of these lakes have good rice beds, and the Indians go to these lakes first. Then if there is no rice in Squaw Lake, Bowstring or Sand Lake, they go further south. The Squaw Lake Camp site is very important, and we would like to have an option taken on a piece of land there at the earliest possible date.

Very truly yours,

Louis Balsam
Superintendent.

233:TK

all items checked (✓) show purchases completed as listed as of 7/12/39 H

Consolidated Chippewa Agency
210 Bradley Building
Duluth, Minnesota
May 5, 1938

Mr. A. L. Hook
Land Field Agent
311 Federal Office Building
Minneapolis, Minnesota.

Dear Mr. Hook:

This will reply to your letter concerning the designation of the grantees in the purchase of wild rice tracts.

It would appear to us that the best procedure would be to acquire these lands under the same name as other lands have been purchased for the use of the Minnesota Chippewa Tribe, with the understanding that the terminology "Minnesota Chippewa Tribe" refers to the Minnesota Chippewas, with the exception of the Red Lake Chippewas. We understand there is a recent Solicitor's opinion which gives the proper wording to distinguish between all Chippewas in Minnesota and the Minnesota Chippewa Tribe, which included the Red Lake Band.

Our thought in this is that the Tribal Executive Committee of the Minnesota Chippewa Tribe should have the privilege of managing the use of these rice sites, and that should it desire to set aside any certain area for the use of any particular band, it could do so by Tribal Executive Committee action, and should it be later found advisable to modify or rescind its action, it could do so by appropriate resolution without necessitating a change in the record ownership.

Will you please make the necessary investigation of the Solicitor's opinion to arrive at the proper grantees. We believe it should be "to the United States of America in Trust for the Minnesota Chippewa Tribe". We thank you for calling this to our attention, and trust that you will be able to proceed now with the acquisition of these tracts.

We will also appreciate your taking such action as may be necessary to have the present owners of these tracts waive any damages which might be done to them through our entry upon these tracts for developing the sites prior to the acquisition of title.

A. L. H. -- 2

I understand you have a procedure for this. We will ask Mr. Carlson and Mr. Munnell to advise you without delay which tracts they desire to work upon first, and if you can give these precedence, we shall be grateful.

Sincerely yours,

LOUIS BALSAM, Superintendent

WJC:TK

By W. J. Clark, Chief Clerk

Copies mailed to the following:

Frank Broker, Chairman, Leech Lake Council, Cass Lake, Minn.
William D. Savage, Chairman, Fond du Lac Executive Council, Rt. #3, Cloquet
Alton Bramer, Chairman, Grand Portage Council, Grand Portage, Minn.
Chairman, White Earth Council, c/o C. C. Bemis, Farm Agent, Naytahwaush
" Bois Forte Council, c/o Steve J. Brown, Ind. Ass't, Nett Lake via Or
" Mille Lacs Council, c/o Peter F. Walz, Ass't to Supt., Cloquet

1 copy to each Tribal Executive committeeman elected as of May 16, 1941

C. C. Bemis, Farm Agent
Lawrence De Haan, Farm Agent
E. E. Stinson, Ext. Agt
M. G. Hunt, Rehab.
Chas. Bonga, Field Aid
Peter F. Walz
W. F. Meyer
Steve J. Brown
Carl R. B Dion

6/12/41
Lands
hs

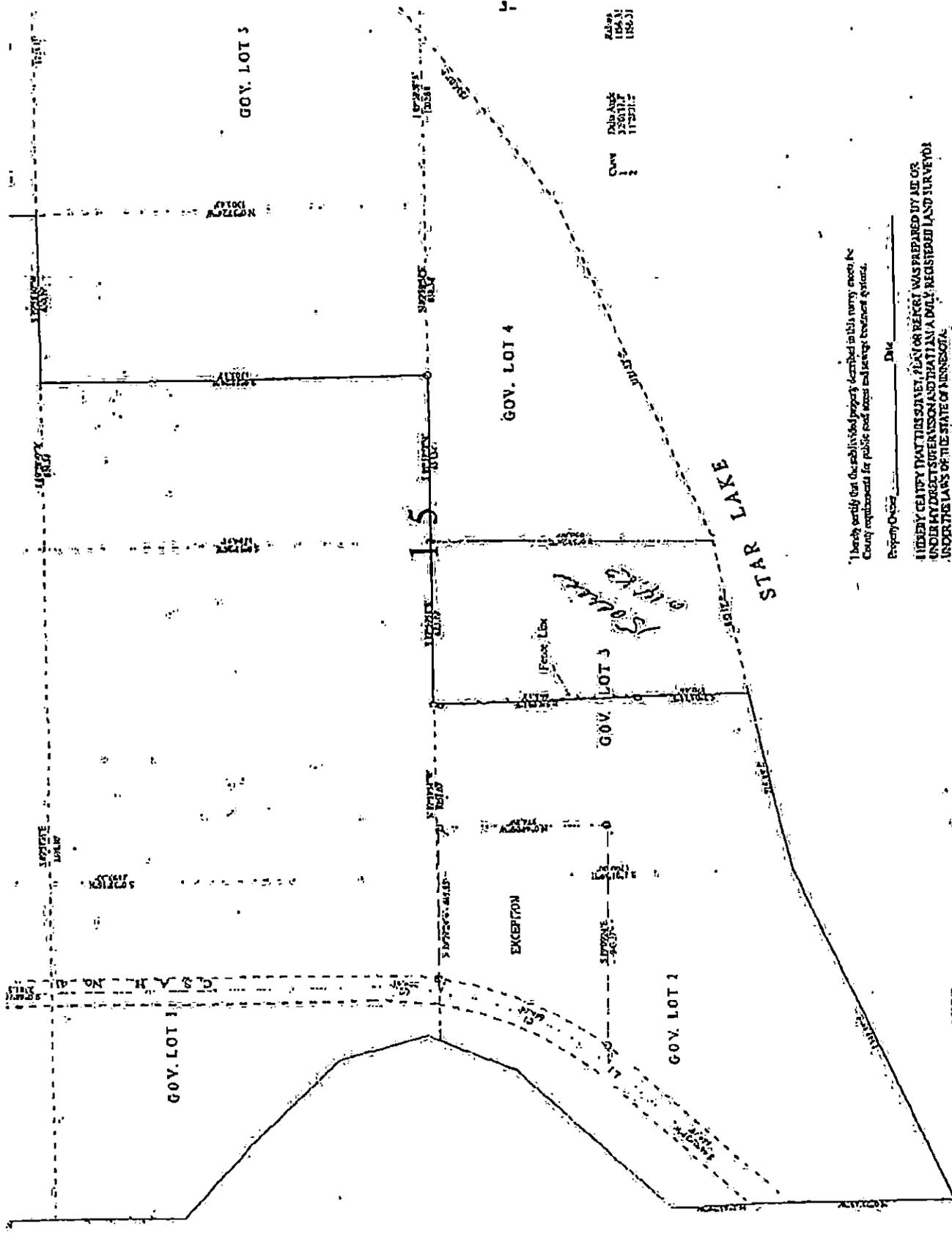
WILD RICE CAMP SITE - Tract #56 - Star Lake

TITLE: U. S. in trust for the Minnesota Chippewa Tribe

$\frac{1}{4}$ of Govt. Lot 3, Sec. 15, 135-41, Ottawa County

Purchase price: \$600 - Paid 1/19/39

Vendor: Henry and Clara Tentor, Jr.



I hereby certify that the subdivided property described in this survey meets the County requirements for public pool access and sewage treatment facilities.

Property Owner: DNA

I HEREBY CERTIFY THAT THIS SURVEY, PLAN OR RECORD WAS PREPARED BY ME OR UNDER MY DIRECT SUPERVISION AND THAT I AM A DULY REGISTERED LAND SURVEYOR UNDER THE LAWS OF THE STATE OF MINNESOTA.

[Signature]
 Reg. No. 2715 Date 11-2-99
 Daniel L. O'Connell

- LEGEND
- - See Minnesota land's place
 - - See Minnesota pool with lot Cap No. 2715



October 23, 2009

Franklin B. Heiser, Secretary/Treasurer
White Earth Reservation Tribal Council
P.O. Box 418
White Earth, Minnesota 56591

RE: Amendments to the White Earth Reservation Gaming Ordinance

Dear Mr. Heiser:

This letter responds to your request to the National Indian Gaming Commission (NIGC) to review and approve the White Earth Reservation's (Tribe) amendments to its Gaming Ordinance (Amendment). The White Earth Reservation Tribal Council adopted the Amendment by Resolution No. 090-09-001 adopted on July 6, 2009, and the NIGC received the ordinance on July 30, 2009.

The Ordinance is consistent with the requirements of the Indian Gaming Regulatory Act (IGRA) and NIGC regulations, and it is therefore approved. It is important to note that the Ordinance is approved for gaming only on Indian lands, as defined in the IGRA, over which the Tribe has jurisdiction. 25 U.S.C. § 2703(4); 25 C.F.R. § 502.12

Thank you for your submission. If you have any questions or require assistance, please contact Jennifer Ward in the Office of the General Counsel, at 202-632-7003.

Sincerely,

A handwritten signature in black ink, appearing to read "G. T. Skibine", with a long horizontal flourish extending to the right.

George T. Skibine
Acting Chairman

WHITE EARTH RESERVATION TRIBAL COUNCIL
a/k/a WHITE EARTH BUSINESS COMMITTEE
a/k/a WHITE EARTH BAND OF CHIPPEWA INDIANS

JUL 28 2009

Resolution Number 090-09-001

WHEREAS: The White Earth Reservation Tribal Council is the duly elected governing body of the White Earth Reservation pursuant to Article IV, Section I, of the Revised Constitution of the Minnesota Chippewa Tribe, as amended, and organized under Section 16 of the Indian Reorganization Act of June 18, 1934 (48 stat. 984), and

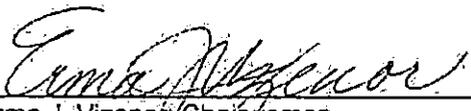
WHEREAS: the White Earth Band of Chippewa Indians has the inherent right to regulate Class I Gaming on the Reservation and can regulate Class II and Class III Gaming in conformity with the Indian Gaming Regulatory Act, 25 U.S.C. § 2703 et. Seq., and

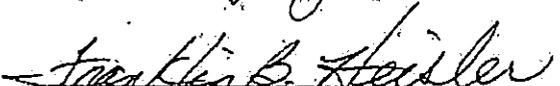
WHEREAS: the White Earth Band of Chippewa Indians has determined it is necessary to amend the existing Gaming Ordinance, so as to further clarify the gaming that is permissible on the White Earth Reservation.

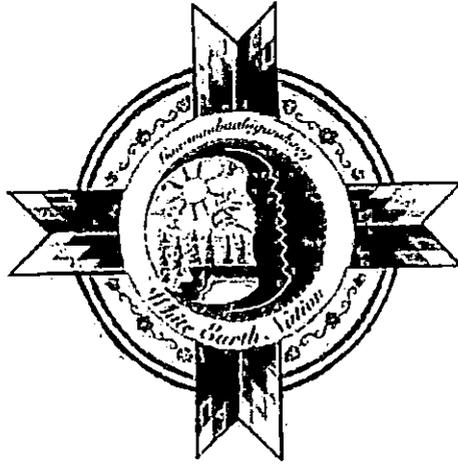
THEREFORE BE IT RESOLVED, that the White Earth Reservation Tribal Council hereby adopts the attached WHITE EARTH RESERVATION GAMING ORDINANCE, (dated July 6, 2009) subject to the review and approval of the National Indian Gaming Commission.

NOW THEREFORE IT IS HEREBY RESOLVED, that the Secretary/Treasurer is hereby instructed to forward a copy of the White Earth Reservation Gaming Ordinance (dated July 6, 2009) and this Resolution to the National Indian Gaming Commission forthwith.

We do hereby certify that the foregoing resolution was duly presented and approved by a vote of 3 for, 0 against, and 0 silent, a quorum being present, held at a special meeting on the 6th day of July, 2009, at Maplewood, Minnesota.


Erma J. Vizenor/Chairwoman


Franklin B. Heisler/Secretary/Treasurer



JUL 28 2009

WHITE EARTH RESERVATION
GAMING ORDINANCE
APPROVED JULY 6, 2009

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WHITE EARTH BAND OF CHIPPEWA INDIANS
CLASS II AND CLASS III GAMING ORDINANCE

SECTION I – Purpose:

The White Earth Band of Chippewa Indians, empowered by the Minnesota Chippewa Tribe's Constitution to enact ordinances, hereby enacts this ordinance in order to govern Class II and Class III gaming operations within the boundaries of the White Earth Reservation to:

- a) Regulate all forms of permissible and authorized gaming within the jurisdiction of the White Earth Reservation;
- b) Safeguard all persons from unscrupulous and illegal operations of any type of gaming;
- c) Protect all persons from any infiltration of organized crime into any gaming operation within the jurisdiction;
- d) Provide for tribal audit system on all gaming operations;
- e) Provide that the Tribe will have primary regulatory authority over all forms of gaming on the White Earth Reservation subject only to applicable federal law;
- f) Provide for system of investigations of all persons associated with gaming;
- g) Provide a system of licensing for any gaming activities subject to the provisions of this Ordinance that occur within the White Earth Reservation boundaries;
- h) To allow Tribal government to use the revenues generated for tribal self determination, to provide additional Tribal services, employment, and for general economic development and individual self-sufficiency; for donations to charitable organizations; and/or to help fund operations of local government agencies;
- i) To harmonize with and adhere to the Indian Gaming Regulatory Act, Public Law 100-497, 102 Stat. 2467-88; 25 U.S.C. § 2701 et seq. as enacted by the United States Congress on October 17, 1988;
- j) To cooperate and agree on a sovereign to sovereign basis with the State of Minnesota and any other concerned or affected states to enter into compacts or other agreements for gaming operation, regulation and/or coordination;
- k) To establish a commission within the Tribal organization to oversee and regulate gaming consistent with this ordinance and within the precepts established by the White Earth Reservation Tribal Council.

SECTION II – Definitions

Unless a different meaning is clearly indicated in this Ordinance, the terms used herein shall have the same meaning as defined in the Indian Gaming Regulatory Act (IGRA), 25 U.S.C. § 2701 and its regulations, 25 C.F.R. § 501-599. Specifically:

- a) Charitable Gaming Operation means a specifically designated gaming operation where all proceeds are for the benefit of a charitable organization
- b) Class I Gaming means social games solely for prizes of minimal value or traditional forms of Indian gaming engaged in by individuals as a part of, or in connection with, tribal ceremonies or celebrations.
- c) Class II Gaming means:
 - 1. bingo or lotto (whether or not electronic, computer, or other technologic aids are used) when players:
 - i) Play for prizes with cards bearing numbers or other designations;
 - ii) Cover numbers or designations when object, similarly numbered or designated, are drawn or electronically determined; and
 - iii) Win the game by being the first person to cover a designated pattern on such cards;
 - 2. If played in the same location as bingo or lotto, pull-tabs, punch boards, tip jars, instant bingo, and other games similar to bingo;
 - 3. Nonbanking card games that:
 - i) State law explicitly authorizes or does not explicitly prohibit; and are played legally anywhere in the state; and
 - ii) Players play in conformity with state laws and regulations concerning hours, periods of operation, and limitations on wagers and pot sizes;
 - 4. Individually owned class II gaming operations –
 - i) That were operating on September 1, 1986;
 - ii) That meet the requirements of 25 U.S.C. 2710(b)(4)(B);
 - iii) Where the nature and scope of the game remains as it was on October 17, 1988; and
 - iv) Where the ownership interest or interests are the same as on October 17, 1988.
- d) Class III gaming means all forms of gaming that are not class I gaming or class II gaming, including but not limited to:
 - 1. Any house banking game; including but not limited to –
 - i) Card games such as baccarat, chemin de fer, blackjack (21), and pai gow (if played as house banking games);
 - ii) Casino games such as roulette, craps, and keno;
 - 2. Any slot machines as defined in 15 U.S.C. 1171(a)(1) and electronic or electromechanical facsimiles of any game of chance;
 - 3. Any sports betting and pari-mutuel wagering including but not limited to wagering on horse racing, dog racing or jai alai; or
 - 4. Lotteries.
- e) Commission or Gaming Commission means the Tribal Gaming Commission established to perform regulatory oversight and to monitor compliance with Tribal, Federal, and applicable

State regulations on gaming within the boundaries of the White Earth Reservation, its authorized officials, agents and representatives

- f) Compact means a Tribal-State Compact concerning class III gaming approved by the Secretary of the Interior and published in the Federal Register pursuant to 25 U.S.C. § 2710(d).
- g) Complimentary means a service or item provided at no cost, or at a reduced cost, to a customer.
- h) Director means a Member of the Tribal Gaming Commission.
- i) Fund Raising Event means a fund raising event sponsored by a bona fide religious, charitable or non profit organization, at which gaming activities will be conducted under the regulation of the White Earth Reservation Tribal Gaming Commission.
- j) Gaming Operation means any gaming enterprise whether or not operated by the Tribe.
- k) Gross Gaming Revenue means the total amount of cash wagered on Class II and Class III games and admission fees (including table or card fees), less any amounts paid out as prizes or paid for prizes awarded.
- l) Indian Lands means:
 - 1. All lands within the limits of the Tribe's reservation;
 - 2. Any lands title to which is either held in trust by the United States for the benefit of the Tribe or individual or held by the Tribe or individual subject to restriction by the United States against alienation and over which the Indian Tribe exercises governmental power; and
 - 3. For all lands acquired into trust for the benefit of an Indian tribe after October 17, 1988, the lands meet the requirements set forth in 25 U.S.C. § 2719.
- m) Indian Tribe means the White Earth Band of Chippewa Indians.
- n) Internal Audit means persons who perform an audit function of a gaming operation that are independent of the department subject to audit.
- o) Key employee means:
 - 1. A person who performs one or more of the following functions:
 - i) Bingo caller;
 - ii) Counting room supervisor;
 - iii) Director of Security;
 - iv) Custodian of gaming supplies or cash;
 - v) Shift Manager;
 - vi) Floor Supervisor
 - vii) Pit boss;
 - viii) Dealer;
 - ix) Custodian of gambling devices including persons with access to cash and accounting records within such devices;
 - x) Primary management official;
 - xi) Operator or manager of video games.

2. If not otherwise included, any other person whose total cash compensation is in excess of \$50,000 per year; or,
 3. If not otherwise included, the four most highly compensated persons in the gaming operation;
 4. If not otherwise included, licensees shall at their discretion, designate certain other positions as key positions within that particular establishment.
- p) Management contract means any contract, subcontract, or collateral agreement between an Indian tribe and a contractor or between a contractor and a subcontractor if such contract or agreement provides for the management of all or part of a gaming operation.
- q) Net revenues means gross gaming revenues of a gaming operation less amounts paid out as, or paid for, prizes, and total gaming-related operating expenses, excluding management fees.
- r) NIGC means the National Indian Gaming Commission.
- s) Non-Tribally Owned Gaming Enterprise means a licensed gaming operation not owned by the Tribe .
- t) Payout means a transaction associated with a winning event.
- u) Per capita payment means the distribution of money or other thing of value to all members of the Tribe, or to identified groups of members, which is paid directly from the net revenues of any tribal gaming activity.
- v) Permit means an acknowledgement from the Tribal Gaming Commission that a one time bona fide fundraising event has been reported to the Tribe.
- w) Primary management official means:
1. The person(s) having management responsibility for a management contract;
 2. Any person who has the authority:
 - i) To hire and fire employees; or
 - ii) To set up working policy for the gaming operation; or
 3. The chief financial officer or other person who has financial management responsibility.
- x) Small Gaming Operation are those tribally-licensed gaming establishments where the annual gross gaming revenue realized in a calendar year does not exceed \$2 million.
- y) State means the State of Minnesota, its authorized officials, agents and representatives.
- z) Tribe means the White Earth Band of Ojibwa Indians, (a/k/a White Earth Reservation Tribal Council), its authorized officials, agents and representatives

SECTION III – Gaming Authorized

- a) Class II and Class III gaming are hereby authorized, including Non-Tribally owned Class II and Class III gaming, small gaming operations, and charitable gaming operations.

- b) No person, entity, corporation, organization or government, except the White Earth Band of Chippewa Indians, shall authorize any form of Class II or Class III gaming within the exterior boundaries of the White Earth Reservation. Such gaming shall be consistent with:
 1. the Indian Gaming Regulatory Act;
 2. a Tribal-State Compact; and/or
 3. a license issued by the White Earth Reservation Gaming Commission.
- c) The White Earth Band of Chippewa Indians shall enact rules and regulations regarding the licensing of Class II and Class III games which shall be consistent with the provisions of the Indian Gaming Regulatory Act and the laws of the White Earth Reservation.
- d) Any person, entity, corporation, organization or government that conducts Class II or Class III gaming within the boundaries of the White Earth Reservation without a license issued by the White Earth Reservation Gaming Commission, or that purports to authorize such gaming in violation of the laws or regulations of the White Earth Band of Chippewa Indians commits a civil infraction, in addition to any further applicable criminal penalties.
- e) Any person, entity, corporation, organization or government found to have committed a civil infraction by failing to comply with the laws of the White Earth Band of Chippewa Indians shall be subject to a civil fine in addition to other legal and equitable remedies available in civil cases.
- f) The White Earth Reservation Tribal Council hereby reserves the right to license other and further gaming activities if and when such other and further gaming satisfies the requirements of the Indian Gaming Regulatory Act, 25 U.S.C. §§2701 et seq.

SECTION IV – Gaming Not Authorized

All gaming activities not authorized by this Act, including, but not limited to, those activities commonly known as bookmaking, betting, card parlors, buncó or confidence games, pyramid clubs or schemes, chain letters and three card monte, are unlawful and prohibited.

SECTION V – Ownership of Gaming

- a) The Tribe shall have the sole proprietary interest in and responsibility for the conduct of any gaming operation authorized by this ordinance, unless non-Tribally owned gaming, small gaming operations, or charitable gaming is approved and licensed under this ordinance.
- b) In order to be licensed by the White Earth Tribal Gaming Commission, individual owners, in addition to the requirements of this ordinance, shall also be required to:
 1. Pay to the White Earth Reservation not less than 60 percent of the non-Tribally owned gaming operation's net gaming revenues to be used only for the purposes set forth in this Ordinance at Section VII.
 2. Comply with eligibility standards of a State license for the same activity, so that if the individual is ineligible to receive a State license to conduct the same activity within that jurisdiction, a Tribal license shall be denied
 3. Pay NIGC annual fees, as applicable

- c) The Tribe shall have the sole regulatory responsibility for the conduct of all gaming within the exterior boundaries of the White Earth Reservation.

SECTION VI – Non-Tribally Owned Gaming Enterprises (NTOGE)

- a) The White Earth Reservation Gaming Commission shall license and regulate all Class II and Class III gaming within the exterior boundaries of the White Earth Reservation, pursuant to this Ordinance, including those Class II and Class III gaming operations that are not Tribally owned.
- b) Non-Tribal persons or entities, shall not be eligible to receive a tribal license to own a Class II gaming activity conducted on the White Earth Reservation if such person or entities would not be eligible to receive a gaming license from the State of Minnesota to conduct the same activity within the jurisdiction of the State
- c) Any person or entity other than the Tribe that is permitted by the Tribe to operate Class III gaming on the White Earth Reservation must be fully compliant with the terms of the applicable Tribal/State Compact.

SECTION VII – Use of Gaming Revenue

Net revenues from tribally regulated gaming shall be used only for the following purposes

1. to fund tribal government operation and programs;
2. to provide for the general welfare of the Tribe and its members;
3. to promote tribal economic development;
4. to donate to charitable organizations; or
5. to help fund operations of local government agencies.

SECTION VIII – Per Capital Payments

If the Tribe elects to make per capita payments to tribal members from revenues derived from its gaming operations, it shall ensure that the following requirements of 25 C.F.R. Part 290 are met:

- a) The Tribe shall authorize and issue such payments only in accordance with a revenue allocation plan submitted to and approved by the Secretary of the Interior under 25 U.S.C. § 2710(b)(3)(B).
- b) The Tribe shall ensure that the interests of minors and other legally incompetent persons who are entitled to receive any per capita payments under a Tribal per capita payment plan are protected and preserved, and that the per capita payments are disbursed to the parents or legal guardian of such minors or legal incompetents in such amounts as may be necessary for the health, education, or welfare of the minor or other legally incompetent person, under a plan approved by the White Earth Band of Chippewa Indians and the Secretary of the Interior. The Tribe must also establish criteria and a process for withdrawal of funds by the parent or legal guardian.
- c) The White Earth Band of Chippewa Indians shall designate or create a Tribal court system, forum, or administrative process for resolution of disputes concerning the allocation of net

gaming revenues and the distribution of per capita payments and will explain how it will correct deficiencies.

- d) The White Earth Band of Chippewa Indians shall ensure that the Tribal revenue allocation plan reserves an adequate portion of net gaming revenues from the tribal gaming activity to do one or more of the following purposes: fund Tribal government operations or programs; provide for the general welfare of the Tribe or its members; promote tribal economic development; donate to charitable organizations, or to help fund operations of local government.
- e) The White Earth Band of Chippewa Indians shall ensure that distributions of per capita payments are made according to specific eligibility requirements
- f) The White Earth Band of Chippewa Indians shall ensure that Tribal members are notified of the tax liability for per capita payments and how taxes will be withheld

SECTION IX - Tribal Gaming Commission

- a) The Tribe hereby establishes a Tribal Gaming Commission whose duty it is to regulate gaming operations. The Tribal Gaming Commission shall consist of 5 members.
- b) The purpose of the Tribal Gaming Commission is regulatory and managerial oversight for a Tribally-Owned facility. In the event that the Tribe enters into a management contract approved by the NIGC, the Commission may delegate some or all duties to the approved management contractor. The Gaming Commission shall oversee all aspects of the gaming operation(s).
- c) The purpose of the Tribal Gaming Commission is to regulate and to insure compliance of non-Tribally owned gaming, charitable gaming, and small gaming operations. Regulation of gaming operations shall be the sole responsibility of the Tribal Gaming Commission.
- d) The Commission will conduct oversight to ensure compliance with Tribal, Federal, and, if applicable, State laws and regulations. The Commission will serve as the licensing authority for individuals employed in gaming operations and will administer background investigations as part of the licensing process. The Commission will also have a role in monitoring compliance with the internal controls for the gaming operating and in tracking revenues. In order to carry out its regulatory duties, the Commission shall have unrestricted access to all areas of the gaming operation(s) and to all records. The Commission shall have authority to take enforcement actions, including suspension or revocation of a gaming license when appropriate.
- e) The Gaming Commission shall oversee the following at all gaming operations on the White Earth Reservation:
 - 1. Conduct or cause background investigations to be conducted on, at a minimum, primary management officials and key employees;
 - 2. Review and approve all investigative work conducted;
 - 3. Report results of background investigations to the NIGC;
 - 4. Obtain and process fingerprints, or designate an agency to obtain and process fingerprints;

5. Make licensing suitability determinations which shall be signed by the Senior Director of the Gaming Commission;
 6. Issue gaming licenses to management officials and employees of the operation consistent with the suitability determination;
 7. Establish standards for licensing gaming operations;
 8. Issue facility gaming licenses to gaming operations;
 9. Set wager limits;
 10. Insure that facilities where gaming occurs are properly constructed and maintained and that the operation of the game is conducted in a manner which adequately protects the environment and the public health and safety;
 11. Inspect, examine and monitor all gaming activities, and have immediate access to review, inspect, examine, photocopy, and audit all records of the gaming establishment;
 12. Investigate any suspicion of wrongdoing associated with any gaming activities;
 13. Comply with any and all reporting requirements under the IGRA, Tribal-State compact to which the Tribe is a party, and any other applicable law;
 14. Promulgate and issue regulations necessary to comply with applicable internal control standards;
 15. Promulgate and issue regulations on the levying of fees and/or taxes associated with gaming license applications;
 16. Promulgate and issue regulations on the levying of fines and/or suspension or revocation of gaming licenses for violations of the gaming ordinance, or any other Tribal, Federal, or State, if applicable, gaming regulations;
 17. Provide referrals and information to the appropriate law enforcement officials when such information indicates a violation of Tribal, Federal, or State statute, ordinance, or resolution;
 18. Create a list of regulatory authorities that conduct vendor background investigations and licensing which the Commission recognizes as trustworthy;
 19. Draft regulations exempting vendors from the licensing and/or background investigation requirements if they have received a license from a recognized regulatory authority;
 20. Perform such other duties the Commission deems appropriate for the proper regulation of the gaming operation;
 21. Promulgate such regulations and guidelines as it deems appropriate to implement the provisions of this Ordinance
- f) In addition to the duties in (e) above, the Gaming Commission shall oversee (at a minimum) the following at a Tribally Owned gaming operation:
1. Monitor and oversee the operations of the gaming facility, whether managed by a tribal employee or by an approved management contractor;
 2. Set hours of operation for the gaming facility;
 3. Establish employee policies and rates of pay;
 4. Adopt an annual operating budget;
 5. Any other duties necessary to monitor and oversee the gaming operation.
- g) The Gaming Commission shall ensure that all records and information obtained as a result of an employee background investigation shall remain confidential and shall not be disclosed to persons who are not directly involved in the licensing and employment processes. Information obtained during the course of an employee background investigation

shall be disclosed to members of management, human resource personnel or others employed by the gaming operation on a need-to-know basis for actions taken in their official capacities

This section does not apply to requests for such information or records from any Tribal, Federal, or State law enforcement or regulatory agency, or for the use of such information or records by the Commission and staff in the performance of their official duties.

- h) The terms of Office for Tribal Gaming Directors shall be for a period of time as identified by the White Earth Reservation Tribal Council.
- i) A majority of the Commission shall constitute a quorum. The concurrence of a majority of the members appointed to the Commission shall be required for any final determination by the Commission. The Commission may act in its official capacity even if there are vacancies on the Commission.
- j) Tribal Gaming Directors shall be compensated at a level determined by the White Earth Reservation Tribal Council. Director compensation shall not be based on a percentage of gaming revenue to ensure the Commission is not improperly influenced.
- k) The Commission shall keep a written record of all of its meetings.

SECTION X – Ethics

The White Earth Band recognizes that the duties of the Gaming Commission include making important decisions on highly sensitive issues. As such, the Tribe has determined that the Gaming Commission shall be held to high ethical standards. The Directors shall agree to be bound by the following principles:

- a) Directors shall not hold financial interests that conflict with the conscientious performance of their duties as managers and/or regulators.
- b) Directors shall not engage in financial transactions using nonpublic information or allow the improper use of such information by others on their behalf to further any private interest.
- c) Directors shall not solicit or accept any gift or other item of monetary value, including complimentary items or services, from any person or entity seeking official action or inaction from, doing business with, or conducting activities regulated by the member's organization, or whose interests may be substantially affected by the performance or nonperformance of the Members' duties.
- d) Individual Directors shall make no unauthorized commitments or promises of any kind, purporting to bind the Tribe.
- e) Directors shall not use their positions for private gain.
- f) Directors shall act impartially, in accordance with all relevant Tribal, Federal, and State laws (where applicable), and shall not give preferential treatment to any private organization or individual, including to any persons related to Members.

- g) Directors shall ensure that Tribal property and gaming assets shall be properly segregated and safeguarded, and that such property and assets shall not be used for unauthorized activities.
- h) Directors shall not engage in outside employment or activities including seeking or negotiating for future employment, which conflict with their official duties and responsibilities.
- i) Directors shall disclose waste, fraud, abuse, and/or corruption to appropriate authorities.
- j) Directors shall endeavor to avoid any actions creating the appearance that they are violating the law or the ethical standards listed herein.
- k) Directors shall disclose any real or apparent financial or personal conflicts. If there is a real conflict or the appearance of one the Director shall not take part in any decision related to the conflict.

SECTION XI – Audit

- a) The Tribal Gaming Commission shall cause an annual independent audit of Tribally Owned Gaming, Charitable Gaming, and Small Gaming operations to be conducted, and shall submit the resulting audit reports to the National Indian Gaming Commission.
- b) All gaming related contracts that result in the purchase of supplies, services, or concessions in excess of \$25,000.00 annually, except contracts for professional legal and accounting services, shall be specifically included within the scope of the audit that is described in subsection (a) above.

SECTION XII - Minimum Age

- a) Under no circumstances will anyone under the age of 18 years be eligible for a gaming license.
- b) No person below the age of 18 on the date of gaming shall be permitted to play any Class II or Class III game. If any person below the age of 18 plays and otherwise qualifies to win any games which requires notice and payout by the operator of the facility, the prize shall not be paid, and the estimated amount wagered during the course of the game shall be returned to the minor.

