

99 GARNSEY ROAD
PITTSFORD, NY 14534
(585) 419-8800

JOSEPH D. PICCIOTTI

DIRECT: (585) 419-8629
FAX: (585) 419-8815
JPICCIOTTI@HARRISBEACH.COM

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.

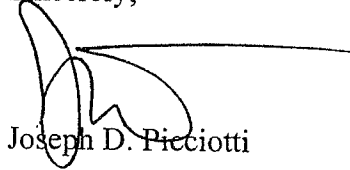
Further, in accordance with the MOU, the Counties require the referenced information and documents in order to undertake the review required by the MOU in their areas of expertise, including public health and safety (for example, the Counties need access to the Phase I ESAs and other documents referenced 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.

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 "Joseph D. Picciotti". The signature is stylized with a large, sweeping initial "J" and a long horizontal line extending to the right.

Joseph D. Picciotti

JDP:cds

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DIRECT: (585) 419-8629
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RECEIVED

2009 JUN 12 P 1:36

June 9, 2009

By Facsimile
and Regular Mail

615 564 6701

DIA-ERO
REGIONAL DIRECTOR

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 for Extension of the Public Comment Period for the Draft
Environmental Impact Statement issued for the Cayuga Indian Nation's
Land-into-Trust Applications for Land in Cayuga County and Seneca County

Dear Mr. Chandler:

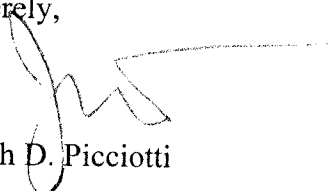
We write on behalf of Cayuga County and Seneca County (collectively the "Counties") in the referenced matter to request that the public comment period for the Draft Environmental Impact Statement issued during the second week of May of this year ("DEIS") and made available to the public as of May 22, 2009 be extended for the reasons stated herein. Specifically, the Counties request that the public comment period for the DEIS be extended by no less than sixty (60) days following the proposed June 17, 2009 hearing, or until sixty (60) days after the information requested in the separate letter sent to you today dated June 9, 2009 is made available to the public, whichever is later.

The Counties request this extension of the public comment period because information and documentation to which the public is entitled under applicable federal law, including the National Environmental Policy Act of 1969 ("NEPA") to evaluate the conclusions and claims made in the DEIS has not been provided and must be made available in order to meet minimum requirements under NEPA. Further, application of the procedure whereby the Cayuga Indian Nation ("CIN") seeks to place lands into trust is unprecedented in this region of the country, and given the ramifications of the CIN request to place lands into trust, and the fact that this procedure has not previously been undertaken in this region, the public should have more time than the minimal time that is being provided to consider and review the issues presented. In addition, the Counties had previously requested that in light of pending litigation involving the Counties and CIN having a direct affect on impacts associated the CIN land-into-trust applications, including a suit challenging whether sales of goods and services by the Cayuga Indian Nation may be undertaken without CIN collecting sales taxes, that the DEIS be

withdrawn and CIN's applications be stayed until such pending litigation is resolved. The Counties continue to believe that withdrawing the DEIS and staying the CIN trust applications pending a final determination of the referenced litigation is the best course of action, but if the Bureau of Indian Affairs is not inclined to withdraw the DEIS and stay consideration of the CIN applications, then the Counties request that the extension of the public comment period requested herein be granted.

We look forward to hearing from you.

Sincerely,



Joseph D. Picciotti

JDP:nac

cc: Philip G. Spellane, Esq.
Suzanne Sinclair
Frank R. Fisher, Esq.
Wayne D. Allen
Frederick R. Westphal, Esq.
Lee Alcott, Esq.
Daniel J. French, Esq.

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Bureau of Indian Affairs
Eastern Regional Office
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RECEIVED
2009 JUN 12 PM 1:37
EIA-ESP
REGIONAL DIRECTOR

Re: NEPA Review of the Cayuga Indian Nation's Fee-to-Trust Applications:
Request for Information Needed to Make the Draft Environmental
Impact Statement Issued in May 2009 Complete

Dear Mr. Chandler:

We write as counsel to Seneca and Cayuga Counties (hereinafter the "Counties") regarding the above application. This letter serves as our second request to the Bureau of Indian Affairs ("BIA") to provide each report, study, underlying data compilation, or information in other form on which the DEIS relies with regard to certain statements and/or conclusions, but which was not provided in the text of the DEIS, nor included in the appendix to it.

By letter dated March 12, 2009 (an extra copy is attached hereto) the Counties previously requested that information omitted from the pre-publication draft DEIS be included in the publication draft of the DEIS; unfortunately, our review of the DEIS issued in May 2009 (the "May 2009 DEIS"), reveals that BIA has failed to make required information available, and therefore the May 2009 DEIS is incomplete, and the review of the DEIS required under NEPA and other applicable law cannot be completed until such information is made available.

A. Background: Information Cited in a NEPA DEIS Must be Made Available to the Public,
Yet the May 2009 DEIS Continues to Omit Critical Information

By way of background, under applicable regulations pursuant to NEPA and otherwise, including 40 C.F.R. §§ 1502.18, 1502.21, material referenced in the DEIS including factual data and other material is required to be provided with the appendix to the DEIS or otherwise made available. As set forth in detail in the Counties' March 12, 2009 letter, after reviewing the so-called pre-release or pre-publication DEIS, the Counties requested among other things, that the DEIS released to the public be supplemented with required information and documents, including but not limited to, various reports referenced therein including Phase I Environmental

Assessments undertaken on the proposed trust properties, as well as seeking the disclosure of other data and information summarized in the DEIS, but not provided, including information regarding socioeconomic impacts, and impacts regarding archeological and historic resources.

The DEIS as made available for public review on May 22, 2009 (and which was provided to the Counties during the second week of May), is still missing substantial information as required by NEPA. We note that while the May 2009 DEIS now includes several Phase I Environmental Site Assessments apparently considered by BIA, most of the critical information the Counties previously requested remains missing, including information and documents relied on for statements made and conclusions reached in the May 2009 DEIS.

Among other information missing from the May 2009 DEIS is critical data pertaining to conclusions contained in Section 3.8 entitled "Socioeconomic Conditions" as well as pertinent data referenced in Section 4.8 entitled "Socioeconomic Effects," including data omitted relating to alleged expenditures by CIN in the Counties and State of New York, as well as other information necessary for the public to evaluate whether the so-called IMPLAN model used in the May 2009 DEIS to support claims regarding positive socio-economic impact was properly utilized here, including whether the assumptions made, etc. are applicable to the Cayuga Indian Nation's land-into-trust applications.

