



# United States Department of the Interior

OFFICE OF THE SECRETARY  
Washington, D.C. 20240

DEC 24 2003

Honorable MJ "Mike" Foster, Jr.  
Governor, State of Louisiana  
P.O. Box 94004  
Baton Rouge, Louisiana 70804-9004

Dear Governor Foster:

On April 13, 2001, the Jena Band of Choctaw Indians of Louisiana (Band) requested that the Department of the Interior review its application to acquire a 40-acre parcel of land located in Logansport, DeSoto Parish, Louisiana. The Band intends to develop a Class III gaming establishment on the property.

Gaming on the Logansport parcel is subject to the two-part Secretarial determination in Section 20(b)(1)(A) of the Indian Gaming Regulatory Act (IGRA), 25 U.S.C. § 2719(b)(1)(A), because the land will be acquired in trust after October 17, 1988, and has not been determined to come within any of the specific exemptions to the prohibition against post October 17, 1988, gaming on trust lands in 25 U.S.C. § 2719. Pursuant to Section 20(b)(1)(A) of IGRA, before the Logansport parcel can be acquired in trust for gaming, I must determine that a gaming facility on the land would be in the best interest of the Band and its members and would not be detrimental to the surrounding community, and you must concur in this two-part Secretarial determination. My review of the documents supporting the two-part determination focuses on the support in the record, or lack thereof, for these two findings. If you concur in this determination, the land can be acquired by the United States in trust for the Tribe for gaming purposes, provided all the requirements of the Bureau of Indian Affairs' land acquisition regulations found in 25 C.F.R. Part 151 are complied with.

The Department has completed its review of the Band's application. Based on the application and its supporting documentation, including the comments received from State and local government officials, the Department has made findings of fact supporting the two-part determination required under Section 20(b)(1)(A) of IGRA. The record indicates that a gaming facility in Logansport, Louisiana would provide increased employment to tribal members through direct employment with the proposed facility and with other tribal projects developed with income derived therefrom. Additionally, the funds received from the facility will be used to provide other tribal governmental services, such as education and health care that the Band currently cannot afford. The record also indicates opposition to the proposed project from communities in Western Louisiana, a distance from the proposed project. While it is a concern to me as a general matter, the distance of these communities from the proposed project, combined with the strong support of the communities

directly affected by the project, lead me to conclude that, under the law, the project will not be detrimental to the surrounding community.

Based on these findings, I have determined that a gaming establishment on the 40 acre-parcel of land located in Logansport, DeSoto Parish, Louisiana, would be in the best interest of the Band and its members, and would not be detrimental to the surrounding community. These findings of fact are enclosed along with the supporting documentation for your review.

Pursuant to Section 20 of IGRA, I seek your concurrence in this determination.

Sincerely,



Principle Deputy Assistant Secretary - Indian Affairs

Enclosure

## FINDINGS OF FACT

### I. INTRODUCTION

By memorandum dated October 2, 2003, the Director, Eastern Regional Office (ERO) transmitted to the Assistant Secretary of Indian Affairs (ASIA), his recommendation, along with supporting documentation, that a proposed gaming establishment for the Jena Band of Choctaw Indians (Band) on a 40 +/- acre parcel (Site) of land to be acquired in trust for the benefit of the Band in Logansport, DeSoto Parish, Louisiana, is in the best interest of the Band and its members, and would not be detrimental to the surrounding community, in accordance with Section 20(b)(1)(A) of the Indian Gaming Regulator Act (IGRA), 25 U.S.C. § 2719(b)(1)(A).<sup>1</sup>

The United States acknowledged the Jena Band of Choctaw Indians through the federal acknowledgment process (25 C.F.R. § 83). The Final Determination for Federal Acknowledgment of the Band was effective on October 31, 1994.

The Band proposes to construct a gaming resort on the Site that will include a class III gaming facility, a 150-room hotel, a 1,500-seat entertainment venue with a related food venue, retail shopping, and parking lot.<sup>2</sup> The site is located in an undeveloped area that generally has been used for timber harvesting over the last several decades.<sup>3</sup> There is no development on the properties immediately surrounding the site except for an unmanned compressor station.

