

From: Kaster, Amanda
To: [James Cason](#)
Cc: [Gareth Rees](#)
Subject: AS-IA's Briefing Memos for SCIA Hearing
Date: Sunday, March 05, 2017 2:21:27 PM
Attachments: [BIE SCHOOL OPERATIONS MAINTENANCE FOR FACILITIES FINAL ver3 DKedit 170301.docx](#)
[OIS Tiwahe Briefing 2-26-17.doc](#)
[OTS Rights Of Way Regulations 2282017 \(1\).docx](#)
[OIG briefing.doc](#)
[OIG Secretarial Procedures 3.1.17.docx](#)
[OIG Tribal-State Compacts 3.01.2017.docx](#)
[OIEED CONSTRUCTION AGGREGATE OPPORTUNITY IN INDIAN COUNTRY M1.docx](#)
[OIEED OIL AND GAS OPPORTUNITY IN INDIAN COUNTRY M1.docx](#)
[OIEED RENEWABLE ENERGY OPPORTUNITY IN INDIAN COUNTRY M1.docx](#)
[OTS Indian Energy Service Center 2282017 M1.docx](#)
[OTS Spirit Lake Briefing 2_28_2017_sds.docx](#)
[OTS WJIN Act 2282017_saw.docx](#)
[OTS Agriculture and Range 2282017_TF.docx](#)
[OTS Branch Of Geospatial Support 2282017_TF.docx](#)
[OTS Fee to Trust 2282017_TF.docx](#)
[OTS Fish Hatchery Maintenance 2282017.docx](#)
[OTS Forestry and Fire Suppression 2282017_TF.docx](#)
[OTS Forestry and Timber 2282017_TF.docx](#)
[OTS Irrigation Rehabilitation and Renovation construction 2282017_TF.docx](#)
[OTS Land Title Record Office 2282017_TF.docx](#)
[OTS Probate Backlog 2282017_TF.docx](#)
[OTS Real Estate Services 2282017_TF.docx](#)
[FY 2018 OIS TRANSPORTATION 3.2.2016.docx](#)
[OJS - Victim Services 3.3.2017.docx](#)
[BIE Education Construction 2282017.docx](#)
[BIE Reform Briefing Paper 2282017_sds \(1\).docx](#)
[FY 2018 BIE GAO High Risk Report v\(2\)_sds.docx](#)
[OFA_Briefing on FedAck 2282017_M1 v2.doc](#)
[2009-01-16 Departmental Manual 109 DM_SIWRO.docx](#)
[2017-03-03 Briefing for the Secretary Reporting Structure_SIWRO.final.pdf](#)

Jim: attached are the memos prepared by Indian Affairs for tomorrow's session with the Secretary. We will not be covering all of these but I wanted you to be aware of the materials they put together. If there are any briefing papers you want to make sure the Secretary reviews, let me know.

I will be sending you the Member profiles OCL has put together for tomorrow shortly.

Thank you.

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Bureau: Assistant Secretary – Indian Affairs
Office: Office of Indian Gaming
Member:
Issue: Indian Gaming Issues

Land Acquisition for Indian Gaming

Background

- The Indian Gaming Regulatory Act (IGRA), 25 U.S.C. § 2701 *et seq.*, was enacted in 1988 to “provide a statutory basis for the operation of gaming by Indian tribes as a means of promoting tribal economic development, self-sufficiency, and strong tribal governments.” 25 U.S.C. § 2702(1).
- The authority to make final decisions regarding Indian gaming has been delegated from the Secretary to the Assistant Secretary – Indian Affairs.
- Section 20 of IGRA generally prohibits gaming activities on lands acquired in trust by the United States on behalf of a tribe after October 17, 1988. 25 U.S.C. §2719. However, Congress expressly provided several exceptions to the general prohibition. These include the “equal footing” exceptions and the “off-reservation” exceptions. A tribe must qualify for at least one exception to conduct gaming.
 - The equal footing exceptions include the “restoration of lands for an Indian tribe that is restored to federal recognition,” “settlement of a land claim,” and the “initial reservation” of an Indian tribe acknowledged under the federal acknowledgment process. 25 U.S.C. § 2719(B)(1)(B)(i-iii).
 - An off-reservation exception (two-part determination) requires a finding by the Assistant Secretary – Indian Affairs that the gaming facility is 1) in the best interest of the tribe, and 2) not detrimental to the surrounding community. The governor of the state must concur in the two-part determination before gaming can take place. 25 U.S.C. § 2719(B)(1)(A).
- Indian gaming is grouped into three categories: class I gaming is defined as social games solely for prizes of minimal value. Class II gaming is defined as games of chance such as bingo and pull-tabs. Class III gaming is typically characterized as “casino-style gaming.”