B. The Statutory Authority Cited by BIA as the Basis for Withholding Critical Information to Which the Public is Entitled Does Not Apply Here

For the most part, BIA provides no basis for withholding the critical information previously identified from the public, but the May 2009 DEIS now asserts a Freedom of Information Law ("FOIA") exemption as the basis for withholding information and documents required to be made available pursuant to NEPA. In fact, the statutory provision and guidance BIA cites in the May 2009 DEIS as a basis for withholding such critical information, citing FOIA Exemption under 5 U.S.C. §552(b) and 383 DM 15 do not apply here, because the information required to be made available is used as a basis for statements and conclusions found in a DEIS issued under NEPA. In sum, a FOIA exemption is not a basis to withhold information relied on to support statements and conclusions in a NEPA DEIS, particularly where as here, the documentation which BIA refuses to make available are used as a basis to support the DEIS's conclusions regarding positive economic impacts, including that the granting the preferred alternative under the CIN land to trust applications means the State will benefit in the amount of \$7.5 million per year and the Counties will cumulatively benefit in the amount of approximately \$4.2 million per year. See May 2009 DEIS at Section 4.8 at page 4.8-10.

Despite the fact that BIA in the DEIS touts the granting of the CIN applications as providing substantial economic benefits to the State and the Counties, the BIA has yet to provide the data on which those gaudy economic predictions are based, even though a previous request was made, and unambiguous authority requires such information be provided. Further, other

information critical to the conclusions reached in the DEIS as to impacts to archeological and historic resources among others, as well as information as to potential impacts to the environment from former gasoline station operations on one of the properties that is the subject of the CIN trust application is not provided. In short, the authorities cited by BIA to justify withholding such information are simply not applicable to NEPA and the publication of a DEIS under the circumstances.

In any event, even if it were determined that the documents and information required to be made available under NEPA and previously requested by the Counties were exempt or partially exempt from disclosure, as required by NEPA, FOIA expressly directs that "any reasonably segregable portion of a record" be "provided to any person requesting such record after deletions of the portions which are exempt." 5 USC § 552(b); *Donovan v. FBI*, 806 F.2d 55, 58 (2d Cir. 1986) (requiring that agencies "segregate their disclosable and non-disclosable portions). This provision requires BIA to differentiate among the contents of a document rather than to treat it as one record or document.

While the FOIA provision at issue clearly does not apply here under NEPA, in order to facilitate the public review of the May 2009 DEIS, we urge BIA to release the data compilations including those related to the economic impacts, those that concern or relate to field notes and other information requested, as the data identified would not under any objective standard constitute confidential business information (even if the FOIA exemption were to apply). Thus, we urge BIA to follow the law and immediately disclose all of the information requested and if necessary from BIA's perspective, review such documents and produce them in a manner so as not make available any legitimately confidential business information.

C. Information Required to be Provided as Part of the DEIS

Accordingly, we request that each of the studies, reports, underlying data compilations, or information relied upon by BIA referenced in the May 2009 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 CIN previously referenced in the "Purpose and Need Section" of the pre-release or pre-publication DEIS issued by BIA in this matter, and each other such CIN plan or plans including documents that refer to same that may affect the properties which are the subject of these applications by CIN. Needless to say, given that the May 2009 DEIS fails to undertake substantial analyses and testing based on the statement that CIN has "no present plans" to develop undeveloped properties or increase the development on existing properties which are to be taken into trust, it is critical that any document referencing planning by CIN be provided to evaluate the potential for future development or future expansion by CIN;

2. The May 2009 DEIS references 1992 analytical results for one of CIN's Seneca Falls properties, specifically parcel 36-1-49, but such DEIS states that the report is "not available for review," please provide a copy of the report as there is no basis for the report not to be made available, and based upon the text of the DEIS, AKRF clearly reviewed such material. See p. 3.4-4. Because the 1992 data was clearly made available to AKRF and contains information regarding past impacts or potential impacts from petroleum operations on the referenced Seneca Falls property (located in close proximity to Seneca Lake) it is critical that this information be provided;

3. The field notes, worksheets, etc. generated or maintained by AKRF or others for the site inspections completed (apparently sometime in 2006) which are referenced in the "Living Resources" Sections in the DEIS, including but not limited to Sections 3.6 – 3.7. We do note that the May 2009 DEIS was revised to state that "all of the observations" were provided in the referenced sections, and in our view that is more reason to release the field notes, where, as here, such reports and notes are provided as a matter of proper professional protocol. Moreover, release of these documents is even more important where critical architectural, archeological and historical resources are located in close proximity to several parcels for which trust status has been sought, and the May 2009 DEIS concludes that there is no impact on those resources from the CIN trust properties because of the topography and vegetation associated with properties located between the CIN's parcels and the historic resources at issue and the resources at issue, including archeological resources effectively blocks or screens such resources. (For example, The Charles Howland-William H. Chase House is located "relatively close to" the Nation's Union Springs property, May, 2009 DEIS at p 3.7-4; and the Ferry Farm is located only .2 miles northeast of the Nation's Seneca Falls properties Id);

4. 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 as well as conclusions set forth in Section 4.8, 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 3.8-25 through page 3.8-28. (We note that on page 3.8-26 there is a reference to the exemption from FOIA addressed on pages 1 and 2 of this letter, yet the raw data allegedly supporting claims of expenditures by the CIN in New York State has not been provided, and such data is clearly required to be provided under NEPA and would not constitute confidential information as such information would be in raw form and not identify any confidences);¹

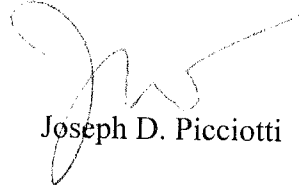
¹ We note that there are certain documents attached as Appendix H to the May 2009 DEIS which purport to relate to the IMPLAN model referenced in the DEIS, but review of that information demonstrates that there is no usable data contained in it.

5. Each document or compilation from which the data shown in Table 3.8-25 was generated in the May 2009 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 3.8-25;
6. The documents and compilations containing or referring to the underlying data which is summarized in Table 3.8-26 of the May 2009 DEIS showing "amounts expended for normal business operations based on actual expenditures during fiscal year 2005," including the "actual expenditures," referenced in Table 3.8-26;
7. The documents containing or referring to the underlying data which is summarized in the in Table 3.8-27 showing "amounts expended for normal business operations based on actual expenditures during fiscal year 2005" in areas located outside of Seneca and Cayuga Counties but within the State of New York, including the "actual expenditures" referenced in Table 3.8-27;
8. The data compilations, reports or documents used to develop the information summarized in the May 2009 DEIS at Table 3.8-28;
9. The data compilations, reports or documents used to develop the information summarized in the pre-draft DEIS at Table 3.8-29;
10. The data compilations, reports or documents used to develop the information summarized in the pre-draft DEIS at Table 3.8-30;
11. The date compilation reports or documents used to develop the information discussed at pages 4.8-6 through 4.8-12 and each of the data compilation reports or documents or other information relied upon or otherwise used in compiling Tables 4.8-2, 4.8-3, and 4.8-4; and
12. To the extent not provided in the appendix to DEIS, all of the data on which the analysis contained in Section 3.12 is based.