SECTION XIII – General Gaming Operation Requirements

- a) Each gaming employee or operator of a Non-Tribally Owned Gaming, Small Gaming, and/or Charitable Gaming operations (including owners), prior to beginning work or conducting Class II or Class III gaming, shall be required to be licensed, at least on a temporary or conditional basis as provided in this Ordinance, as referenced in Section XVII.

- b) Operators or employees in charge of Class II or Class III gaming shall provide required reports, audits, contracts for service or supplies as requested by the Tribal Gaming Commission.
- c) Any operator or employee of any Class II or Class III gaming shall deposit the proceeds of the gaming operation according to applicable rules and regulations adopted by the Tribal Gaming Commission.
- d) Any operator or employee may request the assistance of the White Earth Reservation Gaming Commission in obtaining training or instruction for the benefit of the Class II or Class III gaming operation, or in ascertaining the intent of this Ordinance.

SECTION XIV – Tribal Internal Control Standards

- a) The Tribe gives responsibility to the Tribal Gaming Commission to conform with 25 C.F.R. § 542 to adopt and implement Tribal Internal Control Standards (TICS) for the operation of Tribally Owned and Non-Tribally Owned gaming operations in accordance with applicable law.
- b) Each Gaming Operation shall have particular TICS according to the following:
 1. Small Gaming Operations with annual gross gaming revenues below \$2,000,000 are exempt from this requirement, but must follow any applicable policies and procedures adopted by the Tribal Gaming Commission pursuant to 25 C.F.R § 542.6(a).
 - a. Small Gaming Operations are exempt from the White Earth Class II Gaming Minimum Internal Control Standards.
 - b. Small Gaming Operations must comply with the alternate procedures included in the White Earth Class II Gaming Tribal Internal Control Standards which are designed to:
 - i. Protect the integrity of the games offered;
 - ii. Safeguard the assets used in connection with the operations; and
 - iii. Create, prepare and maintain records in accordance with generally accepted accounting principles.
 2. Charitable Gaming Operations are exempt from this requirement provided:
 - a. all net gaming revenues are for the benefit of a charitable organization
 - b. the operation is operated wholly by the charitable organization's employees or volunteers

the annual gross gaming revenues are below \$100,000 must follow applicable policies and procedures. Charitable Gaming Operations with more than \$100,000 annual gross gaming revenues but less than \$1,000,000 must follow any applicable policies and procedures adopted by the Tribal Gaming Commission pursuant to the 25 C.F.R § 542.6 (a). Small Gaming Operation policies and procedures shall apply.
 3. Tier A Gaming Operations with more than \$1,000,000 annual gross gaming revenues, but less than \$5,000,000 are subject to 25 C.F.R. § 542.1 to 542.18 and 542.20 to 542.23.
 4. Tier B Gaming Operations with more than \$5,000,000 annual gross gaming revenues, but less than \$15,000,000 are subject to 25 C.F.R. § 542.1 to 542.18 and 542.30 to 542.33.5. Tier C Gaming Operations with more than \$15,000,000 annual gross gaming revenues are subject to 25 C.F.R. § 542.1 to 542.18 and 542.40 to 542.43.

- c) The TICS shall be set out in separate regulations to be reviewed and approved by the Tribal Gaming Commission.

SECTION XV – Facility License

- a) The Tribal Gaming Commission shall issue a separate license to each place, facility, or location where Class II and/or Class III gaming is conducted under this ordinance. The valid period of the license shall not exceed a time period of three years.
- b) The Tribe hereby authorizes the issuance of a temporary facility license not to exceed 7-days. The Licensing Director may renew temporary licenses for 7-day periods.
- c) The Tribe shall submit to the Chairman of the National Indian Gaming Commission a notice that a facility license is under consideration for issuance at least 120 days before opening any new place, facility, or location where Class II or Class III gaming will occur. The notice shall contain the following information:
1. The name and address of the property;
 2. A legal description of the property;
 3. The tract number for the property as assigned by the Bureau of Indian Affairs or Land Title and Records Offices;
 4. If not maintained by the Bureau of Indian Affairs, Department of the Interior, a copy of the trust or other deed(s) to the property or an explanation as to why such documentation does not exist; and
 5. If not maintained by the Bureau of Indian Affairs, Department of the Interior, documentation of the property's ownership.
- d) The Tribe does not need to submit a notice that a facility license is under consideration for issuance for occasional charitable events lasting not more than a week.
- e) The Tribe must submit to the Chairman a copy of each newly issued or renewed facility license within 30 days of issuance.
- f) The Tribe must notify the Chairman within 30 days if a facility license is terminated or not renewed or if a gaming place, facility, or location closes or reopens.
- g) Each licensed facility shall prominently display the license for viewing by the public.
- h) The Tribe shall provide Indian lands or environmental and public health and safety documentation that the Chairman may in his or her discretion request.

SECTION XVI – Gaming Permits

Class II Gaming may be authorized by the Gaming Commission for charitable Fund Raising Events provided that a permit is obtained prior to the event. Gross gaming revenues for a single permitted fundraiser must not exceed \$100,000.

SECTION XVII – Licenses for Key Employees and Primary Management Officials

- a) The Tribe shall ensure that the policies and procedures set out in this section are implemented with respect to key employees and primary management officials employed at any gaming enterprise operated within the boundaries of the White Earth Reservation. The Tribe will issue licenses and perform background investigations according to requirements at least as stringent as 25 C.F.R. Parts 556 and 558
- b) Notwithstanding anything herein to the contrary, if the Applicant has completed a License Application, the Gaming Commission may immediately issue a temporary license if:
 - 1. The Gaming Commission has conducted a preliminary local background investigation; and
 - 2. Based on the preliminary investigation the information does not indicate that the Applicant has a criminal history;
 - 3. A temporary license shall not exceed 90 days.

SECTION XVIII – License Application Forms

- a) The following notice shall be placed on the application form for a key employee or a primary management official:

In compliance with the Privacy Act of 1974, the following information is provided: Solicitation of the information on this form is authorized by 25 U.S.C. 2701 et. seq. The purpose of the requested information is to determine the eligibility of individuals to be employed in a gaming operation. The information will be used by the Tribe and the National Indian Gaming Commission members and staff who have need for the information in the performance of their official duties. The information may be disclosed to appropriate Federal, Tribal, State, local, or foreign law enforcement and regulatory agencies when relevant to civil, criminal or regulatory investigations or prosecutions or when necessary pursuant to a requirement by a Tribe or the National Indian Gaming Commission in connection with the hiring or firing of an employee, the issuance or revocation of a gaming license, or investigation of activities while associated with a Tribe or a gaming operation. Failure to consent to the disclosures indicated in this notice will result in a Tribe being unable to hire you in a primary management official or key employee position.

The disclosure of your Social Security Number (SSN) is voluntary. However, failure to supply a SSN may result in errors in processing your application.

- b) The following additional notice shall be placed on the application form for a key employee or a primary official:

A false statement on any part of your application may be grounds for not hiring you, or for firing you after you begin work. Also, you may be punished by fine or imprisonment.

- c) The Tribal Gaming Commission shall notify in writing existing key employees and primary management officials who have not completed an application containing the notices set forth above that they shall either:

1. Complete a new application form that contains both the Privacy Act and false statement notices; or
2. Sign a statement that contains the Privacy Act and false statement notices and consent to the routine uses described in that notice.

SECTION XIX – License Fees

The Tribe authorizes the Tribal Gaming Commission, to charge a license fee in order to cover its expenses in investigating and licensing Key Employees and Primary Management Officials of the gaming operation

SECTION XX – Fingerprints

Each applicant for a Key Employee or Primary Management Official shall be required to have fingerprints taken as part of the license application procedure. Fingerprints shall be taken by the White Earth Reservation Licensing Department. Fingerprints will then be forwarded to the NIGC for processing through the FBI to determine the applicant's criminal history, if any

SECTION XXI – Background Investigations

- a) The Tribal Gaming Commission is responsible for conducting background investigations and suitability determinations.
- b) The Tribal Gaming Commission shall request from each primary management official and from each key employee all of the following information:
 1. Full name, other names used (oral or written), social security number(s), birth date, place of birth, citizenship, gender, all languages (spoken or written).
 2. Currently and for the previous 5 years: business and employment positions held, ownership interests in those businesses, business and residence addresses, and driver's license number(s).
 3. The names and current addresses of at least three personal references, including one personal reference who was acquainted with the applicant during each period of residence listed under paragraph (b) (2) of this section;
 4. Current business and residence telephone numbers;
 5. A description of any existing and previous business relationships with Indian Tribes, including ownership interests in those businesses;
 6. A description of any existing and previous business relationships with the gaming industry generally, including ownership interests in those businesses;
 7. The name and addresses of any licensing or regulatory agency with which the person has filed an application for a license or permit related to gaming, whether or not such license or permit was granted.
 8. For each felony for which there was an ongoing prosecution or a conviction, within 10 years of the date of the application, the charge, the name and address of the court involved and the date and disposition;
 9. For each misdemeanor conviction or ongoing misdemeanor prosecution (excluding minor traffic violations), within 10 years of the date of the application, the name and address of the court involved and the date and disposition;
 10. For each criminal charge (excluding minor traffic charges), whether or not there is a conviction, if such criminal charge is within 10 years of the date of the application and is not otherwise listed pursuant to paragraph (b) (8) or (b) (9) of this section, the

criminal charge, the name and address of the court involved and the date and disposition,

11. The name and address of any licensing or regulatory agency with which the person has filed an application for an occupational license or permit, whether or not such license or permit was granted;
12. A photograph taken within the last year; and
13. Any other information the Tribe deems relevant.

SECTION XXII – Procedure for Conducting a Background Investigation on Applicants

As a part of its review procedure, the Commission or its agent shall conduct a background investigation on each applicant sufficient to allow the Gaming Commission to make an eligibility determination. The investigation shall:

- a) Verify the applicant's identity through items such as a social security card, driver's license, birth certificate, or passport;
- b) Contact each personal and business reference provided in the License Application, when possible;
- c) Obtain a personal credit check;
- d) Conduct a civil history check;
- e) Conduct a criminal history check via the submission of the applicant's fingerprints to the NIGC, and further obtain information from the appropriate court regarding past felony and/or misdemeanor convictions and criminal charges within the last ten years;
- f) Inquire into any previous or existing business relationships with the gaming industry and Indian Tribes by contacting the entities or Tribes;
- g) Verify the applicant's history and status with any licensing agency by contacting the agency; and
- h) Take other appropriate steps to verify the accuracy of the information, focusing on problem areas noted.

SECTION XXIII – Eligibility Determination

- a) The Tribal Gaming Commission shall review a person's prior activities, criminal record, if any, reputation, habits, associations and any other findings from the background investigation to make a finding concerning the eligibility of a key employee or primary management official for employment in a gaming operation.
- b) If the Tribal Gaming Commission determines that employment of the person poses a threat to the public interest or to the effective regulation of gaming, or creates or enhances dangers of unsuitable, unfair, or illegal practices and methods and/or activities in the conduct of gaming, the gaming operation shall not employ that person in a key employee or primary management official position.

- c) The Gaming Commission shall not license any key employee or primary management official to work with Class II or Class III Gaming who has been:
 - 1. Convicted of a felony within five years of starting employment with the Gaming Operation; or
 - 2. Convicted of a felony or gross misdemeanor involving fraud, misrepresentation or gambling; or
 - 3. Ever convicted of a felony involving gambling.

SECTION XXIV – Procedures for Forwarding Applications and Reports to the National Indian Gaming Commission

- a) When a key employee or primary management official is employed to work at a gaming operation authorized by this ordinance, the Tribal Gaming Commission shall forward to the National Indian Gaming Commission the summary and results of eligibility from the background investigation, as well as a completed application for employment, if required.
- b) The gaming operation shall not employ as a key employee or primary management official a person who does not have a license after 90 days.

SECTION XXV – Report to the National Indian Gaming Commission

- a) The Tribal Gaming Commission shall prepare and forward a report on each background investigation to the National Indian Gaming Commission. An investigation report shall include all of the following:
 - 1. Steps taken in conducting a background investigation;
 - 2. Results obtained;
 - 3. Conclusions reached; and
 - 4. The basis for those conclusions.
- b) The Gaming Commission shall forward the completed investigative report to the National Indian Gaming Commission within 60 days after an employee begins work or within 60 days of the approval of this Ordinance by the Chairman of the National Indian Gaming Commission.
- c) The Tribal Gaming Commission shall submit, with the investigative report, a copy of the eligibility determination, unless the NIGC shall have advised the Tribe that the submission of the eligibility determination is not necessary. This determination shall include:
 - 1. A statement describing how the information submitted by the applicant was verified;
 - 2. A statement of results following an inquiry into the applicant's prior activities, criminal record, if any, and reputation, habits and associations;
 - 3. A statement showing the results of interviews of a sufficient number of knowledgeable people (such as former employers, personal references, and others referred to by the applicant) in order to provide a basis for the Gaming Commission to make a finding concerning the eligibility for licensing required for employment in a gaming operation;
 - 4. Any other findings from the background investigation; and
 - 5. A statement documenting the disposition of all potential problem areas noted and disqualifying information obtained.

- d) If a license is not issued to an applicant, the Tribal Gaming Commission:
 1. Shall notify the NIGC; and
 2. Shall forward copies of its eligibility determination and investigative report (if any) to the NIGC for inclusion in the Indian Gaming Individuals Records System
- e) With respect to all employees and in particular key employees and primary management officials, the Gaming Commission shall retain applications for employment and reports (if any) of background investigations for inspection by the Chairman of the NIGC or his/her designee for no less than three (3) years from the date of termination of employment.

SECTION XXVI – Granting a Gaming License

- a) If, within a thirty (30) day period after the NIGC receives a report, the NIGC notifies the Tribe that it has no objection to the issuance of a license pursuant to a license application filed by a key employee or a primary management official for whom the Tribe has provided an application and investigative report to the NIGC, the Tribal Gaming Commission, acting for the Tribe, may issue a license to such applicant.
- b) The Tribal Gaming Commission shall respond to a request for additional information from the Chairman of the National Indian Gaming Commission concerning a key employee or a primary management official who is the subject of a report. Such a request shall suspend the 30-day period under paragraph (a) in this section until the Chairman of the National Indian Gaming Commission receives the additional information.
- c) If, within the thirty (30) day period described above, the NIGC provides the Tribe with a Statement itemizing objections to the issuance of a license to a key employee or to a primary management official for whom the Gaming Commission has provided an application and investigative report to the National Indian Gaming Commission, the Tribe shall reconsider the application, taking into account the objections itemized by the NIGC.
- d) The Tribe shall make the final decision whether to issue a license to any applicant.

SECTION XXVII – License Renewal

- a) All gaming licenses issued will expire annually commencing with the date of employment. Licensees must contact the Licensing Department for renewal at least 30-days before expiration.
- b) As a part of the renewal, background investigations will be conducted for conformance of this Ordinance

SECTION XXVIII – License Suspension/Revocation

- a) If, after the issuance of a gaming license, the Tribal Gaming Commission receives reliable information indicating that a key employee or primary management official is not eligible for employment, the Tribal Gaming Commission shall suspend such license and shall notify in writing the licensee of the suspension, proposed revocation, and the right to request a hearing.

- b) The Tribal Gaming Commission shall notify the licensee of a time and a place for a hearing on the proposed revocation of a license.
- c) After a revocation hearing, the Tribal Gaming Commission shall decide to revoke or to reinstate a gaming license. The Tribal Gaming Commission shall notify the NIGC of its decision.

SECTION XXIX – Appeal of Decision of the Commission

- a) If the White Earth Gaming Commission denies a person a license or if the Commission revokes a license which was previously granted, the Commission shall do so in writing, outlining the reason(s) for such decision, and deliver such notice to the person via certified mail, return receipt requested.
- b) If a person has been aggrieved by a licensing decision of the White Earth Gaming Commission, they may appeal the decision to the White Earth Reservation Tribal Court within 15 calendar days of the date the notice was received by the U.S. Postal Service or other carrier as evidenced by a dated receipt for same.
- c) The appeal shall be only on the record, and shall not be heard de novo.
- d) If Tribal Court concludes that the order of the Commission was issued arbitrarily and capriciously, clearly erroneously, or in violation of the Constitution of the Minnesota Chippewa Tribe or the constitutional rights of Indians (25 U.S.C. §§ 1301-1303), made upon unlawful procedure or some other clear error of law, the Court shall vacate the same and remand the issuance or re-issuance of a license.
- e) If the Tribal Court concludes that none of the reasons for reversing the decision of the Gaming Commission are present, the denial shall be upheld.
- f) The Tribal Gaming Commission shall notify NIGC of any decision to revoke a gaming license.

SECTION XXX – Licenses for Vendors

- a) Vendors of gaming services or supplies must have a vendor license from the Tribal Gaming Commission in order to transact business with any gaming operation located on the White Earth Reservation. Contracts for professional legal and accounting services are excluded from this section.
- b) Gaming Vendors are vendors who provide gaming supplies or services, including cash-related services.
- c) In order to obtain a gaming vendor license, the business must complete a vendor application and submit to background checks of itself and its principals. Principals of a business include its officers, directors, management, owners, partners, non-institutional stockholders that either own 10% or more of the stock or are the 10 largest stockholders, and the on-site supervisor or manager under the agreement with the Tribe, if applicable.

SECTION XXXI – Contents of the Vendor License Application

- a) Applications for gaming vendor licenses must include the following:
1. Name of business, business address, business phone, federal tax ID number (or Social Security Number if a sole proprietorship), main office address if different from the business address, and any other names the applicant has done business under;
 2. The type of service the applicant will provide;
 3. Whether the applicant is a partnership, corporation, limited liability company, sole proprietorship, or other entity;
 4. If the applicant is a corporation, the state of incorporation, and the qualification to do business in the State of Minnesota if the gaming operation is in a different state than the state of incorporation;
 5. Trade name, other names ever used, names of any wholly owned subsidiaries or other businesses owned by the vendor or its principals;
 6. General description of the business and its activities;
 7. A description of any existing and previous business relationships with the gaming industry generally including ownership interests in those businesses;
 8. A list of Indian Tribes with which the vendor has an existing or previous business relationship, including ownership, financial, or management interests in non-gaming activities;
 9. Name, addresses, and phone numbers of three business references with whom the company had regularly done business for the last five (5) years;
 10. The name and address of any licensing or regulatory agency with which the business has filed an application for a license or permit related to gaming, whether or not such license or permit was granted;
 11. If the business has ever had a license revoked for any reason, the circumstances involved;
 12. A list of lawsuits to which the business has been a defendant, including the name and address of the court involved, and the date and disposition, if any;
 13. List the business' funding sources and any liabilities of \$50,000 or more;
 14. A list of the principals of the business, their social security numbers, addresses and telephone numbers, title, and percentage of ownership in the company; and
 15. Any further information the Tribe deems relevant;
- b) The following notice shall be placed on the application form for a vendor and its principals:

Inclusion of false or misleading information in the vendor application may be grounds for denial or revocation of the Tribe's vendor license.

SECTION XXXII – Vendor Background Investigations

- a) The Tribal Gaming Commission shall complete an investigation of the gaming vendor. This investigation shall contain, at a minimum, the following steps:
1. Verification of the business' incorporation status and qualification to do business in the State where the gaming operation is located;
 2. Obtain a business credit report, if available, and conduct a Better Business Bureau check on the vendor;

3. Conduct a check of the business' credit history;
 4. Contact the references listed in the vendor application; and
 5. Conduct an investigation of the principals of the business including a criminal history check, a credit report, and any other relevant information.
- b) A Vendor License from the White Earth Reservation Gaming Commission will require that any vendor for Class III Video Games have a valid license from either the State of Minnesota, New Jersey, Nevada or South Dakota.
 - c) The Tribal Gaming Commission may adopt regulations naming specific licensing authorities that it recognizes, and may authorize exemptions to the vendor licensing process for vendors which have received a license from one of the named regulatory authorities.

SECTION XXXIII – Vendor License Fee

The Tribe may charge a license fee to be set by the Tribal Gaming Commission, to cover its expenses in investigating and licensing vendors of gaming operations located on the White Earth Reservation.

SECTION XXXIV – Vendor Background Investigation Report

- a) The Tribal Gaming Commission shall review a vendor, the principals of the business, their history, credit, associations and any other relevant information deemed necessary for consideration of a vendor license;
- b) The Gaming Commission shall complete an investigative report covering each of the steps taken in the background investigation of the gaming vendor and its principals;
- c) If the Gaming Commission determines that the vendor license would pose a threat to the public interest or to the effective regulation of gaming, or creates or enhances dangers of unsuitable, unfair, or illegal practices and methods and/or activities in the conduct of gaming, the vendor license may not be granted.

SECTION XXXV – Licenses for Non-Gaming Vendors

For non-gaming vendors, the Tribal Gaming Commission is authorized to create a less stringent vendor licensing process, including a due diligence check, rather than a full background investigation. The Gaming Commission may investigate such vendors when appropriate and may conduct audits in addition to monitoring Tribal purchases.

SECTION XXXVI – Inspection of Premises

- a) The premises where authorized gaming activities are being conducted shall be subject to inspection and audit at any reasonable time by persons designated by the White Earth Reservation Gaming Commission (or designee), with or without notice as follows.
 1. If the items or records to be inspected or audited are maintained at the location where gaming is conducted, any portion of which is regularly open to the public or members and guests, then at any time when the premises are so open;

2. If the items or records to be inspected or audited are not located upon a premises set out in subsection (1) above, then at any time between the hours of 8:00 a.m. and 9:00 p.m., Monday through Friday,
- b) The White Earth Reservation Gaming Commission shall be provided, at such reasonable intervals as the Commission shall determine, with a certified report detailing all receipts and disbursements in connection with such gaming activities together with such other reasonable information as required in order to determine whether such activities comply with this Ordinance and other applicable laws, rules and/or regulations.
- c) Any agent of the White Earth Reservation Gaming Commission is required to prominently display an identification card while performing service on behalf of the Commission.

SECTION XXXVII – Environment and Public Health and Safety

Gaming facilities shall be constructed, maintained and operated in a manner that adequately protects the environment and the public health and safety.

Each facility is subject to a annual environmental and public health and safety inspections by the Gaming Commission designee. Any deficiencies noted from the inspection will be provided to the operator, and such deficiencies must be corrected within 30 days. Failure to correct deficiencies within 30 days will result in penalties up to and including closure.

SECTION XXXVIII – Violations and Sanctions

- a) Any person who engages in Gaming or Gaming related activities on property subject to the provisions of this Ordinance without a gaming license, or in violation of the terms imposed by a Gaming License, or in violation of the terms of a suspension imposed by the Gaming Commission on that Gaming License, or in violation of any other provision of this Ordinance and regulations promulgated hereunder, or amendments hereto, shall be in violation of the Ordinance. This provision shall apply to any person who is upon any premises licensed by this Ordinance without the consent of the licensee and/ or the Gaming Commission.
- b) Violation of any provision of this Ordinance or any of the Gaming Commission's Regulations by a Licensee, his or her agent or employee:
1. Shall be deemed contrary to the public safety, good order, and general welfare of the Band and its members;
 2. May be grounds for refusing to grant or renew a License, or for suspension or revocation of a license;
 3. May be grounds for filing a complaint with the National Indian Gaming Commission, may be grounds for filing criminal charges and/or a civil action in a court of competent jurisdiction on behalf of the Gaming Commission; and
 4. In the case of a licensee being convicted of a felony, shall be grounds for immediate revocation of the License
- c) Acceptance of a License or renewal thereof or condition imposed thereon by a Licensee constitutes agreement of the part of the Licensee to be bound by all the regulations

and/or conditions of the Gaming Commission and by the provisions of this Ordinance, and the regulations promulgated hereunder, and as the same may be informed of the contents of all such regulations, provisions and conditions, and ignorance thereof will not excuse the violations.

- d) Any person in violation of this Ordinance shall be subject to sanctions under this Ordinance. The following provisions shall govern the response of the Gaming Commission to violations:
1. Each day of violation may constitute a separate count or violation of this Ordinance. Separate violations shall be heard as separate offenses before the Gaming Commission and/or prosecuted by a court of appropriate jurisdiction;
 2. All property used in each and every separate violation of this Ordinance may become the property of the Band. All property used in each and every separate violation of this Ordinance may be subject to forfeiture following a hearing;
 3. Violators may also be required to pay court costs, storage fees, and auction or sales fees;
 4. Persons may be excluded or ejected from Gaming Enterprises or prohibited from trespassing on premises licensed under this Ordinance, and may be subjected to civil penalties or sanctions for violating any provision of this Ordinance;
 5. Licenses may be suspended, revoked, or limited and/or Gaming Establishments may be forcibly closed;
 6. Winnings found to have been received in violation of this ordinance may be confiscated and may, following a hearing, be forfeited and become the property of the Band;
 7. Civil penalties may be imposed as additional sanctions, in the amounts prescribed and in accordance with the hearing procedures set forth in the Ordinance.
- (e) Any of the above actions may be taken at the discretion of the Gaming Commission.

SECTION XXXIX – Civil Penalty Provisions

It shall be a civil violation of the laws of the White Earth Band of Chippewa Indians to disobey the provisions of this Ordinance or any regulations promulgated by the Gaming Commission; or any proper order issued under the authority of this Ordinance. Any person or Licensee found to be guilty of such violation may be assessed a civil penalty.

Civil penalties may be imposed pursuant to and in compliance with the provisions of this Ordinance, and any regulations promulgated by the Gaming Commission under the authority provided in this Ordinance. Civil penalties may be imposed in addition to the imposition of any other sanctions permitted under this Ordinance, including but not limited to suspension or revocation of the Gaming License for a period not to exceed one year. Civil penalties may be imposed up to the amount of \$25,000.00 for each individual violation, exclusive of any restitution.

SECTION XL – Exclusion of Individuals from Gaming Activities

- a) Any operator shall have the authority and discretion to exclude from gaming activities or gaming facilities, any individual who:
1. Appears to be under the influence of intoxicants;

2. Appears to be losing an unreasonable amount of money at gaming activities;
 3. Appears to be violating rules or regulations governing gaming activities as established by the Commission or the Operator; or
 4. By virtue of his condition or activities, disturbs the peaceful participation of other individuals in gaming activities or disrupts the orderly conduct of the gaming activity;
- b) An operator may make reasonable inquiries of individuals in the course of determining whether any of the activities defined in paragraph (a) above are occurring.
 - c) An operator who excludes any individual pursuant to this section shall not incur any liability, criminal or civil, as a result of an exclusion under this section.

SECTION XLI – Patron Dispute Resolution

The White Earth Reservation Tribal Gaming Commission, as established in this Ordinance, is authorized to oversee and regulate all gaming activities authorized by this Ordinance, including decision-making authority in regard to any disputes that may arise by the gaming public.

- a) Any person having a dispute with a Gaming Operator or Management Company licensed by the Tribe may request that the Gaming General Manager resolve the dispute within seven (7) days of the occurrence.
- b) If dissatisfied with the results received from the Gaming General Manager or Operator, the person may request the White Earth Reservation Compliance Officer review the incident. A decision shall be issued within fourteen (14) business days of receipt of the written request.
- c) A grievant who disagrees with the decision of the Tribal Compliance Officer, may appeal the decision to the White Earth Tribal Court within 14 days of the notification from the Tribal Compliance Officer.

SECTION XLII - Sovereign Immunity

The White Earth Reservation Tribal Council acting for the White Earth Band of Chippewa Indians by this enactment, does expressly retain and does not in any way waive its sovereign immunity as expressed in treaties, laws or in any other manner.

SECTION XLIII – Agent for Service of Process

The Tribe hereby designates the Tribal Chair as agent for service of process, who may be contacted at:

Tribal Chair
 White Earth Reservation Tribal Office
 35500 Eagle View Road
 P.O. Box 418
 White Earth, MN 56591

SECTION XLIV – Compliance with Federal Law and Tribal-State Compact

The Tribe will comply with all applicable federal laws, including the Bank Secrecy Act, 31 U.S.C. § 5311 as well as the Tribal-State Compact.

SECTION XLV – Repeal

To the extent that they are inconsistent with this ordinance, all prior gaming ordinances are hereby repealed.

SECTION XLVI – Savings Clause

If any clause, provision or section of this ordinance shall be ruled invalid or unenforceable by any court of competent jurisdiction by final order after all appellate jurisdiction is exhausted, such judgment shall not invalidate or render unenforceable any other remaining provisions of this ordinance. Until such final order is entered and review exhausted the questioned provisions shall be valid absent an enforceable injunction to the contrary.



July 29, 2009

Mr. Joseph Plumer
Tribal Attorney
White Earth Reservation Tribal Council
PO Box 418
White Earth, MN 56591

Dear Mr. Plumer:

This is to acknowledge receipt on July 28, 2009, of the Amended Gaming Ordinance submission and related documents for the White Earth Band of Chippewa Indians.

Sincerely yours,

A handwritten signature in cursive script that reads "Barbara D. Haizlip".

Barbara D. Haizlip

Haizlip, Barbara D

From: Haizlip, Barbara D
Sent: Wednesday, July 29, 2009 6:20 AM
To: #Contracts & Ordinances
Subject: White Earth Band of Minnesota Chippewa Tribe

Received letter by e-mail from White Earth Reservation Tribal Council.

On behalf of the White Earth Reservation Tribal Council I am enclosing a copy of the White Earth Reservation Gaming Ordinance that was approved on Monday, July 6, 2009. The Ordinance was amended primarily in the sections pertaining to small gaming establishments.

The amended Gaming Ordinance is being provided for purposes of approval by the NIGC as required by the Indian Gaming Regulatory Act.

7/29/2009



United States Department of the Interior

OFFICE OF THE SECRETARY
WASHINGTON, D.C. 20240



NOV 08 1991

Honorable Darrell Wadena
Chairman, White Earth Reservation
Business Committee
P.O. Box 418
White Earth, Minnesota 56591

Dear Chairman Wadena:

We are in receipt of the tribal-state compact for the control of Class III video games of chance concluded between the White Earth Band of Chippewa and the State of Minnesota, accompanied by the requisite tribal resolution authorizing the compact process. Pursuant to my delegated authority and Section 11 of the Gaming Act, we approve the compact.

The compact shall take effect upon publication in the FEDERAL REGISTER of notice of our approval pursuant to Section 11(d) (3) (B).

Section 11(d), (25 U.S.C. 2710) of the Indian Gaming Regulatory Act of 1988, (P.L. 100-497; 25 U.S.C. 2710 et seq.), requires the Chairman of the National Indian Gaming Commission to approve tribal resolutions authorizing Class III gaming. However, the Commission does not yet have final regulations governing such approvals.

We wish the Tribe and the State success in this economic endeavor.

Sincerely,

/s/ David J. Matheson

Acting Assistant Secretary - Indian Affairs

Identical letter to: Honorable Arne H. Carlson
Governor of Minnesota
130 State Capital
St. Paul, Minnesota 55155

cc: Minneapolis Area Office with copy of approved compact
Minnesota Agency Superintendent with copy of approved compact
National Indian Gaming Commission with copy of approved compact
Penny Coleman, SOL

**TRIBAL-STATE COMPACT
FOR CONTROL OF CLASS III VIDEO GAMES OF CHANCE ON
THE WHITE EARTH BAND OF CHIPPEWA RESERVATION
IN MINNESOTA**

WHEREAS, the State of Minnesota (hereinafter "State") and the White Earth Band of Chippewa (hereinafter "Band") are separate sovereigns, and each respects the laws of the other sovereign; and

WHEREAS, the Band exercises governmental authority within the White Earth Reservation (hereinafter "Reservation"), which, for purposes of this Compact, means those lands within the current boundaries of the White Earth Reservation and any other "Indian lands", as defined by the Indian Gaming Regulatory Act, over which the Band exercises governmental authority; and

WHEREAS, the Congress of the United States has enacted the Indian Gaming Regulatory Act (hereinafter "IGRA"), Public Law 100-497, 102 Stat. 2467, 25 U.S.C. Sections 2701 to 2721 (1988) creating a mechanism through which the several States and Indian tribal governments may allocate jurisdiction and control of Class III gaming activity which occurs on their lands; and

WHEREAS, the State of Minnesota pursuant to Minnesota Statute Section 3.9221 (1990), authorized the Governor or his representatives to negotiate with regard to compacts with the several Indian tribal governments in the State of Minnesota;

NOW THEREFORE, in consideration of the mutual undertakings and agreements hereinafter set forth, the Band and the State enter into the following compact.

