



# United States Department of the Interior



OFFICE OF THE SECRETARY  
Washington, D.C. 20240

-CERTIFIED MAIL - RETURN RECEIPT REQUESTED-

JUN 13 2001

Honorable Jean Buffalo-Reyes  
Tribal Chairperson  
Red Cliff Band of Lake Superior Chippewa  
Indians of Wisconsin  
P.O. Box 529  
Bayfield, Wisconsin 54814

Honorable gaiashkibos  
Tribal Chairperson  
Lac Courte Oreilles Band of Lake Superior  
Chippewa Indians of Wisconsin  
13394 West Trapania Road, Bldg., No.1  
Hayward, Wisconsin 54843

Honorable Roger McGeshick, Jr.  
Tribal Chairman  
Sokaogon Chippewa Community  
of Wisconsin  
Route 1, Box 625  
Crandon, Wisconsin 54520

Dear Tribal Leaders:

Pursuant to the Settlement Agreement dated October 8, 1999, in the case *Sokaogon Chippewa Community, et al., v. Babbitt, et al.*, Case No. 95-C-659-C (W.D. Wis.), the Assistant Secretary - Indian Affairs agreed to resume consideration of the March 4, 1994, application of the Lac Courte Oreilles Band of Lake Superior Chippewa Indians of Wisconsin, Sokaogon Chippewa Community of Wisconsin and the Red Cliff Band of Lake Superior Chippewa Indians of Wisconsin (Tribes). The Tribes made application for a fee-to-trust transfer of a 55.82 acre parcel of land located in Hudson, Wisconsin, pursuant to 25 U.S.C. § 465 and 25 CFR Part 151, and for a Secretarial two-part determination pursuant to § 20(b)(1)(A) of the Indian Gaming Regulatory Act (IGRA), 25 U.S.C. § 2719(b)(1)(A). I must respectfully decline the request that we take this land into trust for gaming purposes.

Pursuant to § 20(b)(1)(A) of the IGRA and delegated authority, by letter dated February 20, 2001, I determined that the proposed gaming establishment was in the best interest of the Tribes and their members and that it would not be detrimental to the surrounding community. In the same letter, I also had requested the concurrence by the Governor of the State of Wisconsin (Governor) in my determination. The IGRA requires that the Governor concur in the determination. On February 20, 2001, my determination was sent by telefax to the Governor and to the Tribes, through their attorney, James Reeder. The administrative record also was sent to the Governor on February 20, 2001.

In a letter dated May 14, 2001, a copy of which is enclosed, the Governor declined to concur in that determination. In a letter dated May 15, 2001, the Tribes requested the Department hold this matter in abeyance until alternatives were considered.

Section 20 of the IGRA, 25 U.S.C. § 2719, generally prohibits gaming on trust lands acquired after October 17, 1988, unless certain exemptions apply. The exemption applicable here, 25 U.S.C. § 2719(b)(1)(A), establishes that gaming can be conducted if the Secretary makes a two-part determination that the gaming establishment is in the best interest of the Indian tribe and its members and would not be detrimental to the surrounding community "but only if the Governor of the State in which the gaming activity is to be conducted concurs in the Secretary's determination." Congress has placed a limitation on the use of the land and IGRA does not authorize gaming on the proposed trust land without the concurrence of the Governor. Consequently, because the Governor declined to concur in the two-part determination, the land cannot be acquired in trust for the purpose of gaming.

We have considered the Tribes' request for abeyance and believe that this decision does not preclude the Tribes from considering alternative non-gaming uses for the land. The limitation imposed by Congress on the use of the land should not be interpreted as a prohibition against acquiring the land in trust for any other purposes. Therefore, if the Tribes desire to acquire the land for some non-gaming purpose, please reapply under the trust acquisition regulations at 25 CFR Part 151.

We regret that our decision could not be more favorable at this time. If you have any questions, please contact Nancy J. Pierskalla, Office of Indian Gaming Management at (202) 219-4066.

Sincerely,



James H. McDivitt  
Deputy Assistant Secretary - Indian Affairs  
(Management)

Enclosure



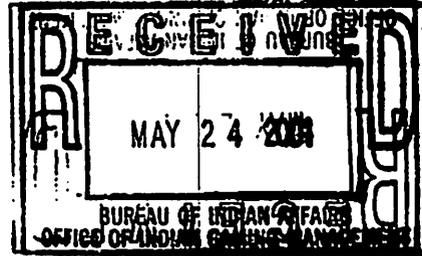
SCOTT McCALLUM

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Governor  
State of Wisconsin

May 14, 2001

James H. McDivitt  
Deputy Assistant Secretary-Indian Affairs  
United States Department of the Interior  
Office of the Secretary  
Washington, D.C. 20240



Dear Mr. McDivitt:

I am in receipt of your February 20, 2001, correspondence to me in which you inquire whether I concur, pursuant to Section 20 of the Indian Gaming Regulatory Act (IGRA), 25 U.S.C. 2719, in your determination that approval of the application of the Lac Courte Oreilles Band of Lake Superior Chippewa Indians, Red Cliff Band of Lake Superior Chippewas, and Sokaogon Chippewa Community (Tribes) to take a 55.82 acre parcel of land located in Hudson, Wisconsin, into trust for purposes of conducting Class III gaming is in the best interests of the Tribes and not detrimental to the surrounding community. By this letter I provide notice I do not concur in this determination.

The role of the Governor is prescribed in Section 20 of the IGRA, which allows Class III gaming on certain off-reservation land only if:

“...the Secretary [of the Department of the Interior]...determines that a gaming establishment on newly acquired lands would be in the best interest of the Indian Tribe and its members, and would not be detrimental to the surrounding community, but only if the Governor of the State in which the gaming activity is to be conducted concurs in the Secretary’s determination....”  
25 U.S.C. 2719(b)(1).

The federal and State decisions regarding the determinations required by Section 20 of the IGRA are distinct for a number of reasons. First, this request for concurrence is unprecedented because the administrative record on which the Department’s decision (federal determinations required by Section 20 will be referred to as those of the Department) is based is that which existed on July 14, 1995, except for certain information related to compliance with the National Environmental Policy Act (NEPA), and materials related to a hazardous substances survey and arrangements between the Tribes and proposed management contractor. This extraordinary situation was created by a settlement agreement in a lawsuit in the United States District Court for the Western District of Wisconsin challenging the previous decision of the Secretary to deny the Tribe’s application. See Appendix A to Stipulation and Order for Dismissal (Settlement Agreement), Sokaogon Chippewa Community, et al., v. Babbitt, et al., #95-C-0659-C (W.D. Wis.), paragraph 8.b. I am not bound by such an artificial restriction in my deliberations.

In establishing separate federal and state approvals, Congress recognized that federal and state concerns and interests relative to an off-reservation gaming application would be different, and established a requirement that both must be satisfied before gaming could occur. The Department acts according to federal criteria, duties and responsibilities, many of which are unique to the federal government. For example, as acknowledged in paragraph 7 of the Settlement Agreement, the Secretary has a trust responsibility relative to Tribes, including the applicants. A Governor, in exercising discretion whether to concur, acts as a state official under state authority to protect state and local concerns and interests. See Confederated Tribes of Siletz Indians of Oregon v. U.S., et al., 110 F.3d 688, 693 (9<sup>th</sup> Cir. 1997).

The determinations required under Section 20 of the IGRA provide a Governor substantial discretion and encompass a multiplicity of factors, circumstances, and public policy considerations which a Governor must analyze and weigh in the exercise of his or her independent judgement. Therefore, a Governor, to fulfill the duties and responsibilities of that office, must consider numerous facts and circumstances which may not be considered by, or be important to, the Secretary in making the determinations required by Section 20 of the IGRA. One such area is the public policy of the State of Wisconsin regarding the casino gaming industry, particularly as applied to off-reservation casinos.

Originally, this State's policy towards gambling was one of complete prohibition. The Wisconsin Constitution, as adopted in 1848, provided in Article IV., Section 24, that the Legislature "...shall never authorize any lottery....", which was interpreted by the courts as a strong statement of public policy against any activity involving the elements of prize, consideration and chance. State ex rel. Trampe v. Multerer, 289 N.W. 600, 603 (Wis. Sup. Ct. 1940).

Since that time, this complete prohibition has been amended to allow certain charitable organizations to conduct bingo and raffles, the State to operate a lottery, and to allow on-track pari-mutuel wagering. These changes in public policy were accomplished by first amending the Wisconsin Constitution. This process required each change to obtain explicit legislative authorization and the consent of the citizenry through a referendum.

These changes were also limited in scope. Bingo and raffles were limited to certain classes of charitable public service organizations. Pari-mutuel wagering was limited so that it could occur only on the grounds of a licensed racetrack. The Wisconsin Lottery may operate only games involving the matching chosen numbers against numbers randomly drawn, or instant ticket games involving preprinted numbers or symbols.

The only form of gambling currently allowed in Wisconsin which has been subject to neither explicit legislative authorization nor public referendum is casino gambling operated by Wisconsin Tribes pursuant to the IGRA. This anomalous development resulted from a decision of the United States District Court for the Western District of Wisconsin, which held that when the Constitution was amended to authorize a lottery, with no limiting definition on what was meant by that term, lottery would be construed to mean any game involving prize, chance and consideration. Consequently, because the authorization to conduct a "lottery" was sufficiently broad to include casino type games, even though no Wisconsin citizens were authorized to conduct such games, the IGRA required the State to negotiate casino gaming with the State's 11 Tribes. See Lac du Flambeau Band of Lake Superior Chippewa Indians, et al. v. Wisconsin, et al., 770 F.Supp. 480, 485-487 (W.D. Wis. 1991).