Needless to say, the Counties as cooperating agencies request that this information be provided, but in any event, NEPA requires that the information be made available so that the public may adequately review a Draft Environmental Impact Statement prepared pursuant to NEPA. As a result, we respectfully request that this information be provided before the scheduled June 17, 2009 public hearing. By a separate letter, we are requesting an extension of time to review the DEIS in light of the information not provided and in light of the potential impacts posed by the land-into-trust application.

We would appreciate a response as soon as possible and we look forward to hearing from you shortly.

Sincerely,



Joseph D. Picciotti

JDP:cds

Enclosure

cc: Philip G. Spellane, Esq.
Suzanne Sinclair
Frank R. Fisher, Esq.
Wayne D. Allen
Frederick R. Westphal, Esq.
Lee Alcott, Esq.
Daniel J. French, Esq.

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Request for Information Needed to Make the Draft Environmental
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Assessments undertaken on the proposed trust properties, as well as seeking the disclosure of other data and information summarized in the DEIS, but not provided, including information regarding socioeconomic impacts, and impacts regarding archeological and historic resources.

The DEIS as made available for public review on May 22, 2009 (and which was provided to the Counties during the second week of May), is still missing substantial information as required by NEPA. We note that while the May 2009 DEIS now includes several Phase I Environmental Site Assessments apparently considered by BIA, most of the critical information the Counties previously requested remains missing, including information and documents relied on for statements made and conclusions reached in the May 2009 DEIS.

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Despite the fact that BIA in the DEIS touts the granting of the CIN applications as providing substantial economic benefits to the State and the Counties, the BIA has yet to provide the data on which those gaudy economic predictions are based, even though a previous request was made, and unambiguous authority requires such information be provided. Further, other

information critical to the conclusions reached in the DEIS as to impacts to archeological and historic resources among others, as well as information as to potential impacts to the environment from former gasoline station operations on one of the properties that is the subject of the CIN trust application is not provided. In short, the authorities cited by BIA to justify withholding such information are simply not applicable to NEPA and the publication of a DEIS under the circumstances.

In any event, even if it were determined that the documents and information required to be made available under NEPA and previously requested by the Counties were exempt or partially exempt from disclosure, as required by NEPA, FOIA expressly directs that "any reasonably segregable portion of a record" be "provided to any person requesting such record after deletions of the portions which are exempt." 5 USC § 552(b); Donovan v. FBI, 806 F.2d 55, 58 (2d Cir. 1986) (requiring that agencies "segregate their disclosable and non-disclosable portions). This provision requires BIA to differentiate among the contents of a document rather than to treat it as one record or document.

While the FOIA provision at issue clearly does not apply here under NEPA, in order to facilitate the public review of the May 2009 DEIS, we urge BIA to release the data compilations including those related to the economic impacts, those that concern or relate to field notes and other information requested, as the data identified would not under any objective standard constitute confidential business information (even if the FOIA exemption were to apply). Thus, we urge BIA to follow the law and immediately disclose all of the information requested and if necessary from BIA's perspective, review such documents and produce them in a manner so as not make available any legitimately confidential business information.

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1. The 2003 four year plan authored by the CIN previously referenced in the "Purpose and Need Section" of the pre-release or pre-publication DEIS issued by BIA in this matter, and each other such CIN plan or plans including documents that refer to same that may affect the properties which are the subject of these applications by CIN. Needless to say, given that the May 2009 DEIS fails to undertake substantial analyses and testing based on the statement that CIN has "no present plans" to develop undeveloped properties or increase the development on existing properties which are to be taken into trust, it is critical that any document referencing planning by CIN be provided to evaluate the potential for future development or future expansion by CIN;

2. The May 2009 DEIS references 1992 analytical results for one of CIN's Seneca Falls properties, specifically parcel 36-1-49, but such DEIS states that the report is "not available for review," please provide a copy of the report as there is no basis for the report not to be made available, and based upon the text of the DEIS, AKRF clearly reviewed such material. See p. 3.4-4. Because the 1992 data was clearly made available to AKRF and contains information regarding past impacts or potential impacts from petroleum operations on the referenced Seneca Falls property (located in close proximity to Seneca Lake) it is critical that this information be provided;

3. The field notes, worksheets, etc. generated or maintained by AKRF or others for the site inspections completed (apparently sometime in 2006) which are referenced in the "Living Resources" Sections in the DEIS, including but not limited to Sections 3.6 – 3.7. We do note that the May 2009 DEIS was revised to state that "all of the observations" were provided in the referenced sections, and in our view that is more reason to release the field notes, where, as here, such reports and notes are provided as a matter of proper professional protocol. Moreover, release of these documents is even more important where critical architectural, archeological and historical resources are located in close proximity to several parcels for which trust status has been sought, and the May 2009 DEIS concludes that there is no impact on those resources from the CIN trust properties because of the topography and vegetation associated with properties located between the CIN's parcels and the historic resources at issue and the resources at issue, including archeological resources effectively blocks or screens such resources. (For example, The Charles Howland-William H. Chase House is located "relatively close to" the Nation's Union Springs property, May, 2009 DEIS at p 3.7-4; and the Ferry Farm is located only .2 miles northeast of the Nation's Seneca Falls properties Id);

4. 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 as well as conclusions set forth in Section 4.8, 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 3.8-25 through page 3.8-28. (We note that on page 3.8-26 there is a reference to the exemption from FOIA addressed on pages 1 and 2 of this letter, yet the raw data allegedly supporting claims of expenditures by the CIN in New York State has not been provided, and such data is clearly required to be provided under NEPA and would not constitute confidential information as such information would be in raw form and not identify any confidences);¹

¹ We note that there are certain documents attached as Appendix H to the May 2009 DEIS which purport to relate to the IMPLAN model referenced in the DEIS, but review of that information demonstrates that there is no usable data contained in it.

5. Each document or compilation from which the data shown in Table 3.8-25 was generated in the May 2009 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 3.8-25;

6. The documents and compilations containing or referring to the underlying data which is summarized in Table 3.8-26 of the May 2009 DEIS showing "amounts expended for normal business operations based on actual expenditures during fiscal year 2005," including the "actual expenditures," referenced in Table 3.8-26;

7. The documents containing or referring to the underlying data which is summarized in the in Table 3.8-27 showing "amounts expended for normal business operations based on actual expenditures during fiscal year 2005" in areas located outside of Seneca and Cayuga Counties but within the State of New York, including the "actual expenditures" referenced in Table 3.8-27;

8. The data compilations, reports or documents used to develop the information summarized in the May 2009 DEIS at Table 3.8-28;

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

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

11. The date compilation reports or documents used to develop the information discussed at pages 4.8-6 through 4.8-12 and each of the data compilation reports or documents or other information relied upon or otherwise used in compiling Tables 4.8-2, 4.8-3, and 4.8-4; and

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

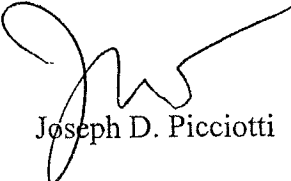
Needless to say, the Counties as cooperating agencies request that this information be provided, but in any event, NEPA requires that the information be made available so that the public may adequately review a Draft Environmental Impact Statement prepared pursuant to NEPA. As a result, we respectfully request that this information be provided before the scheduled June 17, 2009 public hearing. By a separate letter, we are requesting an extension of time to review the DEIS in light of the information not provided and in light of the potential impacts posed by the land-into-trust application.