The Band originally submitted the application for use as a Class II gaming facility (Facility), then amended it to construct a Class III gaming establishment (Project)<sup>4</sup>. The EA was amended to assess the impact of a Class III gaming establishment.<sup>5</sup>

### II. DESCRIPTION OF THE PROPERTY

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<sup>1</sup> Memorandum dated October 02, 2003 from the Easter Regional Director to the Assistant Secretary – Indian Affairs

<sup>2</sup> Environmental Assessment, December 19, 2003, pg. 2-1

<sup>3</sup> *Ibid.*, pg. 3-1

<sup>4</sup> May 27, 2003, cover letter from tribal attorney V. Heather Sibbison, Patton Boggs LLP

<sup>5</sup> Environmental Assessment for Proposed Class II Gaming Facility, dated April, 2001; Environmental Assessment for Proposed Class III Gaming Facility, dated July 2003.

The Site<sup>6</sup> is 40 acres of undeveloped land outside the corporate limits of the town of Logansport in DeSoto Parish, Louisiana. The Site is located in the southwest quarter of the northeast quarter and in the northwest quarter of the southeast quarter of Section 1, Township 11 North, Range 16 West, DeSoto Parish, Louisiana and is described as follows:

Commencing at a 4" x 4" concrete post marking the Northeast corner of the Northwest Quarter of the Southeast Quarter of Section 1, Township 11 North, Range 16 West; said point also being point of beginning of the tract to be described; thence proceed South 00degrees 49 minutes 01 seconds West, a true bearing, a distance of 974.72 feet to a half inch iron rod; thence turn right and proceed North 89 degrees 11 minutes 55 seconds West, a distance of 1331.22 feet to a half inch iron rod; thence turn right and proceed North 00 degrees 52 minutes 44 seconds East a distance of 968.25 feet to a one and one-half inch iron pipe marking the Northwest corner of the Northwest Quarter of Southeast Quarter of Section 1, Township 11 North, Range 16 West, DeSoto Parish, Louisiana; thence turn right and proceed North 00 degrees 54 minutes 12 seconds East, a distance of 549.14 feet to a half inch iron rod located on the southern right-of-way line of U.S. Hwy. 84; thence turn right and proceed South 72 degrees 46 minutes 14seconds East along said right-of-way line a distance of 799.67 feet to a LDH right-of-way monument; thence turn right and proceed South 62 degrees 41 minutes 05 seconds East along said right-of-way line, a distance of 218.44 feet to a LDH right-of-way monument; thence proceed in a southeasterly direction along said right-of-way line, along a curve concave to the north, having a radius of 11,499.31 feet, and a cord that bears South 74 degrees 34 minutes 00 seconds East a distance of 320.18 feet to a half inch iron rod; thence turn left and proceed North 80 degrees 07 minutes 51 seconds East along said right-of-way line, a distance of 57.96 feet to a half inch iron rod; thence turn right and proceed South 00 degrees 49 minutes 01seconds West, a distance of 148.85 feet to the point of beginning.

### III. COMPLIANCE WITH IGRA

The Band currently has no reservation or trust land. The application is submitted by the Band in accordance with Section 2719(b)(1)(A) of IGRA.

The Band's Class III tribal gaming ordinance was approved by the National Indian Gaming Commission (NIGC) on March 13, 2001.

The application does not contain a proposed Class III gaming Tribal-State compact. The Band and the State previously submitted a compact for Class III gaming at another location which the Department of the Interior disapproved. Although Federal approval of a Class III gaming compact is required before the Band can begin its gaming operation, such approval need not precede the two-part determination under Section 20(b)(1)(A) of IGRA. The application also does not contain a

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<sup>6</sup> Exhibit A, Lawyers Title Insurance Corporation Commitment for Title Insurance

proposed management contract, and no management contract is pending with the NIGC nor has such a contract been previously approved by the NIGC.

#### **IV. COMPLIANCE WITH 25 C.F.R. PART 151**

If the Governor of the State of Louisiana concurs with this two-part Secretarial determination, the Band's application to take the Logansport Site into trust pursuant to the requirements of 25 C.F.R. Part 151 will be considered. All regulatory requirements contained in 25 C.F.R. Part 151 must be complied with before the property is taken into trust. The statutory authority for the Band to acquire land in trust is Section 5 of the Indian Reorganization Act (IRA), 25 U.S.C. 465. Pursuant to the Act of May 24, 1990, 104 Stat. 207, the IRA, including Section 5, was made applicable to all Indian tribes, 25 U.S.C. 478-1.

