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**Natural Resources
Bureau of Indian
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Nashville, TN**

Fax

To: John Feingold – Lee Alcott	From: Kurt Chandler
Fax: (914) 949-7559 (315) 413-4067	Pages: 1
Phone: (914) 949-7336	Date: 3/12/2009
Re: Cayuga DEIS	CC:

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March 12, 2009

VIA FACSIMILE AND REGULAR MAIL 615 565 6701

Kurt Chandler
Regional Environmental Scientist
Environmental and Cultural Resources
Bureau of Indian Affairs
Eastern Regional Office
545 Marriott Drive, Suite 700
Nashville, Tennessee 37214

Re: Request That Information Referenced in Pre-Publication Draft of the DEIS
for the Cayuga Indian Nation Fee-to-Trust Transfer Application Be Provided

Dear Mr. Chandler:

We write as counsel to Seneca and Cayuga Counties (hereinafter the "Counties") regarding the above application to follow up my call to you last week. As we discussed, in reviewing the pre-publication draft of the DEIS ("pre-draft DEIS"), we note that there are a number of studies, reports and compilations or data in other forms which are referenced in the pre-draft DEIS and on which a number of statements and/or conclusions are based, but that were not provided in the text of the pre-draft DEIS, nor are such data or reports included in the appendix to it.

Under applicable regulations and guidance, including but not limited to 40 C.F.R. §1502.18 and/or 40 C.F.R. § 15.02.21, material referenced in the DEIS is required to be provided with the appendix to that document or otherwise made available with the DEIS. Since an appendix has been produced for the pre-draft DEIS, the below referenced information and documentation should be provided in that appendix. Further, because the information and documentation identified was relied upon in the DEIS, it should be readily available to the Bureau of Indian Affairs ("BIA") or its consultant, AKRF, Inc. ("AKRF").

As such, we request that each of the studies, reports, underlying data compilations, or information relied upon by BIA referenced in the pre-draft DEIS be provided to the Counties, and we request that BIA specifically provide the following documents and information referenced therein:

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1. The 2003 four year plan authored by the Cayuga Indian Nation ("CIN") referenced in the "Purpose and Need Section" of the pre-draft DEIS, and any other such CIN plans considered by BIA or its contractor in completing the DEIS;

2. Each of the seven "Environmental Site Assessments" ("ESAs") completed or drafted for CIN's properties referenced beginning on page 3.4-1 -3.4.6 (under Section 3.4) of the pre-draft DEIS, including but not limited to a Phase I ESA for three of the nine parcels completed between March and September of 2003 by Environment Compliance Management Corporation, a Phase I Environmental Site Assessment completed in October 2005 by Synapse Risk Management, LLC, and any other Phase I reports in draft or other form considered or used by BIA in the pre-draft DEIS;

3. The reports, including spill reports, field notes and other information referenced in Section 3.4 at page 3.4-1 to 3.4-6 of the pre-draft DEIS concerning the properties identified therein, to the extent such information was not contained in the Phase I Environmental Assessments requested in number 2 above;

4. The documents generated from noise monitoring, including field measurements performed by AKRF as referenced in the pre-draft DEIS at pages 3.5-5 through 3.5-6 (a table is provided with the underlying data on which the information contained in the table is based is not provided);

5. The field notes, reports or other data compilations that were generated for the site inspection of the CIN properties on June 1, 2006 referenced in Section 3.6 at page 3.6-1 that relates or concerns to the properties visited during such inspection;

6. The field notes and other documents that were generated pursuant to the "field work" conducted in July of 2006 that is referenced in the pre-draft DEIS Section 3.7 (at page 3.7-1) concerning observations made relating to state and national registry listings for CIN properties;

7. The data compilations or other documents used in conjunction with the IMPLAN model to generate the information and conclusions referenced in Section 3.8 subsection G, including data sets used to produce any of the IMPLAN results relied upon, identification of computer programs used to process the results (by source code or otherwise), and outputs for intermediate or final model results referenced or relied upon in the pre-draft DEIS beginning on page 3.8-22 through page 3.8-29;

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8. Each document or compilation from which the data shown in Table 3.8-27 (found at page 3.8-24) was generated in the pre-draft DEIS including any documents detailing "amounts expended for normal business operations based on actual expenditures during fiscal year 2005," including "the actual expenditures" referenced in Table 3.8-27;

9. The documents compilations containing or referring to the underlying data which which is summarized in Table 3.8-28 (found at page 3.8-25) of the pre-draft DEIS showing "amounts expended for normal business operations based on actual expenditures during fiscal year 2005," including the "actual expenditures," referenced in Table 3.8-27;

10. The documents containing or referring to the underlying data which is summarized in the pre-draft DEIS in Table 3.8-29 (found at page 3.8-26) showing "amounts expended for normal business operations based on actual expenditures during fiscal year 2005," including the "actual expenditures" referenced in Table 3.8-27;

11. The data compilations, reports or documents used to develop the information summarized in the pre-draft DEIS at Table 3.8-30 found on page 3.8-27;

12. The data compilations, reports or documents used to develop the information summarized in the pre-draft DEIS at Table 3.8-31 found on page 3.8-28;

13. The data compilations, reports or documents used to develop the information summarized in the pre-draft DEIS at Table 3.8-32 found on page 3.8-29;

14. To the extent not provided in the appendix to the pre-draft DEIS, all of the data on which the analysis contained in Section 3.12 is based.

Further, in accordance with the MOU, the Counties require the referenced information and documents in order to undertake the review required by the MOU in their areas of expertise, including public health and safety (for example, the Counties need access to the Phase I ESAs and other documents referenced above regarding inspection of the properties which were not provided), and tax and regulatory impacts (including data omitted as requested above relating to alleged expenditures and alleged expenditures in the Counties and State of New York). Therefore, the Counties reiterate their request that they be allowed additional time to review the pre-draft DEIS until such time as the referenced documentation is provided and adequate time is allowed for the Counties to review same.

During our phone call last week, you mentioned that the 2003 plan referenced in number 1 above is not in the possession of CIN, because it was seized pursuant to an ongoing litigation. We submit that copies of each of the foregoing documents would, as a matter of course, be in the possession of AKRF and so we request that a copy of the 2003 plan be obtained from it.

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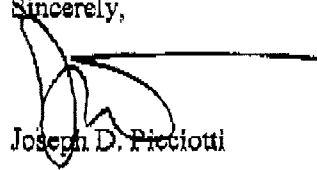
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Needless to say, we would like this information produced to us as expeditiously as possible.

Please call me if you have any questions.

Sincerely,



Joseph D. Picciotti

JDP:cds

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