

SEP 30 1994

**Memorandum**

**To:** Assistant Secretary - Indian Affairs

**From:** ~~Acting~~ Deputy Commissioner of Indian Affairs Patrick A. Hayes

**Subject:** Request by the Sisseton-Wahpeton Sioux Tribe, Lake Traverse Reservation, North and South Dakota, for Trust Acquisition of 143.13 Acres within its reservation in Richland County, North Dakota

The Aberdeen Area Director (Area Director) by memorandum dated July 7, 1994, transmitted to Central Office, along with his and the Sisseton Agency Superintendent's (Superintendent) positive recommendations, the request of the Sisseton-Wahpeton Sioux Tribe of the Lake Traverse Reservation in North and South Dakota (Tribe) to acquire fee property in trust. The request and the supporting documentation were transmitted by the Area Director to the Central Office in accordance with the July 19, 1990, Secretarial directive. The July 19, 1990, directive requires that all requests for the tribes to acquire land in trust for gaming purposes shall be approved or disapproved by Central Office.

The purpose of the acquisition is intended for a gaming facility; consequently, the acquisition documents were referred to the Indian Gaming Management Staff (IGMS) Office at Central Office and at Lakewood for review on July 12, 1994. The IGMS has now completed a review of the request and the supporting documentation. This memorandum documents IGMS's findings of the transaction's compliance of the trust land acquisition regulations, 25 CFR Part 151; as well as the gaming requirements of Section 20 of the Indian Gaming Regulation Act (IGRA).

**ADDITIONAL DOCUMENTATION REQUIRED**

On July 15, 1994, a note (Vol. I, Tab 10, 1) was faxed to the Aberdeen Area Office Gaming Liaison (Area Liaison) for clarification of the following:

1. proof of publication of the FONSI;
2. documentation of tribal organization;
3. property appraisal needed because of use of abstract of title document

The Area Liaison responded on July 19, 1994, with additional information.

On July 25, 1994, a note (Vol. I, Tab 10, 3) was faxed to the Area Liaison for additional information regarding factors listed at 151.10. The Office of the Area Director responded (Vol. II, Tab 18) on August 11, 1994, with the additional information.

Other required data was requested, fax or phone, by IGMS personnel to the Tribe's legal counsel or representatives. It was verified by telecon with the Area Liaison that the Tribe's application consisted of:

- 1) letter from Arnold R. Ryan, Tribal Chairman (Chairman), (Vol. I, Tab 2, Part (1));
- 2) Environmental Assessment (Vol. I, Tab 2, Part (2), 2G); and,
- 3) Tribe's resolution (Vol. I, Tab 2, 2A).

These documents plus a memorandum dated June 20, 1994, from the Chairman to the Aberdeen Natural Resources (Vol. I, Tab 2, 2G, inserted #26) appear to be the only documents within the initial transmittal that are from the Tribe. The responses to the acquisition and gaming regulations are totally Sisseton Agency Superintendent (Superintendent) or the Area Director without factual data supplied. The IGMS personnel requested that the Tribe provide information addressing the need and use of the property to be acquired in trust. Also, requests were made for verification of confirmation of emergency services to the proposed facility by the local suppliers.

Upon receipt of the additional requested information, the IGMS personnel completed the review of the transmitted documentation. Therefore, included with the findings, are the conclusions and recommendations concerning IGMS's recommendation to approve or disapprove the acquisition in trust for gaming purposes.

### ***I. PROPERTY TO BE ACQUIRED***

The land proposed for trust acquisition is located along the North Dakota-South Dakota state line, in Richland County, North Dakota. The property consists of a parcel of land described as:

**Section 19, Township 129 North, Range 49 West of the Fifth Principal Meridian, Lake Traverse Lands, consisting of 143.13 acres, more particularly described as Government Lots Numbered One (1) and Two (2) and the Southeast Quarter of Southwest Quarter (SE $\frac{1}{4}$  of SW $\frac{1}{4}$ ).**

The property is referred to as consisting of 143.13 acres which apparently is not taking into consideration the 21.20 acres sold in a Warranty Deed dated April 18, 1973, to the State of North Dakota which is described by metes and bounds in said deed. There are several easements and rights-of-way on the property which will probably require future monitoring. If the request is approved, the legal description of the property which is requested in trust will need to be clarified on the conveyance document.

The City of Wahpeton, North Dakota, the Richland County seat, with a population of 8,751 is located approximately 20 miles northeast of the project site. In May of 1993 approximately 357 businesses were recorded in the City. The Town of Hankinson, North Dakota is a smaller community within 10 miles of the site with a population of 1,038. (Vol. I, Tab 3).