Kurt Chandler
June 9, 2009
Page 6

HARRIS BEACH ^{P.L.L.C.}
ATTORNEYS AT LAW

We would appreciate a response as soon as possible and we look forward to hearing from you shortly.

Sincerely,



Joseph D. Picciotti

JDP:cds

Enclosure

cc: Philip G. Spellane, Esq.
Suzanne Sinclair
Frank R. Fisher, Esq.
Wayne D. Allen
Frederick R. Westphal, Esq.
Lee Alcott, Esq.
Daniel J. French, Esq.

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99 GARNSEY ROAD
PITTSFORD, NY 14534
(585) 419-8800

JOSEPH D. PICCIOTTI

DIRECT: (585) 419-8629
FAX: (585) 419-8815
JPICCIOTTI@HARRISBEACH.COM

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.

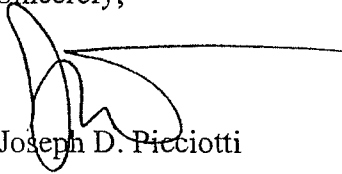
Kurt Chandler
March 12, 2009
Page 4

HARRIS BEACH &
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,



Joseph D. Picciotti

JDP:cds

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HARRIS BEACH PLLC
ATTORNEYS AT LAW

99 GARNSEY ROAD
PITTSFORD, NY 14534
(585) 419-8800

JOSEPH D. PICCIOTTI

DIRECT: (585) 419-8629
FAX: (585) 419-8815
JPICCIOTTI@HARRISBEACH.COM

June 9, 2009

Via Facsimile and Regular Mail 615 564 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

RECEIVED
2009 JUN 10 A 11:16
BIA-ERO
REGIONAL DIRECTOR

Re: NEPA Review of the Cayuga Indian Nation's Fee-to-Trust Applications:
Request for Information Needed to Make the Draft Environmental
Impact Statement Issued in May 2009 Complete

Dear Mr. Chandler:

We write as counsel to Seneca and Cayuga Counties (hereinafter the "Counties") regarding the above application. This letter serves as our second request to the Bureau of Indian Affairs ("BIA") to provide each report, study, underlying data compilation, or information in other form on which the DEIS relies with regard to certain statements and/or conclusions, but which was not provided in the text of the DEIS, nor included in the appendix to it.

By letter dated March 12, 2009 (an extra copy is attached hereto) the Counties previously requested that information omitted from the pre-publication draft DEIS be included in the publication draft of the DEIS; unfortunately, our review of the DEIS issued in May 2009 (the "May 2009 DEIS"), reveals that BIA has failed to make required information available, and therefore the May 2009 DEIS is incomplete, and the review of the DEIS required under NEPA and other applicable law cannot be completed until such information is made available.

A. Background: Information Cited in a NEPA DEIS Must be Made Available to the Public, Yet the May 2009 DEIS Continues to Omit Critical Information

By way of background, under applicable regulations pursuant to NEPA and otherwise, including 40 C.F.R. §§ 1502.18, 1502.21, material referenced in the DEIS including factual data and other material is required to be provided with the appendix to the DEIS or otherwise made available. As set forth in detail in the Counties' March 12, 2009 letter, after reviewing the so-called pre-release or pre-publication DEIS, the Counties requested among other things, that the DEIS released to the public be supplemented with required information and documents, including but not limited to, various reports referenced therein including Phase I Environmental

Kurt Chandler
June 9, 2009
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ATTORNEYS AT LAW

Assessments undertaken on the proposed trust properties, as well as seeking the disclosure of other data and information summarized in the DEIS, but not provided, including information regarding socioeconomic impacts, and impacts regarding archeological and historic resources.

The DEIS as made available for public review on May 22, 2009 (and which was provided to the Counties during the second week of May), is still missing substantial information as required by NEPA. We note that while the May 2009 DEIS now includes several Phase I Environmental Site Assessments apparently considered by BIA, most of the critical information the Counties previously requested remains missing, including information and documents relied on for statements made and conclusions reached in the May 2009 DEIS.

Among other information missing from the May 2009 DEIS is critical data pertaining to conclusions contained in Section 3.8 entitled "Socioeconomic Conditions" as well as pertinent data referenced in Section 4.8 entitled "Socioeconomic Effects," including data omitted relating to alleged expenditures by CIN in the Counties and State of New York, as well as other information necessary for the public to evaluate whether the so-called IMPLAN model used in the May 2009 DEIS to support claims regarding positive socio-economic impact was properly utilized here, including whether the assumptions made, etc. are applicable to the Cayuga Indian Nation's land-into-trust applications.

B. The Statutory Authority Cited by BIA as the Basis for Withholding Critical Information to Which the Public is Entitled Does Not Apply Here

For the most part, BIA provides no basis for withholding the critical information previously identified from the public, but the May 2009 DEIS now asserts a Freedom of Information Law ("FOIA") exemption as the basis for withholding information and documents required to be made available pursuant to NEPA. In fact, the statutory provision and guidance BIA cites in the May 2009 DEIS as a basis for withholding such critical information, citing FOIA Exemption under 5 U.S.C. §552(b) and 383 DM 15 do not apply here, because the information required to be made available is used as a basis for statements and conclusions found in a DEIS issued under NEPA. In sum, a FOIA exemption is not a basis to withhold information relied on to support statements and conclusions in a NEPA DEIS, particularly where as here, the documentation which BIA refuses to make available are used as a basis to support the DEIS's conclusions regarding positive economic impacts, including that the granting the preferred alternative under the CIN land to trust applications means the State will benefit in the amount of \$7.5 million per year and the Counties will cumulatively benefit in the amount of approximately \$4.2 million per year. See May 2009 DEIS at Section 4.8 at page 4.8-10.

Despite the fact that BIA in the DEIS touts the granting of the CIN applications as providing substantial economic benefits to the State and the Counties, the BIA has yet to provide the data on which those gaudy economic predictions are based, even though a previous request was made, and unambiguous authority requires such information be provided. Further, other

Kurt Chandler
June 9, 2009
Page 3

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information critical to the conclusions reached in the DEIS as to impacts to archeological and historic resources among others, as well as information as to potential impacts to the environment from former gasoline station operations on one of the properties that is the subject of the CIN trust application is not provided. In short, the authorities cited by BIA to justify withholding such information are simply not applicable to NEPA and the publication of a DEIS under the circumstances.