The concern regarding the extent to which the Constitutional amendment authorizing the State Lottery actually altered the public policy towards gambling by allowing casino games was initially addressed at a 1992 special session of the Wisconsin Legislature, which resulted in the enactment of 1991 Wisconsin Act 321, effective January 1, 1993. This act specifically exempted casino style games from the definition of lottery authorized by the Wisconsin Statutes, and made clear such games were not authorized by these provisions of Wisconsin law, but did provide that the provisions of any Indian gaming Compact entered into prior to January 1, 1993 would not be affected. s. 565.01(6m), Stats.

The process to amend the Wisconsin Constitution to reflect these same restrictions was also begun during the special session, culminating in an April 6, 1993, statewide referendum regarding the Constitutional amendment. The question presented to the voters read: "Gambling expansion prohibited. Shall article IV of the constitution be revised to clarify that all forms of gambling are prohibited except bingo, raffles, pari-mutuel on track betting and the current state-run lottery and to assure that the state will not conduct prohibited forms of gambling as part of the state-run lottery?" The question was approved by a vote of 1,075,386 to 435,180. The result is reflected in Article IV., Section 24 (6) of the Wisconsin Constitution, which specifically prohibits the State from authorizing casino style gambling.

The public policy of Wisconsin towards gaming may be characterized as allowing limited exceptions to the general prohibition against gambling after legislative authorization and ratification by the voters pursuant to the established procedures for constitutional amendment. The exception to this characterization is casino gaming, which came about as a result of the interaction of federal law and a broad judicial interpretation of Wisconsin law, not by an affirmative action of Wisconsin policy-makers to authorize casino games.

When faced with the proposition that Wisconsin law allowed casino gaming, the Legislature, Governor and citizens acted promptly to make clear that Wisconsin public policy did not authorize, and in fact prohibited, casino gambling. A statutory exception was carved out for casino gaming operated under gaming compacts then in effect.

At that time, as now, gaming conducted pursuant to those Compacts was generally limited to Indian lands within Tribal reservations.<sup>1</sup> While Tribal governments possessed the right to conduct casino games which were denied to non-Tribal entities, casino siting was limited to those geographical areas reserved for the occupation of Tribal members and over which the Tribal government exercised the attributes of sovereignty reserved to it.

This decision involves novel implications regarding the State's policy towards gaming because it would authorize a new casino at an off-reservation site.<sup>2</sup> The proposed casino site was chosen not in relation to the geographical boundaries which define

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<sup>1</sup> The Ho-Chunk Nation is the only Tribe within this State without a land base designated as a reservation. The Nation's gaming activities are limited by Compact terms to certain Tribal land within certain enumerated areas.

<sup>2</sup> I am mindful of the fact that Wisconsin has authorized an off-reservation gaming facility of the Forest County Potawatomi Community of Wisconsin in Milwaukee. However, the procedures to acquire that site in trust for gaming purposes pre-dated the effective date of the IGRA. At the time the Governor was called upon to grant his concurrence the decision defining the State's obligation to negotiate regarding casino games was still almost a year away. In addition, no Compacts had been executed and the Indian gaming industry was still in its' infancy. Once those Compacts were executed they provided that gaming off-reservation was not permissible and could occur with Section 20 approval, with its attendant requirement of concurrence of the Governor. Consequently, the decision to concur regarding the Milwaukee facility is not indicative of the State's public policy towards off-reservation gaming facilities.

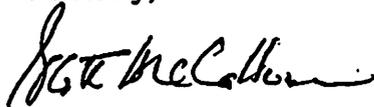
Tribal dominion, but on the basis of market considerations to maximize revenue to the proprietors, both Tribal and non-Tribal. Undoubtedly, there are many locations in Wisconsin which would support additional gaming facilities of varying size, thus allowing Tribes to realize greater revenues from gaming. Approval of the Tribes' application would set a precedent sanctioning the notion that Tribal governments could behave as if they were simply individual gaming firms, attempting to capture the greatest possible share of the statewide gaming market and choosing from among different statewide sites driven primarily by considerations of profit maximization. This is precisely the type of casino gaming industry the State sought to avoid when it unequivocally rejected casino gambling as a constitutionally permissible activity. The effect of the State's changes to its' public policy regarding gaming should not be to grant the 11 Tribes a monopoly on gaming so that they may develop a state-wide casino gaming industry which has been denied to all others.

Independent of any industry-wide effects, the addition of a single new casino, in this case a large facility intended to serve a major metropolitan market, is detrimental to the public interest. Wisconsin now has 17 separate casinos, a total of 22 separate sites where electronic games of chance are operated, and in excess of 16,000 electronic games of chance in operation statewide. All this is in addition to the State's other forms of legalized gaming. The public interest is simply not served by the addition of a major casino gaming facility to the existing gaming industry.

The proscriptions enacted by the Legislature, Governor and the citizens in our Constitution, and those implemented through statute, are the determinations of our civil society that certain actions operate to the detriment of the public interest, and this detriment affects all individuals, entities and communities. These laws act as both enforceable prohibitions, and as judgements by the State that certain activities so detract from the common good that their pursuit should be abandoned. Pursuant to the unique facts, circumstances and developments which established the legal principles governing Indian gaming, the State agreed to allow the operation of certain games by the Tribes, and the laws do not act as enforceable prohibitions against certain Tribal gaming activities. However, the question before me firmly places Wisconsin at a crossroads, the divergent paths of which lead to far different futures for this State. I cannot ignore the public policy reflected in our laws in making this determination.

In order to concur in the determinations made by the Department, I must be able to conclude that the proposal to construct and operate a new off-reservation casino is consistent with the public policy of the State, which applies equally to all its' local communities and citizens. For the reasons set forth above, approval of the Tribes' application would be in derogation of these interests. Therefore I do not concur with the determination under Section 20 of the IGRA.

Sincerely,



Scott McCallum  
Governor



# United States Department of the Interior



OFFICE OF THE SECRETARY

Washington, D.C. 20240

FEB 20 2001

Honorable Scott McCallum  
Governor  
State of Wisconsin  
15 E. State Capitol  
Madison, Wisconsin 53707

Dear Governor McCallum:

Pursuant to the Settlement Agreement dated October 8, 1999, in the case *Sokaogon Chippewa Community, et al., v. Babbitt, et al.*, Case No. 95-C-659-C (W.D. Wis.), the Assistant Secretary - Indian Affairs agreed to resume consideration of the March 4, 1994, application of the Lac Courte Oreilles Band of Lake Superior Chippewa Indians of Wisconsin, Sokaogon Chippewa Community of Wisconsin and the Red Cliff Band of Lake Superior Chippewa Indians of Wisconsin (Tribes). The Tribes have made application for a trust land acquisition of a 55.82 acre parcel of land located in Hudson, Wisconsin and for a Secretarial two-part determination pursuant to Section 20(b)(1)(A) of the Indian Gaming Regulatory Act (IGRA), 25 U.S.C. § 2719(b)(1)(A).

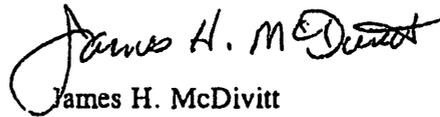
Gaming on the Hudson parcel is subject to the Secretarial two-part determination in Section 20(b)(1)(A) of the IGRA, because the land will be acquired in trust after October 17, 1988, is located outside of the Tribes' reservations, nor does it fall within any of the specific exemptions to the prohibition against gaming on trust lands acquired after October 17, 1988. Pursuant to Section 20(b)(1)(A) of the IGRA, before the Hudson parcel can be acquired in trust for gaming purposes, I must determine that a gaming facility on the land would be in the best interests of the Tribes and their members and not detrimental to the surrounding community and then you must concur in that determination. If you concur in this determination, the land can be acquired by the United States in trust for the Tribes for gaming purposes, provided all the requirements of the Bureau of Indian Affairs' land acquisition regulations found in 25 CFR Part 151 are met.

The Department has completed its review of the Tribes' application for the two-part determination. Based on this application and its supporting documentation, including the comments received from the State and local government officials, and officials of nearby Indian tribes, the Department has made findings of fact supporting the two-part determination.

Based on these findings, I have determined that a gaming establishment on the 55.82 acre parcel of land located in Hudson, Wisconsin would be in the best interests of the Tribes and their members and would not be detrimental to the surrounding community. These findings of fact are enclosed (under separate cover) along with the supporting documentation for your review. The materials we are providing to you contain commercial and financial information which we might not normally release as we believe it may be protected under Exemption 4 of the Freedom of Information Act. We are releasing it to you as we are required by law to seek your concurrence on our two-part determination pursuant to 25 U.S.C. § 2719(b)(1)(A). We believe, therefore, that this information is necessary for you to make an informed decision regarding this matter. If you receive a request for release of this information, we ask that you contact us before making any determination regarding its release.

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

Sincerely,



James H. McDivitt  
Deputy Assistant Secretary - Indian Affairs  
(Management)

Enclosure

## FINDINGS OF FACT

### I. INTRODUCTION

On March 4, 1994, the Lac Courte Oreilles Band of Lake Superior Chippewa Indians of Wisconsin, Sokaogon Chippewa Community of Wisconsin and the Red Cliff Band of Lake Superior Chippewa Indians of Wisconsin (Tribes), submitted to the Midwest Region Office (MRO) an application for a two-part Secretarial determination that a gaming establishment on a 55.82 parcel of land (Hudson property) to be acquired in trust for the benefit of the Tribes located in Hudson, St. Croix County, Wisconsin, is in the best interest of the Tribes and its members, and not detrimental to the surrounding community, in accordance with Section 20(b)(1)(A) of the Indian Gaming Regulatory Act (IGRA), 25 U.S.C. § 2719(b)(1)(A).