The property was formerly used for agricultural purposes. The site is divided into two distinct parts by the Interstate Highway No. 29. There are several dilapidated structures on the eastern portion of the site, including a house, barn and several agricultural outbuildings. Small wooded areas served as windbreaks for the building complex. Two water wells are near the buildings. The remainder of the eastern portion and the entire western portion of the site consists of agricultural fields. (Vol. I, Tab 2, 2G, pp. 1 & 4).

The Lake Traverse Reservation is located in northeast South Dakota in five (5) counties and in North Dakota in two (2) counties. The Reservation is checker-board with fee property. The property to be acquired is located in Richland County which is within the Tribe's former reservation boundary in North Dakota. It is surrounded by fee land with non-Indian ownership. The property is well serviced by primary and farm-to-market roads and will have sufficient ingress and egress. (Vol. I, Tab 2, 2G, pp. 1, 2, 12).

## **II. TITLE TO THE PROPERTY**

The *abstract of title* lists title in the name of the Dean L. Ostby and Carmen L. Ostby, husband and wife. (Vol. I, Tab 2, Exhibit (1)). The initial transmission did not contain any documentation as to the details of the acquisition of the property by the Tribe.

In a telephone conversation between IGMS personnel and the tribal counsel on July 14, 1994, it was learned that the Tribe has entered into an option to purchase the property. The document consists of 30 pages and one page is shown in the Environmental Assessment (Vol. I, Tab 2, 2G, inserted #35). The monetary consideration shown in the document is \$5,000.00 per acre with adjustment for excluded area previously conveyed out of the 143.13 acres. In a more recent supplement to the Tribe's application (Vol. II, Tab 18, 5) the following is noted:

...in March 1994, the Tribe entered into an option agreement with Dean and Carmen Ostby to purchase the lands that are the subject of this application. The agreement contains confidential information that the Tribe and the Ostbys do not wish to disclose. In general, the agreement allows the Tribe to have the exclusive right to purchase the land for a fixed period of time at a specified per acre price. The Tribe exercised the option but any closure is contingent on the land being approved for trust status.

The Tribe submitted an *abstract of title* for the property and the Office of the Field Solicitor, Ft. Snelling, Minnesota (Solicitor) issued a preliminary title opinion at the request of the Area Director. (Vol. I, Tab 2, Part (8)). The amount of the stated consideration caused concern as to the Solicitor's delegated authority to review the *abstract of title*. The Solicitor's office on July 21, 1994, clarified that an *abstract of title* on property valued in excess of \$100,000.00 would require that the Department of the Justice review such abstract. The Solicitor's office declared that the review of the *abstract of title* without being aware of the value of the property is questionable because of that office's limited authority on abstract reviews.

In a telephone conversation with the Area Liaison on July 14, 1994, it was learned that a fair market value of the property was not initially acquired. The fair market value of the property was completed on July 19, 1994. (Vol. II, Tab 18, 8). The value of the property exceeds \$100,000. The Tribe has advised that they will purchase *title insurance* rather than use the *abstract of title* previously submitted. A preliminary title opinion on the title commitment was issued by the Office of the Solicitor, Ft. Snelling, Minnesota on September 13, 1994. (Vol. II, Tab 18, 6).

The preliminary title opinion from the Solicitor makes the following statement which we will need to clarify to the Area Director of his delegated authority on gaming acquisitions: "Approval of the proper deed by the Superintendent...." The authority to approve land acquisitions for gaming purposes was returned to the Central Office as set forth in former Secretary Lujan's directive dated July 19, 1990. The authority is then returned to the Area Director by a memorandum when an acquisition for gaming purposes is approved by the Assistant Secretary - Indian Affairs. Consequently, the signatory authority for the approval of an acquisition for gaming purposes is not authorized below the level of the Area Director.

### ***III. COMPLIANCE WITH LAND ACQUISITION REGULATIONS***

The factors on which the request was evaluated are outlined in 25 CFR 151.10, land acquisitions and discussed herein.

#### **25 CFR 151.3 Land Acquisition Policy.**

As a matter of policy, the Secretary may acquire land in trust for a tribe when the acquisition is found to be necessary to facilitate tribal self-determination, economic development or Indian housing, 25 CFR 151.3 (a)(3). The acquisition documents in this case clearly support a finding that the proposed acquisition of fee land in trust is necessary to enable the tribe to achieve self-determination and economic self-sufficiency through the gaming operation.