Section 1. Findings and Declaration of Policy

1.01 Findings

As the basis for this Compact, the State and the Band have made the following findings:

- 1.02 This Compact shall govern the licensing, regulation and operation of video games of chance within the Reservation. Video games of chance are defined as electronic or electromechanical video devices that simulate games commonly referred to as poker, blackjack, craps, hi-lo, roulette, line-up symbols and numbers, or other common gambling forms, which are activated by the insertion of a coin, token, or currency, and which award game credits, cash, tokens, or replays, and contain a meter or device to record unplayed credits or replays.

Section 7. Reservation of Rights Under the IGRA

The State and Band agree that by entering into this compact, the Band shall not be deemed to have waived its right to initiate and pursue the procedure provided by section 11(d)(7) of the IGRA with respect to the State's refusal to enter into a compact on other forms of Class III gaming, and neither the State nor the Band shall be deemed to have waived any rights, arguments or defenses applicable to such a procedure.

Section 8. Severability

Each provision, section, and subsection of this compact shall stand separate and independent of every other provision, section, or subsection. In the event that a court of competent jurisdiction shall find any provision, section, or subsection of this compact to be invalid, the remaining provisions, sections, and subsections of the compact shall remain in full force and effect.

Dated: _____

Dated: 5-15-91

STATE OF MINNESOTA

WHITE EARTH BAND OF CHIPPEWA

Arne H. Carlson
ARNE H. CARLSON
GOVERNOR

Raymond Anderson
CHAIRMAN

I hereby certify that this and the preceding 16 pages constitute an accurate and complete copy of the Tribal-State Compact for Control of Class III Video Games of Chance on the White Earth Band of Chippewa Reservation in Minnesota.

Dated: November 4, 1991

HUBERT H. HUMPHREY, III
Attorney General
State of Minnesota
Mary B. Magnuson
MARY B. MAGNUSON
Special Assistant
Attorney General

1100 Bremer Tower
7th Place and Minnesota St.
St. Paul, MN 55101

Subscribed and sworn to
before me this 4th day of
November, 1991.

BUREAU OF INDIAN AFFAIRS

David C. Johnson
Acting Assistant Secretary - Indian Affairs

11-8-91
Date



Acquisition of Title to Land Held in Fee or Restricted Fee Status (Fee-to-Trust Handbook)



Issued By:

Department of the Interior
Bureau of Indian Affairs, Office of Trust Services
Division of Real Estate Services
1849 C Street, N.W.
Washington, DC 20240

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1.0 INTRODUCTION

The Indian Reorganization Act (IRA) [48 Stat. 984, 25 U.S.C. § 461 *et seq.* (June 18, 1934)] provides the Secretary with the discretion to acquire trust title to land or interests in land. Congress may also authorize the Secretary to acquire title to particular land and interests in land into trust under statutes other than the IRA.

The Secretary bases the decision to make a trust acquisition on the evaluation of the criteria set forth in Title 25 Code of Federal Regulations (CFR) Part 151 and any applicable policy. With the exception of certain mandatory acquisitions, the decision to acquire title requires Secretarial approval.

This handbook describes standard procedures used by the Bureau of Indian Affairs (BIA) for the transfer of fee land into trust or restricted status. These procedures include: (1) eligibility for an individual or Tribe to request the Secretary to take title in trust; (2) application requirements; (3) processing of an application for a trust acquisition, and (4) criteria used by BIA to evaluate trust acquisition requests. This handbook also incorporates guidelines and requirements used by the BIA for Reservation Proclamation requests received from Tribes.

The BIA will review the content of this handbook periodically to determine the need for revisions. This review may include input from Tribes, Tribal organizations, and DOI; all of whom rely on the procedures described in this handbook.

2.0 DEFINITION OF TERMS AND LISTING OF ACRONYMS

Terms used in this handbook have specific definitions. For the definition of terms used in this handbook, refer to the definitions in 25 CFR Part 151 and those provided in this section.

Contiguous parcels: Two parcels of land having a common boundary notwithstanding the existence of non-navigable waters or a public road or right-of-way, including parcels that touch at a point. Also referred to as “adjacent parcels.”

Discretionary Trust Acquisition: A trust acquisition authorized by Congress that does not require the Secretary to acquire title to any interest in land to be held in trust by the United States on behalf of an individual Indian or a Tribe. The Secretary has discretion to accept or deny the request for any such acquisition.

Encumbrance: A limitation on the title of property, such as a claim, lien, easement, charge, or restriction of any kind.

Fee: A form of ownership status where the person may freely alienate and encumber title without federal approval. Land in trust status or restricted status is not held in fee.

Gaming Acquisition: The lands where the actual gaming operations will occur. This does not include lands that are acquired to supplement the actual lands the gaming establishment will or does reside upon. This does not include parcels acquired for parking lots, hotels, golf courses, gift shops, etc.

*The term “*Gaming Related*” is no longer used by the Department of the Interior and any acquisitions that are not specifically for gaming will be processed pursuant to the regulations at 25 CFR Part 151 and the applicable section of this Handbook. This includes parking lots, hotels, golf courses and any lands other than those where a gaming facility is located.

Mandatory Trust Acquisition: A trust acquisition directed by Congress or a judicial order that requires the Secretary to accept title to land into trust, or hold title to certain lands in trust by the United States, for an individual Indian or Tribe. The Secretary does not have the discretion to accept or deny the request to accept title of land into trust.

Reservation Proclamation: A formal declaration issued by the Secretary of the Interior or her designee proclaiming that certain lands are a new reservation or an addition to an existing reservation. A reservation proclamation can encompass multiple trust parcels or a portion of a parcel taken into trust.

Trust Acquisition: The act or process by which the Secretary acquires title to any interest in land to be held in trust by the United States on behalf of an individual Indian or a Tribe.

Undivided Fractional Interest: An ownership interest in property that is held in common with other owners as co-tenants in a parcel of land.

The following list of acronyms and terms are not all used in this handbook. Some acronyms commonly used by BIA Real Estate Services are included.

ALTA	American Land Title Association
BIA	Bureau of Indian Affairs
BILS	BLM Indian Land Surveyor
BLM	Bureau of Land Management
CAT EX, CAT, or CX	Categorical Exclusion
CFR	Code of Federal Regulations
CIP	Certificate of Inspection and Possession
CC & R	Covenants, Conditions, and Restrictions
DM	Department Manual
DOI	Department of the Interior
DOJ	Department of Justice
EA	Environmental Assessment

EIS	Environmental Impact Statement
ECRM	Environmental Compliance Review Memorandum
ESA	Environmental Site Assessment
FTO	Final Title Opinion
FOIA	Freedom of Information Act
FONSI	Finding of No Significant Impact
IAM	Indian Affairs Manual
IBIA	Interior Board of Indian Appeals
IGRA	Indian Gaming Regulatory Act
ILCA	Indian Land Consolidation Act
IRA	Indian Reorganization Act
ITO	Interim Title Opinion
LDR	Legal Land Description Review
LTRO	Land Titles and Records Office
MSA	Municipal Service Agreement
NEPA	National Environmental Policy Act
NHPA	National Historical Preservation Act
NOA	Notice of Application
NOD	Notice of Decision
PLSS	Public Land Survey System
PILT	Payment in Lieu of Taxes
PTO	Preliminary Title Opinion
ROW	Right-of-way
SHPO	State Historical Preservation Office
THPO	Tribal Historical Preservation Office
TIN	Taxpayer Identification Number
TSR	Title Status Report
U.S.C.	United States Code

3.0 PROCESS AND PROCEDURE

3.1 Standard Operating Procedures

Fee-to-trust applications involve the acquisition in trust of whole or undivided interests in land held in fee. There are separate operating procedures for each type of acquisition and each section is titled as follows:

- 3.1.1 On-reservation Discretionary Trust Acquisitions (25 CFR § 151.10)
- 3.1.2 Off-reservation Discretionary Trust Acquisitions (25 CFR § 151.11)
- 3.1.3 Mandatory Trust Acquisitions (Applicable policy)

3.2 Selecting the Correct Standard Operating Procedure

To identify which operating procedure applies, you must review the submitted documentation and determine the following:

- Is the applicant a Tribe or eligible individual Indian as defined in 25 CFR § 151.2?
- Is there legal authority for the requested acquisition?
- Is this a mandatory or discretionary trust acquisition?
- Is the requested parcel on-reservation or off-reservation?
 - On reservation means land that is within or contiguous to a reservation.
 - If there is a question whether the property is contiguous, consult the Office of the Solicitor (SOL) to review and concur. If the property is clearly contiguous to the exterior boundaries, no SOL analysis is needed.

If the stated purpose of the proposed acquisition is for gaming, follow the Office of Indian Gaming (OIG) Handbook for Gaming Acquisitions (Gaming Handbook) (under development by OIG):

- Notify OIG and provide that office the required documents and information; and
- Continue to process the fee-to-trust application pursuant to the regulations at 25 CFR Part 151 and the applicable section of the Fee-to-Trust Handbook concurrently with any gaming determinations being processed by OIG.

3.3 Step Sequence:

While steps within each of the standard operating procedures are numbered sequentially, you may proceed concurrently on other steps, when appropriate, or may repeat certain steps until the operating procedure is completed. *[See Exhibit 5.2: Fee-to-Trust Quick Reference Guide]*

3.4 Reservation Proclamations:

On July 22, 2014, the BIA Director issued revised internal guidelines for submitting reservation proclamation requests. These guidelines have now been replaced by a new section on processing reservation proclamations, incorporated herein. *[See Section 3.4.1 Guidelines and Requirements for Requesting a Reservation Proclamation]* The Secretary is authorized by the IRA to proclaim reservations under 25 U.S.C. § 467 as follows:

The Secretary of the Interior is hereby authorized to proclaim new Indian reservations on lands acquired pursuant to any authority conferred by this Act, or to add such lands to existing reservations: Provided, That lands added to existing reservations shall be designated for the exclusive use of Indians entitled by enrollment or by Tribal membership to residence at such reservations.

Reservation proclamations can only be issued for completed trust acquisitions made pursuant to an authority conferred by the IRA. However, Tribes may choose to submit a reservation proclamation application with their FTT application, or alternatively, may submit a reservation proclamation for lands already accepted in trust. When Tribes submit a reservation proclamation with their FTT application, BIA will endeavor to process the reservation proclamation as soon as

possible following acceptance of the land into trust. These updated guidelines establish the standard operating procedures for reviewing reservation proclamation requests from Tribes, the requirements for Regional Offices, and the required documentation for approval by the Assistant Secretary – Indian Affairs (AS-IA).

3.1.1

On-Reservation Discretionary Trust Acquisitions

ON-RESERVATION DISCRETIONARY TRUST ACQUISITIONS

Scope

This section of the handbook contains procedures for discretionary trust acquisitions on-reservation and/or contiguous to a reservation for individual Indians and Tribes. This section applies to undivided fractional and full interests owned in fee by an eligible Tribe or individual.

Procedure

To assist the applicant in preparing a request, the applicant should be provided a copy of “Required Elements: Application for Fee-to-trust” [*See Exhibit: 5.3*], the brochure-“Understanding the Fee-to-Trust Process for Discretionary Acquisitions,” and any other relevant information.

Step 1: Encoding the Fee-to-Trust System of Record

1. Within three (3) business days of receipt of a written request to initiate the application process, encode information into the fee-to-trust system of record.
2. The system of record must be updated within three (3) business days upon receipt of any additional information from the applicant or others (e.g., comments on the notice of application).

Step 2: Review of Written Request to Initiate Application Process

All fee-to-trust applications must contain the following:

1. Written request.
A written request need not be in any special form but must contain each of the following items.
 - a. A statement that the applicant is requesting approval of a trust acquisition by the United States of America for their benefit.
 - b. Identification of applicant(s).
 - c. Legal Land Description.
 - 1) A description of real property in legally acceptable terms that is definite, legally defensible and susceptible to only one interpretation. Perform a preliminary informal review of the legal land description to assure the obvious elements

identified below are present. A Legal Land Description Review (LDR) is required later in the process.

2) Lands can be legally described a number of ways, most commonly by referencing the Public Land Survey System (PLSS), however, lands in the 13 original states and Texas are subject to other survey systems.

1) All legal land descriptions utilizing PLSS or any other survey system shall contain the following elements:

- State
- County
- Acreage

2) If the lands contained in the application are described using the PLSS, the description will contain the following elements that must be included to be a legitimate legal land description.

- Township
- Range
- Principal Meridian
- Section(s)
- Government Lots or Aliquot Parts

3) All legal land descriptions described by metes and bounds within the PLSS, in addition to the elements contained in b) shall include:

- Commencement tie from a Government corner of PLSS to point of beginning of metes and bounds parcel.
- A metes and bound description which closes mathematically on itself.

4) All legal land descriptions described by metes and bounds not within the PLSS shall contain the following applicable information:

- A point of beginning easily located on the ground.
- A metes and bound description which closes mathematically on itself.

d. Need for acquisition of the property

- 1) Economic Development
- 2) Tribal Self-Determination
- 3) Indian housing (non-commercial)

e. Purpose for which the property is to be used. (If the purpose of the acquisition is identified by the Tribal applicant as “gaming,” follow the procedures outlined in the Gaming Handbook and continue to process the application pursuant to the regulations at 25 CFR Part 151 and this section of the Fee-to-Trust Handbook. “Gaming Related” is no longer a term utilized by the Department of Interior.)

- f. When the applicant is an individual who is not a member of the Tribe with jurisdiction and does not already own an undivided trust or restricted interest in the parcel of land to be acquired, written Tribal consent for nonmember applications must be provided.
 - g. When the applicant is a Tribe who is not the Tribe with jurisdiction and does not already own an undivided trust or restricted interest in the parcel of land to be acquired, written Tribal consent for the Tribal acquisition of land must be provided.
2. In addition to the requirements of Step 2.1., above, the Tribal applicant must also submit the following:
 - a. The application must state the Tribal name as it appears in the list of *Indian Entities Recognized and Eligible To Receive Services From the United States Bureau of Indian Affairs* published in the Federal Register, or as it appears in a federally approved Constitution.
 - b. Statutory Authority.
3. In addition to the requirements of Step 2.1. above, the following information is also required for an individual Indian's application:
 - a. Evidence of eligible Indian status of the applicant.
 - b. Amount of trust or restricted Indian land already owned by the applicant.
 - c. Information or a statement from the applicant addressing the degree to which the applicant needs assistance in handling their affairs.
4. When the required elements as noted above (1-3) have been fulfilled, notify the applicant that you have received the application, as required by 52 IAM Chapter 12, 1.3 Policy A. "Acknowledging Receipt of Applications for Fee-to-Trust Acquisitions" [*See Exhibit 5.4.1: Sample Acknowledgement Letter*].
5. The application will then require the following, to allow for a complete review of the application:
 - a. Map depicting boundary and location of subject property if necessary.
 - b. Title evidence consisting of:
 - 1) The deed or other conveyance instrument providing evidence of the applicant's title or, if the applicant does not yet have title, the deed providing evidence of the transferor's title and a written agreement or affidavit from the

transferor, that title will be transferred to the United States on behalf of the applicant to complete the acquisition in trust; and

- 2) Either: (i) a current title insurance commitment; or (ii) the policy of title insurance issued to the applicant or current owner and an abstract of title dating from the time the policy of title insurance was issued to the applicant or current owner to the present.
 - The Department will look to the appropriate licensing authority for qualifications for the preparer of the abstract of title. An abstract of title means a compilation of all instruments of public record which in any manner affect title to the parcel of real property.
 - “To the present” means a date as close to the date of the review as possible.
 - 3) The applicant may choose to provide title evidence meeting the title standards issued by the U.S. Department of Justice, in lieu of the evidence required by number 2, above.
 - If the applicant chooses to comply with DOJ Title Standards, they must comply with the requirements of that process. E.g., The preliminary commitment, or a binder of title evidence with a commitment, to issue final title insurance on the current ALTA U.S. Policy Form.
 - The proposed insured should state, “The United States of America in trust for [insert legal name of the applicant (for Tribes, the legal name is the name as found in the Federal Register or a federally approved Constitution)].”
 - The proposed policy coverage must meet the minimum title insurance required by the DOJ Title Standards, or the alternate title evidence submitted by the Tribe.
- c. A draft Warranty Deed for the acquisition, with designation of BIA approval and delegation of authority or Warranty Deed with acceptance of conveyance. The deed must conform to local statutory recording requirements. [*See Exhibit 5.4.12 for a sample*]
 - d. A Restrictive Covenant Acknowledgement form may also be required [*See Exhibit 5.4.8: Restrictive Covenants Acknowledgement*].
 - e. A Legal Land Description Review (LDR) from a qualified individual that concurs with the validity of the legal land description including acreage. The concurrence is intended to verify that the description is accurate, correctly describes the subject property, and that it is consistent throughout the acquisition documents, such as commitments for title insurance, [survey] maps, deeds, etc.

- 1) Legal land descriptions shall be reviewed to identify insufficiencies due to confusing boundaries, gaps or overlaps, encroachments, and other conflicts along a property line.
 - 2) Relying solely on title evidence and title insurance creates the potential for overlooking boundary defects.
6. Identify all missing information or documentation that is required, or materials submitted that do not have appropriate signatures, dates or other deficiencies that would prevent a complete review of the application and result in incomplete status. Refer to Step 3 “Responding to an Incomplete Case” [*See Exhibit 5.4.2: Sample 30-day Notice-Incomplete Application Package*].
7. Advise the applicant that it is beneficial to provide the following documentation, if available.
- a. Any documentation describing efforts taken to resolve identified jurisdictional problems and potential conflicts of land use that may arise as a result of the fee-to-trust acquisition.
 - b. Any signed cooperative agreements relating to the fee-to-trust acquisition. Describe agreements for infrastructure development or services.
 - Examples: utilities, fire protection, solid waste disposal.
 - c. Agreements that have been negotiated with the State or local government.
 - Example: payment in lieu of taxes (PILT).
 - d. Description of those services not required of the state or local government(s) to the property because they are provided by the Tribal government.
 - e. Any information in support of the Tribal applicant being “under Federal jurisdiction” in 1934, if applicable, or other statutory authority for the acquisition.
 - f. Additional information or justification to assist in reaching a decision.
8. If the applicant has requested the transfer of an undivided fractional interest, there are two processing options to acquire this interest, and BIA must determine which applies.
- a. Discretionary. If the parcel did not have existing trust or restricted interests as of November 7, 2000, as evidenced by a report reflecting tract history from the BIA’s official system of land records, the acquisition is discretionary. [*See 25 U.S.C. § 2216(c)*]. Refer to 25 CFR § 151.7 and this section of the handbook (covering On-Reservation Discretionary Trust Acquisitions) for further processing requirements.

- b. Mandatory. If any interests in the parcel were held in trust or restricted status as of November 7, 2000 [See 25 U.S.C. § 2216(c)], the acquisition is mandatory.]. Refer to the Mandatory Acquisitions section of this handbook and the most recent mandatory acquisition guidance. (*Adhere to Policy and Directives 4.1: Mandatory Acquisition Guidance*).

Step 3: Responding to an Incomplete Case

1. When a written request or application is determined to be incomplete:
 - a. Prepare a written notice to applicant including the following information and send by certified mail, return receipt requested. [*See Exhibit 5.4.2: Sample Original 30-Day Notice of Incomplete Fee-to-Trust Application*]. (*Adhere to Policy and Directives 4.2: IAM, Part 52, Chapter 12 “Processing Discretionary Fee-to-Trust Applications”, 1.3 Policy B. “Gathering information for Incomplete Fee-to-Trust Applications”, and C. “Administrative and Legal Timeframes”*).
 - 1) A statement that the application is incomplete.
 - 2) Specify what information or documentation was omitted or required and explain why the requested information is necessary.
 - 3) Request the applicant provide the omitted or required documentation or information to BIA within 30 days of the applicant’s receipt of the written notice or the application will be inactivated and returned.
 - b. If the applicant does not provide the omitted or required documentation or information to BIA in accordance with the notice, send applicant a final notice and a notice enclosing the application and stating that BIA did not receive the information, so the application has been inactivated. [*See Exhibit 5.4.3: Sample Final Notice of Incomplete Fee-to-Trust Application Package, and Exhibit 5.4.4: Sample Return of Incomplete Fee-to-Trust Application*].

Step 4: Conducting Site Inspection and Completing Initial Certificate of Inspection

Whenever possible, the following should be done early in the acquisition process:

1. Conduct an inquiry. Ask the landowner and any occupants whether there are any third party rights in the land.
2. Conduct a physical inspection of the land. Compare condition and use of property as described in submitted documents. Examples of things to check during inspection are:
 - a. Persons living on the property not shown as record owner(s).

- b. Work being done by contractors.
 - c. Change in use other than noted in application.
 - d. Lack of access to property.
 - e. Location of existing utility lines, roads, etc., not defined in title evidence.
3. Prepare a Certificate of Inspection and Possession (CIP).
- a. The CIP (including the inquiry and physical inspection, above) may be prepared by:
 - 1) A duly authorized BIA or other Federal employee; or
 - 2) A Tribal employee (whether or not performing contracted/compacted BIA realty functions) or contractor, as long as:
 - The Tribal employee is not also an employee of the landowner (in other words, as long as the property is not being acquired in trust for the employee or the Tribe). Neither the owner nor an employee of the owner of the inspected property should perform the inspection or execute the certificate. AND
 - The CIP is approved by BIA or other Federal employee.
 - b. The CIP should be on Form #1 [*see Exhibit 5.7.1*] or Form #2 [*see Exhibit 5.7.2*]. Form # 1 is designed to be completed by one individual. Form #2 is designed to be completed by two individuals -- one who does the inspection and one who makes inquiry of the landowner and any occupants.
 - 1) No portion of the CIP forms may be deleted or scratched out.
 - 2) All blanks must be filled in.
 - 3) If a particular blank is not applicable to an acquisition, it should be filled in with "N/A".
 - 4) Both forms anticipate that additional information can and often will be added to the CIP, especially if the inspection or inquiry reveals possible possessory rights of others in the property.
4. Prepare a written notice to applicant advising of any inconsistencies that require an explanation and/or correction. Advise applicant that unless the inconsistencies are addressed, applicant may be prohibited from taking land into trust. See Step 3 "Responding to an Incomplete Case" to issue the notice and 52 IAM 12 [*Policy and Directives 4.2: 52 IAM Chapter 12, 1.3 Policy B. "Gathering information for Incomplete Fee-to-Trust Applications"*].

Step 5: Preparing the Preliminary Title Opinion (PTO)

1. Confirm that you have the required title evidence documentation from applicant and copies of all documents that create encumbrances or exceptions to title.
2. Submit a written request for a Preliminary Title Opinion (PTO) to the Solicitor's Office. Attach the title evidence documents (listed in Step 2, above) and the following information/documents:
 - a. Draft deed in trust to the United States, conforming to local statutory recording requirements and/or Draft Acceptance of Conveyance.
 - b. Property boundary and location maps, if applicable.
 - c. Initial Certificate of Inspection and Possession, if one has been completed.
 - d. The LDR.
 - e. Consistent with § 151.9, a written request for approval of the acquisition which adequately demonstrates it has been duly authorized by the Tribe.
 - f. A copy of any agreement (such as a lease or right-of-way) currently applicable to the property.
 - g. If the property is identified as a lot in a subdivision, a copy of the plat (which may contain restrictions) and, if there are any deed restrictions, a copy of each document that creates the restrictions.

Step 6: Preparing Notice of Application (NOA)

1. If the application is to acquire a parcel or parcels that will cumulatively total 200 acres or more, notify the AS-IA of the application, by email at F2Tnotice@bia.gov, and by mail at: 1849 C Street, NW, MS-4141-MIB, Washington, DC 20240.
2. Prepare the NOA to inform state and local governments, including Tribal governments, having regulatory jurisdiction over the proposed acquisition property and/or any person or entity submitting a written request for notice that they have 30 days to submit comments.
3. Include the following in the notice [*See Exhibit 5.4.6: Sample Notice of Application*]:
 - a. General description of need and purpose.
 - b. Solicitation of comments on the potential impact of the acquisition regarding regulatory jurisdiction, real property taxes and special assessments.

- c. Notification that parties have 30 days to submit comments.
 - d. A statement informing the state and local governments to forward the notification on to any of their local sub-districts.
4. Send NOA by certified mail return receipt to the state and local governments.
 5. In consultation with the applicant, consider the option of posting the application on a website to make it easily accessible to the public (with confidential information redacted).

Step 7: Environmental Compliance Review

1. Transmit NEPA, 602 DM 2 and other environmental compliance documents to the appropriate environmental staff and request environmental compliance review. Update environmental staff on any changes in the application.
2. The environmental staff is responsible for completing the Environmental Compliance Review Memorandum (ECRM) or other documentation of NEPA compliance. NEPA compliance for every discretionary fee-to-trust transaction must be documented [*See Exhibit 5.4.5: Sample Environmental Compliance Review Memorandum*].
3. If the acquisition is for the purpose of gaming, the environmental compliance review must be performed in accordance with the Gaming Handbook and the Indian Gaming Regulatory Act.

Step 8: Comments to Notice of Application

1. Provide a copy of all information responsive to the NOA to the applicant for their written response. Send by certified mail return receipt [*See Exhibit 5.4.7: "Sample Notice of Application Comments to Applicant"*].
2. The regulations state that the applicant has a reasonable amount of time to provide BIA its written response to the comments. BIA has determined that 30 days with the opportunity for an extension is a reasonable amount of time. If the applicant requests the Secretary to issue a decision without providing a response to any comment(s), proceed with Step 10, "Preparing Analysis and Notice of Decision."

Step 9: Clearance of PTO Objections before Notice of Decision (NOD)

1. Notify applicant of objections outlined in the Preliminary Title Opinion (PTO). The Solicitor's Office may require the elimination of any such liens, encumbrances, or infirmities (i.e., defects) prior to taking final approval action on the acquisition, and will

require elimination prior to such approval if she determines that the liens, encumbrances or infirmities (i.e., defects) make title to the land unmarketable.

2. Do not send the PTO to the applicant, as it is attorney-client privileged information.
3. Request applicant to provide documents to show that objections of the PTO have been cleared.
4. If the applicant does not send the responsive information within a reasonable amount of time, refer to the policy found at 52 IAM Chapter 12 (Processing Discretionary Fee-to-Trust Applications). If no response is received within the timelines established by the policy, proceed with Step 10, "Preparing Analysis and Notice of Decision."

Step 10: Preparing Analysis and Notice of Decision (NOD)

1. All gaming acquisition NOD's shall be prepared pursuant to the procedures outlined in the Gaming Handbook and submitted to OIG for publication in the Federal Register.
2. If a significant amount of time lapses between the date of the NOA and the NOD, reissue the NOA to allow for updates to the comments, applicant's responses to comments, and application documents (e.g., title evidence and ESA).
3. Consult with the Office of the Solicitor to prepare an analysis of whether the Tribal applicant was under Federal jurisdiction in 1934 for inclusion in the decision, if applicable.¹ BIA should consult with the Solicitor's Office as early in the process as possible (i.e., as soon as BIA has determined an application is complete) so that the Solicitor's Office has sufficient time to prepare a *Carciari* opinion. For Tribes for whom the Solicitor's Office has already prepared an analysis of whether the Tribal applicant was under Federal jurisdiction in 1934, BIA may rely on that analysis.
4. Document case analysis and prepare NOD, which must include language on the right to appeal. The analysis and NOD must be based on the facts contained in the record and responsive to the following factors:
 - a. The existence of statutory authority for the acquisition and any limitations contained in such authority, including analysis addressing whether the Tribal applicant was under Federal jurisdiction in 1934, if applicable.
 - b. The need of the individual Indian or the Tribe for additional land.
 - c. The purposes for which the land will be used.

¹ An opinion whether a tribal applicant was under Federal jurisdiction in 1934 (a "*Carciari* opinion") is only required for applications submitted pursuant to 25 U.S.C. § 465 and that rely on the first definition of "Indian."

- d. If the land is to be acquired for an individual Indian, the amount of trust or restricted land already owned by that individual and the degree to which he/she needs assistance in handling their affairs.
- e. If the land to be acquired is in unrestricted fee status, the impact on the State and its political subdivisions resulting from the removal of the land from the tax rolls.
- f. Jurisdictional problems and potential conflicts of land use which may arise.
- g. If the land to be acquired is in fee status, whether the Bureau of Indian Affairs is equipped to discharge the additional responsibilities resulting from the acquisition of the land in trust status.
- h. The extent to which the applicant has provided information that allows BIA to comply with the National Environmental Policy Act (NEPA), and 602 DM 2, Land Acquisitions: Hazardous Substances Determinations. If a categorical exclusion applies (e.g., where there will be no change in land use), the decision should explain why the categorical exclusion applies and it should be documented in the record.
- i. While not specified in the regulations, the NOD should contain analysis of comments and concerns by state and local governments.

Step 11: Providing Notice of the Decision

NOTE: The notice and procedures for providing notice of the decision differ depending upon whether a BIA official (e.g., the Superintendent or Regional Director) or the AS-IA makes the acquisition decision. The process for each is set out below.

If a BIA official makes a decision to approve a request:

- 1. Prepare Public Notice of the decision to acquire land in trust pursuant to 25 CFR § 151.12(d) and the right to administratively appeal that decision. The Public Notice must include the following [*See Exhibit 5.4.10: Sample Public Notice to Acquire land into Trust*]:
 - a. Statement that a decision to acquire land in trust has been made and that there is a 30-day administrative appeal period.
 - b. Instructions on how to obtain a copy of the BIA decision, including a website and/or physical location where a copy of the decision will be available.
 - c. A legal land description of the land.

2. *Promptly* after approving the request:
 - a. Address and send the original decision to the applicant. Attach a list of all parties, including state and local government entities that were provided a copy under paragraph d., below.
 - b. Publish the Public Notice in a newspaper of general circulation serving the affected area, when the approval is at the Regional or Agency level. Complete this step as near in time as possible with sending the original decision to the applicant.
 - c. Make a copy of the decision publicly available on the website and/or at a physical location identified in the Public Notice and ensure a copy of the decision is available at that location by the time the Public Notice is published.
 - d. As near in time as possible with publication of the Public Notice, send a copy of the decision to:
 - 1) All interested parties² who have made themselves known, in writing, to BIA prior to the decision being made; and
 - 2) The state and local governments having regulatory jurisdiction over the land to be acquired.
3. If the decision is issued by the Regional Director and is for an acquisition of a parcel or parcels that cumulatively total 200 acres or more, notify AS-IA by email at F2Tnotice@bia.gov, and by mail at: 1849 C Street, NW, MS-4141-MIB, Washington, DC 20240.
4. After expiration of the 30-day appeal period*, confirm whether an appeal has been filed with the Interior Board of Indian Appeals (IBIA) (or with the Regional Director, if the Superintendent issued the decision). If an appeal has been filed with the IBIA, then:
 - a. Consult with the Solicitor's Office on next steps, including the preparation of the administrative record;
 - b. If the decision being appealed is for an acquisition of a parcel or parcels that cumulatively total 200 acres or more, notify AS-IA by email at F2Tnotice@bia.gov, and by mail at: 1849 C Street, NW, MS-4141-MIB, Washington, DC 20240.
5. Once administrative remedies are exhausted and the decision is final for the Department, proceed to Step 12 "Preparing Final Certificate of Inspection and Possession."

² BIA should assume every party making themselves known is an interested party for purposes of sending out notice of the decision.

* When does the 30-day appeal period expire?

For:	The 30-day appeal period expires:
All interested parties who have made themselves known in writing to the BIA prior to the decision being made	30 days after such interested party receives a copy of the decision
All state and local governments having regulatory jurisdiction over the land to be acquired	30 days after such state or local government entity receives a copy of the decision
All other persons and entities	30 days after publication of the Public Notice in a newspaper of general circulation

To the greatest extent possible, these 30-day appeal periods should be timed to run at the same time, and should never run back-to-back. In other words, the Public Notice should be published as close in time as possible to the notice of decision date.