The Lac Courte Oreilles Band is a federally recognized Indian tribe organized under the Indian Reorganization Act of June 18, 1934. The Lac Courte Oreilles tribal headquarters are located in Hayward, Wisconsin approximately 130 miles from Hudson, Wisconsin.

The Sokaogon Chippewa Community is a federally recognized Indian tribe organized under the Indian Reorganization Act of June 18, 1934. The Sokaogon Chippewa Community tribal headquarters are located in Crandon, Wisconsin approximately 240 miles from Hudson, Wisconsin.

The Red Cliff Band is a federally recognized Indian tribe organized under the Indian Reorganization Act of June 18, 1934. The Red Cliff tribal headquarters are located in Bayfield, Wisconsin approximately 220 miles from Hudson, Wisconsin.

The Tribes' application was transmitted by the MRO to the Assistant Secretary - Indian Affairs (AS-IA) on November 15, 1994. (*Adm. Record, Binder 5*) The Deputy AS-IA determined on July 14, 1995 (*Adm. Record, Binder 12*) that the administrative record failed to support a finding of no detriment to the surrounding community. The determination was final for the Department. In September 1995, the Tribes filed suit in the U.S. District Court of the Western District of Wisconsin in *Sokaogon Chippewa Community, et al. v. Babbitt, et al.*, No. 95-C-659-C (W.D. Wis.) to reverse the Department's determination. By a Settlement Agreement in *Sokaogon Chippewa Community, et al. v. Babbitt, et al.*, dated October 8, 1999 (*OIGM Exhibit 1*), the AS-IA agreed to resume the consideration of the Tribes' application based on the administrative record already developed and as supplemented only in the manner specified in the Settlement Agreement.

The Tribes have submitted information to supplement the existing record to the Office of Indian Gaming Management (OIGM), Bureau of Indian Affairs (BIA), for review. (*Tribes' Binder*) In accordance with the Settlement Agreement, the Department has reviewed and conducted consultations with the Tribes on the application, including the supplemental information. The Department has concluded consultations and has prepared the Findings of Fact and Recommendation based on the Tribes original and supplemented application for a Secretarial two-part determination.

## II. DESCRIPTION OF THE PROPERTY

The Hudson property is located in the fractional NE 1/4 of the NE 1/4, and SE 1/4 of the NE 1/4, Section 6, T28N, R19W, City of Hudson, St. Croix County, Wisconsin, and is more particularly described as:

The fractional NE 1/4 of the NE 1/4 of said Section 6, EXCEPT that part of the right-of-way of Carmichael Road which is located in said fractional NE 1/4 of the NE 1/4 of said Section 6.

ALSO, that part of the SE 1/4 of the NE 1/4 of said Section 6 described as follows: Commencing at the NE corner of said Section 6; thence S02°49'01"W 1,891.74 feet along the East line of the fractional NE 1/4 of said Section 6 to the NE corner of a parcel known as the "Quarry Parcel" and the point of beginning of this description; thence N88°40'24"W, 1,327.55 feet along the North line and the extension of the North line of said "Quarry Parcel" to a point on the West line of the SE 1/4 of the NE 1/4 of said Section 6; thence N02°48'30"E along the West line of said SE 1/4 of the NE 1/4 to the NW corner thereof; thence Easterly along the North line of said SE 1/4 of the NE 1/4 to the NE corner thereof; thence S02°49'01"W, along the East line of said SE 1/4 of the NE 1/4 to the point of beginning.

Fixtures and permanent improvements to the property include the main building of the St. Croix Meadows Racing Facility (sometimes referred to herein as Chippewa Meadows) consists of two story grandstand with a mezzanine level. The grandstand has two full floors, an intermediate mezzanine and a small rooftop booth area. The enclosed area of the grandstand is approximately 160,000 square feet. The ground floor area is 64,000 square feet, the mezzanine area is 32,000 square feet, the upper "grandstand" floor is 62,000 square feet, and a booth area of 2,600 square feet is at the roof level.

This parcel contains 55.82 acres, more or less. (*Tribes' Binder, Tab 4*)

Land utilized as a parking lot land is located adjacent to the Hudson property and consists of 88.66 acres, more or less. The parking lot land is not included in the application for the trust acquisition but will be held in fee by the Tribes. (*Tribes' Binder, Tab 4*)

## III. COMPLIANCE WITH IGRA

The Hudson property and adjacent parking lot land are neither within nor contiguous to the Tribes existing reservations. Thus the application is submitted by the Tribes in accordance with the provisions of Section 2719(b)(1)(A) of IGRA.

A Tribal-State Compact for Class III Gaming between the Lac Courte Oreilles Band and the State of Wisconsin was approved by the AS-IA on April 13, 1992 and published in the *Federal Register*

on April 20, 1992 (*OIGM Exhibit 12*). The Compact was amended on April 13, 1992 and published on April 20, 1992; the Compact was amended again on April 9, 1998 and published on April 20, 1998. The Tribe's class III tribal gaming ordinance was approved by the National Indian Gaming Commission (NIGC) on September 19, 1995.

A Tribal-State Compact for Class III Gaming between the Red Cliff Band and the State of Wisconsin was approved by the AS-IA on March 4, 1992, and published in the *Federal Register* on March 10, 1992. (*OIGM Exhibit 12*) The Compact was amended on December 11, 1998 and published on December 22, 1998; the Compact was amended again on March 4, 1999 and published on March 11, 1999. The Tribe's class III tribal gaming ordinance was approved by the NIGC on February 15, 1994.

A Tribal-State Compact for Class III Gaming between the Sokaogon Chippewa Community and the State of Wisconsin was approved by the AS-IA on February 2, 1992, and published in the *Federal Register* on February 13, 1992. (*OIGM Exhibit 12*) The Compact was amended on April 9, 1998 and published on April 20, 1998. The Tribe's class III tribal gaming ordinance was approved by the NIGC on November 8, 1993.

#### IV. COMPLIANCE WITH 25 CFR PART 151

If the Governor of the State of Wisconsin concurs with this two-part Secretarial determination, the Department will complete the trust application process for the Hudson property pursuant to the requirements of 25 CFR Part 151. All regulatory requirements contained in 25 CFR Part 151 will be complied with before the property is taken into trust. The statutory authority for the Secretary to take 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.

The Tribes intend to use the Hudson property for Class III gaming. A transitional plan has been developed for the retrofitting of the St. Croix Meadows Racing Facility. The first phase will include the opening of the temporary casino in the clubhouse area on the second floor. The temporary facility will contain approximately 1,000 gaming machines and 15 table games. Parimutuel areas will be maintained in the terrace areas adjacent to the structural glass wall overlooking the racetrack. There are existing food and beverage and lounge areas on this floor which will service both the temporary casino and parimutuel operations.

The second phase of the operation is the development of the permanent casino which is expected to utilize approximately 50,000 square feet of the ground floor and contain 1,500 gaming machines and 30 table games. Once the permanent casino is operating, the second floor temporary casino will be closed and converted into an upscale dining area and an extensive buffet restaurant area. Parimutuel wagering will be offered along the structural glass wall on both the first and second floor gaming areas and in the sports bar area on the first floor. (*OIGM Volume 1, Tab 17*) The Tribes intend to use the parking lot land for patron and employee parking.

## V. TWO-PART DETERMINATION UNDER SECTION 20 OF IGRA

### A. Best Interest of the Tribes and their Members

This "best interest" determination is premised on two fundamental assumptions. First, it has been assumed that the Tribes and the State of Wisconsin will enter into a long term (extending through the term of the management contract) amendment to each of the existing Tribal State Class III gaming compacts that will permit the operation of a casino off-reservation at the Hudson facility and include parimutuel dog racing. (*OIGM Volume 1, Tab 12*) Our determination on this issue will be made separately when the proposed amendments are submitted for approval under IGRA. Second, it has been assumed that the NIGC will approve the management contract between the Tribes joint venture and Galaxy Gaming and Racing Limited Partnership (Galaxy). (*OIGM Volume 8, Tab 81*)

#### 1. Market Analysis.

The Tribes are located on reservations near Hayward, Bayfield and Crandon, Wisconsin in isolated, rural sections of northern Wisconsin. Lac Courte Oreilles tribal membership is estimated at 5,460 members of which 3,565 currently live on or near the reservation. Red Cliff tribal membership is estimated at 3,879 members of which 1,797 currently live on or near the reservation. Sokaogon Chippewa tribal membership is estimated at 1,140 members of which 365 currently live on or near the reservation. The Tribes suffer from serious economic problems as a result of unemployment and under-employment among their members. The unemployment rate on the Lac Courte Oreilles Reservation is 53%, the Red Cliff Reservation is 53% and the Sokaogon Chippewa Reservation is 35%. (*OIGM Vol. 9, Tab-89, Table 3-5*) In 1999, 50% of the Lac Courte Oreilles tribal members residing on or adjacent to the reservation were at or below the federal poverty level. Numbers for 1999 were not available for the Red Cliff Band or the Sokaogon Chippewa Community. According to recent statistics, 57% of the children on the Red Cliff reservation were living below the poverty level. According to the 1997 Indian Labor Force Report, 35% of the Sokaogon Chippewa tribal members living on the reservation were unemployed, and 39% of the employed members earned wages below the poverty level. The Tribes estimate that a class III gaming establishment at Hudson will generate net revenues for distribution to the Tribes to alleviate the adverse conditions on the reservations by funding the Tribes' current unmet needs discussed in another section in this document, and stimulating economic development on their Reservations. Increased expenditures on the Reservations will spur new business, create education opportunities to reduce unemployment, and directly provide vital social service programs in medical care, housing, and community infrastructure. (*OIGM Volume 1, Tab 16*)

There must be a viable market for a gaming project to be successful. The Tribes proposed gaming and entertainment complex at the St. Croix Meadows Race Track has a number of significant characteristics that significantly increase the potential for success. First, the proposed gaming facility is easily accessible to a large population market. It will be the close to the Twin Cities market, approximately 25 miles away. The casino will be located one mile south of the Carmichael Road interchange and Interstate I-94, currently a major four-lane interstate highway connecting the metropolitan area of the Twin Cities and points east in Wisconsin.