**A. 25 CFR 151.10(a) The existence of statutory authority for the acquisition and any limitations contained in such authority;**

The statutory authority for the Tribe to acquire land in trust is the Act of October 26, 1974, 88 Stat. 1468, as amended, P.L. 93-491. (Vol. 1, Tab 4.) The act states that the Secretary is authorized to acquire land within the boundaries of the Lake Traverse Reservation in North Dakota (and South Dakota) for the Tribe which will provide land for the improvement of the tribe's economy. When this act is used for such an acquisition, the title to the land shall be taken in the name of the *United States in Trust for the Sisseton and Wahpeton Sioux Tribe of Lake Traverse Reservation in North Dakota and South Dakota*. Any land taken in trust under this act is exempt from State and local taxation.

The Tribe is a federally recognized Indian tribe with its tribal headquarters located in Sisseton, South Dakota. The Tribe is organized under a constitution and by-laws adopted by the members of the Tribe as of August 2, 1966, and approved by the Commissioner of Indian Affairs, United States Department of the Interior, on August 25, 1966. (Vol. I, Tab 2, 2G, pg. 15).

On March 10, 1994, the Tribal Council enacted Resolution No. SWST-94-059 (Vol. I, Tab 2, 2A), requesting that the Secretary of the Interior place fee property in trust for a Class III gaming enterprise and other purposes. The property within the resolution is described as follows:

United States Government Lots One (1) and Two (2) and the Southeast Quarter of the Southwest Quarter (SE 1/4 SW 1/4) all in Section Nineteen (19), Township One Hundred Twenty-Nine (129) North, Range Forty-Nine (49), LAKE TRAVERSE LANDS, West of the Fifth Principal Meridian, according to the United States Government Survey thereof, subject to any highway deeds and rights of way of record.

The resolution does not authorize the Chairman to sign any documents, if this is needed to transfer the title to the United States of America. The resolution was adopted by a unanimous vote of all twelve members of the Council that were present (3 absent).

**B. 25 CFR 151.10(b) The need of the individual Indian or the tribe for additional land;**

The Tribe has an existing trust land base of 16,935.035 acres in North and South Dakota. All or part of 880 acres of land is held in trust for the Tribe in North Dakota. Only 440 acres of the land is owned solely by the Tribe; the remaining acres is undivided-interest ownership. (Vol. II, Tab 18, 5).

On December 9, 1992, the Tribe entered into a Class III Tribal-State Gaming Compact (Compact) with the State of North Dakota. The Compact was approved by the Assistant Secretary - Indian Affairs on January 25, 1993, and published in the Federal Register on

February 3, 1993. The gaming site in the Compact is only limited to land within the boundary of the Tribe's reservation in North Dakota.

The Tribe has assessed its present landholdings for a gaming site and it has determined that none of its lands is suitable for the gaming/hotel complex. The contour of the land, significant designated wetlands limiting development area; limited or no access to major roadway; ravines requiring substantial filling and grading; and, site not visible from a major state or federal roadway are compelling factors of the Tribe's assessment. Most of the Tribe's tracts are 40 acres which is too small for the planned complex and the larger tracts are heavily contoured and one is bisected by a substantial ravine. Id.

Each of the factors singly or in combination seriously and adversely impact the economic feasibility of using any of the Tribe's present land. The proposed acquisition is ideally situated to guarantee maximum profitability for the proposed casino operation. It is immediately adjacent to a major, heavily traveled interstate highway, can be easily and quickly accessed, requires limited site development, can be maintained and operated cost efficiently and has the fewest adverse environmental impacts. Id.

Although the Tribe has actively pursued economic development projects, such as Dakota Western Corporation which manufactures plastic gags, and a tribal gaming facility near Watertown, South Dakota, this current venture will assist them in meeting the needs of its members. Even though the Tribe employs almost 900 persons in the Day, Marshall and Roberts Counties in South Dakota, members still have to leave the reservation to seek employment opportunities. (Vol. I, Tab 2, 2G, pg. 14).

According to the most recent (December 1993) Bureau of Indian Affairs Report on Service Population and Labor Force, 3,075 Indians reside on the Lake Traverse Reservation. Although over 93 percent of those employed had incomes over \$7,000 per year, most incomes were not over \$15,000. The per capita income of the Reservation's three primary counties was less than \$9,000 annually. These figures help explain why over 63 percent of the Indian population on the reservation is still considered to be in poverty according to the 1990 census. In addition, almost 59 percent of the Indian families on the reservation were also reported to be in poverty. This land in trust will enable the Tribe to build a gaming facility which will have the potential for the needed employment for its members. (Vol. II, Tab 18, 5).