#### **V. TWO-PART DETERMINATION UNDER 25 U.S.C. § 2719(B)(1)(A)**

IGRA prohibits gaming on land acquired in trust after October 17, 1988, but provides several exceptions. The general exception contained in Section 20(b)(1)(A) permits gaming only if the Secretary determines that gaming on the land would be in the best interest of the tribe and its members, and not detrimental to the surrounding community, but only if the Governor of the state concurs in the determination.

##### **A. Best Interest of the Tribe and its Members**

##### **1. Projections of gross and net income for the tribe.**

The Band plans to enter into a management contract, which will be subject to the approval of the NIGC. The Band also must enter into a Class III gaming compact with the State of Louisiana. Analysis of the best interest assumes that a management contract approved by the NIGC will comply with IGRA and be in the best interest of the Band and its members, and that a Class III gaming compact will be submitted for approval and approved by the Secretary of the Interior.

The Logansport Gaming Market Assessment provided by the Band in support of its application estimates that the proposed gaming establishment will have gross revenue of more than \$85 million in its first year of operation which will grow to more than \$95 million in the fifth year. The gross revenue projections are consistent with gross revenue reported for gaming facilities located in Caddo Parish to the north of DeSoto Parish. Earnings Before Interest Taxes Depreciation and Amortization (EBITDA) are projected at \$46.6 million in the first year growing to \$52.7 million in the fifth year. The Net Revenue (EBITDA less interest, depreciation, and amortization) will be divided between the Band and a management company under the provisions of a management contract to be approved

by the NIGC. Data in the application reasonably supports the market assessment and financial projections.<sup>7</sup>

**2. Projected tribal employment, job training, and career development.**

The Site is located outside of the Band's service area,<sup>8</sup> which is the area where the Band's members have traditionally resided. The Band does not expect that all employable tribal members will work at the Facility. However, the Band intends to use the revenue derived from the Facility to significantly expand the Band's current governmental services, such as health, education, and welfare. The expansion of governmental services will create new job opportunities for tribal members residing in the Band's service area. In addition, the Band's gaming revenues will provide educational and training opportunities to Band members beyond casino and government business activities.<sup>9</sup>

**3. Projected benefits from tourism and basis for the projection.**

The Site is located 64 miles from the Band's service area. As a result, no significant benefit from increased tourism is expected in the Band's service area.

**4. Projected benefits to the Tribe and its members from the proposed uses of the increased tribal income.**

Gaming Net Revenues will permit the Band to provide employment, medical care, housing, and other services to tribal members, including a substance abuse rehabilitation center, a residential facility for tribal youth, and a travel plaza in the Band's service area.<sup>10</sup>

**5. Projected benefits to relationship between the tribe and the surrounding community.**

Communities in the Logansport area have experienced unemployment rates above national, state, and regional average rates. The construction stage will provide an estimated 1,013 direct and indirect jobs and over \$100 million in direct and indirect new spending.<sup>11</sup> The Facility will provide

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<sup>7</sup> Logansport Market Assessment, July 2003, Appendix B of December 19, 2003 EA, pg. 23

<sup>8</sup> Grant, LaSalle and Rapides Parishes are located approximately 64 miles from the Logansport parcel.

<sup>9</sup> EA, Sec. 4.6.1

<sup>10</sup> *Ibid.*, Sec. 4.6.1

<sup>11</sup> Economic Impact Assessment, July 2003, The Innovation Group, pg. 8

approximately 606 permanent new jobs and \$42 million in annual spending.<sup>12</sup> Indirectly, the Facility will create an additional 546 jobs and nearly \$13 million of spending in annual spending.<sup>13</sup>

In addition, the Band expects to pay 6% of Net Revenue to local governments under a tribal-state compact to mitigate the local impacts of gaming at the proposed Facility. The local governments surrounding the Logansport community, DeSoto Parish and the Town of Logansport, have expressed strong support for the development of the Facility at the Site.<sup>14</sup>

The three parishes in the Band's service area, Grant, La Salle, and Rapides Parishes, have voted against gaming in State sanctioned referenda. Relations with the surrounding community in the service area would be negatively affected if the Band acquires land for gaming in its service area.<sup>15</sup>

**6. Possible adverse impacts on the tribe.**

The record does not contain any evidence suggesting that a proposed gaming establishment in Logansport would have any significant adverse impacts on the Band or its members.