Second, projected revenues for the market area are generous. Studies conducted by the Tribes indicate that \$839 million per year in revenue is derived by Minnesota and Wisconsin casinos, and estimate that the potential for annual Hudson casino revenue in excess of \$100 million. First year projections by the Tribes for total revenue, including gaming, food and beverage sales, at the Chippewa Meadows Casino are estimated at over \$90 million.

Third, the demographics for the casino project are also positive. Within the market area for the proposed casino site, it is estimated that the population over 21 years will be 3.4 million with an average household income of up to \$67,912. (*OIGM Volume 2, Tab 16*)

## 2. Description of business relationships.

The Tribes have chartered individual wholly owned tribal corporations which in turn have formed a joint venture for the purposes of, among other things, operating the Class III gaming establishment, entering the management contract and leasing the Hudson property and parking lot land from the Tribes to conduct the gaming activities. The tribal corporations were formed and authorized by the Tribes to pursue the business of the joint venture. This joint venture shall enter into a Business Lease with the Tribes for the Hudson property, Parking Lot land, all improvements, tangible and intangible personal property, inventory, etc., to use for the gaming establishment. This lease is subject to Secretarial review and approval under 25 U.S.C. § 415a and 25 CFR Part 162.

The Business Board is the governing body of the joint venture and will be composed of a total of six representatives, two from each Tribe, to oversee the daily and long-term business affairs and operation of the joint venture. It shall be the responsibility of the joint venture, acting through the Business Board, to maintain the property, supervise the management and other employees of the gaming establishment, develop and implement budgets, pay operating costs, maintain security and surveillance, oversee the management contracts and determine all other business needs of the gaming establishment. The Inter-tribal Gaming Commission of the three Tribes shall have the right to access, inspect and audit the facility, the books of account and all daily operations of the joint venture.

Croixland Properties Limited Partnership, a Wisconsin limited partnership, (St. Croix) is the current owner of St. Croix Meadows Dog Race Track, Galaxy Gaming and Racing Limited Partnership, (Galaxy) an affiliate of St. Croix, and will oversee the development, financing, construction, and management of the Class III casino on the parcel to be acquired in trust. For these services, Galaxy will receive a management fee paid entirely and exclusively out of net revenue from casino operations. The proposed management contract provides for a seven-year term and a management fee of 25% of net revenue. The management contract is subject to the approval of the Chairman of the NIGC.

The Tribes will assume \$18.5 million of bank debt non-recourse to the Tribes and joint venture in exchange for the Hudson property and Parking Lot land. Collateral for the debt will be the net revenue from the casino and the Parking Lot land which will be held in fee by the Tribes. The joint venture will repay the debt on behalf of the Tribes from the Tribes' share of net revenue of the casino.

**3. Projections of gross and net income for the Tribes and for other entities.**

Financial Projections are provided by the Tribes in the *Market Demand and Financial Feasibility Study* by Arthur Andersen, LLP, March 16, 2000 (*OIGM Volume 1, Tab 16*). In the first year, gross revenue is projected to be \$90.7 million, and the net revenue is projected to be \$31.54 million. The Tribes' share of net revenue is projected to be \$24.1 million. The Tribes' share of net revenue is seventy-five percent. Galaxy's twenty-five percent of net revenue set out in the proposed Management Agreement, is projected to be \$7.4 million in year-one. Debt principal repayment in year-one is \$1.876 million. By year-five, the Tribes are projected to receive \$153.9 million. Principal repayment during those five years is \$12.8 million.

**4. Projections of management and tribal expenses.**

For the projections, Net revenue before the management fee is estimated to be \$31.54 million in year one or 34.8% percent of revenue. The expenses include approximately \$6 million to be paid to local communities pursuant to various agreements and approximately \$7.1 million to be paid to the State of Wisconsin in accordance with a revenue-sharing formula to be established in an amendment to the Tribal-State Compact.

The projected operating expenses are reasonable. The management contractor, (Galaxy) share of net revenue and the seven-year term of the management agreement are within the permissible percentage and term authorized by IGRA. Overall, we find the business plan, the projections and the market assumptions to be sound.

**5. Basis for projections and comparison to other similar gaming establishments.**

The Tribes base their projections on *Market Demand and Financial Feasibility Study*, Arthur Andersen, LLP, March 16, 2000. (*OIGM Volume 1, Tab 16*) The Arthur Andersen study estimates the current gaming market at \$839 million gross revenue. The Tribes project \$87 million gaming revenue only in the first year of operation. Seven Indian gaming operations in Minnesota and Wisconsin are projected to have \$775 million gaming revenue in that same year, ranging from \$19 million to \$417 million each. (*OIGM Volume V, Tab 16, pp. 31 and 33*)

**6. Projected tribal employment.**

The Tribes anticipate ten to twenty percent of the 1,100 positions at the Casino will be filled by tribal members already living near the area. (*Adm. Record, Binder 1*) Due to the location of the Tribes' reservations, the Tribes do not anticipate that many tribal members who are currently living on the reservations will be employed directly by the proposed casino. (*Adm. Record Binder 1*) The facility is approximately 117 road miles from the Lac Courte Oreilles Reservation, 221 road miles from the Red Cliff Reservation and 290 road miles from the Sokaogon Chippewa Reservation.

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

Tourism on the Reservations is unlikely to be impacted because the proposed gaming establishment is located approximately 117 to 290 road miles from the various Tribes' Reservations. Tourism in St. Croix County, Wisconsin is projected to be impacted, and is discussed in another section of this document.

**8. Projected training benefits for tribal employees and basis for projection.**

Significant training opportunities will be provided to tribal members as a result of the proposed casino, as required by the management agreement. The Tribes anticipate that tribal members will be trained in a cross training internship program in areas such as casino management, administration, casino hospitality, and dealer training. Preference in employment in all job categories shall be given first to qualified tribal members, spouses and children of the Tribal members, second to qualified members of other tribes and third to residents of the surrounding communities. (*OIGM Volume 8, Tab 74, Section 5.8.2.2*)

**9. Projected benefits to the tribal community from increase in tribal income.**

Revenue from the casino will enable the Tribes to expand their reservation services and programs. The Tribes have identified unmet needs in all tribal program areas:

<u>Tribes</u>	<u>Unmet Needs</u>
Lac Courte Oreilles	\$3,455,582
Red Cliff	\$1,043,862
Sokaogon Chippewa Community	\$3,327,648

Among the planned projects are education, child welfare, human services, streets and roads, purchase of a fire truck and ambulance, elder programs, fish hatchery and youth center. (*OIGM Volume 1, Tab 16*)

**10. Projected benefits to relationship between the Tribes and the surrounding community.**

The proposed casino will benefit the relationship between the Tribes and the surrounding community by revitalizing a dog racing track and maintaining relevant employment levels of local residents. According to financial statements of the dog track, the track has operated at a loss during the statement periods. The future operation of the track could be in doubt if it is not acquired pursuant to the application. If the land acquisition is approved, existing employees at the racetrack will be retained or offered employment in their respective positions, thereby preventing a significant loss of employment at the track if the current business were to close. (*OIGM Volume 8, Tab 74, Section 5.8.2.1*) The proposed casino will provide approximately 1,300 employment opportunities in construction and operation for local residents, increase tourism and create new non-gaming jobs. A majority of the surrounding community supported the proposed casino in a non-binding referendum. (*MAO Vol. III, Tab 1, p. 11*)

The Tribes have entered into a Agreement for Governmental Services that will provide funding to the City of Hudson and St. Croix County. In that Agreement, the City of Hudson and the

County of St. Croix agree to provide general government services, public safety, and public works in the same manner and at the same level of service afforded to residents and other commercial entities situated in the City and County. The Tribes agree to pay \$1,150,000 per year with annual increases of 5% to the City and County to pay for the services. (*Adm. Record, Binder 1*)

#### **11. Possible adverse impacts on the Tribes.**

The Tribes have jointly petitioned the Secretary to take the Hudson property into trust and to hold it jointly for the operation of the casino enterprise. The arrangement requires cooperation among the three Tribes in matters such as in enacting laws governing the property and conduct on the property and in resolving disputes between the Tribes, tribal corporations and the joint venture. The business lease between the Tribes and the joint venture governing certain land use issues is subject to review and approval by the Secretary pursuant to 25 U.S.C. § 415a and 25 CFR Part 162. This independent review and approval will provide some mitigation to potential impacts because the Secretary retains authority for oversight and enforcement of the terms of the lease. The Tribes have entered an Inter-tribal Arbitration Panel Agreement to address such potential impacts by codifying a structure and final decision-making process for the resolution of disputes regarding the conduct of the casino enterprise, land use and other matters associated with the casino enterprise.