If the Public Notice is provided several days after the notice of decision is provided to interested parties or state or local government entities:

- The issuance of Public Notice does not extend the time for interested parties or state or local government entities who received actual written notice to file an appeal.
- The 30-day appeal period (for all other persons and entities) provided by the Public Notice will extend beyond the interested parties' or state or local government entities' 30-day appeal period.
- **Wait until the expiration of the latest 30-day appeal period before proceeding with this step.**

If an interested party or state or local government entity receives a notice of decision after other parties or after the Public Notice is published:

- The 30-day appeal period for that interested party or state or local government entity extends beyond the 30-day appeal period provided by the other notices and Public Notice.
- **Wait until the expiration of the latest 30-day appeal period before proceeding with this step**

If the AS-IA makes a decision to approve a request:

1. In coordination with AS-IA (through OIG or other AS-IA staff, as appropriate), prepare the Public Notice of the final Departmental decision to acquire land in trust pursuant to 25 CFR § 151.12 (d) and include the following [*See Exhibit 5.4.10: Sample Public Notice to Acquire Land into Trust – AS-IA Decisions*]:
 - a. Statement that a decision to acquire land in trust has been made and that the decision is final for the Department.
 - b. A legal land description of the land.
 - c. Website address where the decision is made publicly available.
2. *Promptly* after approving the request:
 - a. Address and send the original decision to the applicant.
 - b. Publish the Public Notice in the Federal Register. Complete this step as near in time as possible with sending the decision to the applicant.

- c. Proceed to Step 12 “Preparing Final Certificate of Inspection and Possession.” Note: Where AS-IA is issuing the decision, AS-IA will notify BIA of the anticipated or actual decision date to allow BIA time to complete this step and comply with Departmental requirements in 602 DM 2.
3. If a decision may be challenged in Federal court, consult with the Solicitor’s Office on preparing the administrative record as early in the decision-making process as possible.
4. Upon the completion of any judicial review, instructions may be provided by the Office of the Solicitor based upon the outcome of the judicial review.

If a BIA official makes a decision to deny a request:

Promptly provide the applicant with the decision and notification of any right to file an administrative appeal under 25 C.F.R. Part 2.

If the AS-IA makes a decision to deny a request:

Promptly provide the applicant with the decision.

Step 12: Preparing Final Certificate of Inspection and Possession (CIP)

1. Complete the Final CIP in the same manner as stated under Step 4 “Conducting Site Inspection and Completing Initial Certificate of Inspection” as close in time as possible to closing of the transfer.
2. Compare the Final CIP with the PTO and Initial CIP. [CIP’s prepared more than 180 days prior to closing are not acceptable.]
3. If there are any inconsistencies between the initial and final CIP in relation to possessory rights or interests, provide written notice to the applicant requiring response within 30 days of receipt of notice identifying a plan for curative action and/or request for extension of time. Ascertain the interest or claim of any person(s) other than the record owner(s) who is occupying or using any part of the lands. If the interest will interfere with the contemplated use of the land, measures should be taken to eliminate claims which are not compatible by, for example:
 - a. Obtaining disclaimers or quitclaim deeds from any person who has an uncertain interest in the property that we are trying to solve to ensure clear title;
 - b. Obtaining attornment agreements from tenants with unrecorded leases;
 - c. Agreeing to grant a private right-of-way or pipeline easement with specific terms and an agreed location and dimension for the easement, in return for the claimant’s

agreement to quitclaim any poorly defined possible easement which he/she may have acquired by prescription.

4. If the applicant does not respond or follow through with curative action within the 30-day period or any granted extension(s), evaluate the effects of this failure and if those effects will impact the decision issued under Step 10.

Step 13: Acceptance of Conveyance

Note: All gaming acquisition acceptance of conveyances are approved by the Assistant Secretary, Indian Affairs through OIG pursuant to the Gaming Handbook and are completed by the applicable field office.

1. Immediately following completion of the CIP (Step 12) and fulfillment of any applicable Departmental requirements (including compliance with 602 DM 2), complete this step (Step 13) and Steps 14 and 15 to formally accept the land into trust.
2. Confirm that the file contains all documentation that meets the requirements of the PTO and is in compliance with 25 CFR Part 151.
3. Process the formal acceptance of conveyance. The conveyance document must include:
 - a. Signature of the appropriate BIA official.
 - b. The statutory authority must be stated on the deed.
 - c. The delegation of authority must be stated on the acceptance document (e.g., Acceptance of Conveyance form or the Warranty Deed) [*See Exhibit 5.4.121: Acceptance of Conveyance*].

Step 14: Final Title Opinion and Recordation

1. Obtain the *original county-recorded deed and updated title evidence from the applicant.
2. Request a Final Title Opinion (FTO) from the Office of the Solicitor and provide the Office of the Solicitor with a copy of the environmental compliance review memorandum.
3. The request shall include:
 - a. The recorded Deed and Acceptance of Conveyance
 - b. Title Insurance Policy, if submitted

- c. PTO
- d. Updated title evidence to date of closing including evidence of corrective actions
- e. LDR
- f. Final Certificate of Inspection and Possession.

*A copy, versus the original recorded Warranty Deed may be sufficient to initiate a request for the final title opinion.

Step 15: Recording at Land Titles and Records Office

1. Submit the following documents to the Land Titles and Records Office (LTRO) for recording:
 - a. The original county-recorded Warranty Deed and, if no federal approval is included on the Warranty Deed, the Acceptance of Conveyance.
 - b. LDR, including acreage.
 - c. Copy of applicable referenced surveys and maps.

If any of these documents are missing or incomplete, fulfill the requirements in 52 IAM Chapter 12, 1.3 Policy C. "Administrative and Legal Timeframes." Additionally, see 25 CFR § 150.7(a).

2. Upon receipt of these documents the LTRO shall record and return to the entity that submitted the request within 5 business days.
3. The processing office has the discretion to submit documents for recording in addition to those required above; upon receipt, the LTRO shall record those documents.

Step 16: Completed Application Package

1. When the recorded documents have been received from the LTRO:
 - a. Return the original recorded documents to the office that is responsible to maintain custody of the record in accordance with Bureau record standards.
 - b. Provide a copy of the recorded package to the applicant.
 - c. Provide a recorded copy of the deed showing trust status to the Bureau of Land Management to update their records.

2. Close out electronic case file in Fee-to-trust system of record.

END OF PROCEDURE

3.1.2 Off-Reservation Discretionary Trust Acquisitions

OFF-RESERVATION DISCRETIONARY TRUST ACQUISITIONS

Scope

This section of the handbook contains procedures for off-reservation discretionary trust acquisitions for Tribes. This section applies to undivided fractional and full interests owned in fee by an eligible Tribe.

Procedure

To assist the applicant in preparing a request, provide the applicant a copy of “Required Elements: Application for Fee-to-trust” and the brochure, “Understanding the Fee-to-Trust Process for Discretionary Acquisitions.”

Step 1: Encoding the Fee-to-trust System of Record

Refer to Step 1 at 3.1.1 On-Reservation Discretionary Trust Acquisitions of this handbook.

Step 2: BIA Review of Written Request or Application

1. In addition to Step 2 at 3.1.1 On-Reservation Discretionary Trust Acquisitions of this handbook, the application must include:
 - a. Appropriate documentation of the location of the land relative to state boundaries, and its distance from the boundaries of the reservation. This may include maps and/or surveys.
 - b. Where the land is being acquired for business purposes the applicant must provide a plan which specifies the anticipated economic benefits associated with the proposed use (“economic plan”).

Step 3: Responding to an Incomplete Written Request or Application

Refer to Step 3 at 3.1.1 On-Reservation Discretionary Trust Acquisitions of this handbook.

Step 4: Conducting Site Inspection and Completing Initial Certificate of Inspection

Refer to Step 4 at 3.1.1 On-Reservation Discretionary Trust Acquisitions of this handbook.

Step 5: Preparing the Preliminary Title Opinion (PTO)

Refer to Step 5 at 3.1.1 On-Reservation Discretionary Trust Acquisitions of this handbook.

Step 6: Preparing Notice of Application, (NOA)

Refer to Step 6 at 3.1.1 On-Reservation Discretionary Trust Acquisitions of this handbook.

Step 7: Environmental Compliance Review

Refer to Step 7 at 3.1.1 On-Reservation Discretionary Trust Acquisitions of this handbook.

Step 8: Comments to Notice of Application

Refer to Step 8 at 3.1.1 On-Reservation Discretionary Trust Acquisitions of this handbook.

Step 9: Clearance of PTO Objections before Notice of Decision (NOD)

Refer to Step 9 at 3.1.1 On-Reservation Discretionary Trust Acquisitions of this handbook.

Step 10: Preparing Analysis and Notice of Decision (NOD)

1. For a gaming acquisition, prepare a memorandum with a recommended decision pursuant to the procedures outlined in the Gaming Handbook and submit the memorandum to OIG. OIG will then prepare the NOD for publication in the Federal Register.
2. Refer to Step 10 (Preparing Analysis and Notice of Decision (NOD)) at 3.1.1 On-Reservation Discretionary Trust Acquisitions of this handbook, and also include:
 - a. The submitted documentation of the location of the land relative to state boundaries, and its distance from the boundaries of the reservation. This may include maps and/or surveys.
 - b. The economic plan, including justification of anticipated benefits of proposed acquisition.
3. Consider the scrutiny and weight outlined in the regulations at 25 CFR § 151.11(b) as defined by applicable policies.

Step 11: Preparing the Publication Notice

Refer to Step 11 at 3.1.1 On-Reservation Discretionary Trust Acquisitions of this handbook.

Step 12: Preparing Final Certificate of Inspection and Possession (CIP)

Refer to Step 12 at 3.1.1 On-Reservation Discretionary Trust Acquisitions of this handbook.

Step 13: Acceptance of Conveyance

Refer to Step 13 at 3.1.1 On-Reservation Discretionary Trust Acquisitions of this handbook.

Step 14: Final Title Opinion and Recordation

Refer to Step 14 at 3.1.1 On-Reservation Discretionary Trust Acquisitions of this handbook.

Step 15: Recording at Land Titles and Records Office

Refer to Step 15 at 3.1.1 On-Reservation Discretionary Trust Acquisitions of this handbook.

Step 16: Completed Application Package

Refer to Step 16 at 3.1.1 On-Reservation Discretionary Trust Acquisitions of this handbook.

END OF PROCEDURE

3.1.3

Mandatory Trust Acquisitions

MANDATORY TRUST ACQUISITIONS

Scope

This section of the handbook contains procedures for mandatory trust acquisitions for individual Indians and Tribes. This section applies to undivided fractional and full interests owned in fee by an eligible Tribe or individual.

Purpose

A mandatory trust acquisition is one directed by Congress or a judicial determination that requires the Secretary to accept title to land into trust, or hold title to certain lands in trust by the United States, for an individual Indian or Tribe. The Secretary does not have discretion to deny the request to accept title of land into trust.

In the absence of statutory or judicial language requiring the Secretary to proceed with the mandatory acquisition without notice or application, the individual Indian or Tribe must submit a written request to commence the acquisition process.

Step 1: Encoding the Fee-to-trust System of Record

Refer to Step 1 at 3.1.1 On-Reservation Discretionary Trust Acquisitions of this handbook.

Step 2: Initiate the Mandatory Acquisition

1. A Tribe or individual Indian must submit a written request to the BIA to commence the acquisition process unless a specific statute or judicial order requires the Secretary to proceed without the submission of a request. The written request shall contain the following:
 - a. Documents verifying individual Indian or Tribal ownership.
 - b. The Tribe's name as it appears in the Federal Register for Federally Recognized Tribes or as it appears in a federally approved Tribal constitution.
 - c. Legal Land Description (Refer to Step 2 at 3.1.1, On-Reservation Discretionary Trust Acquisitions of this handbook).
 - d. Statutory authority.
 - e. Map depicting boundary and location of subject property if necessary.
 - f. Warranty Deed (i.e., draft acquisition deed) with designation of BIA approval and delegation of authority or Warranty Deed with Acceptance of Conveyance.

- a. An abstract of title dating from the time the interest was transferred from trust ownership to partial fee ownership to the present; or
 - b. If an abstract of title is not available, a copy of the recorded document through which the owner's interest was acquired and a sworn declaration from the owner that states: (1) how the owner acquired the interest; and (2) that the owners has not conveyed the interest away.
2. For all other mandatory acquisitions -- Obtain the following:
- a. Current evidence of title ownership from the Tribe or individual Indian and how it was acquired or written evidence that title will be transferred to the Tribe or individual Indian upon acquisition in trust; and
 - b. An abstract of title or a title commitment dating from the time the interest was acquired in fee ownership by the current owner or the current owner's predecessor(s) in title to the present.

Step 6: Environmental Compliance Review

NEPA and 602 DM 2 requirements are not applicable to mandatory acquisitions, but to understand any environmental hazards or any potential legal liabilities that may be present, perform due diligence by performing the following:

1. Conduct an initial site inspection; and
2. Document the results of the site inspection.

Completion of the initial site inspection and the findings of the inspection are not a precondition to completing the mandatory acquisition.

Step 7: Preparing Notice of the Acquisition

NOTE: The notice and procedures for providing notice differ depending upon whether a BIA official (e.g., the Superintendent or Regional Director) or the Assistant Secretary – Indian Affairs (AS-IA) issues the mandatory acquisition decision. The process for each is set out below.

If a BIA official is issuing the decision:

1. Prepare the mandatory acquisition decision.
 - a. If the decision is to deny the mandatory acquisition, provide a written notice of the determination and notice of the right to appeal pursuant to 25 CFR Part 2 to the Tribe or individual Indian.

- b. If the decision is to proceed with the mandatory acquisition, address and send the original decision to the applicant. As near in time as possible to sending the original decision to the applicant, prepare Public Notice of the mandatory acquisition, including:
 - 1) Statement that BIA intends to acquire land in trust as required by a statute or judicial order and that there is a 30-day administrative appeal period.
 - 2) Citation to the mandatory authority;
 - 3) Instructions on how to obtain a copy of the BIA decision, including a website and/or physical location where a copy of the decision will be available.
 - 4) A legal land description of the land.
2. *Promptly* after the decision is issued:
 - a. Publish the Public Notice in a newspaper of general circulation serving the affected area, when the approval is at the Regional or Agency level.
 - b. Make a copy of the decision publicly available on the website and/or at a physical location identified in the Public Notice and ensure a copy of the decision is available at that location by the time the Public Notice is published.
3. If the decision is for an acquisition of a parcel or parcels that cumulatively total 200 acres or more, notify AS-IA by email at F2Tnotice@bi.gov, and by mail at: 1849 C Street, NW, MS-4141-MIB, Washington DC 20240.
4. After expiration of the 30 day appeal period*, confirm whether an appeal has been filed with the Interior Board of Indian Appeals (IBIA) (or with the Regional Director, if the Superintendent issued the decision). If an appeal has been filed with the IBIA, then:
 - a. Consult with the Solicitor's Office on next steps, including the preparation of the administrative record; and
 - b. If the decision being appealed is for an acquisition of a parcel or parcels that cumulatively total 200 acres or more, notify AS-IA by email at F2Tnotice@bia.gov, and by mail at: 1849 C Street, NW, MS-4141-MIB, Washington, DC 20240. .
5. Once the administrative review process has been exhausted, instructions may be provided by the Office of the Solicitor based upon the outcome of the administrative appeal.

6. Once administrative remedies are exhausted and the decision is final for the Department, proceed to Step 8 “Conducting Final Inspection.”

When does the 30-day appeal period expire?

For:	The 30-day appeal period expires:
All interested parties who have made themselves known in writing to the BIA prior to the decision being made	30 days after such interested party receives a copy of the decision
All state and local governments having regulatory jurisdiction over the land to be acquired	30 days after such state or local government entity receives a copy of the decision
All other persons and entities	30 days after publication of the Public Notice in a newspaper of general circulation

To the greatest extent possible, these 30-day appeal periods should be timed to run at the same time, and should never run back-to-back. In other words, the Public Notice should be published as close in time as possible to the notice of decision date.

If the Public Notice is provided several days after the notice of decision is provided to interested parties or state or local government entities:

- The issuance of Public Notice does not extend the time for interested parties or state or local government entities who received actual written notice to file an appeal.
- The 30-day appeal period (for all other persons and entities) provided by the Public Notice will extend beyond the interested parties’ or state or local government entities’ 30-day appeal period.
- **Wait until the expiration of the latest 30-day appeal period before proceeding with this step.**

If an interested party or state or local government entity receives a notice of decision after other parties or after the Public Notice is published:

- The 30-day appeal period for that interested party or state or local government entity extends beyond the 30-day appeal period provided by the other notices and Public Notice.
- **Wait until the expiration of the latest 30-day appeal period before proceeding with this step**

If the AS-IA is issuing the decision:

1. If AS-IA makes a decision to deny a mandatory acquisition, provide a written notice of the determination to the Tribe or individual Indian.
2. If AS-IA makes a decision to proceed with the mandatory acquisition, address and send the original decision to the applicant. As near in time as possible to sending the original decision to the applicant, prepare the Public Notice of the mandatory acquisition, in coordination with AS-IA), prepare the Public Notice of the mandatory acquisition and include the following:
 - a. Statement that the Department determines it must acquire a particular parcel in trust and that the decision is final for the Department;
 - b. Citation to the mandatory authority; and
 - c. A legal land description of the land.

3. *Promptly* after the decision is issued:
 - a. Publish the Public Notice in the Federal Register.
 - b. Proceed to Step 8 “Conducting Final Inspection.”
4. If a decision may be challenged in Federal court, consult with the Solicitor’s Office on preparing the administrative record as early in the decision-making process as possible.
5. Upon the completion of any judicial review, instructions may be provided by the Office of the Solicitor based upon the outcome of the judicial review.

Step 8: Conducting Final Inspection

Refer to applicable policy and guidance.

Step 9: Acceptance of Conveyance

1. Confirm that the file contains all documentation required as identified in Step 2, Initiate Mandatory Acquisition.
2. Include the signature of the appropriate BIA or AS-IA official on the conveyance document.
3. Include the statutory authority on the deed.
4. Include the delegation of authority on the acceptance document (e.g., the Acceptance of Conveyance form or the Warranty Deed [*See Exhibit 5.4.11: Acceptance of Conveyance. Exhibit 5.4.12: Warranty Deed and Acceptance of Conveyance*]).

Step 10: Recordation

1. Obtain the *original county-recorded from the applicant.
2. If the fee fractional interest has been recorded at the county, record the trust acquisition deed at the county.

*A copy, versus the original recorded warranty deed may be sufficient to initiate a request for title evidence.

Step 11: Recording at Land Titles and Records Office

1. Submit the following documents to the Land Titles and Records Office (LTRO) for recording:

- a. The original county-recorded Warranty Deed and, if no federal approval is included on the Warranty Deed, the Acceptance of Conveyance.
- b. LDR, including acreage.
- c. Copy of applicable referenced surveys and maps.

If any of these documents are missing or incomplete, fulfill the requirements in 52 IAM Chapter 12, 1.3 Policy C. "Administrative and Legal Timeframes." Additionally, see 25 CFR § 150.7(a).

2. Upon receipt of these documents the LTRO shall record and return to the entity that submitted the request within 5 business days.

3. The processing office has the discretion to submit documents for recording in addition to those required above; upon receipt, the LTRO shall record those documents.

Step 12: Completed Mandatory Acquisition Package

1. When the recorded documents have been received from the LTRO:
 - a. Return the original recorded documents to the office that is responsible to maintain custody of the record in accordance with Bureau record standards.
 - b. Provide a copy of the recorded package to the applicant.
 - c. Provide a recorded copy of the deed showing trust status to the Bureau of Land Management to update their records.
2. Close out the electronic case file in the Fee-to-Trust System of Record.

3.4 Reservation Proclamations

GUIDELINES AND REQUIREMENTS FOR PROCESSING A RESERVATION PROCLAMATION

Scope

This section of the handbook contains procedures for processing reservation proclamation applications.

Purpose

The guidelines and requirements for processing reservation proclamations are intended to expedite and streamline the Indian Affairs' review process for proclamations. Realty staff should use these guidelines and requirements when preparing request packages that are sent to the AS-IA for issuance of a proclamation for adding trust lands to a reservation or establishing a new reservation. Any proclamation package that does not meet the requirements of these guidelines will be returned to the Regional Office as incomplete.

Selecting the Correct Standard Operating Procedure

When a Tribe submits a request for a reservation proclamation, the first step to determine the trust status of the underlying land. If the land is already in trust, proceed with the operating procedures at 3.4.1 for post-trust acquisition reservation proclamations. If the Tribe is seeking to acquire the land in trust and have it proclaimed as reservation, proceed with the operating procedures at 3.4.2 for concurrent trust acquisitions and reservation proclamations.

3.4.1

Post-Trust Acquisition Reservation Proclamations

Step 1: BIA Review of Reservation Proclamation Requests Received From Tribes

BIA review of reservation proclamations starts with the receipt of a request from a Tribe. Tribal requests for reservation proclamations for land that was already acquired in trust should be submitted to the BIA official with jurisdiction and should include:

1. A tribal resolution requesting the reservation proclamation. The resolution should include:
 - a. A citation to Tribal authority for the action.
 - b. The legal land description for the land in question and the trust deed.
 - i. The acreage and legal land description in the Tribal resolution should match the TSR, the LDR, and the trust deed, and, if they do not match, an explanation should be provided for the discrepancy if known.
 - ii. If the Tribe requests that only a portion of the trust parcel be proclaimed reservation, the Tribal resolution must specify that fact and include the legal land description of only the requested parcel. BIA should ensure the BILS provides a new legal land description review of only the requested parcel.
 - iii. Multiple parcels may be submitted as one request.
 - c. A brief justification for the reservation proclamation. For example, a Tribe may seek a reservation proclamation to clarify land status, or to support a request for funding from a state or federal agency.
 - d. A brief statement of the use for the land, such as housing or agricultural.
2. The application should include a map, plat, or survey that depicts the location of the subject land in relation to the present reservation, or other trust and restricted lands, where applicable.

BIA should review the application to ensure it is complete. If it is complete, proceed to Step 2. If it is not complete, notify the Tribe of any missing documentation.

Step 2. Prepare 30-Day Notice Letter to Local Governments

Once the necessary information is received for a reservation proclamation under Step 1, a 30-day notice letter will be sent to local governments. [See *Exhibit 5.4.13: Sample Notice of Reservation Proclamation Request*] The notice letter will include the following information:

1. A statement that the BIA has received a request to proclaim reservation status to certain lands.
2. The legal land description(s) and map(s) of the parcel(s) requested to be proclaimed reservation.
3. A statement that the Secretary of the Interior may proclaim an Indian reservation or add lands to existing reservations, supported by a reference to Section 7 of the Indian Reorganization Act of June 18, 1934 (48 Stat. 984; 25 USC 467).
4. A statement that the Office of the Assistant Secretary – Indian Affairs reviews all tribal requests for adding land to a reservation and prepares the proclamation and notice for submission to the Federal Register.
5. A statement that the letter provides a 30-day notice of the proposed action and such action is simply an administrative function that allows the Tribe to take advantage of special federal assistance programs.

Step 3. Prepare Reservation Proclamation Memorandum

The Regional Director is responsible for preparing a reservation proclamation memorandum to the BIA Director. The BIA Regional Office will work with the BIA agency to ensure the proclamation memorandum is complete. The requirements for the reservation proclamation memorandum from the Regional Director to the BIA Director are as follows:

1. State that the Tribal resolution from the Tribe is authorized by the Tribe's governmental organization.
2. Provide a brief history of the land acquisition.
3. Provide the acreage of the subject land, the statutory authority conferring trust status, and the date of trust status.
4. Provide a legal land description of the subject land. If the TSR, the LDR, and the trust deed acreages and legal land descriptions do not match, state the reason.
5. State whether any comments were received from the notices to state, county, and municipal governments. If notices were not sent to municipal governments, state the reason.
6. If comments were received, describe the contents of the comments. Also, provide the Region's response to the comments in the body of the memo.
7. Provide a justification and recommendation for reservation status.

Step 4. Prepare Attachments for Reservation Proclamation Memorandum

This step addresses the required attachments for the reservation proclamation memorandum discussed in Step 3, above. Please provide the following documents with index tabs in the following numerical order:

1. Copy of the resolution enacted by the Tribe that cites Tribal authority for action and requests the reservation proclamation.
2. Copy of the document(s) that transfers title of the property into trust status for the Tribe. Document(s) must clearly show date of approval for trust status covering subject land(s). In most cases, a trust deed with legal land description will suffice.
3. A plat, map, plot, or survey that depicts the location of the subject land in relation to the present reservation, or other trust or restricted lands. If new reservation, provide map showing subject land and current Tribal headquarters.
4. Legal land description review of lands being proclaimed reservation.
5. Evidence that a 30-day notice of the proposed action has been provided by the BIA to the state, county, and municipal governments within whose jurisdiction such land is located, as required under Step 2.
6. Submission of any comments and/or remarks (resulting from the notices) received by the BIA.
7. (Submission of proof of compliance with the NEPA. Compliance with 602 DM 2 is not required. Reminder: Any Federal action requiring approval by the Secretary must be in compliance with NEPA. Based on the Tribe's intended use of the property, the action may be a Reservation Proclamation CAT EX if there will be no changes in the use of the land. If so, only an Exception Review Checklist and a CAT EX are needed. However, if the use of the property changes, an EA is needed for the determination of the FONSI statement.)
8. A Draft Reservation Proclamation document in hard and electronic copy.
9. A Draft Federal Register Notice document in hard and electronic copy.
10. A Draft Memo from the Director to AS-IA in hard and electronic copy.

Step 5. Submit Reservation Proclamation Memorandum to the BIA Director

1. Once the reservation proclamation package is complete, the Regional Director submits the package to the Division of Real Estate Services (DRES).
2. DRES reviews the package in consultation with the Solicitor's Office and the Regional BIA Office, decides whether to recommend that the tribe's request be granted, and then finalizes a memorandum for signature by the BIA Director.

The package and the signed BIA Director memorandum are then sent to the AS-IA, who reviews the materials and determines whether to issue the reservation proclamation document. If the AS-IA decides to issue the reservation proclamation, notice of the decision is published in the Federal Register. A copy of the Federal Register notice should be provided to the BIA Regional Director and the Tribe.

3.4.2

Concurrent Trust Acquisitions and Reservation Proclamations

Step 1: BIA Review of Reservation Proclamation Requests Received From Tribes

BIA review of reservation proclamations for land that is not yet in trust and is the subject of a pending fee-to-trust application should be submitted to the BIA official with jurisdiction and should include:

1. A tribal resolution requesting the reservation proclamation. If the Tribe submitted a resolution as part of a fee-to-trust application, the request can be included as part of the same tribal resolution requesting that BIA acquire land in trust status. The resolution should include:
 - a. A citation to Tribal authority for the action.
 - b. The legal land description for the land in question
 - i. If the Tribe requests that only a portion of the fee-to-trust parcel be proclaimed reservation, the Tribal resolution must specify that fact and include the legal description of only the requested parcel. BIA should ensure the BILS provides a legal land description review of only the requested parcel.
 - ii. Multiple parcels may be submitted as one request.
 - c. A brief justification for the reservation proclamation. For example, a Tribe may seek a reservation proclamation to clarify land status, or to support a request for funding from a state or federal agency.
 - d. A brief statement of the use for the land, such as housing or agricultural.
2. The application should include a map, plat, or survey that depicts the location of the subject land in relation to the present reservation, or other trust and restricted lands, where applicable.

BIA should review the application to ensure it is complete. If it is complete, proceed to Step 2. If it is not complete, notify the Tribe of any missing documentation.

Step 2. Provide Notice to State and Local Governments in Fee-to-Trust Decision

If BIA determines to acquire land in trust for a Tribal applicant, BIA should prepare a Notice of Decision (NOD) pursuant to Step 10 and Step 11 under Sections 3.1.1 and 3.1.2 and refer to the Reservation Proclamation request in the NOD. *[See Exhibit 5.4.14: Sample Reservation Proclamation Insert for BIA Notice of Decision]* In addition to the information required by Step 10, the NOD should include the following information.

1. A statement that the BIA has received a request from the Tribe to proclaim reservation status to certain lands that are the subject of the Tribe's fee-to-trust application.
2. The legal land description(s) and map(s) of the parcel(s) requested to be proclaimed reservation.
3. A statement that the Secretary of the Interior may proclaim an Indian reservation or add lands to existing reservations, supported by a reference to Section 7 of the Indian Reorganization Act of June 18, 1934 (48 Stat. 984; 25 USC 467).
4. A statement that, immediately following the expiration of the 30-day administrative appeal period, if no appeal is filed, the BIA official will recommend that the Assistant Secretary – Indian Affairs issue the recommendation proclamation. If an appeal is filed, and a final decision is issued affirming the BIA official's decision, BIA will immediately recommend that the Assistant Secretary - Indian Affairs issue the recommendation proclamation.
5. A statement that the Office of the Assistant Secretary – Indian Affairs reviews all tribal requests for proclaiming a reservation or adding land to a reservation and prepares the proclamation and notice for submission to the Federal Register.
6. A statement that a reservation proclamation may only be issued after the land is acquired in trust.
7. A statement that the letter provides a notice of the proposed action and such action is simply an administrative function that will allow the Tribe to take advantage of special federal assistance programs.

If the fee-to-trust decision is made by the AS-IA (eg, for gaming), the decision should include the following information:

1. A statement that the AS-IA has received a request from the Tribe to proclaim reservation status to certain lands that are the subject of the Tribe's fee-to-trust application.
2. The legal land description(s) and map(s) of the parcel(s) requested to be proclaimed reservation.
3. A statement that the Secretary of the Interior may proclaim an Indian reservation or add lands to existing reservations, supported by a reference to Section 7 of the Indian Reorganization Act of June 18, 1934 (48 Stat. 984; 25 USC 467).
4. A statement that the Office of the Assistant Secretary – Indian Affairs reviews all tribal requests for proclaiming a reservation or adding land to a reservation and prepares the proclamation and notice for submission to the Federal Register.

5. A statement that the letter provides a 30-day notice of the proposed action and such action is simply an administrative function that will allow the Tribe to take advantage of special federal assistance programs.
6. A statement that, subject to the expiration of the 30-day notice period, and following the transfer of the property to trust status, the Assistant Secretary will issue a reservation proclamation.

Step 3. Prepare Reservation Proclamation Memorandum

Regardless of whether the fee-to-trust decision is made by the Regional Director or the AS-IA, the Regional Director is responsible for preparing a reservation proclamation memorandum. If the Regional Director issues the fee-to-trust decision, follow Track A where designated. If the AS-IA is to issue the fee-to-trust decision, follow Track B where designated. The BIA Regional Office will work with the BIA agency to ensure the application and proclamation memorandum are complete.

Track A - When the Regional Director issues the fee-to-trust decision:

The Regional Director will include a statement in the fee-to-trust decision recommending that the AS-IA proclaim the subject lands as reservation. Within 10 business days of the expiration of any administrative appeal period, if no appeal is filed, the Regional Director will send a memorandum to the BIA Director providing the information outlined in 1-7 below. If the land is not yet in trust at the time the Regional Director prepares a reservation proclamation memorandum, the Regional Director should note the fact in his memorandum and provide the trust deed to the BIA Director as soon as the land is in trust. If an administrative appeal is filed and a final decision issued affirming the Regional Director's decision, the Regional Director should prepare a memorandum to the BIA Director within 10 business days of signing the trust deed.

Track B - When the AS-IA issues the fee-to-trust decision:

The reservation proclamation package should be submitted prior to AS-IA's issuance of a fee-to-trust decision. The Regional Director may combine the reservation proclamation memorandum with the memorandum recommending whether the land should be taken into trust. This consolidated memorandum should be sent to the Division of Real Estate Services (DRES) and the Office of Indian Gaming (for gaming). The consolidated memorandum should include the information outlined in 1-7 below, in addition to information and analysis required for the fee-to-trust decision.

Contents of the Regional Director's reservation proclamation memorandum (Tracks A and B):

1. State that the Tribal resolution from the Tribe is authorized by the Tribe's governmental organization.
2. Provide a brief history of the land acquisition.
3. Provide the acreage of the subject land and, if the Region issued the underlying fee-to-trust decision, the statutory authority conferring trust status and the date of trust status. If the land is not yet in trust, note that the reservation proclamation may not be issued until the land in trust and the trust deed will be provided immediately upon issuance.
4. Provide a legal land description of the subject land. If the TSR, the LDR, and the trust deed acreages and legal land description (for Track A) do not match, state the reason.
5. For Track A, state whether the reservation proclamation insert language (*See Exhibit 5.4.14*) was included in the NOD and any comments that were received. If the reservation proclamation insert language was not included, state the reason. If comments were received, describe the contents of the comments and provide the Region's response to the comments in the body of the memo.
6. Provide a justification and recommendation for reservation status.