**7. Any other information which may provide a basis for a Secretarial determination of whether the gaming establishment is in the best interest of the tribe and its members.**

The three parishes in the Band's service area are opposed to gaming in their communities. In order to exercise its rights under IGRA without interfering with the wishes of the residents of the three parishes, the Band must locate its gaming facility in a community outside of its service area. Local governments in Logansport and DeSoto Parish strongly support the economic development provided by the proposed Facility.<sup>16</sup>

**Summary on "Best Interest" determination:**

The record indicates that a gaming establishment on the Logansport Site would be in the best interest of the Jena Band of Choctaw Indians and its members.

**B. Not detrimental to the surrounding community**

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<sup>12</sup> *Ibid.* pg. 11

<sup>13</sup> *Ibid.* pg. 14

<sup>14</sup> *Ibid.*

<sup>15</sup> Letter dated August 15, 2003 from M.J. "Mike" Foster, Jr. to Gale Norton

<sup>16</sup> *Ibid.*

The Eastern Regional Office (ERO) consulted with appropriate state and local government officials having jurisdiction over the Site or adjacent to the Site.<sup>17</sup> There are no nearby Indian tribes.

The Governor of Louisiana expressed strong support for the application, stating that "the majority of the people in Logansport and DeSoto Parish welcome the Band's proposed casino. The Band has come together with the people of DeSoto Parish to set forth a proposal for a gaming development which both communities believe will improve each other's future."<sup>18</sup> Governor Foster says further, "I believe that it is in the best interests of the citizens of Louisiana to have the Jena Band's casino located in DeSoto Parish, where it is wanted by the local community, and not in central Louisiana, where it is not. Therefore, I am in full support of the Jena band's application."

The DeSoto Parish Police Jury supports the proposed acquisition. The DeSoto Police Jury President wrote, "as the elected officials who represent DeSoto Parish, we are in the best position to determine whether the trust acquisition and proposed facility is detrimental to our community, and we are convinced that quite to the contrary, this trust acquisition is in the best interest of DeSoto Parish."<sup>19</sup>

Dennis Freeman wrote, "as the Mayor of the Town of Logansport, I am in the best position to determine whether the trust acquisition and proposed facility is detrimental to our community, and I, like the Police Jury, am ... convinced [that] this trust acquisition is in the best interest of Logansport and DeSoto Parish."<sup>20</sup>

#### **1. Evidence of environmental impacts and planned mitigation of those impacts.**

Pursuant to the requirements of the National Environmental Policy Act (NEPA), an Environmental Assessment was prepared.<sup>21</sup> Notice of the Availability of the Environmental Assessment for public comment was published locally in Louisiana on November 5, 2003. It provided a 30-day public comment period. The EA was revised pursuant to the comments received, and a Final EA was submitted on December 19, 2003. We have determined that there are no unmitigated significant impacts, and a FONSI was issued.

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<sup>17</sup> Certified Mail Receipts showing delivery: DeWayne Mitchell, President DeSoto Parish Police Jury; Louisiana Governor M.J. Foster, Jr.; D. Freeman, Mayor of Logansport

<sup>18</sup> Letter dated August 15, 2003 from M.J. "Mike" Foster, Jr. to Gale Norton

<sup>19</sup> Letter dated August 14, 2003 from DeWayne Mitchell, President

<sup>20</sup> Letter dated August 11, 2003 from Dennis Freeman, Mayor

<sup>21</sup> Environmental Assessment for Proposed Class III Gaming Facility, Hotel, Entertainment Theater and Recreational Tourism, Hazclean Environmental Consultants, Inc., December 2003, revised December 19, 2003.

