Indian Affairs - Office of Public Affairs

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**WASHINGTON** – Assistant Secretary – Indian Affairs Carl J. Artman announced that the Bureau of Indian Affairs (BIA) has published final regulations in the Federal Register implementing Section 20 of the Indian Gaming Regulatory Act of 1988 (IGRA). IGRA contains a general prohibition against gaming on land acquired after October 17, 1988, the date the act was signed, which may be overcome if the land meets certain exceptions. The final rule incorporates suggestions received by the BIA through public comment and the tribal consultation process. The rule will become effective on June 19, 2008.

"I am pleased to announce the publication of the final rule implementing Section 20 of the Indian Gaming Regulatory Act," Artman said. "It establishes a formal process with clear standards for tribes to utilize when assessing the eligibility of a site for gaming and clarifies when a tribe may request an opinion from the Interior Department or the National Indian Gaming Commission."

Publication of the Section 20 rule caps a year-long effort by Assistant Secretary Artman to bring predictability, stability and accountability to the Indian gaming marketplace. It joins other tools he has used such as ordering the review of the Indian Reorganization Act fee-to-trust process (25 CFR Part 151) followed by the Indian Gaming Regulatory Act and issuance of a guidance memorandum on 151(11)(b) for off-reservation acquisitions related to gaming.

The new regulations articulate standards that the Department and NIGC will follow when interpreting Section 20 exceptions to the general prohibition against gaming on after-acquired trust lands and establishes an application process for tribes seeking to conduct gaming activities on lands acquired in trust by the Bureau after October 17, 1988.

Subpart A of the final rule defines key terms contained in Section 2719 or used in the regulation.

Subpart B delineates how the Department will interpret Section 2719(b)(1)(B)'s exceptions regarding: land acquired through settlement of a tribal land claim, the restoration of land for a tribe that has been restored to federal recognition, and the initial reservation of a tribe acknowledged through the Federal Acknowledgment Process.

Subpart C sets forth how the Department will evaluate tribal applications for a two-part Secretarial Determination under Section 2719, which provides an exception for gaming to occur on off-reservation trust lands if the Secretary, after consultation with appropriate state and local officials and officials of nearby tribes, determines that a gaming establishment would be in the best interest of the tribe and its members and would not be detrimental to the surrounding community. The regulation also sets forth how such consultation will be conducted, articulates the factors the Department will consider in making the two-part determination, and gives the governor of the state where the gaming activity is to take place up to one year, with an additional 180-day extension at either the governor's or applicant tribe's request, to concur in a Secretarial two-part determination.

Subpart D clarifies that the rule does not disturb existing written opinions made by the BIA or the NIGC.

The BIA first published proposed regulations to implement Section 20 on September 14, 2000. On January 28, 2002, the Bureau published a notice to correct the effective date section in the proposed rule. In March and April of 2006, the Department held a series of tribal consultation meetings on the development of proposed regulations to establish standards for implementing Section 2719. On October 5, 2006, the Bureau published a new proposed rule to address all exceptions contained in Section 2719 in order to explain to the public how the Department interprets these exceptions. On December 4, 2006, the Bureau published a notice to extend the comment period and make corrections concerning the new proposed rule. On January 17, 2007, the Bureau published a notice to reopen the comment period for the new proposed rule. The comments received in 2006 and 2007 were considered in the drafting of the final rule.

The BIA is the only federal agency authorized to acquire land into trust for the federally recognized tribes and to recommend approval of tribal applications under 25 CFR Part 151 and Section 20.

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