Initially, there will be 600 jobs at the North Dakota casino. However, not all the 538 persons who are unemployed will be interested in those jobs. Hence, the need for diversification. The Tribe also expects some members who are currently living elsewhere in the country to return to the reservation for those casino jobs and employment in other businesses that will serve and support the casino. The proposed casino will also provide a significant number of professional jobs and average salaries will be almost double the current per capita income in the reservation's three primary counties. Id.

The Tribe, like many other Indian tribes, has determined that the economic potential of a gaming operation will provide the needed revenues to enable the tribe achieve its goals. The property is within the Tribe's reservation, clearly visible and will have access to a major interstate highway. These characteristics are important factors which enhance the potential for success and makes this site a choice location for the Tribe's proposal.

The need for additional land is shown to be adequately justified; the acquisition of this property in trust is needed to facilitate the development of the gaming facility as an economic development activity.

**C. 151.10(c) The purposes for which the land will be used;**

The Tribe intends to use this land as the site on which the Dakota Magic Casino, a tribal gaming facility, will be built. The planned gaming facility will consist of a structure of approximately 60,361 square feet housing a 22,000 square feet gaming floor, approximately 15,000 square feet of food service, food court, kitchen and storage; 3,000 square feet of retail gift shop; and approximately 6,000 square feet of bingo/entertainment area. Customer and employee parking will be designed to accommodate 1,200 cars and 50 buses and/or recreational vehicles. The RV park will be designed to accommodate 150 recreational vehicles. The motel/hotel is anticipated to have a capacity of 150 rooms. (Vol. I, Tab. 2, 2G, pg. 18).

The planned facility will be constructed on a 120-acre parcel with most, if not all construction on the east side of Interstate Highway No. 79. It is anticipated that approximately 1,600 customers will visit the new facility each day. Construction of the planned casino facility is anticipated to create approximately 75 temporary construction jobs. In addition, approximately 400-500 full time jobs are expected to be created by the new casino, RV park, and motel operations. (Vol. I, Tab 2, 2G, pg. 1).

In a telephone conversation between Lakewood Field Office staff (Lakewood) and the tribal counsel on July 18, 1994, it was learned that the Tribe has entered into a management contract with Casino Magic Corporation (Contractor). The Contractor has its headquarters in Bay St. Louis, Mississippi. It has two riverboat casinos in Mississippi and also a casino in the country of Greece. The management contract has been submitted to the National Indian Gaming Commission. (Vol. II, Tab 18, 5.) Casino Magic entered into the contract with the Tribe based on the Tribe securing the right to engage in gaming on the proposed site in trust. Casino Magic also assessed the feasibility and profitability of potential sites and concluded that the site under consideration would be the most feasible and profitable. Id.

The Tribe is authorized to engage in Class III gaming pursuant to a Tribal-State Compact executed between the Tribe and the State. The Compact was approved by the Assistant Secretary - Indian Affairs on January 25, 1993, and published in the Federal Register on February 3, 1993. The Compact is not site specific and allows for the gaming establishment to be on any land in the Tribe's reservation in North Dakota.

**D. 25 CFR 151.10(e) If the land to be acquired is in unrestricted fee status, the impact on the State and its political subdivisions resulting from the removal of the land from the tax rolls;**

As a general policy matter, the BIA provides a notice with a 30-day comment period to the state and local governments of any proposal to remove fee land from the tax rolls of the particular state or local government. The notice seeks information on the annual amount of taxes assessed against the property, other assessments, services provided and zoning matters and any comments on any adverse impacts. This notice was provided by the Superintendent on April 7, 1994, to Greendale Township and the Richland County Commissioners. On July 1, 1994, the Area Director provided the notice to the Governor of the State of North Dakota.

The Governor of the State of North Dakota, Edward T. Schafer, responded on July 29, 1994. His letter reaffirmed the response by Richland County. The real estate taxes on the property have been \$1,184.56 in previous years with a special assessment of \$60.45 for drain maintenance in 1993. Services provided to the property include law enforcement, fire, ambulance, school, social services, etc. Governor Schafer stated that he does not object to the casino on the property. He reaffirms the gaming compact between the State and Tribe. His concerns were of the impact that the casino may have on the local infrastructure and people in the area. (Vol. II, Tab 18, 1, 2, 3, 4).