**2. Impacts on the social structure of the community, infrastructure, services, housing, community character, and land use patterns of the surrounding community.**

**Social Structure:** DeSoto Parish currently has gaming that includes 275 video poker devices in 11 locations.<sup>22</sup> In addition river boat gambling is conducted to the north and south of DeSoto Parish.<sup>23</sup> The Facility will be constructed on undeveloped land which is not close to residential or other sensitive areas.<sup>24</sup> The addition of a casino will not significantly impact the social structure of the community.<sup>25</sup>

**Infrastructure:** Adequate water will be supplied by the Waterworks District No. 1.<sup>26</sup> The Mayor of Logansport says that there is adequate wastewater treatment capacity for the Facility.<sup>27</sup> A private waste disposal contractor, Southern Waste LLC, will adequately dispose of solid waste.<sup>28</sup> Existing roads are adequate to handle the projected traffic flow.<sup>29</sup> Law enforcement, emergency medical services, and fire protection will be provided through agreements with the DeSoto Sheriff, DeSoto EMA, and DeSoto Parish Fire District No. 1.<sup>30</sup>

**Services/Housing:** The Project will provide direct payments and increased tax revenue to increase and improve governmental services in DeSoto Parish and Logansport. The Project's economic stimulus will increase employment, and will decrease both unemployment and welfare service

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<sup>22</sup> Letter dated August 12 from B.D. Mitchell to Gale Norton; Response to whether the Jena Choctaws' request for trust acquisition of a 40-acre parcel in Logansport, DeSoto Parish, Louisiana would be detrimental to the surrounding community, from DeSoto Parish and the Town of Logansport, pgs. 15-16 [Hereinafter "Response."]

<sup>23</sup> Logansport Market Assessment, June 2003, pg. 2

<sup>24</sup> EA, Figures 1, 2, and 3, EA

<sup>25</sup> Response to whether the Jena Choctaws' request for trust acquisition of a 40-acre parcel in Logansport, DeSoto Parish, Louisiana would be detrimental to the surrounding community (attachment to letter from DeWayne Mitchell to Franklin Keel, dated August 14, 2003 (hereinafter "Response")), pgs. 4-7

<sup>26</sup> Letter dated July 23, 2003 from John Neilson to Christine Norris

<sup>27</sup> Letter dated July 11, 2003 from Dennis Freeman to Jena Band

<sup>28</sup> Letter dated July 7, 2003 from Donald V. Bell to Jena Band

<sup>29</sup> Traffic Impact Analysis, July 2003, Appendix F of December 19, 2003, EA.

<sup>30</sup> Letter dated June 23, 2003 from Rodney Arbuckle to Jena Band; Letter dated July 10, 2003 from Jack Canton to Jena Band; Letter dated June 30, 2003 from Moe Magee to Jena Band

requirements. Existing housing and new construction will accommodate the impacts of the Project.<sup>31</sup> Increased employment and tax revenue will provide funds for increased demand for education.

Community Character/Land use: DeSoto Parish and Logansport indicate in their comments that the proposed Project will not detrimentally affect the land use pattern of the community.<sup>32</sup> Most of the surrounding land is undeveloped. The overall impact of the Facility will be to reverse economic decline in the parish, and enhance the character of the local community through economic stimulus.

**3. Impact on the economic development, income, and employment of the surrounding community.**

During the construction phase, the Project will generate \$75 to \$80 million in construction revenue and 420 jobs. Secondary economic effect will generate an additional \$35.5 million in revenue and 593 jobs. Sales tax revenue during construction will be \$425,000 to \$460,000. The operating casino will have 606 jobs and over \$30 million in annual spending. Local businesses are expected to receive an additional \$2.7 million revenue from casino patrons, which will create 29 new jobs. Indirect spending by local business is projected to increase by \$10 million and will create an additional 256 jobs.<sup>33</sup>

**4. Costs of impacts to the surrounding community and sources of revenue to accommodate them.**

The local governments expect an additional tax revenue of \$1 million annually from the increased business activity.<sup>34</sup> The Band expects to pay 6% of net revenue to local governments under a tribal-state compact to accommodate local impacts resulting from the Project.<sup>35</sup> The additional tax and payments are estimated to fully mitigate local impacts of the Project.