Thus, we conclude that there are no other foreseen adverse impacts on the Tribes associated with the acquisition of the Hudson property in trust for a gaming and entertainment center.

#### **Summary on "best interest" determination:**

The record establishes that a gaming establishment on the Hudson property would be in the best interest of the Tribes and their members.

#### **B. Not Detrimental to the Surrounding Community**

The proposed gaming project has the support of the City of Hudson; St. Croix County has remained neutral. In a December 3, 1992 referendum, a majority of the votes supported a Native American casino. The adjacent Town of Troy opposes the casino. When the dog track was built, fair market value offers were made to purchase the eleven homes located in Troy south of the Hudson property. Seven of the eleven property owners accepted the offers and their homes were purchased, then resold at a loss. The Governor has not commented on detriment.

#### **1. Consultation record with appropriate State, local, and tribal officials.**

These individuals have had the opportunity to submit comments during the environmental comment period. (*OIGM Volume 2, Tab 40*) Concerns raised by the officials in the subsequent comments have been addressed in the Final EA and are also discussed in other relevant sections in this document. (*OIGM Volume 9, Tab 89, Att. 2, pp. 15-16*) The MRO consulted with the applicant Tribes to secure the data required from them for the "best interest of the Indian tribe and its members" determination.

Appropriate local government and nearby Indian tribal officials were consulted on the impacts of the gaming operation to the surrounding community as required by Section 20(b)(1)(A) of IGRA. The MRO sent consultation letters listing several suggested areas of discussion for the "not detrimental to the surrounding community" determination.

Letters from the MRO dated February 17, 1994 were sent to the following officials:

Mayor, City of Hudson, Wisconsin (*Adm. Record, Binder 3, Tab 1\**)

Chairman, St. Croix County Board of Supervisors, Hudson, WI (*Adm. Record, Binder 3, Tab 2\**)

Chairman, Town of Troy, Wisconsin (*Adm. Record, Binder 3, Tab 3\**)

The Area Director sent letters dated December 30, 1993, to the following officials of federally recognized tribes in Wisconsin and Minnesota:

1. President, Lac du Flambeau Band of Lake Superior Chippewa Indians of Wisconsin (*Adm. Record, Binder 3, Tab 5\*\**)
2. Chairman, Leech Lake Reservation Business Committee (*Adm. Record, Binder 3, Tab 6\*\**)
3. President, Lower Sioux Indian Community of Minnesota (*Adm. Record, Binder 3, Tab 7\*\**)
4. Chairperson, Mille Lacs Reservation Business Committee (*Adm. Record, Binder 3, Tab 8\*\**)
5. Chairperson, Oneida Tribe of Indians of Wisconsin (*Adm. Record, Binder 3, Tab 9\*\**)
6. President, Prairie Island Indian Community of Minnesota (*Adm. Record, Binder 3, Tab 10\*\**)
7. Chairman, Shakopee Mdewakanton Sioux Community of Minnesota (*Adm. Record, Binder 3, Tab 11\*\**)
8. President, St. Croix Chippewa Indians of Wisconsin (*Adm. Record, Binder 3, Tab 12\*\**)
9. Chairperson, Ho Chunk (formerly Wisconsin Winnebago) Tribe of Wisconsin (*Adm. Record, Binder 3, Tab 1*)
10. Chairman, Bad River Band of Lake Superior Chippewa Indians of Wisconsin (*Adm. Record, Binder 3, Tab 16\*\*\**)
11. Chairman, Bois Forte (Nett Lake) Reservation Business Committee (*Adm. Record, Binder 3, Tab 16\*\*\**)
12. Chairman, Fond du Lac Reservation Business Committee (*Adm. Record, Binder 3, Tab 16\*\*\**)
13. Chairman, Forest County Potawatomi Community of Wisconsin (*Adm. Record, Binder 3, Tab 16\*\*\**)
14. Chairman, Grand Portage Reservation Business Committee (*Adm. Record, Binder 3, Tab 16\*\*\**)
15. Chairman, Red Lake Band of Chippewa Indians of Minnesota (*Adm. Record, Binder 3, Tab 16\*\*\**)
16. President, Stockbridge Munsee Community of Wisconsin (*Adm. Record, Binder 3, Tab 16\*\*\**)
17. Chairperson, Upper Sioux Community of Minnesota (*Adm. Record, Binder 3, Tab 16\*\*\**)
18. Chairman, White Earth Reservation Business Committee (*Adm. Record, Binder 3, Tab 16\*\*\**)

19. President, The Minnesota Chippewa Tribe (*Adm. Record, Binder 3, Tab 14\*\**)

\*\* response is under same Tab

\*\*\* no response

(a) Consultation with the State of Wisconsin.

The MRO sent a consultation letter to the Wisconsin State Governor Tommy Thompson on July 28, 2000. (*OIGM Volume 2, Tab 39*) No response has been received. On July 26, 2000, a Section 20 consultation letter was sent to Governor Tommy Thompson. No response has been received. (*OIGM Volume 2, Tab 37*)

(b) Consultation with City of Hudson.

The Hudson property is located in a commercial area in the southeast section of the City of Hudson. Thomas H. Redner, Mayor, states "...the City of Hudson has a strong vision and planning effort for the future and that this proposed Casino can apparently be accommodated with minimal overall impact, just as any other development of this size." (*Adm. Record, Binder III, Tab 1*)

The City of Hudson passed Resolution 2-95 on February 6, 1995 after the BIA Area Office had submitted its Findings Of Fact, stating "the Common Council of the City of Hudson, Wisconsin does not support casino gambling at the St. Croix Meadows site". However, the City Attorney clarified the meaning of the resolution in a letter dated February 15, 1995, stating that the resolution "does not retract, abrogate or supersede the April 18, 1994 Agreement for Government Services." No evidence of detrimental impact is provided in the resolution.

Letters supporting the application were received from Donald B. Bruns, Hudson City Councilman; Carol Hansen, former member of the Hudson Common Council; Herb Giese, St. Croix County Supervisor; and John E. Schommer, Member of the School Board. They discuss the changing local political climate and the general long-term political support for the acquisition. Roger Breske, State Senator, and Barbara Linton, State Representative also wrote in support of the acquisition. Sandra Berg, a long-time Hudson businessperson, wrote in support and states that the opposition to the acquisition is receiving money from opposing Indian tribes.

(c) Consultation with Town of Troy.

The Town of Troy states that it borders the dog track on three sides and has residential homes directly to the west and south of the Hudson property. Dean Albert, Chairperson, responded to the consultation letter stating that the Town has never received any information on the gaming facility. He set forth several questions the Town needed to be answered before it could adequately assess the impact. However, responses were provided by the Town to the specific questions asked by the MRO in the consultation letter. (*Adm. Record, Binder 3, Tab 3*)

(d) **Consultation with Indian tribes.**

Minnesota has six federally-recognized tribes (one tribe with six component reservations), and Wisconsin has eight federally-recognized tribes. The three applicant tribes are not included in the Wisconsin total. The Area Director consulted with all tribes except the Menominee Tribe of Wisconsin. No reason was given for omission of this tribe in the consultation process.

Six of the Minnesota tribes did not respond to the Area Director's request for comments while five tribes responded by objecting to the proposed acquisition for gaming. Four of the Wisconsin tribes did not respond. Two objected and two did not object to the proposed acquisition for gaming.

Five tribes commented that direct competition would cause loss of customers and revenues. Only one of these tribes is within 50 miles, using the most direct roads, of the Hudson property. Two tribes commented that the approval of an off-reservation facility would have a nationwide political and economic impact on Indian gaming, speculating wide-open gaming would result. Six tribes stated that Minnesota tribes have agreed there would be no off-reservation casinos. One tribe stated the Hudson track is on Sioux land. One tribe commented on an adverse impact on social structure of community from less money and fewer jobs because of competition, and a potential loss of an annual payment (\$150,000) to a local town that could be jeopardized by lower revenues. One tribe commented that community services costs would increase because of reduced revenues at its casino. One tribe commented that it should be permitted its fourth casino before the Hudson operation is approved by the State.

St. Croix Tribe Comments:

The St. Croix Tribe asserts that the proposed acquisition is a bailout of a failing dog track. The St. Croix Tribe was approached by Galaxy Gaming and Racing with the dog track-to-casino conversion plan. The Tribe rejected the offer, which was then offered to the Tribes. While the St. Croix Tribe may believe that the project is not suitable, the Tribes and the MRO reach an opposite conclusion.

The Coopers & Lybrand impact study, commissioned by the St. Croix Tribe, projects an increase in the St. Croix Casino attendance in the survey area from 1,064,000 in 1994 to 1,225,000 in 1995, an increase of 161,000. It then projects a customer loss to a Hudson casino, 60 road miles distant, at 181,000. The net change after removing projected growth is 20,000 customers, or approximately 1 ¼ % of the 1994 actual total attendance at the St. Croix casino (1.6 million).

The study projects an attendance loss of 45,000 of the 522,000 1994 total at the St. Croix Hole in the Wall Casino, Danbury, Wisconsin, 120 miles from Hudson, and 111 miles from the Minneapolis/St. Paul market. Danbury is approximately the same distance north of Minneapolis and south of Duluth, Minnesota as the Mille Lac casino in Onamia, Minnesota, and competes directly in a market quite distant from Hudson, Wisconsin, which is 25 miles east of Minneapolis. The St. Croix completed a buy-out of its Hole in the Wall Manager in 1994, increasing the profit margin of the casino by as much as 67%. The market in Minnesota and Wisconsin,

as projected by Smith Barney in its *Global Gaming Almanac 1995*, is expected to increase to \$1.2 billion, with 24 million gamer visits, an amount sufficient to accommodate a casino at Hudson and profitable operations at all other Indian gaming locations within Minnesota and Wisconsin.