Step 4. Prepare Attachments for Reservation Proclamation Memorandum (Tracks A and B)

This step addresses the required attachments for the reservation proclamation memorandum discussed in Step 3, above. Please provide the following documents with index tabs in the following numerical order (or in any logical order for Track B):

1. Copy of the resolution enacted by the Tribe that cites Tribal authority for action and requests the reservation proclamation.
2. If a trust deed has already been issued, for Track A, a copy of the document(s) that transfers title of the property into trust status for the Tribe. Document(s) must clearly show date of approval for trust status covering subject land(s). In most cases, a trust deed with legal land description will suffice. If the trust deed has not yet been issued at the time the Regional Director sends the reservation proclamation package, it should be noted and sent immediately after issuance.
3. A plat, map, plot, or survey that depicts the location of the subject land in relation to the present reservation, or other trust or restricted lands. If new reservation, provide map showing subject land and current Tribal headquarters.

4. Legal land description review of lands being proclaimed reservation.
5. For Track A, evidence that the reservation proclamation insert language (*See Exhibit 5.4.14*) was included as required under Step 2.1. Include submission of any comments and/or remarks received by the BIA.
6. Submission of proof of compliance with the NEPA. BIA environmental documents are not required (e.g. Phase 1). Reminder: Any Federal action requiring approval by the Secretary must be in compliance with NEPA. Generally, the NEPA process undertaken for the fee-to-trust decision, such as the issuance of a FONSI or EIS, may be used to demonstrate NEPA compliance for purposes of the reservation proclamation.
7. A Draft Reservation Proclamation document in hard and electronic copy.
8. A Draft Federal Register Notice document in hard and electronic copy.
9. A Draft Memo from the Director to AS-IA in hard and electronic copy (Track A only).

Step 5. Submit Reservation Proclamation Memorandum

Track A - When the Regional Director issues the fee-to-trust decision:

Once the reservation proclamation package is complete, and no more than 10 business days following the expiration of the 30-day appeal period if no appeal is filed, the Regional Director submits the package to the Division of Real Estate Services (DRES). If an appeal is filed and a final decision issued affirming the Regional Director's decision, the Regional Director should submit the package to DRES within 10 business days of signing of the trust deed.

DRES reviews the package in consultation with the Solicitor's Office and the Regional BIA Office, decides whether to recommend that the tribe's request be granted, and then finalizes a memorandum for signature by the Director of the BIA.

The package and the signed BIA Director memorandum are then sent to the AS-IA, who reviews the materials and determines whether to issue the reservation proclamation document. If the AS-IA decides to issue the reservation proclamation, notice of the decision is published in the Federal Register. Note: The AS-IA should only issue the reservation proclamation and publish the Federal Register notice after the trust deed has been finalized.

Track B - When the AS-IA issues the fee-to-trust decision: Once the reservation proclamation/fee-to-trust package is complete, the Regional Director submits the package to the Division of Real Estate Services (DRES). For gaming applications, the package should be submitted simultaneously to the Office of Indian Gaming (OIG). DRES/OIG reviews the package in consultation with the Solicitor's Office and the Regional BIA office. DRES/OIG will then prepare its final recommendation to the AS-IA on the combined fee-to-trust and reservation

proclamation application. For packages that are non-gaming related, OIG review and final recommendation is not necessary.

The AS-IA will review the materials and determine whether to acquire the land in trust and proclaim it reservation, subject to the 30-day notice period set forth in Step 2.2.

END OF PROCEDURE

4.0 POLICY AND DIRECTIVES

4.1 Mandatory Acquisition Guidance



United States Department of the Interior

OFFICE OF THE SECRETARY
Washington, DC 20240

Memorandum

APR 06 2012

To: Regional Directors
Superintendents

Through: Michael S. Black
Director, Bureau of Indian Affairs

From: Larry Echo Hawk
Assistant Secretary - Indian Affairs

Subject: Updated Guidance on Processing of Mandatory Trust Acquisitions

In connection with the Department of the Interior's duty to acquire land in trust for Indian tribes under various mandatory acquisition statutes and ongoing efforts to streamline that process, we have reviewed the Department's prior guidance memoranda regarding processing mandatory land acquisitions.¹ For all of the reasons set forth in this memorandum, we provide clarification regarding the BIA's method of processing mandatory fee-to-trust acquisitions. This guidance memorandum replaces and supersedes all previous guidance regarding the processing of fee-to-trust acquisitions pursuant to a statute or judicial decree that mandates the acquisition of land in trust for a tribe or Indian individual. All mandatory fee-to-trust acquisitions shall now be processed as follows:

Mandatory Determinations

Statutory and Judicial Mandates

A tribe or individual Indian must submit a written request to the BIA to commence the acquisition process unless a specific statute or judicial order requires the Secretary to proceed

¹ These memoranda include, but are not exclusively limited to, the April 17, 2002 memorandum regarding the "Processing of Mandatory Lands Into Trust Applications" issued by the Deputy Commissioner of Indian Affairs; the May 2, 2003 memorandum regarding the "Applicability of the Department of Justice's Title Regulations to Applications to Place Lands into Trust" memorandum issued by Acting Assistant Secretary - Indian Affairs and, most recently, the guidance of November 2, 2011, entitled "Processing of Mandatory Acquisitions of Lands Into Trust for Tribes and Individual Indians" issued by the Director of the BIA.

² This guidance memorandum does not apply to legislative transfers of title. There is a distinction between mandatory acquisition statutes where "Congress directs the Secretary to complete the administrative process of accepting trust title" and legislative transfers of title, which occur when "Congress directly transfers land into trust status on behalf of tribes or individual Indians." 64 Fed. Reg. 17574, 17578 (April 12, 1999). When Congress legislatively transfers title into trust it "remove[s] the need for any administrative action to effectuate the title transfer." *Id.*

Therefore, BIA will continue to provide written notice of the mandatory acquisition determination (approval or denial) to the tribe or individual Indian. In the event of a denial by a BIA official, notice of the right to appeal pursuant to 25 C.F.R. Part 2 shall be provided to the tribe or individual Indian.

Consistent with the policy behind the revisions to section 151.12 to clarify and broaden notice of trust acquisition decisions, once the Department determines that it must acquire a particular parcel in trust for a tribe or an individual Indian, it should provide public notice of the decision consistent with the requirements of the revised section 151.12 and the revised Fee-to-Trust Handbook (Acquisition of Title to Land Held in Fee or Restricted Fee Status, Version III, Issued 12/12/13). A copy of revised section 151.12 is attached for your reference. In addition, consistent with the revised section 151.12, the Department will immediately acquire the land in trust on or after the date a mandatory acquisition decision is final for the Department and upon fulfillment of any Departmental requirements.



United States Department of the Interior

OFFICE OF THE SECRETARY
Washington, DC 20240

Memorandum

APR 06 2012

To: Regional Directors
Superintendents

Through: Michael S. Black
Director, Bureau of Indian Affairs

From: Larry Echo Hawk
Assistant Secretary - Indian Affairs

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without the submission of a request. Acquisitions made pursuant to 25 U.S.C. § 2216(c)³ have previously been determined to be mandatory⁴ and should be processed accordingly. In all other cases, a determination that a particular acquisition is mandatory is made on a case-by-case basis. The BIA should consult the Solicitor's Office as early as possible to request a written determination that the statute or judicial decree mandates the Secretary to acquire land into trust for a tribe or individual Indian. The BIA may rely on the Solicitor's determination that a congressional enactment is a mandatory acquisition statute or a judicial decree provides for mandatory acquisitions to process that request and to process future requests under the same mandatory authority.

Parcel Qualification

Upon determining that the statute or judicial decree mandates the acquisition, the BIA will determine whether the parcel meets any additional required criteria. For example, a statute might require that a parcel be located within a specific geographical area or that certain funds be used for the acquisition. If so, the BIA will ensure that those criteria are met in order to process the request as a mandatory acquisition. The tribe or individual Indian shall submit information demonstrating that the parcel meets these additional criteria. Questions concerning these criteria should be referred to the Solicitor's Office as early as possible to confirm that acquisition of the parcel is mandated and that the applicable criteria have been met.

Title Evidence

Our regulations provide that:

[i]f the Secretary determines that he will approve a request for the acquisition of land from unrestricted fee status to trust status, he shall acquire, or require, the applicant to furnish title evidence meeting the Standards For The Preparation of Title Evidence In Land Acquisitions by the United States, issued by the U.S. Department of Justice. After having the title evidence examined, the Secretary shall notify the applicant of any liens, encumbrances, or infirmities which may exist. The Secretary may require the elimination of any such liens, encumbrances, or infirmities prior to taking final approval action on the acquisition and he shall require elimination prior to such approval if the liens, encumbrances, or infirmities make title to the land unmarketable.

³ Section 2216(c) provides that "[a]n Indian, or the recognized tribal government of a reservation, in possession of an interest in trust or restricted lands, at least a portion of which is in trust or restricted status on the date of enactment of the Indian Land Consolidation Act Amendments of 2000 [enacted Nov. 7, 2000] and located within a reservation, may request that the interest be taken into trust by the Secretary. Upon such a request, the Secretary shall forthwith take such interest into trust."

⁴ Memorandum from Assistant Solicitor, Branch of Trust Responsibility, Division of Indian Affairs to the Director, Bureau of Indian Affairs, entitled "Acquisitions in Accordance with 25 U.S.C. § 2216(c)" (Aug. 30, 2011).

25 C.F.R. §151.13.

It is our reasoned interpretation that this provision does not apply to mandatory acquisitions because the regulation applies to situations where the Secretary acts on a "request" by a tribe to take land into trust, which is not the case in mandatory trust acquisitions.⁵ Furthermore, the regulations authorize the Secretary to require the elimination of any liens encumbrances or infirmities prior to "taking approval action," which contemplates Secretary discretionary decisionmaking and the weighing of certain factors that are not typically found in the mandatory acquisition context. Furthermore, as a matter of sound policy, when Congress or a court mandates acquisitions of land for a tribe or individual Indian, it has done so generally to restore land to the tribe's homelands⁶ or in settlement of a dispute or to address a grievance⁷ or a perceived injury⁸ to a tribe or individual Indian.

In this context, Congress or a court has made a determination that the tribe or Indian individual is entitled to certain lands, sometimes subject to certain additional conditions, but not subject to the standard requirements for discretionary acquisitions. Given our interpretation of 25 C.F.R. §151.13, that it only applies to situations where a tribe has requested that the Secretary exercise his/her discretion, and our policy determination that requiring full title review per DOJ Title Standards would potentially frustrate the intent of Congress or the judiciary, we conclude that that full compliance with DOJ Title Standards for mandatory acquisitions is not warranted. Nonetheless, we also conclude that having some evidence of title ownership is a wise, reasonable practice as the BIA should have an understanding of any potential liabilities or conflicts that may exist upon acquisition of the land. Thus, the BIA shall adhere to the following guidance.

⁵ Letter from Lewis Baylor, Division Counsel for Title Matters, Land Acquisition Section, DOJ to Colleen Kelley and Priscilla A. Wilfahrt, Field Solicitors, Office of the Solicitor, DOI (Dec. 20, 2002); Letter from Lewis Baylor, Division Counsel for Title Matters, Land Acquisition Section, DOJ to Robert J. McCarthy, Field Solicitor, Office of the Solicitor, DOI (Feb. 19, 2003); Letter from Edith Blackwell, Acting Associate Solicitor, Division of Indian Affairs, Office of the Solicitor, DOI to Lewis Baylor, Division Counsel for Title Matters, Land Acquisition Section, DOJ (April 25, 2003); Letter from Patrice Kunesh, Deputy Solicitor for the Division of Indian Affairs, Office of the Solicitor, DOI to Lewis Baylor, Division Counsel for Title Matters, Land Acquisition Section, DOJ (April 6, 2012).

⁶ For example, Congress mandated certain acquisitions on behalf of the Devils Lake Sioux Tribe based, in part, on Congress' determination that the "continued existence of the Devils Lake Sioux Reservation, North Dakota, as a permanent homeland of the Devils Lake Sioux Tribe and as a necessary foundation for continued self-determination requires that the Secretary of the Interior have authority to . . . consolidate and increase the trust and base in the reservation for the tribe and individual tribal members . . . [and] prevent further loss of trust land." Pub. L. No. 97-459, 96 Stat. 2515 (1983).

⁷ Congress mandated acquisitions for the White Earth Band of Minnesota Chippewa as part of the White Earth Land Compensation Act which was intended to settle "claims on behalf of Indian allottees or heirs and the White Earth Band involving substantial amounts of land within the White Earth Indian Reservation in Minnesota [which were the] subject of existing and potential lawsuits involving many and diverse interests in Minnesota, and [were] creating great hardship and uncertainty for government, Indian communities, and non-Indian communities . . ." Pub. L. No. 99-264, 100 Stat. 61 (1986). Congress intended for the Act to "settle unresolved legal uncertainties relating to th[o]se claims." *Id.*

⁸ Congress mandated acquisition of certain lands for the Ponca Tribe as part of the Ponca Restoration Act which was intended to restore the Tribe's federally recognized status and remedy the effects of the government's termination and mistreatment of the tribe which resulted in loss of lands, economic hardship and cultural damage to the Tribe. 25 U.S.C. § 983b.

25 U.S.C. § 2216(c) Acquisitions

Title determinations for acquisitions of fractional interests pursuant to 25 U.S.C. § 2216(c) will adhere to the following criteria. Submissions shall include current evidence of title ownership from the tribe or individual Indian demonstrating that the fractional interest is owned by the tribe or individual Indian and how it was acquired. This information should include an abstract of title dating from the time the interest was transferred from trust ownership to partial fee ownership to the present. In the absence of an abstract of title, the BIA will accept a sworn declaration from the owner that states (a) how the owner acquired the interest, and a copy of the recorded document through which the owner's interest was acquired, and (b) that the owner has not conveyed the interest away.

All Other Mandatory Acquisitions

Title determinations for all other mandatory acquisitions shall require current evidence of title ownership from the tribe or individual Indian demonstrating that the interest is owned by the tribe or individual Indian and how it was acquired.⁹ This should include an abstract of title or a title commitment dating from the time the interest was acquired in fee ownership by the current owner or the current owner's predecessor(s) in title to the present.

Notice

As a matter of practice, the Department has provided notice of its intention to take land into trust for a tribe or individual Indian or, alternatively, its refusal to complete a fee-to-trust acquisition. A notice of a decision to deny a trust acquisition also has included specific reference to a right of appeal pursuant to 25 C.F.R. Part 2 (or, if the decision is issued by the Assistant Secretary – Indian Affairs, appeal under Part 2 is unavailable, since the decision is final for the Department). The Department has followed this practice for both mandatory and discretionary acquisitions. Sound policy reasons weigh in favor of continuing to provide public notice in order to allow for judicial review prior to acquisition of lands because, once the United States acquires title, the Quiet Title Act, 28 U.S.C. § 2409a, precludes judicial review. Although the Department's regulations (specifically 25 C.F.R. § 151.12) may not explicitly require notice of mandatory acquisitions, the policy of providing notice is consistent with our regulations.

Therefore, the Bureau will continue to provide written notice of the acquisition determination to the tribe or individual Indian. In the event of a denial, notice of the right to appeal pursuant to 25 C.F.R. Part 2 shall be provided unless the decision was made by the Assistant Secretary – Indian Affairs.

Once the Department determines that it must acquire a particular parcel in trust for a tribe or an individual Indian, written notice shall be published in the *Federal Register* or in a newspaper of general circulation serving the affected area.¹⁰ The notice will reference the applicable

⁹ This requirement may also be met by submitting written evidence that title will be transferred to the tribe or individual upon acquisition in trust by the Department on behalf of the tribe or the individual Indian.

¹⁰ Decisions from appeals under Part 2 are final upon exhaustion of administrative remedies.

mandatory authority, state that the Secretary is required to take the land into trust, and that the Secretary shall acquire title in the name of the United States no sooner than 30 days after the notice is published. If an appeal of the determination is filed in Federal Court before the 30-day notice time period expires, you should consult the Solicitor's Office prior to transferring and recording title.

Absent a judicial challenge within the 30-day period (or, if litigation has been filed, upon a final decision upholding the acquisition), the Secretary shall then issue or approve an appropriate instrument of conveyance to finalize the mandated acquisition.

Environmental Review

It is well-established that the environmental review requirements of the National Environmental Policy Act (NEPA) are not applicable to mandatory acquisitions.¹¹

In addition, we find that the plain language of our regulations (25 C.F.R. §§151.10(h) and 151.11(a)) makes clear that compliance with 602 DM 2 is not a precondition to completing a mandatory fee-to-trust acquisition. In addition to the plain language of our regulations, we also find there are good policy reasons for treating mandatory acquisitions differently with regard to 602 DM 2. The Secretary has no discretion to refuse to acquire land that qualifies under the statute or decree regardless of what information might exist under a 602 DM 2 analysis. Therefore, BIA shall not require compliance with 602 DM 2 as a precondition to processing and completing mandatory acquisitions and we set aside any previous direction to the contrary.

Nevertheless, it still is important for the Department to understand any environmental hazards that might be present on the lands it must acquire or any potential legal liabilities. To do this, the BIA must conduct an initial site inspection to satisfy its due diligence requirement, however, completion of the acquisition is not conditioned upon the initial site inspection or the findings and/or results of the inspection.

Please refer any questions concerning this guidance to the Director's Office. Thank you in advance for your cooperation with this important work.

¹¹ For example, *Sierra Club v. Babbitt*, 65 F.3d 1502, 1512 (9th Cir. 1995) held that NEPA only applies to discretionary agency actions.

4.2 Indian Affairs Manual (IAM) Part 52, Chapter 12, “*Processing Discretionary Fee-to Trust Applications*”

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Chapter 12

Processing Discretionary Fee-to-Trust Applications

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- 1.1 Purpose.** This chapter establishes Indian Affairs (IA) policy and procedures to acknowledge receipt of applications for fee-to-trust land acquisitions; define timeframes with regard to gathering of information to complete fee-to-trust applications on a timely basis; define timeframes associated with administrative and legal challenges to decisions to accept land into trust; implement reporting requirements for pending fee-to-trust cases; and to identify how IA employees will record time spent working any and all aspects of fee-to-trust. All references to "days" within this policy are calendar days, not business days. All references to "written correspondence to applicants" within this policy are to be made via certified-return receipt mail.
- 1.2 Scope.** This policy applies to all Bureau of Indian Affairs (BIA) employees and to all discretionary fee-to-trust applications currently in the possession of the Department of the Interior (DOI) and to all future applications to convert fee land into trust land received by DOI.
- 1.3 Policy.**

A. Acknowledging Receipt of Applications for Fee-to-Trust Acquisitions.

After receipt of an application to acquire land into trust, as identified in 25 CFR §151.9, the authorized official (Superintendent, Regional Director, or Central Office) receiving the application will formally acknowledge receipt of the application in writing, to the applicant within 10 calendar days. This formal acknowledgement by the authorized official must include a copy of the brochure titled "Understanding the Fee-to-Trust Process for Discretionary Acquisitions."

B. Gathering information for Incomplete Fee-to-Trust Applications.

The "Acquisition of Title to Land held in Fee or Restricted Fee Status Handbook" (hereafter Fee-to-Trust Handbook) addresses incomplete applications at "Step 3: Responding to an Incomplete Written Request or Application." Pursuant to this policy, BIA staff is required to review all pending fee-to-trust applications currently in their possession and take one or more of the following actions, as appropriate, for each pending application:

1) Applications that are pending as of the date of this policy:

If there are expired or missing documents in pending applications that are required from the applicant, BIA staff will contact the applicant in writing, according to the steps identified in the Handbook under "Step 3: Responding to an Incomplete Written Request or Application." This written correspondence is the "original notice," and will advise the applicant that the requested, responsive information must be received from the applicant within 30 days, or the application will be considered inactive.

If the requested information is not received within 30 calendar days after the original notice, BIA staff will send the applicant a "final notice" that BIA did not receive the requested information and the application will be returned to them. The application must

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be returned after 60 days of the date of the original notice and removed from the active caseload unless the responsive information is received by BIA. The authorized official (Superintendent, Regional Director, or Central Office) is responsible for ensuring return of the application to the applicant and updating the system of record, (presently the Fee to Trust Tracking System (FTTS)) to reflect that the application has been returned within five days of that action.

2) Applications received after the date of this policy:

If there are expired or missing documents in applications received after the date of this policy that are required from the applicant, BIA staff will contact the applicant in writing according to the steps in the Handbook under "Step 3: Responding to an Incomplete Written Request or Application." This written correspondence is the "original notice," and will also advise the applicant that if the requested, responsive information is not received within 30 days, the application will be considered inactive.

If the requested information is not received within 30 calendar days after the original notice, BIA staff will send the applicant a "final notice" that their application will be returned to them after 45 days of the date of the original notice and removed from the active caseload unless the responsive information is received from them. The authorized official (Superintendent, Regional Director, or Central Office) is responsible for returning the application to the applicant and for updating the system of record to reflect that the application has been returned within five days of that action.

C. Administrative and Legal Timelines

1) If there are expired or missing documents that are required from DOI staff, BIA will contact the responsible office in writing within seven calendar days to request that the responsive information be provided within 21 days.

The BIA staff will also assure that all pending (incomplete) cases are in the system of record and that the data is current and accurate so reports can be generated to produce work lists for the responsible agencies and provide a quarterly status report to the respective Tribe having jurisdiction over the lands subject to the application(s). The work lists will be reviewed and the responsible agencies contacted on a regular basis to assure that the cases keep moving forward.

2) If the application is complete and there are no expired or missing documents, BIA staff will take the necessary actions to assure that a Notice of Decision is issued as soon as possible, but no later than 15 days from the date of receipt of final document(s) required to issue the Notice of Decision.

3) If the decision to take land into trust is appealed to a Regional Director, the official whose decision is being appealed will provide the complete administrative record to the respective regional office within 10 days of notice of the appeal. The administrative

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record will be compiled as required in the Fee to Trust Handbook. The Regional Director has 60 days to issue a decision.

4) If a case is appealed to the Interior Board of Indian Appeals (IBIA), the Regional Director will immediately put the Director, BIA on notice. Applications under administrative appeal or judicial review will be encoded in system of record within five days to reflect the appropriate status.

D. Quarterly Reports to Tribe(s) for Pending Applications. Each location authorized to accept land into trust (Agency Office, Regional Office, or Central Office) is responsible for providing the Tribe(s) who have jurisdiction over the lands in pending fee-to-trust applications, with quarterly reports of all pending applications (including individual Indian applications) within each Tribe's respective jurisdiction. Quarterly reports will be sent to the Tribe(s) the first week in the months of October, January, April and July.

E. Fee to Trust Activity Codes for Employee Time Accounting. All time spent and actions performed by BIA employees to process, manage, report, provide training and receive training regarding fee-to-trust will be coded in the Quick Time System (or its successor) as follows:

- To process fee-to-trust applications: WCVZ
- To manage the process or report on the progress: WVCV
- To provide training, or perform outreach: WCVA
- To receive training: WCVB

1.4 Authority. 25 CFR §151.9

1.5 Roles and Responsibilities

- A. **Director, Bureau of Indian Affairs (BIA).** The BIA Director is responsible for the development of National Policy affecting Indian lands.
- B. **Deputy Bureau Director, Field Operations, BIA.** The BIA Deputy Bureau Director of Field Operations is responsible for overseeing the Regional Directors and dissemination of policy to them.
- C. **Deputy Bureau Director, Trust Services, BIA.** The BIA Deputy Bureau Director of Trust Services is responsible for assisting in the dissemination of trust resource policy and information to the Regional Directors.
- D. **Regional Directors, BIA.** The BIA Regional Directors are responsible for carrying out policy as directed, and for overseeing the implementation of policy either directly or via Agency Superintendents.

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Replaces: Version IV, Issued: 5/16/16

5.0 EXHIBITS

5.1 Brochure: *“Understanding the Fee-to-Trust Process for Discretionary Acquisitions”*

[See enclosed PDF file]

**Fee-to-Trust
Step-by-step process for
On-Reservation (Discretionary)**

STEP 1 Encode into to the Fee-to-Trust Tracking System
STEP 2 Review of Written Request or Application
STEP 3 Respond to an incomplete application
STEP 4 Site Visit and Certificate of Inspection
STEP 5 Preliminary Title Opinion
STEP 6 Notice of Application to Interested Parties
STEP 7 Environmental Compliance Review
STEP 8 Comments to Notice of Application
STEP 9 Satisfy Preliminary Title Opinion Objections
STEP 10 Prepare Analysis & Notice of Decision
STEP 11 Provide Notice of the Decision

STEP 12 Prepare Final Certificate of Inspection
STEP 13 Acceptance of Conveyance
STEP 14 Final Title Opinion and Recordation
STEP 15 Recording at Land Titles and Records
STEP 16 Completed Application Packet

For more information about this
process contact:

Steps Continued ➡

**UNDERSTANDING
THE**

**Fee-to-Trust
Process
For Discretionary
Acquisitions**



**DEPARTMENT OF
THE INTERIOR**

**BUREAU OF INDIAN
AFFAIRS**

Frequently Asked Questions

- 1. What is a fee-to-trust land acquisition?** A fee-to-trust land acquisition is a transfer of land title from an eligible Indian Tribe or eligible Indian individual(s) to the United States of America, in trust, for the benefit of the eligible Indian Tribe or eligible Indian individual(s).
- 2. Who is eligible to apply for a fee-to-trust land acquisition?** Indian Tribes and individual Indian people who meet the requirements established by federal statutes and further defined in federal regulations are eligible to apply for a fee-to-trust land acquisition. See 25 Code of Federal Regulations (CFR) § 151.2; 25 United States Code (USC) § 479 and § 2201.
- 3. If you are eligible, how do you submit an application?** All applications for a fee-to-trust acquisition must be in writing and specifically request that the Secretary of the Interior take land into trust for the benefit of the applicant. If you are an eligible Indian Tribe, the request may be in the form of a Tribal Resolution. See 25 CFR § 151.9.
- 4. Where should an eligible applicant submit an application to?** Applications shall be submitted to the Bureau of Indian Affairs (BIA) office that has jurisdiction over the lands contained in the application. If the applicant does not know what BIA office has jurisdiction over the lands the applicant should contact the Division of Real Estate Services at (202) 208-7737 or at <http://www.bia.gov/WhoWeAre/RegionalOffices/index.htm>
- 5. What information is the applicant required to provide to accompany the application for a fee-to-trust acquisition?** The applicant must provide a legal description of the land to be acquired, the legal name of the eligible Indian Tribe or individual, proof of an eligible Indian Tribe or eligible individual(s), the specific reason the applicant is requesting that the United States of America acquire the land for the applicant's

benefit, a title insurance commitment addressing the lands to be acquired and information that allows the Secretary of the Interior to comply with the National Environmental Policy Act (NEPA) and 602 Departmental Manual 2 (602 DM 2) – Hazardous Substances.

- 6. What laws, regulations and standards apply to a fee-to-trust acquisition?** There are different laws that must be satisfied. Most acquisitions are authorized under 25 USC § 465, Section 5 Indian Reorganization Act (1934) and reviewed under 25 CFR § 151. However, the Department of the Interior must comply with all federal laws, including compliance with NEPA, 602 DM 2 Hazardous Substances Determinations, National Historical Preservation Act (NHPA) and US Department of Justice Title Standards. See 25 CFR § 151.13.
- 7. What are the applicant's responsibilities if they receive a written request from the Bureau of Indian Affairs requesting additional information to process an application?** The applicant must reply back to the BIA within the time frames identified in the written correspondence requesting additional information. All correspondence from the BIA requesting additional information will include each specific document needed to proceed with processing the application and will include the specific time the applicant has to provide the requested information. It is very important that applicant maintains written communication with the BIA throughout the process when the applicant is contacted by the BIA. If applicant needs additional time to respond to a request from the BIA for additional information, they must contact the BIA as soon as possible and make the request for an extension of time in writing. The BIA will reasonably accommodate requests from applicant for additional time to provide information, and will notify the applicant in writing of the decision regarding the applicant's request.
- 8. What happens if I do not respond?** If the applicant does not respond in the time stated in the letter or any extension, BIA will either return the application or take into consideration failure to provide the information. If the applicant has failed to provide infor-

mation on a non-critical title issue, BIA will take into consideration that there is insufficient or negative information in forming BIA's decision on your application and may result in a denial of your application.

- 9. Are there entities that will be provided notice of an application for a fee-to-trust acquisition?** Yes. State and local governments, including Tribal governments having regulatory jurisdiction over the land contained in the application, will be notified upon written receipt of an application for a fee-to-trust acquisition. The notice will inform the entities that each will be given 30 days in which to provide written comments as to the acquisition's potential impacts on regulatory jurisdiction, real property taxes and special assessments.
- 10. Will all applications from eligible Indian Tribes and eligible Indian Individuals result in a fee-to-trust acquisition?** No. Each application will be evaluated to determine if the applicable criteria defined in the CFR has been addressed (25 CFR § 151.10 and § 151.11), and the official authorized to accept the fee-to-trust acquisition will decide whether to accept the fee-to-trust acquisition. All decisions to accept or deny a fee-to-trust acquisition shall be in writing. If the acquisition is denied, the applicant will be advised of the reasons for the denial and will be notified of the right to appeal the decision and where the applicant's appeal must be filed.
- 11. How long does the process take?** The length of time to complete the process varies depending on the required steps. The required steps differ for on-reservation or off-reservation trust acquisitions and mandatory or discretionary acquisitions.
- 12. Can I get a report on the progress of my application?** Yes. BIA tracks the steps and progress of applications. BIA will provide you a report upon your request.

5.2 *“Fee to Trust Quick Reference Guide”*

[Under development]

5.3 "Required Elements: Application for Fee-to-Trust"

Required elements: Application for fee-to-trust.

All fee-to-trust applications must contain the following:

A. A written request

- a. The request must state the applicant is requesting approval of a trust acquisition by the United States of America for their benefit
- b. Identification of applicant(s)
- c. Legal Land Description
 - i. A description of real property in legally acceptable terms that is definite, legally defensible and susceptible to only one interpretation.
 - ii. This can be accomplished by government survey of the Public Land Survey System (PLSS), metes and bounds, or lot numbers of a recorded plat, so as to show exactly where the real property is located and how many acres it contains.
 1. All legal land descriptions shall contain the following information
 - State
 - County
 - Acreage
 2. All legal land descriptions described by Public Land Survey System (PLSS) shall contain the following applicable information
 - Township
 - Range
 - Principal Meridian
 - Section(s)
 - Government Lots
 - Aliquot Parts
 3. All legal land descriptions described by metes and bounds within the Public Land Survey System (PLSS) shall contain the following applicable information.
 - Township
 - Range
 - Principal Meridian
 - Section(s), Aliquot part, or Government Lot parcel lies in
 - Commencement tie from a Government corner of PLSS to point of beginning of metes and bounds parcel.
 - A metes and bound description which closes mathematically on itself.
 4. All legal land descriptions described by metes and bounds not within the Public Land Survey System (PLSS) shall contain the following applicable information.

- A point of beginning easily located of the ground.
 - A metes and bound description which closes mathematically on itself.
- d. Need for acquisition of the property (one of the following)
- i. Economic Development
 - ii. Tribal Self-Determination
 - iii. Indian housing (non-commercial)
- e. Purpose for which the property is to be used (See Exhibit “Create list of examples”)
- f. Title evidence meeting the requirements of 151.13, but need not be submitted at the time of the initial application.
- g. Written Tribal consent for nonmember application, or for Tribal acquisitions of land under jurisdiction of another Tribe
- B. In addition to the requirements of 1. above, the Tribal applicant will also submit the following:
- a. The application must state the Tribal name as it appears in the Federal Register for Federally recognized Tribes
 - b. Statutory Authority
 - c. If the property subject to the application is located off-reservation the applicant will also include the following:
 - i. A business plan, if the application is for business purposes [See 151.11 (c)]
 - ii. The location of the subject property relative to state and reservation boundaries [See 151.11 (b)]
- C. In addition to the requirements of 1. above, the following information is also required for an individual application:
- a. Evidence of eligible Indian status of the applicant
 - b. Amount of trust or restricted Indian land already owned by the applicant
 - c. Information or a statement from the applicant addressing the degree to which the applicant needs assistance in handling their affairs

5.4 Sample Documents

5.4.1

Sample Acknowledgement Letter

CERTIFIED MAIL – RETURN RECEIPT REQUESTED

Date

Applicant
P.O. Box 123
Somewhere, USA 99999

Dear (Applicant Name):

This is to advise you that the Bureau of Indian Affairs (BIA) is in receipt of your request for a fee-to-trust acquisition. The parcel(s) of land affected by this action are described as:

(Insert legal land description & acreage)

To assist you in the processing of your request is our brochure, "Understanding the Fee-to-trust Process for Discretionary Acquisitions". For your convenience, we are also enclosing a copy of 25 CFR Part 151.

