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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:

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;

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 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.

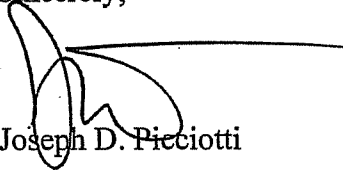
Kurt Chandler  
March 12, 2009  
Page 4

**HARRIS BEACH** PLLC  
ATTORNEYS AT LAW

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

Please call me if you have any questions.

Sincerely,

A handwritten signature in black ink, appearing to read "J. Picciotti", with a long horizontal line extending to the right from the end of the signature.

Joseph D. Picciotti

JDP:cds

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# United States Department of the Interior

BUREAU OF INDIAN AFFAIRS

Eastern Regional Office  
545 Marriott Drive, Suite 700  
Nashville, TN 37214

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Trust Services  
Environmental Management

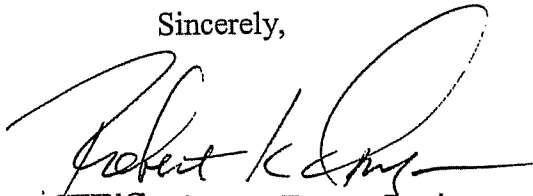
Mr. Joseph D. Picciotti  
Harris Beach, Attorneys at Law, PLLC  
99 Garnsey Road  
Pittsford, New York 14534

Dear Mr. Picciotti:

We have received a request from your office for extending the Cooperating Agency Review Period for the Pre-Publication Draft Environmental Impact Statement (Pre-DEIS) for the Cayuga Nation's fee-to-trust application. Please be aware that the 30 days that you have been provided for Cooperating Agency review is already considered an extension of the public's 45 day comment period that will follow. We will accept your comments until the last day of that 45 day public comment period. That means your office has already been provided at least 75 days, and possibly up to 90 days to review the document, considering the additional time between reviews periods. The document is considered neither very large, nor very complicated, nor is it required to review the entire document for data verification purposes. Please keep in mind that this document may contain errors. The Pre-DEIS is not a public document and must not be released to the public at this time. It is only provided for your office to allow verification of the accuracy of any data the Counties may have provided to the contractor, before the public is allowed to review the document. For such a small application, there have already been excessive delays due to issues beyond our control. Expeditious reviews should help reduce costs associated with repeating verification of potentially aged data. The schedule will proceed as planned. Thank you for your cooperation in this matter.

If you have any questions or need further information please contact, Mr. Kurt G. Chandler, Regional Environmental Scientist, at (615) 564-6832.

Sincerely,



ACTING Director, Eastern Region

**HARRIS BEACH** PLLC  
ATTORNEYS AT LAW

February 19, 2009

*By Facsimile and Regular Mail* 615 564 6701

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Nashville, TN 37214

Re: Pre-Publication Draft of the DEIS for the Cayuga Indian Nation Fee-to-Trust Transfer Application

Dear Mr. Chandler:

I appreciated the opportunity to speak with you today regarding the referenced matter. As indicated, my firm represents Seneca and Cayuga Counties in the referenced matter as cooperating agencies. As I stated to you on the phone on behalf of our clients, we request that the Bureau of Indian Affairs extend the 30 day comment period for purposes of our clients' providing comments to the Pre-Publication draft of the DEIS.

Our request is based on several factors, including that in order for the Counties to confirm the data found in the DEIS, it will take some time, particularly in light of the fact that as with most governments, staffing is an issue. Further, we would like to provide as much substantive information to the BIA as possible at this juncture.

Based on our conversation, it appears that BIA will not consider extending the referenced time, but by this letter we reiterate that request and look forward to hearing from you.

Sincerely,



Joseph D. Picciotti

JDP:nac

cc: Suzanne Sinclair  
Wayne Allen  
Frank Fisher, Esq.  
Fred Westphal, Esq.



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## Memorandum

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**To:** Cooperating Agencies  
**From:** John Feingold  
**Date:** February 17, 2009  
**Re:** Pre-Publication Cayuga Indian Nation DEIS  
**cc:** Kurt Chandler, Bureau of Indian Affairs;

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Pursuant to the fully executed Memorandum of Understanding between the United States Department of the Interior, Bureau of Indian Affairs (BIA); New York State Department of Environmental Conservation; Cayuga County, NY; Seneca County, NY; and the Cayuga Indian Nation concerning the Lead Agency and Cooperating Agency Coordination for an Environmental Impact Statement of the Proposed Fee-to-Trust Transfer of Land from the Cayuga Indian Nation to the United States dated March 21, 2008, enclosed is a pre-publication copy of the Draft Environmental Impact Statement (DEIS).

Any comments relating to the subject matter relevant to your agency must be received by the BIA Eastern regional Office within 30 days of the receipt of this document if you would like these comments incorporated into the DEIS released for public review. The BIA will accept comments until the end of the 45 day comment period, but if not received within the 30 days allowed for Cooperating Agency review, any corrections will not be made to the draft released for public review.