**5. Proposed programs, if any, for compulsive gamblers and source of funding for such programs.**

DeSoto Parish and Logansport governments do not anticipate that the Facility will cause undue

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<sup>31</sup> Response, pg. 8

<sup>32</sup> *Ibid.*, pg. 10

<sup>33</sup> Letter dated August 15, 2003 from Christine Norris to Franklin Keel, pg. 4 *et seq*

<sup>34</sup> Response, pg. 7, pgs. 14-16

<sup>35</sup> Economic Impact Assessment, pg. 17

economic problems associated with compulsive gambling.<sup>36</sup> The Band will comply with state regulations concerning gambling addiction by providing funding to appropriate social services agencies, training employees to recognize problem gamblers, and providing on-site social services to customers.<sup>37</sup>

**6. Any other information which may provide a basis for a Secretarial determination of whether the gaming establishment is detrimental to the surrounding community.**

DeSoto Parish and Logansport indicate that the proposed casino will produce significant benefits rather than any detriment to the community, stating “[a]ll of the evidence submitted by the local governments directly impacted by this two-part determination clearly demonstrates that the facility will not be detrimental to the local community – to the contrary, the facility will provide our community with many benefits.”

An analysis submitted by the Louisiana Moral and Civic Foundation<sup>38</sup> hypothesizes a decrease of \$25 million in state tax revenue, and a decrease of \$5.5 million in local tax revenue. The impact study estimates annual Facility gaming revenue at \$251.6 million compared to the Band’s estimate of \$75.5 million. Louisiana and local tax levies total 26% on commercial gaming win. The Band will probably pay a 6% impact fee to local governments pursuant to their Class III gaming compacts, as do all the other Louisiana tribes. If a Jena casino does not cause any market growth so that the entire gaming revenue is from existing commercial casinos, the lost governmental revenue by Band estimates would be \$15.1 million, not \$30.5 million. Market growth is likely because of the proximity of the Site to the Texas border, so not all of the Facility revenue would come from currently taxed sources. Logansport is 46 miles<sup>39</sup> from Shreveport and Bossier City, which are located on the major interstate highway to Dallas, Texas. Logansport is 56 country highway miles south of the same interstate, so is less accessible than Shreveport for patrons from the Dallas area. The Facility is not likely to dominate either Shreveport or Dallas, and will be simply another competitive factor in the capitalistic market place.

The record also includes a number of letters in opposition to the Band’s proposed gaming establishment in DeSoto Parish, including letters from U.S. Senators Landrieu, Lott, Reid, Ensign, Bond, Cochran, and Grassley, and a number of U.S. Congressmen, including Congressman Jim McCrery in whose district the gaming establishment would be located. In general, the basis for their

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<sup>36</sup> Response, pg. 8

<sup>37</sup> Letter dated August 15, 2003 from Christine Norris to Franklin Keel, pg. 6

<sup>38</sup> *Impact of the Proposed Jena Choctaw Casino at Logansport, LA on the Economy of Northwest Louisiana and the State of Louisiana*, by Center for Business and Economic Research at Louisiana State University in Shreveport, October 2002.

<sup>39</sup> Microsoft Automap Trip Planner

opposition is that the Jena Band should not be entitled to establish its initial reservation in an area where it has no historical and social connection, and that "reservation shopping" should not be encouraged. However, the Department is not considering whether this proposed acquisition should be exempted from the prohibition on gaming on lands acquired in trust after October 17, 1988, because it would qualify under the "initial reservation" exception contained in 25 U.S.C. § 2719(b)(1)(B)(ii). Instead, the Department has considered this proposed acquisition only under the exception contained in 25 U.S.C. § 2719(b)(1)(A) which requires the Governor to concur in the Secretary's two-part determination that the proposed gaming establishment is in the best interest of the Band and its members, and not detrimental to the surrounding community. This is an important distinction under the law as it does not invoke the broader discretion envisioned by the "initial reservation" exception. Rather, the two-part determination invokes the more limited discretion contained within its two prongs and invokes the political check-and-balance of the Governor's concurrence. Further, on its face, Section 20(b)(1)(A) does not contain any express limitation on the distance between the proposed gaming establishment and the Band's reservation or service area. Additionally, the letters submitted in opposition urge the Department to make a negative two-part determination, based in part on estimated negative effects on Louisiana and the region in which the proposed facility will be located. Section 20(b)(1)(A) of IGRA does not authorize the Secretary to consider State or regional effects when assessing detrimental impacts, except for those to the "surrounding community."