If you have any questions, please contact (BIA contact name), Realty Specialist, at (000) 000-0000.

Sincerely,

Regional Director/Superintendent

Enclosure

5.4.2

Sample Original 30-Day Notice of Incomplete Fee-to-Trust Application Package

CERTIFIED MAIL – RETURN RECEIPT REQUESTED

Date

Applicant Name, Title
Address

Dear (Applicant name):

On (application receipt date), the Bureau of Indian Affairs received your application to have the following described land accepted into trust by the United States of America:

(Insert Property Name, Case Number (if available), Legal Land Description, and Acreage)

Upon review of the subject fee-to-trust application, it has been determined that the package is incomplete. Therefore, we are issuing this *Original 30-Day Notice of Incomplete Fee-to-Trust Application Package* to you under Indian Affairs Manual (IAM), Part 52, Section 12. Please submit the following within 30 days of your receipt of this notice:

(Specify what information or documentation is necessary)

If we do not receive responsive information from you within 30 days from the date of receipt of this notice, a final notice will be issued to you stating that we did not receive the information required and the application will be inactivated and returned as incomplete, [45 or 60] days from the date of this Original Notice.

If you have any questions regarding this matter, you may contact this office at (000) 000-0000.

Sincerely,

[Superintendent or Regional Director]

[Enclosures]

5.4.3

Sample Final Notice of Incomplete Fee-to-Trust Application Package

CERTIFIED MAIL – RETURN RECEIPT REQUESTED

Date

Applicant Name, Title
Address

Dear (Applicant Name):

On (date of Original 30-Day Notice), we issued the enclosed *Original 30-Day Notice of Incomplete Fee-To-Trust Application Package* stating that your fee-to-trust application for the following described land was incomplete and additional information is necessary:

(Insert Property Name, Case Number (if available), Legal Land Description, and Acreage)

The 30-day notice period has expired and the package remains incomplete. Therefore, we are issuing this *Final Notice of Incomplete Fee-to-Trust Application Package* under Indian Affairs Manual (IAM), Part 52, Section 12.

The application subject to this notice will be inactivated and returned as incomplete in [45 or 60] days from the date of the *Original 30-Day Notice of Incomplete Fee-To-Trust Application Package*.

You may resubmit the application at a later date with complete information and it will be assigned a new case number.

You may contact this office at (000) 000-0000 if you have any questions.

Sincerely,

[Superintendent or Regional Director]

Enclosure

5.4.4

Sample Return of Incomplete Fee-to-Trust Application

CERTIFIED MAIL – RETURN RECEIPT REQUESTED

Date

Applicant Name, Title
Address

Dear (Applicant Name):

On (date of Final Notice of Incomplete Package), we issued the enclosed *Final Notice of Incomplete Fee-To-Trust Application Package* for the following described land:

(Insert Property Name, Case Number (if available), Legal Land Description, and Acreage)

Enclosed is the subject application package, which has been inactivated and is being returned, as stated in the *Final Notice of Incomplete Fee-to-Trust Application Package* under Indian Affairs Manual (IAM), Part 52, Section 12. We are required under 52 IAM 12 to return the incomplete package no sooner than [45 or 60] days from the date of the *Original 30-Day Notice of Incomplete Fee-To-Trust Application Package*.

You may contact this office at (000) 000-0000 if you have any questions.

Sincerely,

[Superintendent or Regional Director]

Enclosure

5.4.5

Sample Environmental Compliance Review Memorandum

Date

Memorandum

To: Regional Director/Superintendent

From: Environmental Services

Subject: (Applicant Name), Fee-to-Trust Application for XX acres

We have reviewed the subject undertaking for compliance with the National Environmental Policy Act of 1969 (NEPA), which included appropriate consultation under applicable laws. Compliance with Department Manual Section 602 DM-2 has been completed, documenting that the Department would incur no environmental liability from accepting this parcel into trust.

National Environmental Policy Act (NEPA) No further compliance is required for NEPA. The Regional Director signed a Finding of No Significant Impact and a 30-day Notice of Availability on (date). The NOA was published in a local newspaper and in Tribal administrative offices. No comments were received during that 30 comment period.

602 DM 2 Using ASTM E 1527 Standard Practice The attached Phase I Environmental Site Assessment dated (date) found no Recognized Environmental Conditions. With the Regional Directors signature of the ESA no further compliance with 602 DM 2 is required.

Joe Employee
Environmental Protection
Specialist

John Doe
Regional Archaeologist

cc w/attachments:

5.4.6
Sample Notice of Application

**NOTICE OF (NON-GAMING) LAND ACQUISITION
APPLICATION**

Pursuant to the Code of Federal Regulations, Title 25, INDIANS, Part 151.10, notice is given of the application filed by the (Applicant Name) to have real property accepted "in trust" for said applicant by the United States of America. The determination whether to acquire this property "in trust" will be made in the exercise of discretionary authority which is vested in the Secretary of the Interior, or his authorized representative, U.S. Department of the Interior. To assist us in the exercise of that discretion, we invite your comments on the proposed acquisition. In order for the Secretary to assess the impact of the removal of the subject property from the tax rolls, and if applicable to your organization, we also request that you provide the following information:

- (1) If known, the annual amount of property taxes currently levied on the subject property allocated to your organization;
- (2) Any special assessments, and amounts thereof, that are currently assessed against the property in support of your organization;
- (3) Any governmental services that are currently provided to the property by your organization; and
- (4) If subject to zoning, how the intended use is consistent, or inconsistent, with the zoning.

We provide the following information regarding this application:

Applicant:

(Name)

Legal Land Description/Site Location:

(Insert legal land description)

Project Description/Proposed Land Use:

(Insert project/proposed land use)

As indicated above, the purpose for seeking your comments regarding the proposed trust land acquisition is to obtain sufficient data that would enable an analysis of the potential impact on

local/state government, which may result from the removal of the subject property from the tax roll and local jurisdiction.

This notice does not constitute, or replace, a notice that might be issued for the purpose of compliance with the National Environmental Policy Act (NEPA) of 1969.

Your written comments should be addressed to the Bureau of Indian Affairs office listed at the top of this notice. Any comments received within thirty days of your receipt of this notice will be considered and made a part of our record. You may be granted one thirty day extension of time to furnish comments, provided you submit a written justification requesting such an extension within thirty days of receipt of this letter. Additionally, copies of all comments will be provided to the applicant for a response. You will be notified of the decision to approve or deny the application.

If any party receiving the enclosed notice is aware of additional governmental entities that may be affected by the subject acquisition, please forward a copy to said party.

A copy of the application, excluding any documentation exempted under the Freedom of Information Act (FOIA), is available for review at the above address. A request to make an appointment to review the application, or questions regarding the application, may be directed to the (BIA Name) Office at (000) 000-0000.

Attachment

5.4.7

Sample Notice of Application Comments to Applicant

Date

Applicant
P.O. Box 123
Somewhere, USA 99999

Dear (Applicant Name):

This is to advise you that the Bureau of Indian Affairs (BIA) has initiated the Fee-to-Trust process in accordance with Title 25, Code of Federal Regulations (CFR), Part 151, for (Applicant Name). The parcel of land affected by this proposed action is described as:

(Insert legal land description)

Enclosed you will find copy of the comments received in response to the Notice of Application issued on (date). We are required to provide the aforementioned comments to the applicant who may choose to respond and/or request that we issue a decision.

If you choose to respond, you have 30-days from receipt of this letter to provide a written response that should be addressed to the Bureau of Indian Affairs at the address stated above. You may be granted an extension of time, provided we receive a written justification requesting such an extension within 30-days of your receipt of this letter.

For further assistance on this project, please contact this office at (000) 000-0000.

Sincerely,

Regional Director/Superintendent

Enclosures

5.4.8

Restrictive Covenants Acknowledgement Form

RESTRICTIVE COVENANT ACKNOWLEDGMENT

I, _____, have requested that the United States acquire and hold in trust for my benefit a parcel of land described as:

I understand that certain restrictive covenants have been recorded and may encumber this property and my rights to use and develop this property. Attached is a copy of the document that created this encumbrance.

Dated: _____

Signature of Applicant

5.4.9

Sample Appeal Rights for Inclusion in BIA Officials' Decisions

For Superintendent decisions, include the following appeal rights language in the decision:

Any party who wishes to seek judicial review of this decision must first exhaust administrative remedies. This decision may be appealed to the (Region) Regional Director in accordance with the regulations in 25 CFR Part 2. Your notice of appeal must be filed in the Superintendent's office at (Superintendent address) within 30 days of the date of receipt of this decision. The date of filing your notice of appeal is the date it is postmarked or the date it is personally delivered to the Superintendent's office. Your notice of appeal must include your name, address, and telephone number and it should clearly identify the decision being appealed. If possible, attach a copy of the decision. The notice and the envelope in which it is mailed should be clearly labeled "Notice of Appeal." Your notice of appeal must list the names and addresses of the interested parties known to you and certify that you have sent them copies of the notice. You must also send a copy of your notice of appeal to the Regional Director at: (Regional Director address). If you are an Indian or Indian Tribe and are not represented by an attorney, you may request assistance from this office in the preparation of your appeal.

You may include a statement of reasons with your notice of appeal, explaining why you believe the decision being appealed is in error. If you do not include your statement of reasons with your notice of appeal, you must mail or deliver it to the Superintendent's office within 30 days after you file your notice of appeal. The statement of reasons and the envelope in which it is mailed should be clearly labeled "Statement of Reasons." It must be accompanied by or otherwise incorporate all supporting documents. You must send copies of your statement of reasons to all interested parties and the Regional Director.

If no appeal is timely filed, this decision will become final for the Department of the Interior at the expiration of the appeal period. No extension of time may be granted for filing a notice of appeal.

For Regional Director decisions, include the following appeal rights language in the decision:

Any party who wishes to seek judicial review of this decision must first exhaust administrative remedies. The Regional Director's decision may be appealed to the Interior Board of Indian Appeals (IBIA) in accordance with the regulations in 43 C.F.R. 4.310-4.340.

If you choose to appeal this decision, your notice of appeal to the IBIA must be signed by you or your attorney and **must be either postmarked and mailed (if you use mail) or delivered (if you use another means of physical delivery, such as FedEx or UPS) to the IBIA within 30 days from the date of receipt of this decision.** The regulations do not authorize filings by facsimile/fax or by electronic means. Your notice of appeal should clearly identify the decision being appealed. You must send your **original** notice of appeal to the IBIA at the following address: Interior Board of Indian Appeals, Office of Hearings and Appeals, U.S. Department of the Interior, 801 North Quincy Street, Suite 300, Arlington, Virginia 22203. You must send **copies** of your notice of appeal to (1) the Assistant Secretary – Indian Affairs, U.S. Department of the Interior, MS-4141-MIB, 1849 C Street N.W., Washington, D.C. 20240; (2) each interested party known to you; and (3) the Regional Director. Your notice of appeal sent to the IBIA must include a statement certifying that you have sent copies to these officials and interested parties and should identify them by names or titles and addresses.

If you file a notice of appeal, the IBIA will notify you of further procedures. If no appeal is timely filed, this decision will become final for the Department of the Interior at the expiration of the appeal period. No extension of time may be granted for filing a notice of appeal.

5.4.10

*Sample Public Notice to Acquire Land in Trust – BIA Superintendent Decisions
(for publication in the local newspaper)*

ACTION: Notice of decision to acquire land into trust under 25 Code of Federal Regulations, Part 151.

SUMMARY: The Superintendent, Bureau of Indian Affairs, U.S. Department of the Interior, on the below date, has made a determination to acquire real property in trust for the (Applicant Name). The land referred to as former "(Name)" property, herein and is described as: (Legal Land Description and Case Number).

DATE: This determination was made on (Decision Date).

FOR FURTHER INFORMATION CONTACT: BIA (Agency) Superintendent Office, Bureau of Indian Affairs, (Address), telephone (000) 000-0000.

SUPPLEMENTARY INFORMATION: This notice is published to comply with the requirement of 25 CFR § 151.12(d)(2)(iii) that notice be given of the decision by the authorized representative of the Secretary of the Interior to acquire land in trust.

A copy of the determination is available [at the following website: _____ AND/OR from the office identified in the FOR FURTHER INFORMATION section of this notice]. Any party who wishes to seek judicial review of this decision must first exhaust administrative remedies under 25 CFR Part 2. This decision may be appealed to the (Region) Regional Director in accordance with the regulations in 25 CFR Part 2. Your notice of appeal must be filed in the Superintendent's office at the address listed in the FOR FURTHER INFORMATION CONTACT section above within 30 days of the date of publication of this notice. The date of filing your notice of appeal is the date it is postmarked or the date it is personally delivered to the Superintendent's office. Your notice of appeal must include your name, address, and telephone number and it should clearly identify the decision being appealed. If possible, attach a copy of the decision. The notice and the envelope in which it is mailed should be clearly labeled "Notice of Appeal." Your notice of appeal must list the names and addresses of the interested parties known to you and certify that you have sent them copies of the notice. You must also send a copy of your notice of appeal to the Regional Director at: (Address). If you are an Indian or Indian Tribe and are not represented by an attorney, you may request assistance from this office in the preparation of your appeal.

You may include a statement of reasons with your notice of appeal, explaining why you believe the decision being appealed is in error. If you do not include your statement of reasons with your notice of appeal, you must mail or deliver it to the Superintendent's office within 30 days after you file your notice of appeal. The statement of reasons and the envelope in which it is mailed should be clearly labeled "Statement of Reasons." It must be accompanied by or otherwise

incorporate all supporting documents. You must send copies of your statement of reasons to all interested parties and the Regional Director.

If no appeal is timely filed, this decision will become final for the Department of the Interior at the expiration of the appeal period. No extension of time may be granted for filing a notice of appeal.

*Sample Public Notice to Acquire Land into Trust – BIA Regional Director
Decisions
(for publication in the local newspaper)*

ACTION: Notice of decision to acquire land into trust under 25 Code of Federal Regulations, Part 151.

SUMMARY: The Regional Director, Bureau of Indian Affairs, U.S. Department of the Interior, on the below date, has made a determination to acquire real property in trust for the (Applicant Name).

The land referred to as former "(Name)" property, herein and is described as: (Legal Land Description and Case Number)

DATE: This determination was made on (Decision Date).

FOR FURTHER INFORMATION CONTACT: BIA (Region) Regional Office, Bureau of Indian Affairs, (Address), telephone (000) 000-0000.

SUPPLEMENTARY INFORMATION: This notice is published to comply with the requirement of 25 CFR § 151.12(d)(2)(iii) that notice be given of the decision by the authorized representative of the Secretary of the Interior to acquire land in trust.

A copy of the determination is available [at the following website: _____ AND/OR from the office identified in the FOR FURTHER INFORMATION section of this notice]. Any party who wishes to seek judicial review of the Regional Director's decision must first exhaust administrative remedies. The Regional Director's decision may be appealed to the Interior Board of Indian Appeals (IBIA) in accordance with the regulations in 43 C.F.R. 4.310-4.340.

If you choose to appeal this decision, your notice of appeal to the IBIA must be signed by you or your attorney and **must be either postmarked and mailed (if you use mail) or delivered (if you use another means of physical delivery, such as FedEx or UPS) to the IBIA within 30 days from the date of publication of this notice.** The regulations do not authorize filings by facsimile/fax or by electronic means. Your notice of appeal should clearly identify the decision being appealed. You must send your **original** notice of appeal to the IBIA at the following address: Interior Board of Indian Appeals, Office of Hearings and Appeals, U.S. Department of the Interior, 801 North Quincy Street, Suite 300, Arlington, Virginia 22203. You must send **copies** of your notice of appeal to (1) the Assistant Secretary – Indian Affairs, U.S. Department

of the Interior, MS-4141-MIB, 1849 C Street N.W., Washington, D.C. 20240; (2) each interested party known to you; and (3) the Regional Director. Your notice of appeal sent to the IBIA must include a statement certifying that you have sent copies to these officials and interested parties and should identify them by names or titles and addresses.

If you file a notice of appeal, the IBIA will notify you of further procedures. If no appeal is timely filed, this decision will become final for the Department of the Interior at the expiration of the appeal period. No extension of time may be granted for filing a notice of appeal.

*Sample Public Notice to Acquire Land into Trust – AS-IA Decisions
(for publication in the Federal Register)*

ACTION: Notice of final agency determination to acquire land into trust under 25 CFR part 151.

SUMMARY: The Assistant Secretary – Indian Affairs, U.S. Department of the Interior, on the below date, has made a final determination to acquire real property in trust for the (Applicant Name).

DATE: This determination was made on (Decision Date).

FOR FURTHER INFORMATION CONTACT: BIA (Office), Bureau of Indian Affairs, (Address), telephone (000) 000-0000.

SUPPLEMENTARY INFORMATION: This notice is published to comply with the requirement of 25 CFR § 151.12(c)(2)(ii) that notice be published in the Federal Register of the final agency determination to acquire land in trust. On (Decision Date), the Assistant Secretary – Indian Affairs issued a decision to accept land in trust for (Applicant Name) under the authority of (List of Statutory Authority(ies)).

The Assistant Secretary – Indian Affairs, on behalf of the Secretary of the Interior, (has acquired / will immediately acquire) title in the name of the United States of America in trust for (Applicant Name) upon fulfillment of Departmental requirements.

The land referred to as former "(Name)" property, herein and is described as: (Legal land description and case number).

5.4.11

Sample Acceptance of Conveyance

ACCEPTANCE OF CONVEYANCE

The foregoing conveyance from the (Applicant Name) to the UNITED STATES OF AMERICA IN TRUST FOR THE (Applicant Name) is hereby accepted and approved on behalf of the United States pursuant to (Cite statutory authority), and the authority delegated to the Assistant Secretary-Indian Affairs by 209 DM 8, 230 DM 1, 3 IAM 4 (Release No. 12-42, Reissue of 12/19/12), and further delegations.

Date: _____

Regional Director/Superintendent, (BIA Office)
Bureau of Indian Affairs
Address

Attest: Regional Director/Superintendent, (BIA Office), Bureau of Indian Affairs

STATE OF _____)
)SS
COUNTY OF _____)

On this _____ day of _____, 20__, there personally appeared before me a Notary Public, _____ personally known (or proved) to me to be the person whose name is subscribed to the above instrument, who acknowledged to me that he/she executed the instrument.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official stamp at my office in the County of _____, the day and year in this certificate first above written.

Notary Public

My Commission expires on: _____

5.4.12

SAMPLE DEED AND ACCEPTANCE OF CONVEYANCE
[CAUTION – CONFORM THIS TO LOCAL AND STATE REQUIREMENTS. CONTACT THE SOLICITOR’S OFFICE WITH ANY QUESTIONS]

GENERAL WARRANTY DEED

This indenture, made the _____ day of _____, 20__ between the _____, also known as _____, a sovereign Indian Nation, _____ address-_____, party of the first part (Grantor), and the **United States of America in Trust for the _____**, party of the second part (Grantee).

WITNESSETH, that the party of the first part in consideration for the trust responsibilities to be performed by the United States, and other good and valuable consideration, paid by the party of the second part, does hereby grant and release unto the party of the second part, its successors and assigns forever, in fee simple,

All That Certain Plot, Piece, or Parcel of Land, lying, situate, and being in the County of [County], [State], as described on the attached Schedule “A” and otherwise known as Lot _____ in the system of lot numbers assigned by the Grantor.

Together with all the appurtenances thereunto belonging or in anywise appertaining to the proper use and benefit of the said Grantee and its assigns, forever, and the Grantor releases and quitclaims unto the Grantee and its assigns, all the right, title and interest which the Grantor may have in the banks, beds and water of any streams opposite to or fronting upon said land, including all littoral and/or riparian rights incident thereto and in alleys, roads, streets, ways, strips, gores or railroad rights-of-way abutting or adjoining said land, and in any means of ingress and egress appurtenant thereto;

Subject to the covenants, easements and restrictions of record;

To Have and To Hold the premises herein granted unto the party of the second part, its successors and/or assigns forever.

And the party of the first part covenants as follows:

First, that said party of the first part is seized of the said premises in fee simple, and has good right to convey the same; **Second**, that the party of the second part shall quietly enjoy the said premises; **Third**, that the said premises are free from encumbrances, except as aforesaid; **Fourth**, that the party of the first part will execute or procure any further

5.4.13

SAMPLE NOTICE OF RESERVATION PROCLAMATION REQUEST

NOTICE OF RESERVATION PROCLAMATION REQUEST

Applicant

[TRIBE NAME]

Legal Land Description/Site Location:

[LEGAL LAND DESCRIPTION]

[ACREAGE], more or less.

[PARCEL ID]

[ADDRESS IF AVAILABLE]

Project Description/Proposed Land Use:

The [OFFICE] has under consideration a request by the [TRIBE] that the lands described above be proclaimed "reservation" pursuant to Section 7 of the Indian Reorganization Act of June 18, 1934 (48 Stat. 984; 24 U.S.C. 467), which provides that the Secretary of the Interior may proclaim an Indian reservation or add lands to existing reservations. The Office of the Assistant Secretary – Indian Affairs reviews all requests for adding land to a reservation, and prepares the proclamation and Federal Register notice. A Proclamation is simply an administrative function that allows the Tribe to take advantage of special federal assistance programs.

[DESCRIBE CURRENT AND PROPOSED USE OF PROPERTY]

This letter provides official notice of the proposed action. Should you have any questions, please contact [POINT OF CONTACT].

Sincerely,

Regional Director [Sup000erintendent]

BY CERTIFIED MAIL:

[Governor's address] 9171 9690 0935 0036 0684 39

[County admin address] 9171 9690 0935 0036 0684 46

[Mayor or town board address] 9171 9690 0935 0036 0684 53

[Other interested party address] 9171 9690 0935 0036 0684 60

BY FIRST CLASS MAIL:

[Tribe point of contact address]

5.4.14

SAMPLE RESERVATION PROCLAMATION INSERT

FOR BIA NOTICE OF DECISION

The Tribe has also requested that certain lands be proclaimed “reservation” pursuant to Section 7 of the Indian Reorganization Act of June 18, 1934 (48 Stat. 984; 24 U.S.C. 467), which provides that the Secretary of the Interior may proclaim an Indian reservation or add lands to existing reservations. A Proclamation is simply an administrative function that allows the Tribe to take advantage of special federal assistance programs. The Office of the Assistant Secretary – Indian Affairs reviews all requests for adding land to a reservation, and prepares the proclamation and Federal Register notice.

BIA has reviewed the Tribe’s Proclamation request and has determined that, immediately following the expiration of the 30-day administrative appeal period, if no appeal is filed, the BIA official will recommend that the Assistant Secretary – Indian Affairs issue the Proclamation. If an appeal is filed, and a final decision is issued affirming the BIA official’s decision, BIA will immediately recommend that the Assistant Secretary - Indian Affairs issue the Proclamation. Reservation proclamations will only be issued after land is acquired in trust.

5.5 Preliminary Title Opinion Document Checklist
[Under development.]

*5.6 Handbook for Gaming Acquisitions
[Under development.]*

5.7 Certificates of Inspection and Possession

5.7.1

CERTIFICATE OF INSPECTION AND POSSESSION (Form # 1)

This relates to an acquisition of the following described land, or an interest therein, by the United States of America.

A. Property and project information:

1. The acquiring federal agency is:

[name the agency]

2. The name and address of the owner(s) of the property is:

[name and address of owner]

3. The property is identified and/or described as follows:

[insert some or all of the following: agency parcel number and project name, street address, acreage, common name of property or other reference sufficient to identify it; plus the name of the county and state where it is located; plus, if available, a legal land description here or on an attached exhibit]

4. The estate(s) to be acquired is/are:

[insert and identify estate]

B. Certification:

I hereby certify that on _____ *[date]*, I made a personal examination and inspection of that certain tract or parcel of land identified above, and that I am fully informed as to the boundaries, lines and corners of said tract. I also spoke with the above-named owner(s) and with any other occupants (identified below) of said land. On the basis of my inspection and inquiry, I hereby certify that the following statements are accurate, or, if one or more statements is not accurate I have marked it/them and I have indicated on this sheet or on an attachment my findings which vary from the statement:

_____ (date)

_____ (signature)

(print name, title, address and telephone number)

1. No work or labor has been performed or any materials furnished in connection with the making of any repairs or improvements on said land within the past _____ months that would entitle any person to a lien upon said premises for work or labor performed or materials furnished,
2. There are no persons or entities (corporations, partnerships, etc.) which have, or which may have, any rights of possession or other interest in said premises adverse to the rights of the above-named owner(s) or the United States of America.
3. There is no outstanding unrecorded deed, mortgage, lease, contract, or other instrument adversely affecting the title to said premises.
4. There are no vested or accrued water rights for mining, agricultural, manufacturing, or other purpose; nor any ditches or canals constructed by or being used thereon under authority of the United States, nor any exploration or operations whatever for the development of coal, oil, gas or other minerals on said lands; and there are no possessory rights now in existence owned or being actively exercised by any third party under any reservation contained in any patent or patents heretofore issued by the United States for said land.
5. There are no outstanding rights whatsoever in any person or entity (corporation, partnership, etc.) to the possession of said premises, nor any outstanding right, title, interest, lien, or estate, existing or being asserted in or to said premises except such as are disclosed and evidenced by the public records, as revealed by the public land records.
6. Said premises are now wholly unoccupied and vacant except for the occupancy of the following, from whom disclaimer(s) of all right, title and interest in and to said premises, executed on _____ [date] has (have) been obtained:

1. No work or labor has been performed or any materials furnished in connection with the making of any repairs or improvements on said land within the past months that would entitle any person to a lien upon said premises for work or labor performed or materials furnished.
2. There are no persons or entities (corporations, partnerships, etc.) which have, or which may have, any rights of possession or other interest in said premises adverse to the rights of the above-named owner(s) or the United States of America.
3. There are no vested or accrued water rights for mining, agricultural, manufacturing, or other purpose; nor any ditches or canals constructed by or being used thereon under authority of the United States, nor any exploration or operations whatever for the development of coal, oil, gas or other minerals on said lands; and there are no possessory rights now in existence owned or being actively exercised by any third party under any reservation contained in any patent or patents heretofore issued by the United States for said land.
4. There are no outstanding rights whatsoever in any person or entity (corporation, partnership, etc.) to the possession of said premises, nor any outstanding right, title, interest, lien, or estate, existing or being asserted in or to said premises except such as are disclosed and evidenced by the public records, as revealed by public land records.
5. Said premises are now wholly unoccupied and vacant except for the occupancy of the following, from whom disclaimer(s) of all right, title and interest in and to said premises, executed on _____ [date] has (have) been obtained:

C. Certification (owner inquiry): I hereby certify that on _____ [date] I spoke with the above-named owner(s) and with any other occupants (identified below) of said land. On the basis of my inquiry, I hereby certify that the following statements are accurate, or, if one or more statements is not accurate I have marked it/them and I have indicated on this sheet or on an attachment my findings which vary from the statement:

_____ (date)

_____ (signature)

(print name, title, address and telephone number)

1. No work or labor has been performed or any materials furnished in connection with the making of any repairs or improvements on said land within the past months that would entitle any person to a lien upon said premises for work or labor performed or materials furnished,
2. There are no persons or entities (corporations, partnerships, etc.) which have, or which may have, any rights of possession or other interest in said premises adverse to the rights of the above-named owner(s) or the United States of America.
3. There is no outstanding unrecorded deed, mortgage, lease, contract, or other instrument adversely affecting the title to said premises.
4. There are no vested or accrued water rights for mining, agricultural, manufacturing, or other purpose; nor any ditches or canals constructed by or being used thereon under authority of the United States, nor any exploration or operations whatever for the development of coal, oil, gas or other minerals on said lands; and there are no possessory rights now in existence owned or being actively exercised by any third party under any reservation contained in any patent or patents heretofore issued by the United States for said land.
5. There are no outstanding rights whatsoever in any person or entity (corporation, partnership, etc.) to the possession of said premises, nor any outstanding right, title, interest, lien, or estate, existing or being asserted in or to said premises except such as are disclosed and evidenced by the public records, as revealed by the public land records.
6. Said premises are now wholly unoccupied and vacant except for the occupancy of the following, from whom disclaimer(s) of all right, title and interest in and to said premises, executed on _____ [date] has (have) been obtained:

c. Disclaimer

DISCLAIMER

County of _____

ss:

State of _____

We (I) _____ (wife) (husband), being first duly sworn, depose and say (deposes and says) that we are (I am) occupying all (a part) of the land (proposed to be) acquired by the United States of America from _____, described as _____ acres, Tract No. _____, lying in _____ County, State of _____; that we are (I am) occupying said land as the tenants (tenant) of _____; that we (I) claim no right, title, lien or interest in and to the above-described premises or any part thereof by reason of said tenancy or otherwise and that we (I) will vacate said premises upon demand for the possession of said lands by the United State of America.

Dated this _____ day of _____, _____. (Month) (Year)

(Tenant)

(Spouse)

Witnesses: _____

Bill Kalar

From: Bill Kalar
Sent: Friday, June 23, 2017 9:54 AM
To: 'James Barnum'
Subject: RE: Comments: Star Lake Casino Development

James Barnum – this will confirm receipt of your comments.

Bill Kalar
Land & Resource Mgt.
218-998-8105



THIS COMMENT
IS "LATE"
JB
6/23/17

From: James Barnum [mailto:jimlakeguy@comcast.net]
Sent: Thursday, June 22, 2017 10:27 AM
To: Bill Kalar
Cc: 'James Barnum'
Subject: Comments: Star Lake Casino Development
Importance: High

RECEIVED
JUN 23 2017
LAND & RESOURCE

Dear Mr. Kalar,

I've been on vacation and just got back to realize these comments are needed ASAP.

I grew up in Fergus Falls and know Star Lake and environs very well. I fished Star Lake often and a buddy of mine has a duck camp on one of the points. Although I now live in the Cincinnati area, I get up to Fergus and Star Lake region a couple times a year. I have followed the progression of the Casino Development with great concern. As a retired limnologist who has studied the interaction of watershed impacts on natural aquatic systems, I have grave concerns about cumulative watershed impacts, stemming from parking lot runoff and storm water management in general, not to mention impacts of construction and facility operations on fish and wildlife resources. The proposed area is adjacent to wild rice beds and fish breeding areas. Further, from an aesthetic viewpoint, the proposed facilities will negatively impact the visual character of the site.

Although there have been some investigations into construction and management practices which could mitigate some of my concerns, if this project continues there is a critical need for a full-blown Environmental Assessment to address the myriad environmental issues surrounding such a major project in such an environmentally sensitive setting

If such a project becomes reality, the potential long-term negative effects to the Star Lake ecosystem and the many who enjoy its pristine character far outweighs the gains of a few.

Thanks for considering my input.

Regards,

James B. Barnum, Ph.D. (retired limnologist)

June 21, 2017 at 11:55 pm

Thank you,

Selmer and Alice Syverson West Rosewood Dr Dent, MN

Bill Kalar

From: Bill Kalar
Sent: Friday, June 23, 2017 9:45 AM
To: 'Alice Syverson'
Subject: RE: Issues pertaining to Shooting Star Casino

Alice Syverson - this will confirm receipt of your comments.

Bill Kalar
Land & Resource Mgt.
218-998-8105

-----Original Message-----

From: Alice Syverson [mailto:syverson@citlink.net]
Sent: Wednesday, June 21, 2017 11:56 PM
To: Bill Kalar
Subject: Issues pertaining to Shooting Star Casino

RECEIVED
JUN 22 2017
LAND & RESOURCE

Mr Kalar,

Having read the Aaron Stanley article, which I forwarded to you and having family who live by an on the White Earth Reservation, many of that actual population are unhappy about the Shooting Star Casino building on Star Lake. It is a long way for them to travel for jobs and housing is not available for the wage they would receive. If they wanted to work off the Reservation Detroit Lakes is closer.

A question I have is who is the new Shooting Star Casino going to benefit? The high powered officials who do not even live in the area?

Looking outside the Casino Box and putting in the required increase of expenses the residents of Otter tail County will need to pay for include: upgrading the roads, increased road maintenance, increased police control both at the local and county level, a jail for temporary confinement, DNR policing of the lake(s), increased EMT and ambulance service just to name a few. There will be additional costs and issues to consider as time evolves.