In any event, even if it were determined that the documents and information required to be made available under NEPA and previously requested by the Counties were exempt or partially exempt from disclosure, as required by NEPA, FOIA expressly directs that "any reasonably segregable portion of a record" be "provided to any person requesting such record after deletions of the portions which are exempt." 5 USC § 552(b); Donovan v. FBI, 806 F.2d 55, 58 (2d Cir. 1986) (requiring that agencies "segregate their disclosable and non-disclosable portions). This provision requires BIA to differentiate among the contents of a document rather than to treat it as one record or document.

While the FOIA provision at issue clearly does not apply here under NEPA, in order to facilitate the public review of the May 2009 DEIS, we urge BIA to release the data compilations including those related to the economic impacts, those that concern or relate to field notes and other information requested, as the data identified would not under any objective standard constitute confidential business information (even if the FOIA exemption were to apply). Thus, we urge BIA to follow the law and immediately disclose all of the information requested and if necessary from BIA's perspective, review such documents and produce them in a manner so as not make available any legitimately confidential business information.

C. Information Required to be Provided as Part of the DEIS

Accordingly, we request that each of the studies, reports, underlying data compilations, or information relied upon by BIA referenced in the May 2009 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 CIN previously referenced in the "Purpose and Need Section" of the pre-release or pre-publication DEIS issued by BIA in this matter, and each other such CIN plan or plans including documents that refer to same that may affect the properties which are the subject of these applications by CIN. Needless to say, given that the May 2009 DEIS fails to undertake substantial analyses and testing based on the statement that CIN has "no present plans" to develop undeveloped properties or increase the development on existing properties which are to be taken into trust, it is critical that any document referencing planning by CIN be provided to evaluate the potential for future development or future expansion by CIN;

Kurt Chandler
June 9, 2009
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ATTORNEYS AT LAW

2. The May 2009 DEIS references 1992 analytical results for one of CIN's Seneca Falls properties, specifically parcel 36-1-49, but such DEIS states that the report is "not available for review," please provide a copy of the report as there is no basis for the report not to be made available, and based upon the text of the DEIS, AKRF clearly reviewed such material. See p. 3.4-4. Because the 1992 data was clearly made available to AKRF and contains information regarding past impacts or potential impacts from petroleum operations on the referenced Seneca Falls property (located in close proximity to Seneca Lake) it is critical that this information be provided;

3. The field notes, worksheets, etc. generated or maintained by AKRF or others for the site inspections completed (apparently sometime in 2006) which are referenced in the "Living Resources" Sections in the DEIS, including but not limited to Sections 3.6 – 3.7. We do note that the May 2009 DEIS was revised to state that "all of the observations" were provided in the referenced sections, and in our view that is more reason to release the field notes, where, as here, such reports and notes are provided as a matter of proper professional protocol. Moreover, release of these documents is even more important where critical architectural, archeological and historical resources are located in close proximity to several parcels for which trust status has been sought, and the May 2009 DEIS concludes that there is no impact on those resources from the CIN trust properties because of the topography and vegetation associated with properties located between the CIN's parcels and the historic resources at issue and the resources at issue, including archeological resources effectively blocks or screens such resources. (For example, The Charles Howland-William H. Chase House is located "relatively close to" the Nation's Union Springs property, May, 2009 DEIS at p 3.7-4; and the Ferry Farm is located only .2 miles northeast of the Nation's Seneca Falls properties Id);

4. 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 as well as conclusions set forth in Section 4.8, 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 3.8-25 through page 3.8-28. (We note that on page 3.8-26 there is a reference to the exemption from FOIA addressed on pages 1 and 2 of this letter, yet the raw data allegedly supporting claims of expenditures by the CIN in New York State has not been provided, and such data is clearly required to be provided under NEPA and would not constitute confidential information as such information would be in raw form and not identify any confidences);¹

¹ We note that there are certain documents attached as Appendix H to the May 2009 DEIS which purport to relate to the IMPLAN model referenced in the DEIS, but review of that information demonstrates that there is no usable data contained in it.

Kurt Chandler
June 9, 2009
Page 5

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5. Each document or compilation from which the data shown in Table 3.8-25 was generated in the May 2009 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 3.8-25;
6. The documents and compilations containing or referring to the underlying data which is summarized in Table 3.8-26 of the May 2009 DEIS showing "amounts expended for normal business operations based on actual expenditures during fiscal year 2005," including the "actual expenditures," referenced in Table 3.8-26;
7. The documents containing or referring to the underlying data which is summarized in the in Table 3.8-27 showing "amounts expended for normal business operations based on actual expenditures during fiscal year 2005" in areas located outside of Seneca and Cayuga Counties but within the State of New York, including the "actual expenditures" referenced in Table 3.8-27;
8. The data compilations, reports or documents used to develop the information summarized in the May 2009 DEIS at Table 3.8-28;
9. The data compilations, reports or documents used to develop the information summarized in the pre-draft DEIS at Table 3.8-29;
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11. The date compilation reports or documents used to develop the information discussed at pages 4.8-6 through 4.8-12 and each of the data compilation reports or documents or other information relied upon or otherwise used in compiling Tables 4.8-2, 4.8-3, and 4.8-4; and
12. To the extent not provided in the appendix to DEIS, all of the data on which the analysis contained in Section 3.12 is based.

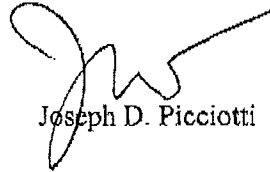
Needless to say, the Counties as cooperating agencies request that this information be provided, but in any event, NEPA requires that the information be made available so that the public may adequately review a Draft Environmental Impact Statement prepared pursuant to NEPA. As a result, we respectfully request that this information be provided before the scheduled June 17, 2009 public hearing. By a separate letter, we are requesting an extension of time to review the DEIS in light of the information not provided and in light of the potential impacts posed by the land-into-trust application.

Kurt Chandler
June 9, 2009
Page 6

HARRIS BEACH PLLC
ATTORNEYS AT LAW

We would appreciate a response as soon as possible and we look forward to hearing from you shortly.

Sincerely,



Joseph D. Picciotti

JDP:cds

Enclosure

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Suzanne Sinclair
Frank R. Fisher, Esq.
Wayne D. Allen
Frederick R. Westphal, Esq.
Lee Alcott, Esq.
Daniel J. French, Esq.