**Summary on "Not Detrimental" determination:**

The record indicates that a gaming establishment on the Logansport Site would not be detrimental to the surrounding community.

**C. Determination**

Based on these findings, it has been determined that a gaming establishment on the Logansport Site is in the best interest of the Jena Band of Choctaw Indians and its members, and is not detrimental to the surrounding community.

## **FINDING OF NO SIGNIFICANT IMPACT**

### **Proposed Acquisition of 40-acre Logansport Parcel for the Jena Band of Choctaw Indians of Louisiana**

Based on the December 2003 Environmental Assessment (EA) for the proposed acquisition of a 40-acre site in Logansport, Louisiana, for the Jena Band of Choctaw Indians of Louisiana (Tribe) for the purpose of operating a Class III gaming facility and associated hotel and entertainment facilities, I have determined that implementation of the proposed federal action, a fee-to-trust acquisition by the Bureau of Indian Affairs, will have no significant impact on the quality of the human environment. In accordance with Section 102(2)(C) of the National Environmental Policy Act of 1969, as amended, an environmental impact statement will not be required.

This determination is supported by the following findings:

1. Agency and public involvement was conducted and environmental issues were identified related to the contemplated fee-to-trust acquisition. See EA section 6.0, Consultation and Coordination, for a list of agencies and individuals contacted. A 30-day public comment period ended on December 5, 2003. Written comments received during that period and responses to them are included in EA Attachments 30, 32, 33, and 34. Where appropriate, the EA was modified in response to these comments.
2. The EA discloses the direct and indirect environmental consequences of the Proposed Action and the No Action alternative. See EA section 2.3, Alternatives, section 4, Environmental Consequences, and section 4.10, Indirect Impacts. The EA also discusses several alternatives, including different locations and a reduced-development alternative, that were considered but rejected because they either did not meet the Purpose and Need or did not have the support of local government.
3. Protective mitigation measures have been established and will be implemented by the Tribe to protect land, surface water, cultural, socioeconomic, and public health and safety resources. See EA section 5.0, Mitigation Measures. Enforceable mitigation measures have been established and will be implemented by the Tribe to ensure that no significant impacts occur to the water supply and to wastewater treatment capabilities, and that traffic impacts are reduced to a less than significant level. See EA section 5.61, Water and Wastewater, and section 5.7.4, Traffic. In addition, the Tribe expects to pay 6 percent of net revenue to local governments under a tribal-state compact to accommodate socioeconomic impacts from the proposed project. See EA section 5.6, Mitigation Measures for Socioeconomic Conditions.
4. The Proposed Action will not jeopardize threatened and endangered species because the site contains no such species, and because it lacks suitable habitat for State and Federally listed threatened and endangered species. See EA section 4.4.1 Threatened and Endangered Species.

The U.S. Fish and Wildlife Service has stated that the Proposed Action will not significantly affect such species. See EA Attachment 3. Also, the State of Louisiana Department of Wildlife and Fisheries has found no rare, threatened, or endangered species or critical habitats on the site or within a one-mile radius of the site. See EA Attachment 4. There will be no indirect impacts to threatened or endangered species because there is vacant housing and available commercial space which will reduce the impact of new construction on undeveloped property. See EA section 4.10, Indirect Impacts.

5. The Proposed Action is in compliance with the National Historic Preservation Act. The Proposed Action does not have the potential to affect historic properties (36 C.F.R. § 800.3(a)(1)) because no historic cultural or religious properties were identified in the immediate vicinity of the proposed development. See EA section 4.5.1, Historic, Cultural and Religious Properties, and EA Attachments 21 and 23. In a consultation letter dated October 21, 2003, the State Historic Preservation Officer concurred in the finding that no historic properties will be affected by the proposed development. The Proposed Action is in compliance with the American Indian Religious Freedom Act of 1978, and thus would not significantly impact the access of American Indians to areas required for cultural or religious practices. See EA section 4.5.1, Historic, Cultural and Religious Properties, and EA Attachment 1.

