

KEWEENAW BAY INDIAN COMMUNITY DETERMINATION FACTSHEET

Decision

- The Assistant Secretary – Indian Affairs has reviewed the Keweenaw Bay Indian Community’s (Tribe) off-reservation gaming application under IGRA and determined that:
 - Gaming on the proposed site would be in the best interest of the Tribe and its members; and,
 - Gaming on the proposed site would not be detrimental to the surrounding community.
- The application now goes to the Governor of the State of Michigan for concurrence in this determination. The Governor has one year to concur. Upon concurrence, the Tribe will be able to conduct gaming on the lands when they are acquired in trust. If the Governor does not concur, the Department will not acquire the land in trust for the Tribe for gaming purposes.

Background

- The Indian Gaming Regulatory Act prohibits tribes from gaming on lands acquired in trust after October 17, 1988. This prohibition is subject to several exceptions, including where the Secretary determines that gaming on the land would be in the best interest of the Tribe and its citizens, and would not be detrimental to the surrounding community. The Governor of the State in which gaming would be conducted must concur in the Secretary’s determination.
- The Tribe is located in Baraga County, Michigan (in Michigan’s Upper Peninsula), and has approximately 3,310 members. It currently has 6,200 acres of land in trust, located in Baraga County, in addition to 3,920 acres of fee land, within its reservation.
- The Tribe currently operates two class III gaming facilities: the Ojibwa I Casino on its reservation in Baraga, Michigan; and, the Ojibwa II Casino in Chocolay Township, Marquette County, Michigan – approximately 90 miles from its tribal headquarters. The Ojibwa II Casino was the subject of a positive Secretarial Determination and Governor’s concurrence in 2000.
- The Tribe is proposing to relocate its off-reservation gaming facility to a different site in Negaunee Township, also within Marquette County. The proposed site is closer to the Tribe’s existing reservation than the existing Ojibwa II Casino.
- This proposal was submitted pursuant to the settlement of litigation concerning the Tribe’s Ojibwa II Casino. The Department and the State of Michigan were parties in that litigation.
- Pursuant to that 2000 Settlement Agreement, the Tribe would close the existing Ojibwa II Casino if it were to open a facility approved by the Department and the State of

Michigan. The Ojibwa II Casino is located in a residential neighborhood, and the proposed facility is located in an area intended for commercial development at a former airport.

- The Tribe originally submitted its application in 2006. The proposed scope of the facility would include 135,000 square feet, with the capacity for 600 slot machines and up to 20 gaming tables.

Overview of Analysis – Best Interest Determination

- The proposed facility will generate additional revenues for the Tribe's government.
- The gaming facility would allow Tribe to provide jobs to its members. Approximately 284 of the Tribe's members live in Marquette County, and the proposed new facility will lead to approximately 60 additional employees over the number currently employed by the Ojibwa II Casino. The Tribe estimates that 10 of these additional employees will be tribal members. Gaming revenues would allow the Tribe to increase its service-delivery to tribal members, and allow the Tribe to develop a land-base.
- The gaming facility would be approximately 70 miles from its government headquarters. It is located 18 miles closer to its tribal headquarters than the existing Ojibwa II Casino. The Tribe has been exercising regulatory authority and government power over that facility since at least 2000.
- The Tribe has submitted documentation demonstrating that it has a significant historical connection to the proposed gaming site, including the fact that the Site is within territory ceded by the Tribe by treaties. The Tribe's members continue to exercise hunting and fishing rights reserved under those treaties in and around the area of the proposed gaming facility.
- Development of gaming at the proposed site is an appropriate alternative to continued gaming at the Ojibwa II Casino, which is located in a residential neighborhood. The proposed gaming facility would be consistent with surrounding land use.

Overview of Analysis – Not Detrimental to the Surrounding Community

- Development of the proposed gaming facility on the Site would be consistent with surrounding land use in Negaunee Township, and would enable the Tribe to bring the use of its existing trust lands in Chocolay Township (Ojibwa II Casino) into harmony with surrounding lands.
- The Tribe has worked with Negaunee Township to provide for the delivery of certain municipal services required by the proposed facility, and has entered into an agreement with the Marquette County Sheriff to govern law enforcement at the Site.
- The facts in the record also indicate that the Tribe has worked closely with surrounding local units of government to identify and mitigate environmental impacts associated with the Airport Facility. This is supported by the FONSI and EA developed under NEPA.

- The Department received comments indicating the overwhelming support of the Tribe's application by local units of government.
- The State of Michigan agreed in the 2000 settlement agreement that, "the proposed relocation of the [Chocolay Facility] to the Airport Parcel likely is in the best interest of the [Tribe] and is not detrimental to the surrounding community."

Noteworthy Issues

- There are no other tribes that qualify as "nearby Indian tribes" under the Department's regulations. The next closest tribe to the proposed gaming facility is located approximately 90 miles south. No federally recognized tribe has submitted a statement of opposition.
- The Department has not received any statements of opposition through the formal consultation process.
- Marquette County and Negaunee Township have submitted formal letters of support for the Tribe's proposal. Chocolay Township has submitted documents to the Department expressing support for the proposal based upon its opposition to the continued operation of the Ojibwa II Casino.
- BIA conducted a second round of consultation with local governments on this project in 2011 to comply with Part 292 Regulations, which were issued in 2008.

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