HARRIS BEACH FILE
ATTORNEYS AT LAW

99 GARNSEY ROAD
PITTSFORD, NY 14534
(585) 419-8800

JOSEPH D. PICCIOTTI

DIRECT: (585) 419-8629
FAX: (585) 419-8815
JPICCIOTTI@HARRISBEACH.COM

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:

Kurt Chandler
March 12, 2009
Page 2

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ATTORNEYS AT LAW

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;

Kurt Chandler
March 12, 2009
Page 3

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ATTORNEYS AT LAW

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.

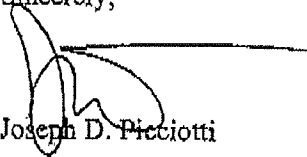
Kurt Chandler
March 12, 2009
Page 4

HARRIS BEACH PLC
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,



Joseph D. Picciotti

JDP:cds

108369 1158034.1

HARRIS BEACH PLLC
ATTORNEYS AT LAW99 GARNSEY ROAD
PITTSFORD, NY 14534
(585) 419-8800

JOSEPH D. PICCIOTTI

DIRECT: (585) 419-8629
FAX: (585) 419-8815
JPICCIOTTI@HARRISBEACH.COM

June 9, 2009

*By Facsimile 615 564 6701
and Regular Mail*

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 for Extension of the Public Comment Period for the Draft
Environmental Impact Statement issued for the Cayuga Indian Nation's
Land-into-Trust Applications for Land in Cayuga County and Seneca County

Dear Mr. Chandler:

We write on behalf of Cayuga County and Seneca County (collectively the "Counties") in the referenced matter to request that the public comment period for the Draft Environmental Impact Statement issued during the second week of May of this year ("DEIS") and made available to the public as of May 22, 2009 be extended for the reasons stated herein. Specifically, the Counties request that the public comment period for the DEIS be extended by no less than sixty (60) days following the proposed June 17, 2009 hearing, or until sixty (60) days after the information requested in the separate letter sent to you today dated June 9, 2009 is made available to the public, whichever is later.

The Counties request this extension of the public comment period because information and documentation to which the public is entitled under applicable federal law, including the National Environmental Policy Act of 1969 ("NEPA") to evaluate the conclusions and claims made in the DEIS has not been provided and must be made available in order to meet minimum requirements under NEPA. Further, application of the procedure whereby the Cayuga Indian Nation ("CIN") seeks to place lands into trust is unprecedented in this region of the country, and given the ramifications of the CIN request to place lands into trust, and the fact that this procedure has not previously been undertaken in this region, the public should have more time than the minimal time that is being provided to consider and review the issues presented. In addition, the Counties had previously requested that in light of pending litigation involving the Counties and CIN having a direct affect on impacts associated the CIN land-into-trust applications, including a suit challenging whether sales of goods and services by the Cayuga Indian Nation may be undertaken without CIN collecting sales taxes, that the DEIS be


Kurt Chandler
June 9, 2009
Page 2

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withdrawn and CIN's applications be stayed until such pending litigation is resolved. The Counties continue to believe that withdrawing the DEIS and staying the CIN trust applications pending a final determination of the referenced litigation is the best course of action, but if the Bureau of Indian Affairs is not inclined to withdraw the DEIS and stay consideration of the CIN applications, then the Counties request that the extension of the public comment period requested herein be granted.

We look forward to hearing from you.

Sincerely,



Joseph D. Picciotti

JDP:nac

cc: Philip G. Spellane, Esq.
Suzanne Sinclair
Frank R. Fisher, Esq.
Wayne D. Allen
Frederick R. Westphal, Esq.
Lee Alcott, Esq.
Daniel J. French, Esq.

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HARRIS BEACH
ATTORNEYS AT LAW

99 GARNSEY ROAD
PITTSFORD, NY 14534
(585) 419-8800

JOSEPH D. PICCIOTTI

DIRECT: (585) 419-8629
FAX: (585) 419-8815
JPICCIOTTI@HARRISBEACH.COM

June 9, 2009

Via Facsimile and Regular Mail 615 564 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

RECEIVED
2009 JUN 10 A 7:16
BIA-ERD
REGIONAL DIRECTOR

Re: NEPA Review of the Cayuga Indian Nation's Fee-to-Trust Applications:
Request for Information Needed to Make the Draft Environmental
Impact Statement Issued in May 2009 Complete

Dear Mr. Chandler:

We write as counsel to Seneca and Cayuga Counties (hereinafter the "Counties") regarding the above application. This letter serves as our second request to the Bureau of Indian Affairs ("BIA") to provide each report, study, underlying data compilation, or information in other form on which the DEIS relies with regard to certain statements and/or conclusions, but which was not provided in the text of the DEIS, nor included in the appendix to it.

By letter dated March 12, 2009 (an extra copy is attached hereto) the Counties previously requested that information omitted from the pre-publication draft DEIS be included in the publication draft of the DEIS; unfortunately, our review of the DEIS issued in May 2009 (the "May 2009 DEIS"), reveals that BIA has failed to make required information available, and therefore the May 2009 DEIS is incomplete, and the review of the DEIS required under NEPA and other applicable law cannot be completed until such information is made available.

A. Background: Information Cited in a NEPA DEIS Must be Made Available to the Public,
Yet the May 2009 DEIS Continues to Omit Critical Information

By way of background, under applicable regulations pursuant to NEPA and otherwise, including 40 C.F.R. §§ 1502.18, 1502.21, material referenced in the DEIS including factual data and other material is required to be provided with the appendix to the DEIS or otherwise made available. As set forth in detail in the Counties' March 12, 2009 letter, after reviewing the so-called pre-release or pre-publication DEIS, the Counties requested among other things, that the DEIS released to the public be supplemented with required information and documents, including but not limited to, various reports referenced therein including Phase I Environmental

Kurt Chandler
June 9, 2009
Page 2

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Assessments undertaken on the proposed trust properties, as well as seeking the disclosure of other data and information summarized in the DEIS, but not provided, including information regarding socioeconomic impacts, and impacts regarding archeological and historic resources.

The DEIS as made available for public review on May 22, 2009 (and which was provided to the Counties during the second week of May), is still missing substantial information as required by NEPA. We note that while the May 2009 DEIS now includes several Phase I Environmental Site Assessments apparently considered by BIA, most of the critical information the Counties previously requested remains missing, including information and documents relied on for statements made and conclusions reached in the May 2009 DEIS.

Among other information missing from the May 2009 DEIS is critical data pertaining to conclusions contained in Section 3.8 entitled "Socioeconomic Conditions" as well as pertinent data referenced in Section 4.8 entitled "Socioeconomic Effects," including data omitted relating to alleged expenditures by CIN in the Counties and State of New York, as well as other information necessary for the public to evaluate whether the so-called IMPLAN model used in the May 2009 DEIS to support claims regarding positive socio-economic impact was properly utilized here, including whether the assumptions made, etc. are applicable to the Cayuga Indian Nation's land-into-trust applications.