Ho-Chunk Nation Comments:

The Ho-Chunk Nation (Ho-Chunk) submitted comments on the detrimental impact of the proposed casino on Ho-Chunk gaming operations in Black River Falls, Wisconsin (BRF), 116 miles from the proposed trust acquisition. The analysis was based on a customer survey that indicated a minimum loss of 12.5% of patron dollars. The survey was of 411 patrons, 21 of whom resided closer to Hudson than BRF (about 5% of the customers). Forty-two patrons lived between the casinos closer to BRF than Hudson.

Market studies from a wide variety of sources indicate that distance (in time) is the dominant factor in determining market share, especially if the facilities and service are equivalent. However, those studies also indicate that even when patrons generally visit one casino, they occasionally visit other casinos. That means that customers closer to a Hudson casino will not exclusively visit Hudson. The specific residence of the 21 customers living closer to Hudson was not provided, but presumably some of them were from the Minneapolis/St. Paul area, and already have elected to visit the much more distant BRF casino rather than an existing Minneapolis area casino. In addition, "player clubs" create casino loyalty, and tend to draw customers back to a casino regardless of the distance involved.

The Ho-Chunk gaming operations serve the central and southern population of Wisconsin, including the very popular Wisconsin Dells resort area. The extreme distance of Hudson from the primary market area of the Ho-Chunk casinos eliminates it as a major competitive factor. The customers' desire for variety in gaming will more likely draw BRF patrons to other Ho-Chunk casinos, Minnesota casinos, and even Michigan casinos. Hudson cannot be expected to dominate the Ho-Chunk market, or cause other than normal competitive impact on the profitability of the Ho-Chunk operations. The addition of a Hudson casino is likely to impact the BRF casino revenues by less than 5%. The addition by the Ho-Chunk of two new casinos since September 1993 strongly indicates the Ho-Chunk Tribes' belief in a growing market.

While all of the tribes who object to the facility may consider competition from another casino a legitimate threat, they provide no substantial data that would prove their concerns valid. The eight casinos within a 100-mile radius of the Minneapolis area and the three casinos within 50 miles successfully compete with one another, apparently without a single failure to date. (*Adm. Record, Binder I, Tab 3, p. 293*)

Comments by the Oneida Tribe of Indians of Wisconsin:

In an April 17, 1995 letter, the Oneida Tribe rescinds its neutral position stated on March 1, 1994, "Speaking strictly for the Oneida Tribe, we do not perceive that there would be any serious detrimental impacts on our own gaming operation. . . The Oneida Tribe is simply located to (sic) far from the Hudson project to suffer

any serious impact." In recent commentary, the Tribe speculates about growing undue pressure from outside non-Indian gambling interests that could set the stage for inter-tribal rivalry for gaming dollars. No evidence of adverse impact is provided.

**KPMG Peat Marwick Comments for the Minnesota Tribes:**

On behalf of the Minnesota Indian Gaming Association (MIGA), Mille Lacs Band of Chippewa Indians, St. Croix Chippewa Band, and Shakopee Mdewakanton Dakota Tribe, KPMG commented on the impact of a casino at Hudson, Wisconsin.

KPMG asserts that the MRO used a "not devastating" test rather than the less rigorous "not detrimental" test in reaching its Findings of Fact approval to take the subject land in trust for the three Tribes.

In the KPMG study, the four tribes and five casinos within 50 miles of Hudson, Wisconsin had gross revenue of \$450 million in 1993, and \$495 million in 1994, a 10% annual growth. The Findings of Fact project a Hudson potential market penetration of 20% for blackjack and 24% for slot machines. If that penetration revenue came only from the five casinos, it would be \$114.6 million.

However, the Arthur Andersen financial projections in 1993 for the Hudson casino were \$70 million (Hudson Casino Venture, Market Demand and Financial Feasibility Study, March 1994, Arthur Andersen, LLP) in casino gaming revenue, or 13.7% of just the \$510 million five-casino revenue (not total Indian gaming in Minnesota and Wisconsin). Smith Barney estimates a Minneapolis Gaming Market of \$480 million, a Non-Minneapolis Gaming Market in Minnesota of \$220 million, and a Wisconsin Market of \$500 million. The Wisconsin market is concentrated in the southern and eastern population centers where the Oneida and Ho-Chunk casinos are located. Assuming that the western Wisconsin market is 25% of the state total, the total market available to the six Minneapolis market casinos is over \$600 million.

The Arthur Andersen study in 1994 projected the Hudson market share of \$80 to \$115 million is 13% to 19% of the two-state regional total. According to the KPMG study, the ten percent historic growth rate in gaming will increase the market by \$50 million, and stimulation of the local market by a casino at Hudson is projected in the application at 5% (\$25 million) Therefore, only \$5 to \$40 million of the Hudson revenue would derive from existing casinos. An average revenue reduction of \$1 to \$8 million per existing casino would not be a detrimental impact. For example, the Mystic Lake Casino was estimated to have had a \$96.8 million net profit in 1993. A reduction of \$8 million would be about 8%, assuming that net revenue decreased the full amount of the gross revenue reduction. At \$96.8 million, the per enrolled member profit at Mystic Lake is \$396,700. Reduced by \$8 million, the amount would be \$363,900. The detrimental effect would not be expected to materially impact Tribal expenditures on programs under IGRA Section 11.

**Summary:** Reconciliation of various comments on the impact of a casino at Hudson can be achieved by reference to the Sphere of Influence concept detailed by Murray on pages 2 through 7 of (*Adm. Record, Binder 1, Tab 4*) Figure 1 displays the dynamics of a multi-nodal draw by

casinos for both the local and Minneapolis metropolitan markets. The sphere of influence of Hudson depends on its distance from various populations (distance explains 82% of the variation in attendance). Outside of the charted zone, other casinos would exert primary influence.

The Sphere of Influence indicates only the distance factor of influence, and assumes that the service at each casino is equivalent. Facilities are not equivalent, however. Mystic Lake is established as a casino with a hotel, extensive gaming tables, and convention facilities. Turtle Lake is established and has a hotel. Hudson would have a dog track and easy access from Interstate 94. Each casino will need to exploit its competitive advantage in any business scenario, with or without a casino at Hudson. Projections based on these highly subjective qualitative factors would be very speculative.

It is important to note that the Sphere of Influence is influence, not dominance or exclusion. The Murray research indicates that casino patrons on average patronize three different casinos each year. The opening of a casino at Hudson would not stop customers from visiting a more distant casino, though it might change the frequency of visits.

The St. Croix Tribe projects that its tribal economy will be plunged "back into pre-gaming 60 percent plus unemployment rates and annual incomes far the (sic) below recognized poverty levels." The Chief Financial Officer of the St. Croix Tribe projects a decrease of Tribal earnings from \$25 million in 1995 to \$12 million after a casino at Hudson is established. Even a reduction of that amount would not plunge the Tribe back into poverty and unemployment, though it could certainly cause the Tribe to re-order its spending plans.

The St. Croix Tribe asserts that the market is saturated even as it has just completed a 31,000 square foot expansion of its casino in Turtle Lake, and proposes to similarly expand the Hole-in-the-Wall Casino. Smith Barney projects a Wisconsin market of \$500 million with a continuation of the steady growth of the last 14 years, though at a rate slower than the country in general.

Arthur Andersen updated its Study on March 16, 2000. It revised its estimate total market potential to \$839 million with Chippewa Meadows (from \$510 million without Chippewa Meadows). The update estimates Chippewa Meadows revenue at \$87 million of a total market of \$862 million. (*OIGM Volume 2, Tab 16, p. 31*)

**(d) Consultation with St. Croix County.**

The St. Croix County Board of Supervisors submitted an Impact Assessment (*Adm. Record, Binder 3, Tab 2, p. 1*), dated April 15, 1994, on the proposed gaming establishment. On March 13, 1994 a single St. Croix County Board Supervisor wrote a letter to Wisconsin Governor Tommy Thompson that stated his opinion that the Board had not approved "any agreement involving Indian tribes concerning gambling operations or ownership in St. Croix County."

On April 15, 1994, the Chairman of the St. Croix County Board of Supervisors indicated that "we cannot conclusively make any findings on whether or not the proposed gaming establishment will be detrimental to the surrounding community...Our findings assume that an Agreement for

Government Services, satisfactory to all parties involved, can be agreed upon and executed to address the potential impacts of the service needs outlined in the assessment. In the absence of such an agreement it is most certain that the proposed gaming establishment would be a detriment to the community."

On April 26, 1994, a joint letter from the County Board Chairman and Mayor of the City of Hudson was sent to Governor Thompson. It says, "The City Council of Hudson unanimously approved this [Agreement for Government Services] on March 23rd by a 6 to 0 vote, and the County Board at a special meeting on March 29th approved the agreement on a 23 to 5 vote."

On December 3, 1992, an election was held in the City of Hudson on an Indian Gaming Referendum, "Do you support the transfer of St. Croix Meadows to an Indian Tribe and the conduct of casino gaming at St. Croix Meadows if the Tribe is required to meet all financial commitments of Croixland Properties Limited Partnership to the City of Hudson?" With 54% of the registered electorate voting, 51.5% approved the referendum.