Letters received in support of the Tribe's proposal include the following businesses in the area:

Peoples State Bank  
Lincoln State Bank, President  
Lincoln State Bank, AVP  
Lincoln State Bank, Vice President  
Interstate Engineering, Inc.  
Wahpeton City Hall, Mayor  
Wahpeton Chamber of Commerce  
Community Development Corp. of Wahpeton  
Ackerman Land Surveying

A letter has been received from the Hankinson Volunteer Ambulance Service stating that their facility has the required personnel, technicians, training and equipment to serve the emergency needs of the Casino and its patrons in providing on-call emergency medical assistance. (Vol. I, Tab 13). The Hankinson Volunteer Fire Department has confirmed its willingness and ability to provide services on a 24-hour basis for the proposed facility. (Vol. I, Tab 15).

It is fair to say that the letters received from political/governmental officials indicate support and anticipation for the casino because of the benefits it is expected to bring. The consequences of removing the land from the county tax roll appears to be a minor consideration which is expected to be offset by the projected revenues and benefits expected from the casino.

**E. 25 CFR 151.10(f) Jurisdictional problems and potential conflicts of land use which may arise;**

Any jurisdictional problems and related conflicts are expected to be addressed by the Tribe and the State pursuant to the Compact. (Vol. II, Tab 20). The Compact properly allocates criminal jurisdiction, as allowed by Section 11(d)(3)(C)(ii) of the IGRA, between the State and the Tribe. The State is authorized to exercise criminal jurisdiction over non-Indians in situations where jurisdiction is not exclusive to the Federal Government or the Tribe pursuant to 18 U.S.C. 1166.

The property is located within the former exterior boundaries of the Lake Traverse Reservation, North Dakota; consequently, the Area Director states there should not be jurisdictional problems. (Vol. I, Tab 1).

**F. 25 CFR 151.10(g) If the land to be acquired is in fee status, whether the BIA is equipped to discharge the additional responsibilities resulting from the acquisition of the land in trust status.**

It is the determination of the Area Director that because the property is located within the recognized boundaries of an existing reservation the BIA is already providing services, no additional problems are anticipated at this time. (See Vol. I, Tab 1). In further review of the ability of the BIA to provide services to the proposed site, an additional statement was provided by the Area Director on August 11, 1994 (Vol. II, Tab 18). The transaction would increase the total acreage under trust within the BIA Sisseton Agency's jurisdiction from 106,222 acres to 106,365.13 acres. This represents a 0.13% increase. Existing service structures presently in place within the Agency and Area Offices can and will accommodate this increase. The impact this acreage would have would be even more minimal considering the fact that law enforcement services at Sisseton are contracted to the Tribe. Revenues generated from the proposed facility would be used to support and supplement these services. *Id.*

It is concluded that the Area Director has sufficiently addressed the required services of the acquisition and has determined that his staff can discharge the additional responsibilities.

## ***II. NATIONAL ENVIRONMENTAL POLICY ACT (NEPA)***

The requirements of NEPA, P.L. 91-190, 83 Stat. 852, January 1, 1970, have been satisfied. The documentation in support of the acquisition includes a Finding of No Significant Impact (FONSI), (Vol. 2, 16B), which was reviewed by the Aberdeen Area Office and the IGMS Office and was signed by the Area Director on September 2, 1994, as a result of the findings of an Environmental Assessment (EA) which had been made of the property. The EA had been prepared by Braun Intertec Corporation, of Chicago, Illinois. The Notice of Availability of the FONSI was published in the Wahpeton, North Dakota newspaper The Daily News on September 6, 1994. (Vol. I, 6A).

### ***III. HAZARDOUS SUBSTANCES DETERMINATION***

A Level I Hazardous Waste Survey of the proposed site was conducted by Braun Intertec Corporation, of Chicago, on March 16-17, 1994, and August 1, 1994. The findings of that survey (Project #CKEX-94-602B) were presented in the form a written report in August of 1994 (Vol. 2, 16A). The review of the Survey disclosed no records or on-site observations of environmental concerns, or of violations of environmental laws or regulations.