6. Impacts to public health and safety will be mitigated through agreements that have been established with local governmental entities to provide the required public health and safety services as necessary during the initial growth phases of the proposed project. See EA section 4.8.2, Public Health and Safety, and EA Attachments 11, 12, 13, 14, 15, and 16. Further, the local police and fire protection agencies have committed to developing additional agreements as they become necessary to maintain public health and safety.

Traffic-related direct and indirect impacts will not be significant because traffic associated with the Proposed Action will not result in traffic flow in excess of the designed capacity for the highway infrastructure. See EA section 4.7.4, Traffic, section 4.10, Indirect Effects, and EA Appendix F, Logansport Traffic Impact Analysis. The Louisiana Department of Transportation has concurred in this finding. See EA Attachment 2. Traffic-related impacts to Levels of Service and public safety will not be significant with the development of enforceable mitigation measures that are integral to the Proposed Action. See EA section 4.7.4, Traffic, and section 5.7.4, Mitigation Measures for Traffic. The addition of a left-turn lane and a right-turn deceleration lane at the entry/exit is necessary to reduce traffic impacts to less than significant levels. The Tribe has agreed to fund the cost of the required road improvements. The Proposed Action would not significantly impact the existing and available water supply, treatment and distribution capabilities of local sources because the systems are currently operating below capacity. See EA section 4.2, Water Resources and Quality, section 4.6.3,

Community Infrastructure, and EA Attachments 12, 13 and 14. There is sufficient capacity to meet increased community demand resulting from the Proposed Action. See EA section 4.10, Indirect Impacts.

7. In compliance with E.O. 11988, the Proposed Action will not impact floodplains because the Proposed Action will not occur in a special flood hazard area. In compliance with E.O. 11990, the Proposed Action will not impact wetlands because there are no wetlands located where the development will occur. See EA section 4.2.1, Surface Water, Wetlands and Floodplain, section 4.10, Indirect Effects, and EA Attachments 2 and 10. The Proposed Action will not impact prime farmlands. See EA sections 4.4.3, Agriculture, and EA Attachment 9.

8. The cumulative effects of the Proposed Action when combined with past and reasonably foreseeable future actions will not be significant because the proposed development is sited in a low growth area with no significant community plans to increase activity. See EA section 4.11, Cumulative Effects. The cumulative effects on land use, public infrastructure, public safety services, lighting and noise, air quality, traffic, and the availability of housing and commercial space will be insignificant.

9. The Proposed Action is in compliance with the Clean Air Act 42 U.S.C. 7401-7671q. The Proposed Action will not significantly impact air resources because the proposed facility will not create any significant direct air emission sources and will meet the National Ambient Air Quality Standards (NAAQS) for primary and secondary sources. See EA section 4.3, Air Resources, section 4.10, Indirect Effects, and EA Appendix F, Logansport Traffic Impact Analysis. While traffic on nearby roadways and intersections will increase as a result of the Proposed Action, direct and indirect impacts to air quality will be insignificant and will remain below ambient air quality standards.

10. The Proposed Action will improve the economic and social conditions of the Tribe and of non-tribal residents and businesses in the project vicinity. Some of the economic benefits include the creation of new jobs and businesses and tourism opportunities for tribal members and the surrounding communities. See EA sections 4.6.1 and 4.6.2, Socioeconomic Conditions, EA Appendix B, Logansport Market Assessment, and EA Attachments 11, 27 and 28. The Town of Logansport and DeSoto Parish have experienced a negative trend in employment and economic development over the past few years, thus any potentially adverse, growth-related socioeconomic impacts induced by the Proposed Action will be minimized. See EA section 4.10, Indirect Effects, EA Appendix B, Logansport Market Assessment, and EA Attachments 11, 12, 27, 28. In addition, the Tribe expects to pay 6 percent of net revenue to local governments under a tribal-state compact to accommodate socioeconomic impacts from the proposed project. See EA section 5.6, Mitigation Measures for Socioeconomic Conditions.

There may be some economic impact on casinos located outside the local area due to competition for patrons, but the impact is not considered to be significant. See EA Attachments 30, 32 and 33.

*Aurene M. Martin*

Aurene M. Martin  
Principal Deputy Assistant Secretary - Indian Affairs

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Date