Currently the local ambulance, EMT services are volunteer. Going from Volunteer to paying employees, their insurance (liability, health, Workmans Comp, Social Security, Medicare) plus the ancillary employees to monitor employees, the buildings, vehicles, and etc would be an added cost.

Additional issues I am concerned about are abusive situations that can occur: abuse of chemicals, alcohol usage, along with prostitution on the land and on the water. These serious concerns would be extra expenses incurred by local residents and/or residents of Otter tail County.

If we want to do expansion of my property on Star Lake there are requirements so we do not disturb the environment and lake. This needs to apply to other entities as well.

Wet rice lands need to be protected as well. If this natural Reservation heritage disappears, it is gone for ever.

Please consider these factors when moving forward with decisions pertaining to potential land owners.

Because the patch of wetlands is already held in trust by the government on behalf of the tribe, this isn't the typical case of "reservation shopping" that commercial and other tribal casino operators have long loathed. Rather, since the tribe already controls the land, via the trust, it is legally entitled to improve it as it sees fit.

But the prospect of draining a rural Minnesota swamp to build a casino hasn't been welcomed with open arms by locals. A group of Star Lake area residents and vacationers have mobilized, arguing that the development is outlandishly out of character for an environmentally sensitive area, and that it will destroy a wetland that is vital to waterfowl nesting and fish spawning in the area.

Much to their dismay, the locals have no say over what happens on sovereign trust land – even if it is next door. Their strategy has been to call for a new round of environmental reviews by the county – which ultimately controls the permitting for the surrounding adjacent land that will be used for the casino's parking lots, an RV park, and wastewater treatment facilities that will service the casino.

The White Earth Nation leaders see building a casino on the land as something of a last resort to securing their financial future as a tribe. They also insist that they are committed to protecting the environment and will participate in a wetlands mitigation banking program – which means that for every acre they fill in, they will create two acres of new wetland in another location.

The Otter Tail county commissioners who hold the power to issue permits for the adjacent land are doing their due diligence, but are caught between a rock and a hard place, weighing environmental concerns against potential economic impacts. Because the area has seen mom-and-pop resorts close at an alarming rate in recent years, the prospects of a new development that could create 400 to 500 jobs is enticing.

While the project has generated substantial controversy locally, it has largely flown under the media radar. This is probably a good thing for the White Earth Nation, because the optics of draining a wetland to build a casino are astonishingly bad.

Aside from the environmental aspects, there are several other factors that – when looked at holistically – make this project appear sadly shortsighted.

The first is that Minnesota's tribal gaming market is already widely considered to be saturated, with more than 20 casinos in a state of 5.5 million people. While Star Lake is located in what could arguably be deemed one of the last viable spots in the state for a casino, the area is sparsely populated except during the summer months, when resort-goers flock in on weekends to enjoy the region's abundance of lakes.

There are also problems with the viability of the project's business model. The proposed site is literally in the middle of nowhere – a 30 minute drive from the nearest interstate highway, down a poorly lit two lane road, and at least 90 minutes from the nearest major population center. The location raises the obvious questions of where the gamblers will come from and how they will get to the casino.

Further, there are other, better-located convention resorts in the county with more local cachet that are having difficulty staying afloat as it is. Is there even room in the market for a newer and flashier property that offers gambling?

There is also the question of where the employees will come from. The surrounding area has a shortage of blue-collar workers, with many local businesses currently running under capacity for that reason. The site is also a 90 minute drive south of the White Earth Reservation. That's a long drive or bus trip for tribal members looking to make the commute each day.

Finally, there is significant dissension within the White Earth Nation itself as to whether or not this project is a good use of limited financial resources. One faction claims that the project is being rammed through by the tribal leadership without fully disclosing the costs and projected benefits, while unemployment, poverty, and addiction on the reservation remain stubbornly high and in need of being addressed.

While I'm hardly the Sierra Club type, I see this proposed casino as being rife with project-specific problems and as a potential black eye for the tribal and commercial casino industries. In an era when so many gaming companies and tribes are going to extraordinary lengths to present themselves as corporate citizens who are concerned about environmental and community stewardship, this case – in my opinion – is the polar opposite. It is something that should be opposed by anyone concerned about gaming's public reputation.

Bill Kalar

From: Bill Kalar
Sent: Friday, June 23, 2017 9:43 AM
To: 'Alice Syverson'
Subject: RE: Article written by Aaron Stanley Posted on the June 21, 2017 CDC Gaming Reports

Alice Syverson - this will confirm receipt of your comments.

Bill Kalar
Land & Resource Mgt.
218-998-8105

-----Original Message-----

From: Alice Syverson [mailto:syverson@citlink.net]
Sent: Wednesday, June 21, 2017 11:23 PM
To: Bill Kalar
Subject: Article written by Aaron Stanley Posted on the June 21, 2017 CDC Gaming Reports

Dear Mr Kalar,

I found the following commentary article on the CDC Gaming Reports written today June 21, 2017.

Please consider Mr Aaron Stanleys input also when addressing the Shooting Star Casino.

Thanks,

Alice Syverson

The issue of off-reservation tribal casinos is one of those dry and frustrating topics I've generally tried to avoid when reporting and writing commentaries on the casino industry. I'm someone who looks for big picture trend lines, so analyzing the unique details and intricacies of these particular situations always gives me headaches.

But the issue has taken on a much more personal undertone lately. I have been reporting on a proposed casino near Star Lake, Minnesota – 30 miles from where I grew up and adjacent to the lake I vacationed on as a child.

Like almost every other off-reservation casino example, the details surrounding this project are singular and highly nuanced. In fact, it's not even technically an off-reservation casino – which makes it even more bizarre.

Unfortunately, the circumstances surrounding the development can hardly be construed as benefiting the involved tribe or the local community.

Nor is the development likely to present a positive image for tribal gaming moving ahead. Rather, it follows the cringe-worthy pattern of tribes building off-reservation casinos by exploiting loopholes in obscure laws that were never intended to have anything to do with casinos or gambling.

In the 1930s, the U.S. government took a 15-acre patch of cattail marsh on Star Lake into trust, to be used for wild rice harvesting by Minnesota's Chippewa Indians. Fast forward 80 years, to today: the White Earth Nation of Chippewas is seeking to fill in the wetlands to build a casino resort and convention center. That's an economic development purpose almost certainly not imagined by the Depression-era Bureau of Indian Affairs.

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mitigation banking program – which means that for every acre they fill in, they will create two acres of new wetland in
8350 W. Desert Inn, Suite 2118
Las Vegas, NV 89119
(702) 944-9520

The Otter Tail county commissioners who hold the power to issue permits for the adjacent land are doing their due diligence, but are caught between a rock and a hard place, weighing environmental concerns against potential economic impacts. Because the area has seen mom-and-pop resorts close at an alarming rate in recent years, the prospects of a new development that could create 400 to 500 jobs is enticing.

While the project has generated substantial controversy locally, it has largely flown under the media radar. This is probably a good thing for the White Earth Nation, because the optics of draining a wetland to build a casino are astonishingly bad.

Aside from the environmental aspects, there are several other factors that – when looked at holistically – make this project appear sadly shortsighted.

The first is that Minnesota's tribal gaming market is already widely considered to be saturated, with more than 20 casinos in a state of 5.5 million people. While Star Lake is located in what could arguably be deemed one of the last viable spots in the state for a casino, the area is sparsely populated except during the summer months, when resort-goers flock in on weekends to enjoy the region's abundance of lakes.

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Off-reservation gaming comes to my backyard – and it's not pretty

April 16, 2017 at 8:16 am

By Aaron Stanley

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The issue of off-reservation tribal casinos is one of those dry and frustrating topics I've generally tried to avoid when reporting and writing commentaries on the casino industry. I'm someone who looks for big picture trend lines, so analyzing the unique details and intricacies of these particular situations always gives me headaches.

But the issue has taken on a much more personal undertone lately. I have been reporting on a proposed casino near Star Lake, Minnesota – 30 miles from where I grew up and adjacent to the lake I vacationed on as a child.

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Like almost every other off-reservation casino example, the details surrounding this project are singular and highly nuanced. In fact, it's not even technically an off-reservation casino – which makes it even more bizarre.

Unfortunately, the circumstances surrounding the development can hardly be construed as benefitting the involved tribe or the local community. Nor is the development likely to present a positive image for tribal gaming moving ahead. Rather, it follows the cringe-worthy pattern of tribes building off-reservation casinos by exploiting loopholes in obscure laws that were never intended to have anything to do with casinos or gambling.

In the 1930s, the U.S. government took a 15-acre patch of cattail marsh on Star Lake into trust, to be used for wild rice harvesting by Minnesota's Chippewa Indians. Fast forward 80 years, to today: the White Earth Nation of Chippewas is seeking to fill in the wetlands to build a casino resort and convention center. That's an economic development purpose almost certainly not imagined by the Depression-era Bureau of Indian Affairs

Because the patch of wetlands is already held in trust by the government on behalf of the tribe, this isn't the typical case of "reservation shopping" that commercial and other tribal casino operators have long loathed. Rather, since the tribe already controls the land, via the trust, it is legally entitled to improve it as it sees fit.

But the prospect of draining a rural Minnesota swamp to build a casino hasn't been welcomed with open arms by locals. A group of Star Lake area residents and vacationers have mobilized, arguing that the development is outlandishly out of character for an environmentally sensitive area, and that it will destroy a wetland that is vital to waterfowl nesting and fish spawning in the area.

Much to their dismay, the locals have no say over what happens on sovereign trust land – even if it is next door. Their strategy has been to call for a new round of environmental reviews by the county – which ultimately controls the permitting for the surrounding adjacent land that will be used for the casino's parking lots, an RV park, and wastewater treatment facilities that will service the casino.

The White Earth Nation leaders see building a casino on the land as something of a last resort to securing their financial future as a tribe. They also insist that they are committed to protecting the environment and will participate in a wetlands

Bili Kalar

From: Bill Kalar
Sent: Friday, June 23, 2017 9:42 AM
To: 'syverson@citlink.net'
Subject: RE: Off-reservation gaming comes to my backyard – and it's not pretty

Alice Syverson - this will confirm receipt of your comments.

Bill Kalar
Land & Resource Mgt.
218-998-8105

-----Original Message-----

From: syverson@citlink.net [mailto:syverson@citlink.net] On Behalf Of email@addthis.com
Sent: Wednesday, June 21, 2017 11:08 PM
To: Bill Kalar
Subject: Off-reservation gaming comes to my backyard – and it's not pretty

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Please consider this article when looking into the Shooting Star Casino. Individuals on the reservation are not happy about off reservation casino either.

Wednesday 6/21/17

Thank you
Alice Syverson

<http://www.cdcgamingreports.com/commentaries/off-reservation-gaming-comes-to-my-backyard-and-its-not-pretty/#.WUtChpzllAD.email>

This message was sent by syverson@citlink.net via <http://addthis.com>. Please note that AddThis does not verify email addresses.

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potential for creating negative environmental effects to the nearby population (noise, odor, traffic congestion, overuse of emergency services, etc.), to the wetlands, to the shoreline vegetation, to the nesting waterfowl, to the below ground water table and to the health of a neighboring pond.

To the Commissioners of Otter Tail County: We URGENTLY ask that you call for the critically required EIS to provide the scientific data that the existing EAW failed to provide.

Don & Carolyn Herron
39921 Beaver Dam Point
Dent, MN 56528



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systems? This is a highly technical aspect of this proposed project for which an EIS is critically called for, to assure that the appropriate monitoring is in place.

-- "96 acra will be excavated or graded." How does this fir in with the existing OTC grade/fill permin requirements?!

p.9 -- "DNR doesn't list Star Lake as used by migratory waterfowl for feeding or resting areas?" There is NO mention of the waterfowl nesting areas known to be substantial in the South arm of Star!

p.12 --The WEN's tribal council, itself, stated that they were "granting the development of this trust land on Star Lake only with the understanding that the project would minimize the impact on the wetlands and that the development would include maintaining and sustaining the undisturbed wetland and ricing vegetation." Yet, then is was state that no impact on the wetlands would take place within 75' of the shoreline!! And, above that 75' 7—8 acres of wetland will be filled!! **WHERE IS THE ENVIRONMENTAL DATA** that proves that wetlands have no value above 75' from the shore!!! Another reason for an EIS!

p.13 --"No anticipated physical effects, modifications nor alterations to surface waters are planned nor expected." My answer is the same as in the above point: No data is provided that removing wetlands beyond 75' from the shoreline won't affect water quality, nor nesting waterfowl, nor wild rice beds! Further, if the cement liner of the waste water treatment ponds age and fail, the potential for the unnamed pond to the South to be polluted is significant. Where is the plan for test wells to the South of these ponds, and staff to monitor them?! An EIS is critical to make these determinations!

p.14 --"No change to the number nor type of watercraft on Star is expected." No mention is made of the fee land lakeshore on the main large body of Star Lake adjacent to Spruce Lodge. Consideration of the need for an EIS MUST presume this expensive lakeshore will be developed, with the resulting risk for introduction of AIS, especially if an access boat ramp is built. Will OTC control such potential dockage?

p.16 --"No substantial fish habitats are known within the project boundaries." What is the data, who provided the research for this comment? Both the trust land shoreline and the fee land shoreline WILL have fish habitats, and those on the trust land are likely to be spawning areas. These egregiously poorly documented statements show why an EIS is critical!

--"The project will maintain a natural shoreline...to protect red-necked grebes [or loons]." **YET**, silt fencing will be at the shoreline for how long; downward pointing lights to preserve night skies will light up the shoreline, removal of wetlands above 75' will take place!!! An EIS is critical to provide the data to confirm or discount these superficial statements.

p.18 --"[Disturbance of loon habitat or nesting will be temporary]" Where is the data on the nesting behavior of loons once disturbed?! This isn't provided, but an EIS would provide it!

p.20 --"As the location of the facility is within a low population area, no significant effects to nearby air quality nor human health are anticipated." (!)

--This statement tells us the project has no care for the existing nearby population. "There are "residential receptors" (people?!) 125' to the N and 250' to the W, but there are no known "sensitive receptors" (people allergic to air quality problems?!) **HOW DO THEY KNOW THIS??!!**

--"The long-term operational impact of the proposed project on regional emissions of the criteria pollutants (emissions from cars, RV's, buses trucks, maintenance vehicles), including ozone precursors, haven't been modeled, but aren't believed to be substantial." **How can this statement be made if it hasn't been modeled??!!**

p.21 --"The project is not anticipated to produce any significant odors..." "Tow times per year, as the ponds turn over, there may be a brief period of odor." Where are the studies, where is the data to show this to be true? The Perham wastewater ponds were fouling the air of Perham for many months several years ago, not just during a brief turnover period!!!

p. 23 --The EAW summarizes by saying: "There are no predicted project environmental effects that will combine with any other known projects that will result in cumulative potential environmental effects." (!!!) This proposed casino project doesn't have to be combined with any other project to look for environmental effects, since this entire comment paper here, shows that, in and of itself, the casino projects has huge

Bill Kalar

From: Bill Kalar
Sent: Friday, June 23, 2017 9:40 AM
To: 'Herron'
Subject: RE: Comments regarding EAW for proposed Shooting Star Casino

Thank you for your comments.

Bill Kalar
Land & Resource Mgt.
218-998-8105



From: Herron [mailto:starwood@arvig.net]
Sent: Wednesday, June 21, 2017 10:24 PM
To: Bill Kalar
Subject: Comments regarding EAW for proposed Shooting Star Casino

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Bill, Don & I very strongly believe an EIS is called for for the proposed Shooting Star Casino Project for the following reasons, which are stimulated by unanswered questions from the EAW; I will try to reference my comments to the proper page of the EAW:

- P. 3 --The commercial building area proposed is 277,000. Doesn't this already require an EIS?
--WEN states they would use revenues for this casino "to fund the restoration and preservation of cultural sites within WEN such as the tribal museum and historic burial grounds." Has the WEN already used their revenues from existing casinos for these cultural sites?
- p.4 --"Are future stages planned?" Yes. Increases in gaming area, expansion of RV parking, addition of rented cabins and/or a golf course
--Then, OTC needs to consider these future plans in their decision about calling for an EIS
- p.5 --OTC controls wetland mitigation/replacement, wetland permits, utility permits for wastewater treatment facilities
--Here are areas where OTC can call for more detailed data through an EIS. Further, replacing wetlands in other counties or out of State, does nothing to replace the value provided by that wetland right there in the South arm of Star that they plan to remove by filling it!
- p. 6 --"Land use compatibility:" "Generally compatible with the nearby land uses of agriculture, residential, commercial lodges and resorts."
--This is a blatant falsehood and inaccurate comparison of existing land use! NO other resorts have 24/7 gaming facilities with the resulting traffic, nor conference centers for 300 people, nor hotels for hundreds of people. Franks Lodge may compare for RV parking. In addition, no other resort has required (from p. 2) "construction of haul roads, borrow pits for fill, 3-pond waste water treatment facilities!!"
- p.8 --Soil characteristics: % of soils with high potential for erosion = 1.5%; with potential for medium erosion = 86.5%
--Because of these soil facts, throughout the construction and life of this project, there needs to be exceptional care taken to control for erosion runoff; where is the detailed, into the future, in the EAW?
--Soil permeabilities are rapid for 37.7% of the project area and moderate for 62.3%. If secondary stage waste water is irrigated into Rapid Infiltration Basins, where is the data to show the construction of test wells in those areas to monitor the integrity of the water table against pollution from this irrigated waste water? Where is the data to show the staffing, and supervision of that staffing to monitor these

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Date: June 14, 2017
To: Otter Tail County Commissioners
From: Jeffrey and Cheryl Bursey
Subject: Concerns over the Star Lake Casino Development Project's EAW (Public Comments)

Dear Otter Tail County Board of Commissioners,

My wife, Cheryl, and I are lake shore property owners with a home on the West Arm of Star Lake. My family has a very long history with Star Lake as my grandfather, Roscoe C. Smith, owned and operated Rocky's Resort in the mid 1940's and I've been coming to this area all my life. We are writing this letter in response to the Star Lake Casino Project Proposal, including the Environmental Assessment Worksheet, the pending Wetland Replacement Application and the Conditional Use Permit Application. We have significant environmental concerns with this proposal based primarily on the wetland location.

As you know, the proposed site chosen for this commercial complex is a very sensitive, centuries-old, natural wetland area. The simple fact that this proposal requires over 8 acres of a prime Star Lake wetland extension to be dredged and backfilled with more suitable soils, clearly attests to the potential for significant environmental effects. There are clear Minnesota rules empowering you to insure these risks are properly identified and adequately mitigated prior to issuing the necessary permits. The proper course of action with this highly controversial project would be to order an Environmental Impact Statement to insure all environmental issues are properly identified, reviewed and the potential risks are adequately mitigated. This proposed development is completely out of character for this quiet, rural community and clearly a remote area without the necessary supporting infrastructure to properly enable its success. Also, The Star Lake Limited Area Comprehensive Plan is referenced as supporting information in many areas of this EAW and using Otter Tail County's own words in a response to the MN DNR, this is "NOT" an official plan, acts to severely undermine the integrity of the EAW. As you may recall, "Disingenuous" is the term used by the MN DNR in their letter to describe their impression of the Star Lake Limited Area Comprehensive Plan, a description we tend to agree with.

This commercial development is currently being proposed on top of a very sensitive wetland area on Star Lake's south basin. As such, this proposed project must receive the most thorough environmental review possible, an Environmental Impact Statement (EIS), to insure Star lake and its watershed are protected. The current EAW does not adequately address the potential for all significant environmental impacts. There are many shortcomings in the EAW, as you can clearly see spelled out in our team's SLCCG submission. We won't reiterate all these issues here, however, the most significant, in our opinion, relates to this project's cumulative effects and connected actions. If there were ever a project that needed an EIS, this would be it. After all, this would be the largest commercial development of its kind in OTC and is being proposed directly on top of a centuries old, Star Lake wetland area. Those two factors alone are clearly enough to warrant an EIS to insure a complete environmental review is properly conducted. Wouldn't you agree? However, if you still believe this project does not need an EIS, then you should ask yourself this simple question... 'what commercial development proposal ever would require an EIS if this one doesn't??' An EIS is obviously the only way to fully insure the potential for significant environmental impact is thoroughly investigated and all the risks identified allowing proper mitigation activities to take place. An EIS would protect everyone involved, the Otter Tail County Officials, the Otter Tail County Taxpayers, the People of the White Earth Nation, and the most importantly, the entire Star Lake watershed for future generations to come. There is simply no sound reason to put all this at risk by not ordering an EIS.

The Star Lake Casino project, as outlined in the project description section of the EAW, is discussed as one single project, not two separate trust land and fee land projects. However, in subsequent parts of the submitted EAW, there are clear attempts to separate this into two projects, appearing to be a means of circumventing the required environmental review process noting a "lack of jurisdictional control" as the

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reason for doing so. Based on the very clear Minnesota rules, the cumulative effects of any project, including any potential future phases, MUST be reviewed as part of this project's environmental effects.

See Below:

Minnesota Rules 4410.0200, subp. 9 applies:

Subp. 9c. Connected actions. Two projects are "connected actions" if a responsible governmental unit determines they are related in any of the following ways:

- 1) one project would directly induce the other;
- 2) one project is a prerequisite for the other and the prerequisite project is not justified by itself;
- 3) or neither project is justified by itself.

In addition, the Star Lake Casino proposal, if built, would be the largest commercial development of its type ever completed in Otter Tail County. Per the EAW, this projects commercial development area is stated as being ~277,000 sq ft.

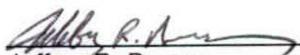
Under Minnesota Rules 4410.4400 subp. 11.B, an EIS is mandatory for construction in an unincorporated area of a commercial facility that exceeds 250,000 square feet of gross floor space.

Otter Tail County, as the RGU for this project and now as the entity certifying the completeness of this EAW, must demand that these Minnesota rules and regulations are upheld and followed by the developer. To say the fee land and the trust land aspects of this project are not connected is very wrong and could only be done as a means of short-cutting the proper environmental review process. Something the Minnesota rules also clearly state is not allowable. After all, these rules are in place for good reason, to protect the environment through responsible and controlled development. Please understand that you are absolutely empowered to determine the fate of this project even considering these apparent jurisdictional issues. As you know, this project simply will not proceed without both jurisdictions agreeing upon a path forward to approval. The operations on the trust land will not succeed without the support of the activities on the fee land and vice versa. Basically, you can't have such an entertainment complex without a means for waste water treatment and the support of a parking lot. You also would not have a need for a waste water treatment plant and parking lot, without such a commercial development.

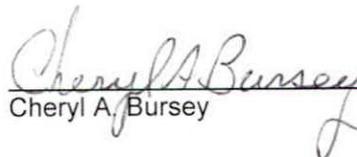
At a minimum, please order an EIS for this project to insure the Minnesota rules are followed and that the environmental review is comprehensively completed. As the Project Developer has previously stated, they have alternate project sites available for this complex, many of which are much more suited with minimal environmental impacts and several with significantly improved economic outlooks for the White Earth tribal members. The Otter Tail County Taxpayers and the People of the White Earth Nation deserve your prompt and ethical decision in this regard.

Thank you for your thoughtful review and appropriate actions taken on this very important matter. Ordering of an Environmental Impact Statement (EIS) is THE ONLY WAY to protect all the parties involved.

Sincerely,


Jeffrey R. Bursey
SLCCG Board Member

Date: 6-14-17


Cheryl A. Bursey

Date 6-14-17

Lake Home Address:

30501 Bambi Trail
Dent, MN 56528
(218) 758-2004 lake
(651) 253-6105 cell/VM/text

Mailing Address:

632-16th Avenue North
South St Paul, MN 55075
(651) 450-0071 home

STEWART F. CROSBY

Stew Crosby Exhibit B

3965 Princeton Avenue, St. Louis Park, Minnesota 55416 | 612.963.3358 | stewcrosby@gmail.com

June 15, 2017

Mr. Bill Kalar, Land & Resource Management Director
Otter Tail County Government Services Center
540 West Fir
Fergus Falls, MN 56537

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RE: Written record of comments provided at the Public Information Meeting on June 15, 2017

Dear Mr. Kalar and Otter Tail County Commissioners,

I own property on Star Lake that is less than a half mile from the proposed Shooting Star Casino site. I have several concerns about the proposed project and I would like to share those with you today.

Negative impacts to wetlands, wild rice and water quality. My son, who is with me today, is the fourth generation in our family to cherish the time he gets to spend on Star Lake at the hunting camp we own with several other families. My grandfather was attracted to the high-quality, shallow water habitat in the South Bay of Star Lake because the wild rice attracted abundant waterfowl and many other bird species. Very little has changed over the years and today the South Bay of Star Lake contains one of the largest wild rice beds in the State of Minnesota. The proposed casino would seriously jeopardize the water quality, which would impact the wild rice and that would have a negative effect on waterfowl and other migratory birds who depend on the South Bay of Star Lake. Specifically, the developers propose to dredge and fill 8.41 acres of wetlands within Star Lake.

Negative impacts to the rural character. The area around the South Bay of Star Lake is identified in the County's Limited Area Star Lake Comprehensive Plan as rural and it is noted that this characterization is important to the property owners and residents in the area. As a property owner, I am telling you that the rural character of the area, including farming activities, is extremely important to me. The shoreline of the South Bay of Star Lake is not compatible with large-scale developments, residential, commercial or for a casino. This type of development would negatively impact the rural character of the area and the lakeshore.

Increase in light pollution. One of the greatest joys of spending time on the South Bay of Star Lake is the incredible night sky that one experiences on a clear night. A casino, with its three-story building and acres of lighted parking and roadways will ruin the rural night sky in this area forever. Future generations will not have the opportunity to view the sky and stars as we can now.

Crowded, dangerous, narrow County roads. The idea of developing a casino on County Road 41 on the South Bay of Star Lake is deplorable. The Otter Tail County Road Map, the proposed casino location is notable because it cannot be much farther away from any community in the

County. The impact to traffic on the County's roads, specifically County Road 41 and 35 will be large. There will be significant increases in traffic, in accidents potentially with fatalities, and there will be a greater need to make improvements to these roads to accommodate the increase in traffic. The County roads around Star Lake are circuitous because there are so many lakes and wetlands that roads cannot be constructed in a linear fashion. Improving and widening these roads will be very costly, and County taxpayers will be responsible for paying for these improvements.

Environmental Impact Statement is necessary. Mr. Kalar and Otter Tail County Commissioners, the proposal to develop a casino on the shore of the South Bay of Star Lake will forever negatively impact the water quality of the lake, the rural character of the area, the amazing night sky and the safety of the surrounding County roads. For these reasons, it is vitally important that all potential impacts to the lake and surrounding landscape be studied through an Environmental Impact Statement. It is your duty to explore every impact of this, the largest proposed development in this area of Otter Tail County. Requiring an Environmental Impact Statement will help determine what impacts this development proposal will have on Star Lake and the rural area surrounding it.

I urge you to require an Environmental Impact Statement for this development project.

Sincerely,



Stewart Crosby
Star Lake Association
37455 Bright Star Road
Dent, MN

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Jason Gorr Exhibit C

Hello, my name is Jason Gorr and thank you for giving me the opportunity to speak. I would like to address one part of the EAW specifically and list some of my concerns with it tonight.

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➤ On page 10, under section **9. Land Use**
b. Discuss the project's compatibility with nearby land uses, zoning, and plans listed in Item 9a above, concentrating on implications for environmental effects.

"Even with the rural character of the surrounding lands, the project is compatible with existing land use identified within the Limited Star Lake Comprehensive Plan area boundary."

I see this above claim as false and inaccurate.

- The EAW is woefully inadequate at looking beyond the footprint or essence it's area of influence.
- This comment references the LSLCP in a way that lends it undue credibility and reference. By their own admission this document and process was 'not adopted as an official Comprehensive Plan by OTC' nor was it accurate in many regards some of my peers will be or already have detailed. For instance, where are the hunters and fishermen or Biologists represented? The plan on addresses things on an assumption that this project will happen.
- One of my specific areas of interest is waterfowling, I have a Biology degree in Wildlife Management and am extremely passionate about experiencing not only waterfowling, but studying and observing lots of non-game species. I can attest from lots of experience that Star Lake's South arm is a rare gem of a habitat, a natural resource, and a precocious gem of an ecosystem.
- Whether it be it's bountiful an long documented excellent Wild Rice Stands or its wetland lined South and West Arms allowing for the excellent water quality.
- One of it's key attributes is it's remote and rural nature. This is not only what allows sensitive species of waterfowl to thrive there, but also what attracted our family to purchase their property, several of our neighbors, and two long existing Duck Clubs on the Bay. They go back over 70 years and as far back as we have kept records on the Star Lake area there have been waterfowlers carrying on and helping protect this precious

resource. You have another one standing here today addressing you at this microphone.

- Please recognize this project in this reference and MANY others I don't have time to address in 2 minutes is entirely incompatible with existing land uses and people/wildlife who use it traditionally and currently. I can live with change, but we owe it to the wildlife, the water quality, and future generations to do our part to ensure that proper site selection and sound developmental practices take priority to shoe-horning and abomination on such a delicate shoreline. I wouldn't care if it were a Radisson or Hilton Project of this size, this IS NOT THE PROPER PLACE FOR THIS...
- As far as non-game waterfowl of importance goes:
 - DNR identified the Red Necked Grebe as species documented to frequent the bay and recommended to the Proposer (& OTC) that they would warrant more study toward the project's effects on them.
 - Not only is not done, but the DNR called out the proposer recently in email correspondence for taking it upon themselves to modify the DNR opinion offered that this proposal would 'Likely cause the RL Grebe disturbance' to 'possibly'. If this was only noticed since the DNR drew attention to it, I ask you where else have future impacts been minimized or misrepresented in the developers favor? If every there was a project in OTC that warranted an EIS, this is it...

Thank you for your time and consideration, I'd like to submit this paper and eventually my more comprehensive list of concerns and references.

Jason Gorr
218.562.4322
jasongorr2@gmail.com

**VERBAL COMMENTS FOR OTTER TAIL COUNTY COMMISSIONERS 6/15/17
PUBLIC MEETING PELICAN RAPIDS HIGH SCHOOL**

Good Evening. I am Lee Mindemann and I am a year-round resident on 380th St. about 1 mile east of the fee land. Knowing that tonight's meeting is about the completeness and accuracy of the EAW document, and my time is short I have the following two concerns:

- 1- EAW Pg. 1, Part 5, **Project Location**. The EAW identifies five parcels, (one of which is misidentified), and omits a sixth parcel. That being 12.4 acres located on the north side of 380th St. immediately north of the acquired fee land. The proposer acquired this land for \$350,000 (which equates to \$28,225/acre), yet has not provided any plans or information for its use. Since this land would provide the only access to the main body of Star Lake it seems highly unlikely that it would not be included in any plans. For a "RESORT" & CASINO.
- 2- EAW Page 5, Para 6c. **Project Magnitude**: MN Rules 4410.4400 provide a lot of specifics related to "EIS Thresholds", one of which is subp 1 "An EIS must be prepared for projects that exceed the threshold of 250,000 square feet...". Gross Floor Space. However, in the EAW the proposer states the square footage planned as 277,000 square feet. Well, above the stated EIS Threshold, and in of itself, should warrant an Environmental Impact Statement.

For these and other reasons, I respectfully request the Board of Commissioners reject this EAW and require that a more thorough review be conducted via that of an Environmental Impact Statement (EIS).

I would like to thank the commissioners for holding this meeting, and I want to acknowledge the difficult position they are in regarding this very controversial project. This will be a tough decision. In my experience, the best decision is usually not the easy one, but the one guided by a sense of what is truly right. In this case, an EIS is the right thing to do.