B. The Statutory Authority Cited by BIA as the Basis for Withholding Critical Information to Which the Public is Entitled Does Not Apply Here

For the most part, BIA provides no basis for withholding the critical information previously identified from the public, but the May 2009 DEIS now asserts a Freedom of Information Law ("FOIA") exemption as the basis for withholding information and documents required to be made available pursuant to NEPA. In fact, the statutory provision and guidance BIA cites in the May 2009 DEIS as a basis for withholding such critical information, citing FOIA Exemption under 5 U.S.C. §552(b) and 383 DM 15 do not apply here, because the information required to be made available is used as a basis for statements and conclusions found in a DEIS issued under NEPA. In sum, a FOIA exemption is not a basis to withhold information relied on to support statements and conclusions in a NEPA DEIS, particularly where as here, the documentation which BIA refuses to make available are used as a basis to support the DEIS's conclusions regarding positive economic impacts, including that the granting the preferred alternative under the CIN land to trust applications means the State will benefit in the amount of \$7.5 million per year and the Counties will cumulatively benefit in the amount of approximately \$4.2 million per year. See May 2009 DEIS at Section 4.8 at page 4.8-10.

Despite the fact that BIA in the DEIS touts the granting of the CIN applications as providing substantial economic benefits to the State and the Counties, the BIA has yet to provide the data on which those gaudy economic predictions are based, even though a previous request was made, and unambiguous authority requires such information be provided. Further, other

Kurt Chandler
June 9, 2009
Page 3

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information critical to the conclusions reached in the DEIS as to impacts to archeological and historic resources among others, as well as information as to potential impacts to the environment from former gasoline station operations on one of the properties that is the subject of the CIN trust application is not provided. In short, the authorities cited by BIA to justify withholding such information are simply not applicable to NEPA and the publication of a DEIS under the circumstances.

In any event, even if it were determined that the documents and information required to be made available under NEPA and previously requested by the Counties were exempt or partially exempt from disclosure, as required by NEPA, FOIA expressly directs that "any reasonably segregable portion of a record" be "provided to any person requesting such record after deletions of the portions which are exempt." 5 USC § 552(b); Donovan v. FBI, 806 F.2d 55, 58 (2d Cir. 1986) (requiring that agencies "segregate their disclosable and non-disclosable portions). This provision requires BIA to differentiate among the contents of a document rather than to treat it as one record or document.

While the FOIA provision at issue clearly does not apply here under NEPA, in order to facilitate the public review of the May 2009 DEIS, we urge BIA to release the data compilations including those related to the economic impacts, those that concern or relate to field notes and other information requested, as the data identified would not under any objective standard constitute confidential business information (even if the FOIA exemption were to apply). Thus, we urge BIA to follow the law and immediately disclose all of the information requested and if necessary from BIA's perspective, review such documents and produce them in a manner so as not make available any legitimately confidential business information.

C. Information Required to be Provided as Part of the DEIS

Accordingly, we request that each of the studies, reports, underlying data compilations, or information relied upon by BIA referenced in the May 2009 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 CIN previously referenced in the "Purpose and Need Section" of the pre-release or pre-publication DEIS issued by BIA in this matter, and each other such CIN plan or plans including documents that refer to same that may affect the properties which are the subject of these applications by CIN. Needless to say, given that the May 2009 DEIS fails to undertake substantial analyses and testing based on the statement that CIN has "no present plans" to develop undeveloped properties or increase the development on existing properties which are to be taken into trust, it is critical that any document referencing planning by CIN be provided to evaluate the potential for future development or future expansion by CIN;

Kurt Chandler
June 9, 2009
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HARRIS BEACH PLLC
ATTORNEYS AT LAW

2. The May 2009 DEIS references 1992 analytical results for one of CIN's Seneca Falls properties, specifically parcel 36-1-49, but such DEIS states that the report is "not available for review," please provide a copy of the report as there is no basis for the report not to be made available, and based upon the text of the DEIS, AKRF clearly reviewed such material. See p. 3.4-4. Because the 1992 data was clearly made available to AKRF and contains information regarding past impacts or potential impacts from petroleum operations on the referenced Seneca Falls property (located in close proximity to Seneca Lake) it is critical that this information be provided;

3. The field notes, worksheets, etc. generated or maintained by AKRF or others for the site inspections completed (apparently sometime in 2006) which are referenced in the "Living Resources" Sections in the DEIS, including but not limited to Sections 3.6 – 3.7. We do note that the May 2009 DEIS was revised to state that "all of the observations" were provided in the referenced sections, and in our view that is more reason to release the field notes, where, as here, such reports and notes are provided as a matter of proper professional protocol. Moreover, release of these documents is even more important where critical architectural, archeological and historical resources are located in close proximity to several parcels for which trust status has been sought, and the May 2009 DEIS concludes that there is no impact on those resources from the CIN trust properties because of the topography and vegetation associated with properties located between the CIN's parcels and the historic resources at issue and the resources at issue, including archeological resources effectively blocks or screens such resources. (For example, The Charles Howland-William H. Chase House is located "relatively close to" the Nation's Union Springs property, May, 2009 DEIS at p 3.7-4; and the Ferry Farm is located only .2 miles northeast of the Nation's Seneca Falls properties Id);

4. 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 as well as conclusions set forth in Section 4.8, 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 3.8-25 through page 3.8-28. (We note that on page 3.8-26 there is a reference to the exemption from FOIA addressed on pages 1 and 2 of this letter, yet the raw data allegedly supporting claims of expenditures by the CIN in New York State has not been provided, and such data is clearly required to be provided under NEPA and would not constitute confidential information as such information would be in raw form and not identify any confidences);¹

¹ We note that there are certain documents attached as Appendix H to the May 2009 DEIS which purport to relate to the IMPLAN model referenced in the DEIS, but review of that information demonstrates that there is no usable data contained in it.

Kurt Chandler
June 9, 2009
Page 5

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5. Each document or compilation from which the data shown in Table 3.8-25 was generated in the May 2009 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 3.8-25;

6. The documents and compilations containing or referring to the underlying data which is summarized in Table 3.8-26 of the May 2009 DEIS showing "amounts expended for normal business operations based on actual expenditures during fiscal year 2005," including the "actual expenditures," referenced in Table 3.8-26;

7. The documents containing or referring to the underlying data which is summarized in the in Table 3.8-27 showing "amounts expended for normal business operations based on actual expenditures during fiscal year 2005" in areas located outside of Seneca and Cayuga Counties but within the State of New York, including the "actual expenditures" referenced in Table 3.8-27;

8. The data compilations, reports or documents used to develop the information summarized in the May 2009 DEIS at Table 3.8-28;

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

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

11. The date compilation reports or documents used to develop the information discussed at pages 4.8-6 through 4.8-12 and each of the data compilation reports or documents or other information relied upon or otherwise used in compiling Tables 4.8-2, 4.8-3, and 4.8-4; and

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

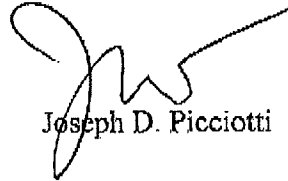
Needless to say, the Counties as cooperating agencies request that this information be provided, but in any event, NEPA requires that the information be made available so that the public may adequately review a Draft Environmental Impact Statement prepared pursuant to NEPA. As a result, we respectfully request that this information be provided before the scheduled June 17, 2009 public hearing. By a separate letter, we are requesting an extension of time to review the DEIS in light of the information not provided and in light of the potential impacts posed by the land-into-trust application.