Current Status

Shawnee Tribe two part determination (OK): On January 19, 2017, the Principal Deputy Assistant Secretary – Indian Affairs approved a two-part determination for the Tribe. The Tribe seeks to conduct gaming on 102 acres of land outside of the city limits of Guymon, Texas County, in the Oklahoma Panhandle. The Tribe is landless and this will be its first trust land. In the 1800s, the Tribe was placed on the Cherokee Reservation in eastern Oklahoma by the United States. In 2000, Congress passed the Shawnee Status Act (STA) which authorizes trust land acquisition for the Tribe, but prohibits the acquisition of trust land within the jurisdiction of any other tribe without consent. The Cherokee Nation’s constitution prevents such consent, and no

other Oklahoma tribe has consented. The restrictions of the STA effectively preclude the Tribe from acquiring land in the area containing the greatest concentration of its members. The Department is awaiting the concurrence in the two-part determination by Governor Fallin within the prescribed one year period. If the Governor concurs, the Department must determine whether it will acquire the land in trust for the Tribe. No gaming may take place until the Governor concurs and the land is acquired in trust by the Department.

Wilton Rancheria restored lands determination (CA): On January 19, 2017, the Principal Deputy Assistant Secretary – Indian Affairs approved the trust acquisition of 36 acres in the City of Elk Grove, Sacramento County, California. Until this approval, the Tribe was landless. The site is near the Tribe's headquarters and most of its population, and is 5.5 miles from the Tribe's historic Rancheria. In 1958, Congress enacted the California Rancheria Act which terminated the government-to-government relationship between the United States and the Tribe. In 2007, the Tribe filed suit against the United States which resulted in the restoration of the Tribe's federal recognition. Following the January 19, 2017, decision, the land was acquired in trust by the Department on February 10, 2017. The Department's decision is being challenged by a local citizens' group in federal court.

Tohono O'odham Nation congressionally mandated acquisition of land in trust and settlement of a lands claim determination (AZ): In 2010, the Assistant Secretary - Indian Affairs issued a decision to acquire in trust 54 acres in Glendale, Arizona, for the Tribe pursuant to the Gila Bend Indian Reservation Replacement Act of 1986. Several lawsuits were filed by the State and opposing tribes in state and federal court that challenged the Department's decision, the Tribe's alleged violation of its tribal-state gaming compact, and an alleged breach of contract by the Tribe. The Department and the Tribe have prevailed on these claims. The Tribe began gaming operations in Glendale in 2015 (class II only). The State and Tribe have not yet agreed to a tribal-state compact that would authorize class III gaming. The Tribe is currently seeking to have land that was withdrawn from its original application acquired in trust.

Coquille Indian Tribe restored lands determination (OR): The Tribe seeks to have 2.4 acres acquired in trust within the City of Medford, Jackson County, Oregon. The Tribe intends to renovate an existing bowling alley for a class II gaming facility. In 1954, the Tribe was terminated by the Western Oregon Termination Act. In 1989, Congress restored the Tribe's government to government relationship with the United States, and authorized the acquisition of land in trust within the Tribe's five-county service area (Coos, Curry, Douglas, Jackson and Lane Counties). In January 2017, the Solicitor's Office determined that the acquisition of the Medford site in trust would constitute the "restoration of lands for an Indian tribe that is restored to federal recognition," and the land would be eligible for gaming upon its acquisition in trust. A final decision whether to acquire the land in trust has not been made by the Department.