St. Croix County in a March 14, 1995 letter states that the "County has no position regarding the City's action" regarding Resolution 2-95 by the City of Hudson (referred to above).

## **2. Environmental documentation and considerations.**

The primary documents submitted for compliance with the National Environmental Policy Act (NEPA) for this action are:

1. Final Environmental Assessment (EA), December 2000 (*OIGM Volume 9, Tab 89*)
2. Finding of No Significant Impact (FONSI), January 19, 2001 (*OIGM Volume 9, Tab 90*)

A final EA was completed December 2000, in compliance with the requirements of NEPA and Council on Environmental Quality Regulations for implementing NEPA (40 CFR Part 1500-1508). This Final EA was based on a draft EA issued July 31, 2000, for a thirty-day public comment period. A new FONSI was developed and issued on January 19, 2000. (*OIGM Volume 9, Tab 89*)

## **3. Impacts on the social structure of the community.**

The Tribes believe that there will not be any impact on the social structure of the community that cannot be mitigated. The MRO did not conduct an independent analysis of impacts on the social structure. This review considers the following:

### **I. Economic Contribution of Workers**

The Town of Troy comments that minimum wage workers are not major contributors to the economic well-being of the community. (*Adm. Record, Binder 3, Tab 3, p. 3*) Six comments were received from the general public on the undesirability of the low wages associated with a track and casino. (*Adm. Record, Binder 5*)

## II. Crime

Hudson Police Dept. Crime & Arrests, (Cranmer 62a and 62b, (*Adm. Record, Binder 4, Tab 4*))

	1990	1991	1992	1993
Violent Crime	14	4	7	7
Property Crime	312	420	406	440

These statistics provided by Dr. Cranmer do not indicate a drastic increase in the rate of crime since the dog track opened on June 1, 1991. However, other studies and references show a correlation between casinos and crime. One public comment attached remarks by William Webster and William Sessions, former Directors of the Federal Bureau of Investigation, on the presence of organized crime in gambling. (George O. Hoel, 5/19/94, (*Adm. Record, Binder 5*)) Another public comment included an article from the *St. Paul Pioneer Press* with statistics relating to the issue. (Mike Morris, 3/28/94, (*Adm. Record, Binder 5*)) Additional specific data on crime are provided by LeRae D. Zahorski, 5/18/94, Barbara Smith Lobin, 7/14/94, and Joe and Sylvia Harwell 3/1/94. (*Adm. Record, Binder 5*) Additional public comments and comments on the EA express concern with the crime impact of a casino. (*Adm. Record, Binder 5*)

## III. Harm to Area Businesses

### A. Wage Level

The Town of Troy says that workers are unavailable locally at minimum wage. (*Adm. Record, Binder 3, Tab 3, p. 3*)

### B. Spending Patterns

One public comment concerns gambling diverting discretionary spending away from local businesses. (Dean M. Erickson, 6/14/94) Another public comment states that everyone should be able to offer gambling, not just Indians. (Stewart C. Mills, 9/26/94 (*Adm. Record, Binder 5*))

### C. Other Casinos of Nearby Indian Tribes

The Chief Financial Officer of the St. Croix Tribe projects a decrease of Tribal earnings from \$25 million in 1995 to \$12 million after a casino at Hudson is established. A reduction of that amount could cause the Tribe to re-order its spending plans. (*See Consultation with Indian Tribes above.*)

The Ho-Chunk Nation submitted comments on the impact of the proposed casino on Ho-Chunk gaming operations in Black River Falls, Wisconsin, 116 miles from the proposed trust acquisition. The analysis was based on a customer survey and indicated a minimum loss of 12.5% of patron dollars.

The Arthur Andersen study estimates there will be a short-term growth of \$25 million in the overall market with the introduction of a new casino. This study also estimates that some decreases in revenues may occur for nearby Indian casinos. The study also projects continued growth in the market which will cause those revenues to return to the current levels within a short time, e.g., two years for the Prairie Island and Shakopee tribal casinos and approximately 6 years for the Mille Lacs tribal casino. From this study, the likelihood that the short-term decrease in gaming revenues for nearby Indian tribes will significantly and adversely impact the tribal services, programs and community appears to be minimal.

#### IV. Property Values

An opponent asserts that a Hudson casino will decrease property values. He notes that purchase options were extended to adjacent property owners before the construction of the dog track. (*Adm. Record, Binder 6, Tab 4, p. 33*)

A letter from Nancy Bieraugel, 1/19/94, (*Adm. Record, Binder 5*) states that she would never choose to live near a casino. Another letter, Thomas Forseth, 5/23/94, (*Adm. Record, Binder 5*) comments that he and his family live in Hudson because of its small-town atmosphere. Sharon K. Kinkead, 1/24/94, (*Adm. Record, Binder 5*) states that she moved to Hudson to seek a quiet country life style. Sheryl D. Lindholm, 1/20/94, (*Adm. Record, Binder 5*) says that Hudson is a healthy cultural- and family-oriented community. She points out several cultural and scenic facilities that she believes are incompatible with a dog track and casino operations. Additional letters of comment from the public and in comments on the EA show concern for the impact of a casino on the quality of life in a small, family-oriented town. (*Adm. Record, Binder V*)(*OIGM Volume 9, Tab 89*)

#### V. Housing costs will increase

Housing vacancy rates in Troy and Hudson are quite low (3.8% in 1990). Competition for moderate income housing can be expected to cause a rise in rental rates. A local housing shortage will require that most workers commute. (*Adm. Record, Binder 3, Tab 2, p. 3 & Tab 3, p. 4*) Even if all 1,100 employees were to move to the county, it would represent only 1.9% of the total population in St. Croix County. Within a 21-mile radius of Hudson, there were 1,389 single-family homes and 326 town homes/condominiums for sale. New housing starts and existing available homes will provide adequate housing for a potential increase of residents in the area. (*OIGM Volume 9, Tab 89*)

#### VI. St. Croix River

The St. Croix River is approximately 4,000 feet from the trust parcel. Citizen concerns that boat traffic will increase and zebra mussels will invade are not supported by the evidence. Marina capacity along the river is not capable of handling any significant increase in river traffic, and expansion of the boat handling capacity would be subject to the Wild and Scenic Rivers Act. No transportation is available or planned between the marinas and the casino. Zebra mussels have not infested the lower St. Croix. Any infestation would have to come from the Mississippi River 16.5 miles to the south. (*OIGM Volume 9, Tab 89*)

**Summary:** The impacts above, except crime, are associated with economic activity in general, and are not found significant for the proposed casino. The impact of crime has been adequately mitigated in the Agreement for Government Services by the promised addition of police.

#### **4. Impacts on the infrastructure.**

The Tribes project average daily attendance at the proposed casino at 1,800 to 8,900 people, and the casino is expected to attract an average daily traffic flow of about 5,100 vehicles. Projected permanent employment is 1,100, and the casino is expected to operate 24 hours per day. (*OIGM Volume 9, Tab 89*) Estimates in other comments are higher. An opponent of this proposed action estimates that, if a casino at Hudson follows the pattern of the Minnesota casinos, an average of 10 to 30 times more people will attend the casino than currently attend the dog track. (*Adm. Record, Binder 4, Tab 4, pp.33 & 34*) Attendance, vehicles, employment, and hours of operation projected for the casino greatly exceed those for the present dog track, and indicate the possibility of some impact on the environment.

##### **I. Utilities**

St. Croix County states that there is adequate capacity for water, waste water treatment, and transportation. Gas, electric, and telephone services are not addressed. (*Adm. Record, Binder 3, Tab 1*) Northern States Power provides gas and electric service. Ameritech provides telecommunications service. Both have adequate capacity. (*OIGM Volume 9, Tab 89*)

##### **II. Zoning**

According to the City of Hudson, most of the proposed trust site is zoned "general commercial district" (B-2) for the principal structure and ancillary track, kennel and parking facilities. Six acres of R-1 zoned land (residential) no longer will be subject to Hudson zoning if the proposed land is taken into trust. (*Adm. Record, Binder 3, Tab 1, p. 4*)

One public comment expresses concern for the loss of local control over the land after it has been placed in trust. (Jeff Zais, 1/19/94 (*Adm. Record, Binder 5*))

##### **III. Water**

The City of Hudson says that water trunk mains and storage facilities are adequate for the casino development and ancillary developments that are expected to occur south of I-94. (*Adm. Record, Binder 3, Tab 1, p. 3*) The City of Hudson uses ground water from five water wells. Another well is proposed east of a quarry that is adjacent to the project site. St. Croix Meadows currently uses 21,000 gallons per day. The City of Hudson wastewater treatment capacity was expanded from 1.1 million gallons per day to 2.2 MGD in March 2000. (*OIGM Volume 9, Tab 89*) The St. Croix River, designated as a national Scenic Riverway, is approximately 4,000 feet west of the proposed Trust boundary, and the entire project area is located outside the St. Croix River corridor. The site occurs outside the 100-year flood plain of the St. Croix River. (*OIGM Volume 9, Tab 89*)

#### IV. Sewer and storm drainage

The City of Hudson and St. Croix County state that sanitary trunk sewer mains are adequately sized for the casino. (*Adm. Record, Binder 3, Tab 1, p. 2 & Tab 2, p. 1*) The City of Hudson states that trunk storm sewer system will accommodate the development of the casino/track facility. (*Adm. Record, Binder 3, Tab 1, p. 3*) An existing storm water collection system collects storm water runoff and directs it toward a retention pond located near the southwest corner of the parking area. (*Adm. Record, Binder 4, Tab 4, pp. 7 and 8*) When the pond reaches capacity, excess water is pumped into an existing storm sewer system. (*OIGM Volume 9, Tab 89*) Overflow from the casino would flow into the St. Croix River only under high water conditions where the combined community flow exceeded county and city capacity. (*OIGM Volume 9, Tab 89*)

