Indian Affairs - Office of Public Affairs

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MILWAUKEE, Wisconsin – Assistant Secretary for Indian Affairs Larry Echo Hawk today affirmed that the Department of the Interior will continue to pursue a balanced course on off-reservation gaming policy, taking into account the views and concerns of tribes, Federal, State and local elected officials and affected citizens. Echo Hawk spoke at a gathering of the National Congress of American Indians in Milwaukee, Wisconsin.

Echo Hawk announced to the audience of tribal leaders that on June 13, following extensive tribal consultations, he rescinded an 2008 memorandum that provided guidance on acquiring land in trust for gaming, Assistant Secretary Echo Hawk confirmed that the Department will move forward to process pending off-reservation gaming applications pursuant to current federal law and the Department's existing regulations, which set forth a number of criteria that must be met before off-reservation gaming can be approved.

"Our balanced and considered approach to reviewing off-reservation gaming applications was affirmed during deliberate consultation with tribal leaders," Echo Hawk said. "The 2008 guidance memorandum was unnecessary and was issued without the benefit of tribal consultation. We will proceed to process off-reservation gaming applications in a transparent manner, consistent with existing law."

On June 18, 2010, Secretary Salazar issued a memorandum to Echo Hawk recommending that he undertake a thorough review of issues, guidance, and regulatory standards relating to off-reservation gaming, and in consultation with tribal leaders.

The Assistant Secretary held six consultation sessions with tribal leaders from around the United States, from September through December 2010. The Department received hundreds written and oral comments from tribal leaders on the off reservation gaming policy. Following the consultation sessions, Assistant Secretary Echo Hawk conducted a thorough review of the comments received, as well as of existing policies and regulations.

In his June 13th memorandum, the Assistant Secretary stated, "I find that the Department's regulations governing off-reservation gaming acquisitions adequately provide standards for evaluating such acquisitions and, consequently, that the 2008 Guidance Memorandum's interpretation of our fee-to-trust regulations is unnecessary." Under the Indian Gaming Regulatory Act (IGRA) and the Department's existing regulations, Indian tribes must satisfy three independent and distinct requirements in order to operate an off-reservation gaming facility.

One requirement is the tribe generally must have land acquired in trust by the Department for the benefit of the tribe. In addition, the tribe must receive a positive determination from the Department that off-reservation gaming is in the best interest of the tribe and is not detrimental to the surrounding community. The tribe also must have the concurrence from the Governor of the state in which the gaming facility would be located (the "two-part" test). Public comment is sought and considered during this process, and local communities have several meaningful opportunities to provide input on a tribe's application for off-reservation gaming, as well as for the acquisition of land into trust on behalf of a

tribe. Finally, the tribe must enter into a tribal-state gaming compact to govern the conduct of gaming at the proposed facility. Many states require gaming compacts to be approved by the state legislature.

In the twenty-three years since IGRA's enactment, only five tribes have gained approval to undertake off-reservation gaming.