Kurt Chandler
June 9, 2009
Page 6

HARRIS BEACH PLLC
ATTORNEYS AT LAW

We would appreciate a response as soon as possible and we look forward to hearing from you shortly.

Sincerely,



Joseph D. Picciotti

JDP:cds

Enclosure

cc: Philip G. Spellane, Esq.
Suzanne Sinclair
Frank R. Fisher, Esq.
Wayne D. Allen
Frederick R. Westphal, Esq.
Lee Alcott, Esq.
Daniel J. French, Esq.

HARRIS BEACH PLLC
ATTORNEYS AT LAW99 GARNSEY ROAD
PITTSFORD, NY 14534
(585) 419-8800

JOSEPH D. PICCIOTTI

DIRECT: (585) 419-8629
FAX: (585) 419-8815
JPICCIOTTI@HARRISBEACH.COM

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 37214Re: 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:

Kurt Chandler
March 12, 2009
Page 2

HARRIS BEACH PLLC
ATTORNEYS AT LAW

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;

Kurt Chandler
March 12, 2009
Page 3

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ATTORNEYS AT LAW

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;

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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.

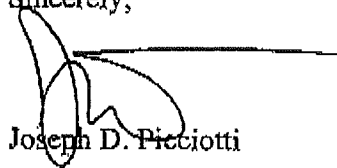
Kurt Chandler
March 12, 2009
Page 4

HARRIS BEACH PLC
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 "Joseph D. Picciotti", is written over a horizontal line. The signature is stylized and cursive.

Joseph D. Picciotti

JDP:cds

106369 1158031.1

HARRIS BEACH PLLC
ATTORNEYS AT LAW99 GARNSEY ROAD
PITTSFORD, NY 14534
(585) 419-8600

JOSEPH D. PICCIOTTI

DIRECT: (585) 419-8629
FAX: (585) 419-8815
JPICCIOTTI@HARRISBEACH.COM

June 9, 2009

*By Facsimile 615 564 6701
and Regular Mail*

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 for Extension of the Public Comment Period for the Draft
Environmental Impact Statement issued for the Cayuga Indian Nation's
Land-into-Trust Applications for Land in Cayuga County and Seneca County

Dear Mr. Chandler:

We write on behalf of Cayuga County and Seneca County (collectively the "Counties") in the referenced matter to request that the public comment period for the Draft Environmental Impact Statement issued during the second week of May of this year ("DEIS") and made available to the public as of May 22, 2009 be extended for the reasons stated herein. Specifically, the Counties request that the public comment period for the DEIS be extended by no less than sixty (60) days following the proposed June 17, 2009 hearing, or until sixty (60) days after the information requested in the separate letter sent to you today dated June 9, 2009 is made available to the public, whichever is later.

The Counties request this extension of the public comment period because information and documentation to which the public is entitled under applicable federal law, including the National Environmental Policy Act of 1969 ("NEPA") to evaluate the conclusions and claims made in the DEIS has not been provided and must be made available in order to meet minimum requirements under NEPA. Further, application of the procedure whereby the Cayuga Indian Nation ("CIN") seeks to place lands into trust is unprecedented in this region of the country, and given the ramifications of the CIN request to place lands into trust, and the fact that this procedure has not previously been undertaken in this region, the public should have more time than the minimal time that is being provided to consider and review the issues presented. In addition, the Counties had previously requested that in light of pending litigation involving the Counties and CIN having a direct affect on impacts associated the CIN land-into-trust applications, including a suit challenging whether sales of goods and services by the Cayuga Indian Nation may be undertaken without CIN collecting sales taxes, that the DEIS be


Kurt Chandler
June 9, 2009
Page 2

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withdrawn and CIN's applications be stayed until such pending litigation is resolved. The Counties continue to believe that withdrawing the DEIS and staying the CIN trust applications pending a final determination of the referenced litigation is the best course of action, but if the Bureau of Indian Affairs is not inclined to withdraw the DEIS and stay consideration of the CIN applications, then the Counties request that the extension of the public comment period requested herein be granted.

We look forward to hearing from you.

Sincerely,



Joseph D. Picciotti

JDP:nac

cc: Philip G. Spellane, Esq.
Suzanne Sinclair
Frank R. Fisher, Esq.
Wayne D. Allen
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Lee Alcott, Esq.
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HARRIS BEACH PLLC
ATTORNEYS AT LAW

99 GARNSEY ROAD
PITTSFORD, NY 14534
(585) 419-8800

JOSEPH D. PICCIOTTI

DIRECT: (585) 419-8629
FAX: (585) 419-8815
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June 26, 2009

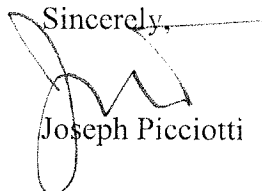
Franklin Keel, Regional Director
Eastern Regional Office
Bureau of Indian Affairs
545 Marriott Drive
Suite 700
Nashville, Tennessee 37214

**Re: DEIS Comments, Cayuga Indian Nation of New York Trust
Acquisition Project**

Dear Mr. Keel:

On behalf of Seneca County and Cayuga County, I am sending you the enclosed comments we have received on the DEIS and ask that you enter them into the public record.

Sincerely,



Joseph Picciotti

JDP:rer
Enclosures

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BIA-ERO

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HARRIS BEACH PLLC
ATTORNEYS AT LAW

99 GARNSEY ROAD
PITTSFORD, NY 14534
(585) 419-8800

JOSEPH D. PICCIOTTI

DIRECT: (585) 419-8629
FAX: (585) 419-8815
JPICCIOTTI@HARRISBEACH.COM

June 26, 2009

Franklin Keel, Regional Director
Eastern Regional Office
Bureau of Indian Affairs
545 Marriott Drive
Suite 700
Nashville, Tennessee 37214

**Re: DEIS Comments, Cayuga Indian Nation of New York Trust
Acquisition Project**

Dear Mr. Keel:

On behalf of Seneca County and Cayuga County, I am sending you the enclosed comments we have received on the DEIS and ask that you enter them into the public record.

Sincerely,

Joseph Picciotti

JDP:rer
Enclosures

REGIONAL DIRECTOR
DIA-ERO

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