Respectfully, Lee Mindemann, 32739 380th St., Dent, MN 55628 218-298-2010

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Jeff R. Bursey
632 16th Ave. N.
South St. Paul, MN 55075

Jeff Bursey Exhibit F

Jeff Bursey

From: Jeff Bursey
Sent: Monday, June 12, 2017 4:52 PM
To: 'Jeff Bursey'
Subject: Verbal Presentation Outline

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- 1) HELLO, My name is Jeff Bursey and my wife, Cheryl (Sherry) and I own property on the West Arm of Star Lake. I am an active Board Member of the Star Lake Concerned Citizens Group (SLCCG) and have spent many hours since this project's announcement, working to insure our citizens are properly informed. My family history has strong connections to Star Lake dating back to the 1940's when my Grandfather, Rocky Smith, owned and operated Rocky's Resort.
- 2) As you know, the ^{Proposed} Star Lake Casino Development is the largest commercial development of its kind in OTC and as such, has great potential for significant environmental impacts since the proposed site is located directly on top of centuries-old, Star Lake wetlands
- 3) Based on these two reasons alone, this project should require an Environmental Impact Statement (EIS). Actually, when you really think about it, if this project does not require an EIS, then what commercial project ever would require one??
- 4) The submitted EAW is deficient in many ways as detailed by our forthcoming SLCCG submission and this EAW fails to adequately address all the potential environmental impacts related to this project.
- 5) One significant shortcoming of the EAW is the project description which describes this as being one project. However later in this EAW, it is discussed as two projects, one on trust land and one on fee land. Which is it? One project or two?
- 6) Since these two projects (or jurisdictions) are clearly connected actions, then OTC as the RGU, is legally required to evaluate the environmental impacts in their combined totality.
- 7) ^{you are} ~~The~~ Otter Tail County Board of Commissioners is fully empowered and required to review this as one project based on the connected actions clause of the rules
- 8) To clarify the connected nature, the trust land project cannot proceed without the support of the fee land project since the hotel/casino operation needs a parking lot and waste water treatment plant to succeed and vice versa.
- 9) If OTC is unable or unwilling to properly review the environmental impacts of this entire project as a whole, then OTC should request being removed as the RGU to facilitate reassignment to a more suitable entity, such as the MN DNR, for example.
- 10) The only way to truly protect the OTC Board of Commissioners, the OTC taxpayers, the People of the White Earth Nation, and most importantly, the entire Star Lake watershed, would be to order an EIS.
- 11) We WILL NOT be given a second chance to get it right. ^{we really need} ~~And then~~ ask ourselves, "What would be wrong with doing it right?"
- 12) THANK YOU for your time and anticipated support in ordering the completion of an EIS.

Jeff R. Bursey June 15, 2017

1875
June 12, 1875

Re: EAW Comments - Star Lake Casino Development (June 15, 2017)

OTC Board of Commissioners:

Thank you for holding this meeting so that you can gather the information necessary to assist you in making a decision regarding the environmental review associated with the Star Lake Casino Development project.

"The rules suggest that [EAW] comments address: the accuracy and completeness of the information, potential impacts that may warrant further investigation before the project is commenced, and the need for an EIS on the project."¹

My comments are not about what is in the EAW, but rather additional aspects that could be addressed by an EIS, specifically:

1. social and economic impacts,
2. the submission of a financial plan for the proposed action identifying the sources of secured funding for the project, and
3. an analysis of a Range of Alternatives, including a No Action Alternative²

Social and Economic Impacts:

I believe it is necessary to further analyze the short- and long-term social and economic impacts (out several generations) that may result from this proposed development on residents and visitors of Otter Tail County, as well as the people of White Earth Nation. Some aspects that are deserving of additional analysis are: available workforce, housing, economic impact to businesses, property values, aesthetics, noise, law enforcement, emergency services, and fire protection, just to name a few. While some of these have a cursory reference in the EAW, more analysis is needed (the information gathered for the LASLCP is inadequate). Possibly a "Social Impact Assessment" should be performed.

Submission of a Financial Plan:

BEFORE this project even considers federal or state permits I believe it is critical that the proposer provide evidence that they have sufficient funding to see this project as outlined to completion. There have been mitigation strategies outlined for various environmental issues, but what about mitigation strategies due to funding inadequacies? What if, like the Bagley casino, it goes over budget? What would be the environmental impacts of starting this project and abandoning it before completion?

Range of Alternatives:

Because of ALL the potential issues associated with this very large and complex project, an EIS would result in analyzing the data associated with a "**Range of Alternatives to the proposed action. Alternatives are considered the "heart" of the EIS. Every EIS is required to analyze a No Action Alternative, in addition to the range of alternatives presented for study. The No Action Alternative identifies the expected environmental impacts in the future if existing conditions were left as is with no action taken.**" There are so many angles and considerations to this project; we owe it to all impacted people (residents, visitors, tribal members, taxpayers) and the environment to fully analyze all possible and reasonable alternatives.

In Summary

I respectfully submit that due to the complexity of this project on many levels (environmental, financial, cultural, jurisdictional, etc.) that your decision at the conclusion of the EAW comment period must be that this project meets the needs criteria for an Environmental Impact Statement (EIS).

Respectfully,
Brenda Ebanks | 39605 Galaxy Road | Dent, MN 56528

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Source Documents:

- 1) MN EQB: EAW Guidelines Preparing Environmental Assessment Worksheets; Oct 2013; p.2
- 2) The EIS Book: Managing and Preparing Environmental Impact Statements, Chapter 6. Source: Eccleston, Charles H. (2014):

"An EIS typically has four sections:

1. *An Introduction including a statement of the Purpose and Need of the Proposed Action.*
2. *A description of the Affected Environment.*
3. *A Range of Alternatives to the proposed action. Alternatives are considered the "heart" of the EIS.*
4. *An analysis of the environmental impacts of each of the possible alternatives. This section covers topics such as:*
 - *Impacts to threatened or endangered species*
 - *Air and water quality impacts*
 - *Impacts to historic and cultural sites, particularly sites of significant importance to Indigenous peoples.*
 - **Social and Economic impacts** *to local communities, often including consideration of attributes such as impacts to available housing stock, economic impacts to businesses, property values, aesthetics and noise within the affected area*
 - *Cost analysis for each alternative, including costs to mitigate expected impacts, to determine if the proposed action is a prudent use of taxpayer dollars*

While not required in the EIS, the following subjects may be included as part of the EIS or as separate documents based on agency policy.

- **Financial Plan** *for the proposed action identifying the sources of secured funding for the action. For example, the Federal Highway Administration has started requiring states to include a financial plan showing that funding has been secured for major highway projects before it will approve an EIS and issue a Record of Decision.*
- *An Environmental Mitigation Plan is often requested by the Environmental Protection Agency (EPA) if substantial environmental impacts are expected from the preferred alternative.*
- *Additional documentation to comply with state and local environmental policy laws and secure required federal, state, and local permits before the action can proceed.*

*Every EIS is required to analyze a **No Action Alternative**, in addition to the range of alternatives presented for study. The No Action Alternative identifies the expected environmental impacts in the future if existing conditions were left as is with no action taken by the lead agency. Analysis of the No Action Alternative is used to establish a baseline upon which to compare the proposed "Action" alternatives."*

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Lee Mindemann Exhibits I

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To: Otter Tail County
Board of Commissioners

Date: 2/16/2017

RE: Star Lake Township (SLT) Supervisors Position on Proposed Shooting Star Casino Project.

Star Lake Township (SLT) recognizes that the proposed casino project is complex and controversial, with many stakeholders involved. We have followed with keen interest the unfolding of the Limited Area Star Lake Comprehensive Plan, and the on-going procedural and regulatory processes.

SLT currently has very little statutory jurisdiction over these matters, and scarce financial resources to expend on the issue; so it is, - that we must trust in our county officials and elected representatives to represent and protect us in these matters to the greatest extent possible.

Amidst all the activity, meetings, public comment/emotion, and barrage of information on this subject; we believe it is important to revisit our core responsibilities as elected officials. To that end, it is our belief that our primary responsibility is to Star Lake Township residents (i.e. voters), the people & families that live and thrive here on a year-round basis, those that call Star Lake Township "home". Secondly, we must also do what we can to protect the rights of "all" of our property owners/tax payers – those new and old.

Integral to our efforts to care for our citizens must be a strong and unwavering commitment to good stewardship of our natural resources. Those of us from a farm background, know & understand the adage of "take care of the land, and the land will take care of you".

It is with these thoughts in mind, that the SLT Board of Supervisors respectfully requests that you insure that this matter receive the most stringent level of environmental review, as well as a review of the socio-economic and public safety concerns involved. It is our understanding that to do so, requires completion of an **Environmental Impact Statement (EIS)**. We believe to do anything less would be a disservice to our citizens, property owners, and our stewardship of the natural resources of Star Lake Township. We thank you for your careful consideration.

Respectfully Submitted:

Lee Mindemann – Chairman

Ron Peterson – Vice Chmn

Vic Johnson - Supervisor

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Eric Peters Exhibit J

On behalf of the Star Lake Property Board and Owners, I would like to express their concerns with the White Earth Nations Casino Development.

With only two minutes to address our concerns to you, I will stick to only a few of the major ones tonight. We will also be submitting our written comments ~~to you~~ for public record.

One of first major concerns in the EAW is under the Project Description letter E, which asks whether there are future stages of this development including on any other property planned or likely to happen?

The State requirement states:

If the answer to either is "yes," it is possible that the project is related to other developments as a "phased action" or a "connected action" as defined by Minn. Rules 4410.0200, subpart 60 and 9c, respectively. The Rules require that all parts of these actions must be reviewed as a single project.

The answer provided by the development was yes, but the developers have not provided any details on those future stages. Those future stages could be expansion of hotel and gaming areas, RV Park, rental cabins, golf course, and any others not mentioned.

The State Law requires that these stages must be reviewed as a single project, not evaluated and reviewed as they decide to build them. These expansions would have significantly more environmental impacts than the current proposal already does.

These expansions could lead to more destruction to wetlands that are vital to Star Lake. There is already 7.4 acres of wetlands being destroyed and being replaced in another county in the current proposal.

These expansions will increase the impervious surface, which is already being exceeded on Trust Land and is at 21% when combined with fee land. Which brings me to another discussion, why does the jurisdictional wall between fee land and trust land disappear when it is needed to make it sound compliant with impervious surface laws. The bottom line is that they are well over the impervious surface allowance on the Trust Land. It is well documented that impervious surfaces has detrimental impacts on the waters in the State of MN.

These expansions will have a greater impact on wildlife, fish, wild rice and other native vegetation.

The accumulative effects these expansions have will only exacerbate the negative environmental impacts to Star Lake and **therefore this EAW shall be elevated to an Environmental Impact Statement.** The County Commissioners alone cannot properly evaluate the total impact. This proposed project needs the full review and study of an EIS so that the MN DNR, PCA, MDH, SWCD, State Historical Preservation Society, and all corresponding agencies are brought into the discussion and allowed to help analyze, direct study, and comment. By elevating this to an EIS, the Proposer should develop their plans to include all possible phases and be evaluated as ONE project.

The State Law states:

*"An EIS shall be ordered for projects that have the potential for **significant** environmental effects" (Minnesota Rules 4410.1700, subpart 1).*

We can debate on what the significant environment effects will be, but there no denying that this proposal and future stages will have the potential for significant environmental effects.

I understand this is a difficult decision for this board, but I think the largest commercial development in the shoreland district ever constructed in Otter Tail County deserves the most thorough review that the State of MN allows. The residents of the Star Lake area and Otter Tail County deserve to know the economic, social, and environmental impacts this project will have on them.

Eric Peters SLPOA President

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Tom Brademeyer
Jill Brekkestran Exhibit K

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June 11, 2017

Environmental Assessment Worksheet Comment-Proposed Star Lake Casino

Mr Kalar & members of the Board-

We are greatly concerned about the impact the proposed Star Lake Casino will have on the area around the proposed building site. Our year-round property is very close to the proposed casino site. My family bought our property on Star Lake, 20 years ago, primarily because of the high quality of Star Lake, as it pertains to fishing, water clarity, and undisturbed natural areas along the lakeshore. In those 20 years, the lake's attributes have remained relatively unchanged. The water quality and clarity has remained among the best in the state. Fishing on Star Lake has also continued to be excellent.

With the looming construction and operation of a large casino^d/hotel complex on Star Lake, comes the concerns that water quality and fishing will be greatly impacted. The fill needed to advance the construction project will destroy 8 acres of spawning beds and wild rice. Even though these acres are to be "replaced" by purchasing acreage in the wetland bank, this action does not actually replace these lost wetland acres, ^{by doing this they cease to exist.} Purchasing acreage in the wetland bank won't replace ~~the wetland~~ what is lost. In addition, if construction is allowed to proceed, large paved parking lots will be constructed near enough to the lake to possibly cause polluted water in the form of run-off into the lake during rain events and spring thaw events. This polluted water will further negatively impact the lake by introducing oil, antifreeze, gas and other hazardous chemicals to the lake in much larger quantities than are presently found there.

The greatest concern we have for waste management and disposal. ^{is} First, ^{1st} the proposed method of waste ^{air} treatment is not an ideal solution. Sewage lagoons will not only affect ^{water} air quality, but also ^{water} water quality. The lagoons proposed location southwest of the main body of Star Lake would spread a pungent and unwelcome odor over most of the lake during the spring, summer and fall months, when the prevailing winds are from the southwest. Be assured that no one living on or visiting Star Lake wants to be subjected to the constant smell emanating from those proposed sewage lagoons. A drain field would have much less impact on the air quality. Secondly, the sewage lagoons proximity to a small, unnamed lake on the west side of Highway 41 could cause that lake to be polluted in the event of heavy rainfall or the lagoon may leak, polluting the surrounding area.

We do not see the proposed casino's impact to Star Lake and the surrounding areas as positive and do not support the proposed casino project. This project would be not be a good fit with the area.

Sincerely,

Jill Brekkestran
32221 380th St
Dent, MN 56528

Bill Kalar

From: Bill Kalar
Sent: Wednesday, June 21, 2017 12:46 PM
To: 'Edmund Chute'
Subject: RE: Star Lake Casino Development comment on EAW

Edmund Chute - this will confirm receipt of your comments. They will be included as part of the Public Record regarding this matter.

Bill Kalar
Land & Resource Mgt.
218-998-8105

-----Original Message-----

From: Edmund Chute [mailto:edmundchute@gmail.com]
Sent: Wednesday, June 21, 2017 9:41 AM
To: Bill Kalar
Subject: Star Lake Casino Development comment on EAW

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Bill Kalar-

As a user of Star Lake and the surrounding community for some 60 years, I would like to request than an Environmental Impact Statement be required for the Star Lake Casino Development.

From my experiences over these many years, I am most concerned about the noise, lighting, traffic and pollution effects on Star Lake. Currently, Star Lake functions like a habitat refuge for wildlife and fish where human impact is minimal. However, the area of lake on which the Casino is to be built is shallow. It is very productive for breeding of fish and wildlife, but it is sensitive due to its shallow waters.

Any light, noise, water and boat traffic or construction activity will have an unusually strong impact on the lake temperature and suitability for wildlife. For example the paving and ponding features that are shown on the EAW outflow, according to the EAW, into the South Arm of Star Lake. This would be warm water with the probability of salt contamination. Extensive areas of paving will contribute to this process as they heat up water and melt the salt off of cars parked there in winter months. All of this heat and salt water will inevitably reach the South Arm of Star Lake. I do not think the EAW adequately addresses the cumulative and long term effects of this change in water flow.

The light pollution from traffic and buildings and advertising will diminish the night time experience of solitude for residents and visitors for miles around and forever change the character of the Star Lake experience for children of the future. It will become just another urban lake.

Traffic will be increased and likely include many people who have no knowledge or interest in the natural resource of Star Lake. This will change the character of the community and move wildlife habitat to low priority, while earning money off the traffic with adjacent services will become the top priority. This will tip the balance into a cascade of development which will end with loss of a fine natural resource. I do not think the EAW at all addresses the long term effect of a Casino Destination and how the impact of a Casino will result in losing one of our few remaining pristine lakes.

We at least need a full Environmental Impact Statement for us to understand what we will be forfeiting when we choose gambling over the natural environment of Star Lake.

Edmund Chute MD FACS
182 Westwood Lane

Bill Kalar

From: Bill Kalar
Sent: Wednesday, June 21, 2017 12:35 PM
To: 'Tyler Riley'
Subject: RE: EIS Public Comment Period/Star Lake

Emily Richards and Tyler Riley - this will confirm receipt of your comments. They will be included as part of the Public Record regarding this matter.

Bill Kalar
Land & Resource Mgt.
218-998-8105



From: Tyler Riley [mailto:tyler.e.riley@gmail.com]
Sent: Wednesday, June 21, 2017 7:44 AM
To: Bill Kalar
Subject: EIS Public Comment Period/Star Lake

Mr. Bill Kalar
Land & Resource Management Director
OTC Government Services Center
540 West Fir
Fergus Falls, Minnesota 56537

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Dear Mr. Kalar:

As a full time residents at 38271 Bambi Dr. on Star Lake, we are very concerned about the proposed casino project as currently described. We truly believe that when the EIS is conducted, there will be proof the influence of a huge casino-resort complex will destroy the immediate and surrounding areas of land and lake shore habitats. We choose Star Lake for our home because we were lucky enough to spend our summers on Star. It's the serenity of a peaceful, quiet lake that drew us to become full time residents. We believe this type of development does not mesh with the rural character of the Star Lake area.

Environmental concerns with water run-off/wastewater, light pollution, and critical habitat for migratory birds and fish are a few of the many concerns we have such a large proposed development. A completed EIS identifying the entire environmental, infrastructure, social, medical, emergency service, security, transportation, and tax implications of such a major development is what we feel is needed.

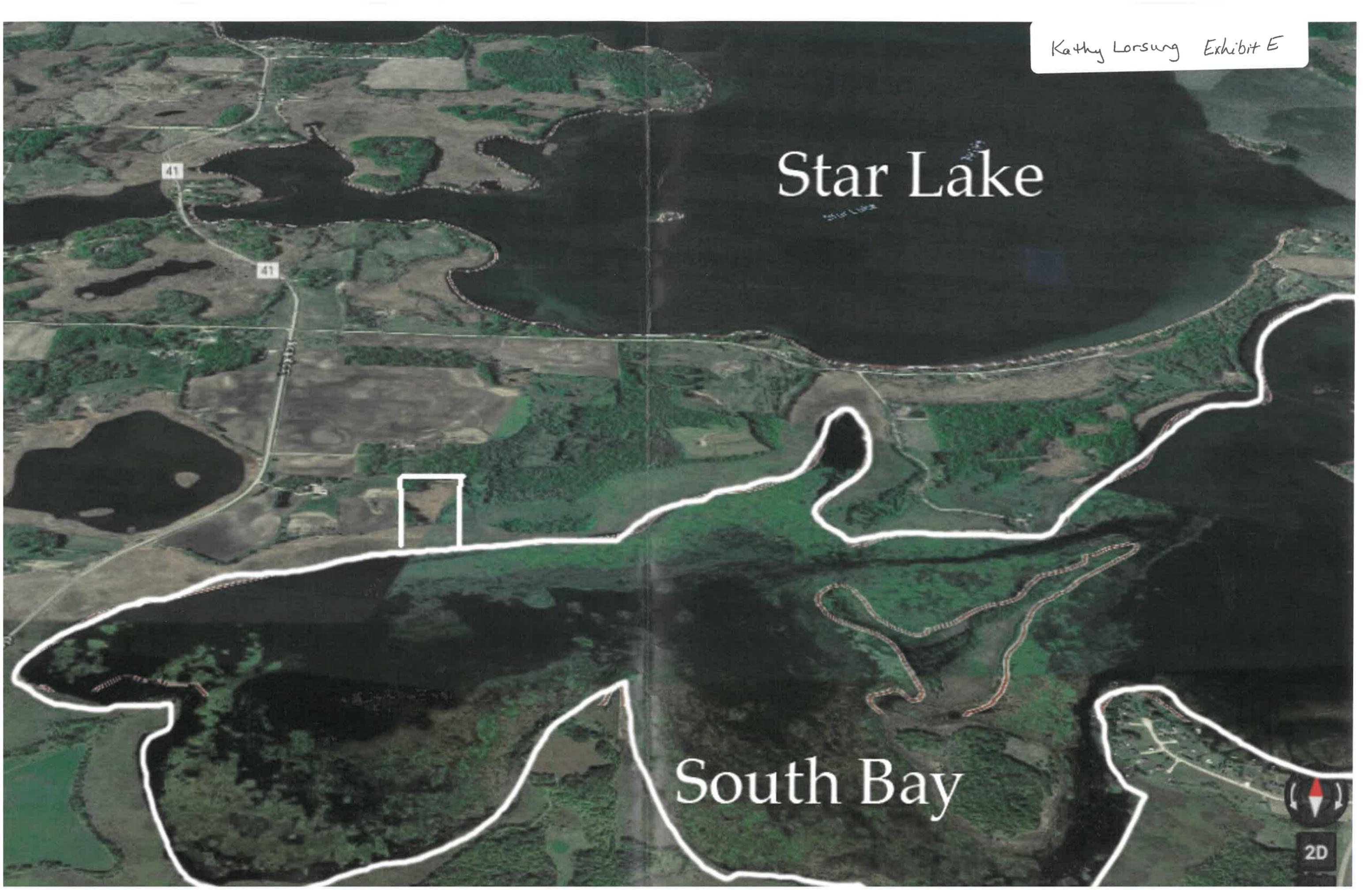
We ask you approve a full EIS for the future of Star Lake.

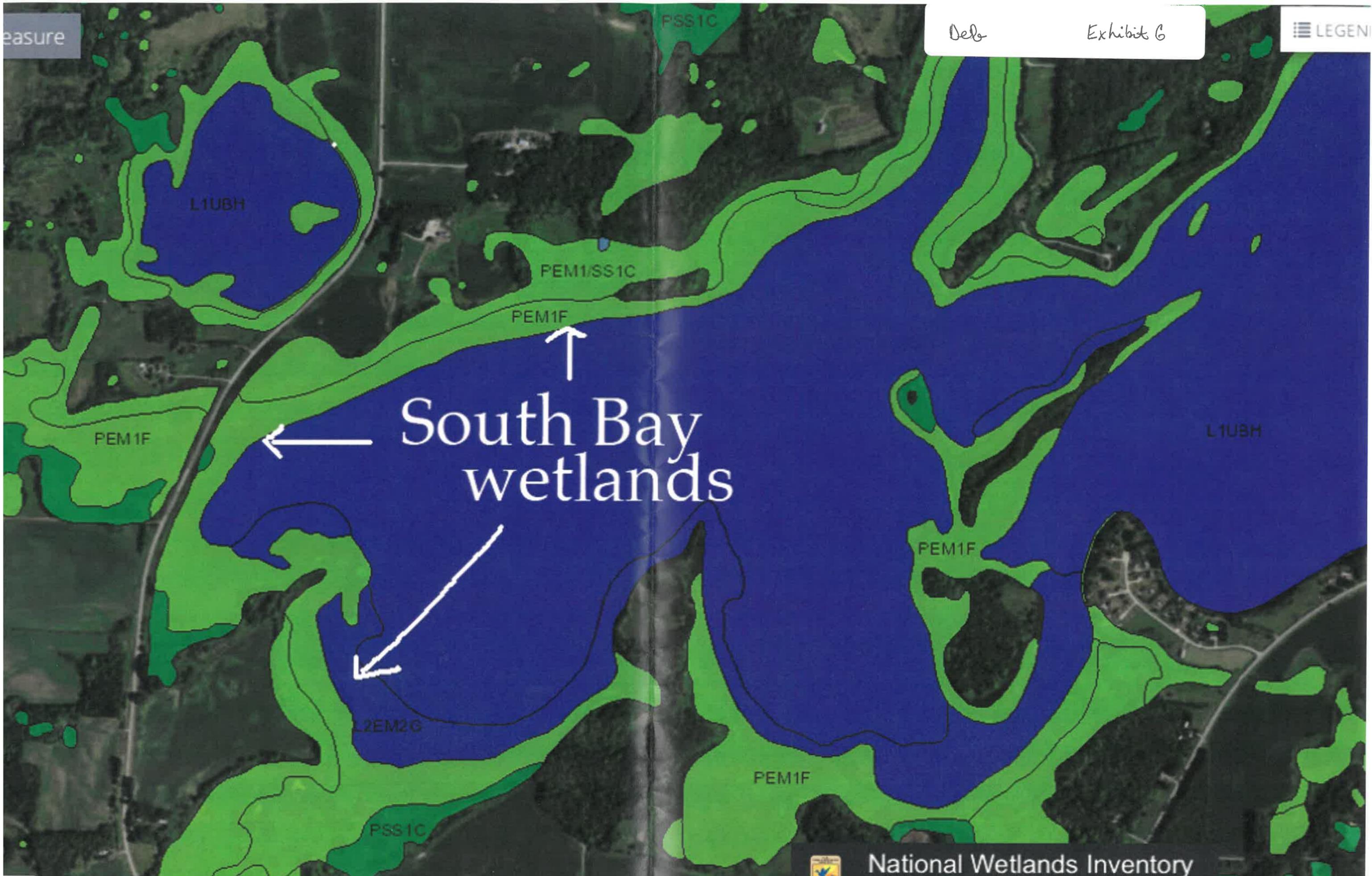
Sincerely,

Emily Richards & Tyler Riley

Star Lake

South Bay





South Bay wetlands

#1

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Dead Lake

SOUTH ARM STAR LAKE

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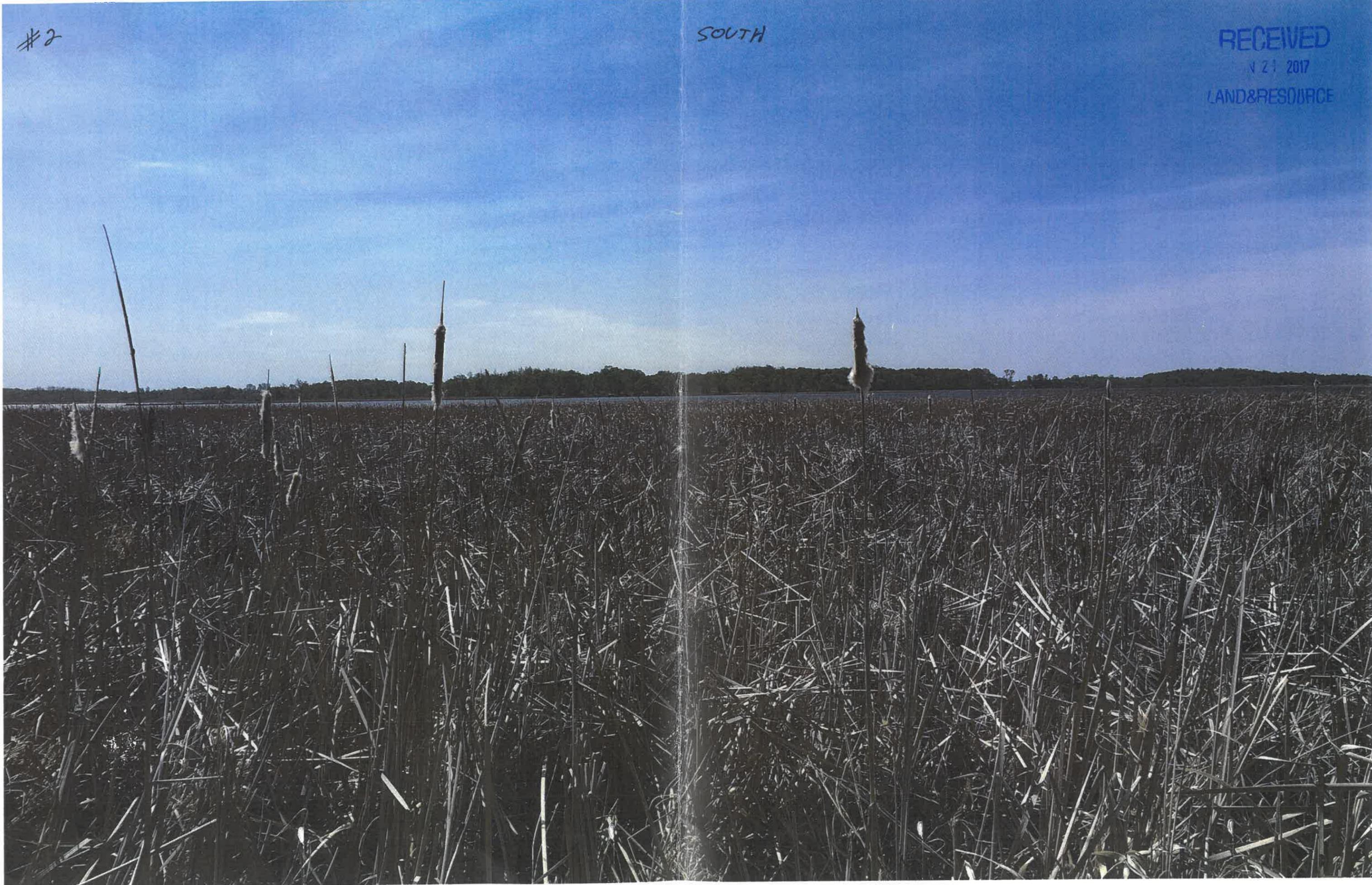
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NORTH

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#1

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Dead Lake

SOUTH ARM STAR LAKE

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Public Hearing Oral Comments
Proposed Star Lake Casino
Pelican Rapids School Auditorium
June 15, 2017

They say a picture is worth a thousand words, and these three pictures speak for themselves. So, I want to put them into the record.

#1 is an aerial photo taken over the south arm and includes a good portion of the proposed project area looking to the south. It was taken last fall, 2016. You can see the south arm of Star Lake and a portion of Dead Lake further to the south. The federal Trust Land approximate boundaries are outlined in black. This is where the proposed hotel/gaming/restaurant complex is to be located. Please note the X is the ice ridge on the Trust Land from which the next two photos were taken.

#2 pic. Also taken last fall, is standing on the ice ridge looking south. The south arm of Star is shallow, sensitive and a critical component of water quality and wild life habitat in the entire Star and Dead Lakes water shed. In all respects, the south arm of Star is the poster child for what should be administered and protected as a Natural Environment body of water.

#3 picture is taken standing on the ice ridge looking north – Directly focusing on the Trust Land upon which the proposed hotel, event center, restaurants and casino are seeking approval from federal authorities. It is also the area where the project proposes to fill with 450,000 +/- cubic yards of sand and gravel, and drive 100+ foot pilings to support their hotel facility.

Of note here, the federal grade and fill permit application on this parcel is temporarily closed due to the lack of required responses from the proposers to the public comments submitted by the public last November. Many of those comments were environmental concerns and bear directly on tonight's discussion. It would have been useful to examine those responses as a part of this EAW process. Many of those public comments on the federal application have also been submitted as a part of this EAW process.

You will hear tonight many convincing arguments why this project will potentially... most probably ... result in significant adverse environmental effects. Many of which the Minnesota Environmental Rules mandate the RGU (OTC) to call for a full environmental impact statement.

I know there are those who feel OTC has no control over what happens on the federal Trust Land and that OTC jurisdiction applies only to the Fee Land. In part that is true. But in a very important part, it is not. In reality, your roll as the RGU requires you to consider the **full cumulative** effects of the **total project**. What happens on the Trust Land, doesn't stay on the Trust land, and visa versa.

You will hear this evening that an EAW is only intended to be a **summary** of the potential environmental impacts as required by the Environmental Quality Board. You will also hear-- and receive written comments-- that will amplify many shortcomings, errors, omissions and unsupported speculative conclusions in the EAW which further require a full EIS.

I accept that the EAW was developed in good faith, but by definition it is only an overview of potential environmental effects! The consequences of being wrong on this one are permanent and forever. The proximity of the project to this unique and incredibly sensitive watershed is the problem, not so much the project itself.

We must all be sure we have done the best scientific and fact-based analysis possible. Much of the EAW is speculative without critical scientific analytical support.

We all agree: This is the largest commercial development project of its kind in OTC history.

I submit there are reasonable project alternatives that have not been considered by the proposers which could substantially reduce the disturbance of the environmentally sensitive south arm of the lake. The proposed dredge and fill of the 14.5 acres of federal Trust Land could potentially be eliminated. For example, if the proposers scaled down their project and divided it—gaming only to the more suitable northwest corner

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(only) of the Trust Land and a more modest resort facility on the buildable portions of the Fee Land. This approach might eliminate—or at least limit— intrusion into the south arm marshes to the square footage required for gaming only.

Such a variation could generate commercial real estate taxes for OTC to help pay for the incredible infrastructure and public safety needs that this project will generate.

In your role as the RGU, you are required to look at the full cumulative effects of the total project. This is a HUGE project that proposes to operate 24-7-365 that will forever change the environment and the fabric of the rural countryside. An EIS provides the opportunity to thoroughly examine alternatives with facts and science that minimize adverse environmental impacts.

This project screams for an EIS that, among other things, would explicitly call for an examination of alternative configurations and their environmental impacts as compared to what is before us tonight. It would also allow the proposers to disclose their subsequent plans for the shoreline property on the big lake that they have not addressed.

What is presently proposed is not good for OTC, nor the Star and Dead Lake townships and neighborhoods.

Thank you for your time.

Stu Peterson

31494 395th Street
On Star Lake, Dent, MN 56528

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