#### V. Traffic and Air Quality

The current access to the dog track is at three intersections of the parking lot perimeter road and Carmichael Road. Carmichael Road intersects Interstate 94. The 1988 EA says that the proposed access to the dog track would be from Carmichael Road, a fact which seems to have occurred. (*Adm. Record, Binder 4, Tab 4, pp. 18 and 19*)

##### A. Traffic Impact Analysis

The Tribes project that the average number of daily trips associated with the casino is 5,100 with a minimum of 1,800 occurring on Monday and a maximum of 8,900 occurring on Sunday. (*OIGM Volume 9, Tab 89*)

An Amendment to the original Traffic Study indicates that the Carmichael Road/Crestview Drive intersection will fail by the year 2020 under all conditions of expected development. The Casino project will not cause the failure. (*OIGM Volume 9, Tab 89*)

The Hudson Medical Center is proposed just east of the Carmichael/Crestview intersection. The key intersections should be adequate. (*OIGM Volume 9, Tab 89*)

Pedestrian safety between the YMCA camp and proposed schools to the east of the camp is impacted by traffic along C.T.H.F. Casino traffic will increase along that section of the road by only about 35 vehicles per hour. Safety considerations likely will prevent children from walking across or along the road under any current or future usage. (*OIGM Volume 9, Tab 89*)

Some turn lane additions at the critical Carmichael/Crestview intersection would prevent failure. The estimated cost of these improvements is less than \$100,000, an amount that is well within the payments under the AGS. (*OIGM Volume 9, Tab 89*)

##### B. Air Resources

St. Croix Meadows was issued an indirect source air permit, dated July 8, 1991, from the Wisconsin Department of Natural Resources (WDNR). Air monitoring stations were installed on the parking lot and the I-94 interchange. Monitoring was discontinued

at both stations with the approval of WDNR due to low readings. (*OIGM Volume 9, Tab 89*) While incremental emissions from casino traffic are negligible, development projections predict that CO standards for all scenarios of the Stageline Road development will be exceeded. (*OIGM Volume 9, Tab 89*)

**VI. Signage and Exterior Illumination**

Changes to current signs will be in character in terms of size, height, and illumination with other comparable commercial signage that already exists in the Carmichael Road corridor. Lighting in the parking areas, which will be on fee land under the jurisdiction of local government, will not be changed. New lighting will be limited to that which is necessary to guide visitors to the facility. The Tribes have agreed that signs and lighting at the casino will be in accordance with the same laws, ordinances and codes as would apply to any comparable commercial structure. (*OIGM Volume 9, Tab 89*)

**VII. Noise**

A noise survey was prepared as part of the 1988 EA. In addition, a noise analysis was completed for the proposed action. (*OIGM Volume 9, Tab 89*) The results indicate that noise impacts from increased traffic will not have a significant impact to the adjacent properties. (*OIGM Volume 9, Tab 89*)

**Summary:** The evidence indicates that there will be no significant impacts on the infrastructure.

**5. Impact on the land use patterns of the surrounding community.**

The City of Hudson does not mention any land use pattern impacts. (*Adm. Record, Binder 3, Tab 1, p. 4*)

St. Croix County says, "...it is expected that there will be some ancillary development. This is planned for within the City of Hudson in the immediate area of the casino." (*Adm. Record, Binder 3, Tab 2, p. 3*)

The Town of Troy is concerned about losing its rural character. The primary development pressure comes from the City of Hudson's strong growth. The change in the nature of the gaming at the casino will have little effect on the growth pressures on the Town of Troy. (*OIGM Volume 9, Tab 89*)

The proposed casino is consistent with the zoning and surrounding land uses. The site currently is zoned for, and used for, gaming which is classified as class III in IGRA. (*OIGM Volume 9, Tab 89*)

An elementary school and a middle school near the Casino have been proposed, but they have not been approved by the school board or the City of Hudson. The proposed schools would be separated from the casino site by a road, an abandoned railway, and a strip of land zoned for single-family housing. The casino would not impact the schools or the schools' ability for joint learning activities with the YMCA camp. (*OIGM Volume 9, Tab 89*)

**Summary:** The City of Hudson, Town of Troy, and St. Croix County control actual land use pattern changes in the surrounding area. There are no significant impacts that cannot be mitigated by the locally elected governments.

**6. Impact on income and employment in the surrounding community.**

The Tribes' study projects \$42.7 million in purchases annually by the casino/track from Wisconsin suppliers. Using the multipliers developed for Wisconsin by the Bureau of Economic Analysis of the U.S. Department of Commerce, these purchases will generate added earnings of \$18.1 million and 1,091 jobs in the state. The total direct and indirect number of jobs is projected at 2,691. Of the current employees of the dog track, 42% live in Hudson, 24% in River Falls, 5% in Baldwin, and 4% in New Richmond. (*Adm. Record, Binder 1, Tab 5, p. 12*) St. Croix County states that direct casino employment is expected to be about 1,500. The proposed casino would be the largest employer in St. Croix County. All existing employees would be offered re-employment at current wage rates. (*Adm. Record, Binder 3, Tab 2, p. 4*)

Three public comments say that Hudson does not need the economic support of gambling. (Tom Irwin, 1/24/94, Betty and Earl Goodwin, 1/19/94, and Steve and Samantha Swank, 3/1/94, (*Adm. Record, Binder 5*))

The Town of Troy states that "an over supply of jobs tends to drive cost paid per hourly wage down, thus attracting a lower level of wage earner into the area, thus affecting the high standard of living this area is now noted for." (*Adm. Record, Binder 3, Tab 3, p. 4*)

**Summary:** The impacts on income and employment in the community are not significant, and are generally expected to be positive by the Tribes and local governments.

**7. Additional and existing services required or impacts, costs of additional services to be supplied by the community and source of revenue for doing so.**

The Tribes entered an Agreement for Government Services with the City of Hudson and St. Croix County for "general government services, public safety such as police, fire, ambulance, emergency medical and rescue services, and public works in the same manner and at the same level of service afforded to residents and other commercial entities situated in the City and County, respectively." The Tribes agreed to pay \$1,150,000 in the initial year to be increased in subsequent years by 5% per year. The agreement will continue for as long as the land is held in trust, or until Class III gaming is no longer operated on the lands. (*Adm. Record, Binder 1, Tab 9*)

Projected payments in 2001 are as follows (*EA, 1-5*):

City of Hudson	\$523,798
Hudson School District	\$347,288
St. Croix County	<u>\$460,182</u>
Total	\$1,331,269

This payment is projected to be approximately five (5) times the amount of property taxes that would be assessed against the entire parcel based on the 1999 tax assessment.

The City of Hudson says that it anticipates that most emergency service calls relative to the proposed casino will be from nonresidents, and that user fees will cover operating costs. No major changes are foreseen in the fire protection services. The police department foresees a need to expand its force by five officers and one clerical employee. (*Adm. Record, Binder 1, Tab 9*)

St. Croix County anticipates that the proposed casino will require or generate the need for existing and additional services in many areas. The funding will be from the Agreement For Government Services. The parties have agreed that payments under that agreement will be sufficient to address the expected services costs associated with the proposed casino. (*Adm. Record, Binder 3, Tab 2*) The County has repudiated the agreement. However, the Tribes believe that the agreement is still in effect and in full force, and they will make all the payments as required by the Agreement. The County provides judicial services, while all other services are provided by the City of Hudson, which has reaffirmed the Agreement. (*OIGM Volume 9, Tab 89*)

The Town of Troy states that the additional public service costs required by a casino operation will be substantial to its residents. (*Adm. Record, Binder 3, Tab 3, p. 4*) Fire services are contracted from the Hudson Fire Department, which will receive funding from the Agreement for Government Services.

**Summary:** The impacts to services are mitigated by the Agreement for Government Services between the Tribes, the City of Hudson, and St. Croix County.

#### **8. Proposed programs, if any, for compulsive gamblers and source of funding.**

There is no compulsive gambler program in St. Croix County. There are six state-funded Compulsive Gambling Treatment Centers in Minnesota. (*Adm. Record, Binder 2, Tab 7, p. 38*)

The Town of Troy states that it will be required to make up the deficit for these required services, if such costs come from tax dollars. (*Adm. Record, Binder 3, Tab 3, p. 5*)

St. Croix County says it will develop appropriate treatment programs, if the need is demonstrated. (*Adm. Record, Binder 3, Tab 2, p. 5*)

The Tribes will address the compulsive and problem gambling concerns by providing information at the casino about the Wisconsin toll-free hot line for compulsive gamblers. The Tribes state that they will contribute money to local self-help programs for compulsive gamblers. (*Adm. Record, Binder 1, Tab 1, p. 12*)

Thirteen public comments were received concerning gambling addiction and its impact on morals and families. (*Adm. Record, Binder 5*)

**Summary:** The Tribes proposed support for the Wisconsin hot line and unspecified self-help programs is inadequate to mitigate the impacts of problem gambling.

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

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

**C. Determination**

Based on these findings, it has been determined that a gaming establishment on the Hudson property is in the best interest of the three Chippewa tribes and their members, and is not detrimental to the surrounding community.