### ***IV. OTHER CONSULTATION/REQUIREMENTS***

In addition to showing compliance with NEPA, the documentation supports a finding of compliance with other related environmental laws and regulations. The compliance with such requirements has been acknowledged in conclusions and/or clearances which have been provided by key or authorizing governmental agencies, and which are noted in detail in appendices and elsewhere in the body of this submission. Archaeological matters were discussed in a cultural resources report, (Vol. 2, 17), which was prepared in August, 1994. The Environmental Assessment (Vol. 2, 16B), dated August 1994 discussed air quality, prime and unique farmlands, floodplains, Native American religious concerns, threatened or endangered species, water quality, wetlands, and wild and scenic rivers. Hazardous wastes were discussed in a Level 1 Hazardous Waste Survey (Vol. 2, 16A) dated August, 1994. Area of Critical Environmental Concern, and Wilderness Areas, were discussed in a supplement, dated August 30, 1994, to the Environmental Assessment. The supplement also clarified matters regarding wetlands, flooding, and "No-action Alternative" issues.

### ***V. AREA DIRECTOR RECOMMENDATION***

The Area Director states that "Based upon the Sisseton-Wahpeton Sioux Tribe's application and supporting documentation, the local Agency Superintendent's review and recommendation to approve and the review and recommendations of the staff of the Aberdeen Area Office I recommend that the Assistant Secretary - Indian Affairs authorize me to approve the application as enclosed and place the subject land in trust status on behalf of the Sisseton-Wahpeton Sioux Tribe to be used for gaming purposes." (Vol. I, Tab 1.) The recommendation is based upon the Area Director's opinion that the requirements of the land acquisition regulations, Section 20 of the IGRA and environmental compliance have been satisfied.

### ***VI. INDIAN GAMING REGULATORY ACT (IGRA)***

The proposed acquisition will be used for the location of a gaming facility. The Tribe intends to conduct Class II and Class III gaming activities at the facility, subject to the terms of the Compact and the management contract and pursuant to the regulations of the National Indian Gaming Commission.

Section 20 generally prohibits gaming on lands acquired in trust after October 17, 1988, the date the IGRA was enacted, 25 U.S.C. § 2719, unless one of several exceptions applies to the land. (Vol. II, Tab 21.) One such exception permits gaming when the newly acquired lands are located within the Indian tribe's last recognized reservation within the State which such Indian tribe is presently located ~~IF~~ the tribe had no reservation on October 17, 1988. The Tribe had no reservation on October 17, 1988, because that reservation had been disestablished by the Act of March 3, 1891, according to the Supreme Court in DeCoteau v. District County Court, 420 U.S. 425 (1975).

In an opinion dated July 6, 1994, the Office of the Field Solicitor in Ft. Snelling, Minnesota concluded that the land proposed for trust conveyance comes within the exception noted at 25 U.S.C. § 2719 (a)(2)(B) which states:

"(a) Except as provided in subsection (b) of this section, gaming regulated by this chapter shall not be conducted on lands acquired by the Secretary in trust for the benefit of an Indian tribe after October 17, 1988, unless-

(2) the Indian tribe has no reservation on October 17, 1988, and-

(B) such lands are located in a State other than Oklahoma and are within the Indian tribe's last recognized reservation within the State or States within which such Indian tribes is presently located.

The Sisseton-Wahpeton Tribe did not have a reservation on October 17, 1988, since its reservation has been terminated. However, the proposed acquisition is with the exterior boundaries of the reservation as created by the Treaty of February 19, 1867, which is the Tribe's last recognized reservation in one of the states, North Dakota, within which the Tribe is currently located. Therefore, I believe that this proposed acquisition is covered by the exception contained in 25 U.S.C. § 2719 (a)(2)(B)."

Accordingly, this property may be conveyed to trust status as it is within the boundary of the Tribe's former reservation, the Tribe had no reservation on October 17, 1988, and it is in one of the states of the Tribe's last recognized reservation.

## **VII. RECOMMENDATION**

In the conclusion of the review, we find that the federal requirements for acquiring land in trust for gaming purposes has been satisfied by the Aberdeen Area Office and the Sisseton-Wahpeton Tribe. It is the recommendation of this office that the property be taken in trust for the benefit of the Tribe. We recommend that the Area Director be authorized to approve the conveyance document accepting the property in trust for the Tribe subject to any conditions we have set forth and all title requirements having been satisfactorily approved by the Office of the Solicitor in Ft. Snelling, Minnesota.

If you concur with our recommendation to approve the trust acquisition, we have attached for your signature a memorandum to the Area Director authorizing him to proceed with the conveyance to *United States in trust for the Sisseton and Wahpeton Sioux Tribe of Lake Traverse Reservation in North Dakota and South Dakota*, subject to satisfaction of all title requirements pursuant to 25 CFR 151.12.

Attachment