

CAYUGA NATION

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VIA FACSIMILE AND FEDERAL EXPRESS

April 14, 2005

Franklin Keel, Regional Director
Eastern Regional Office
Bureau of Indian Affairs
711 Stewarts Ferry Pike
Nashville, TN 37214

**Re: The Cayuga Indian Nation of New York Application to
Take Lands in Trust**

Dear Mr. Keel:

As the recognized Bureau of Indian Affairs ("BLA") representative of The Cayuga Indian Nation of New York ("Nation") and pursuant to 25 U.S.C. Section 465 and Title 25 of the Code of Federal Regulations, Part 151, I hereby submit the enclosed application requesting that land owned by the Nation be taken in trust by the United States for the Nation's use and benefit.

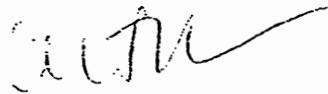
All of the land subject to this application is Indian land under the definition contained in 25 C.F.R. § 150.2(h); i.e., the land is held by and titled in fee to the Nation and is within the reservation acknowledged by the 1794 Treaty of Canandaigua. For the reasons set forth in and supported by the application, the Nation respectfully requests that the land described in the application be taken in trust.

Also enclosed are three additional sets of the application.

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Do not hesitate to call if you have any questions or require additional information.

Very truly yours,



Clint Halftown

cc: Betty Radford
Daniel J. French, Esq.
Lee Alcott, Esq.

Enclosures

**APPLICATION OF THE CAYUGA INDIAN NATION OF NEW YORK
REQUESTING THAT LAND BE TAKEN IN TRUST**

A. Introduction

The Cayuga Indian Nation of New York ("Nation") hereby requests that title to the approximately 125.5 acres of land described in this application (collectively, "Property") be taken into trust status for the Nation. The Nation obtained the Property by deeds in April and October 2003 and February and March 2005. The largest parcel of the Property, consisting of approximately 108 acres, is currently vacant and the remaining smaller parcels are improved by two gas stations, a car wash, gaming facilities and a campground.

B. Identity of Parties, Description of Land

The Property is currently owned in fee by the Nation and is located in the counties of Cayuga and Seneca, State of New York. The Property is specifically described in the deeds attached hereto and incorporated herein as Exhibit A and is briefly described as follows:

1. Deed from B. E. P. Properties, Inc. to the Nation dated March 2, 2005 and recorded in the Cayuga County Clerk's Office on March 3, 2005 in Book 1208 of Deeds at page 236 consists of approximately 108 acres of vacant land;
2. Deed from B. E. P. Properties, Inc. to the Nation dated April 28, 2003 and recorded in the Cayuga County Clerk's Office on April 28, 2003 in Book 1129 of Deeds at page 222 consists of approximately 2 acres of land on which a gas station and car wash are located;
3. Deed from B. E. P. Properties, Inc. to the Nation dated April 28, 2003 and recorded in the Cayuga County Clerk's Office on April 28, 2003 in Book 1129 of Deeds at page 225 consists of approximately 1.48 acres of land on which gaming facilities are located;
4. Deed from B. E. P. Properties, Inc. to the Nation dated October 3, 2003 and recorded in the Seneca County Clerk's Office on October 3, 2003 in Book 674 of Deeds at page 63 consists of approximately .69 acres of land on which a gas station is located; and
5. Deed from B. E. P. Properties, Inc. to the Nation dated February 28, 2005 and recorded in the Seneca County Clerk's Office on February 28, 2005 in Book 702 of Deeds at page 66 consists of approximately 13.286 acres of land on which a campground is located.

The Property is located on reservation and is part of the 64,015 acres reserved and guaranteed to the Nation as recognized by the 1794 Treaty of Canandaigua.

C. Statutory and Tribal Authority

The Nation is a federally recognized tribe. The United States is authorized, pursuant to 25 U.S.C. §465, to take land in trust for Indian tribes.

This application is being submitted under authority of Clint Halftown, the Bureau of Indian Affairs ("BIA") recognized representative of the Nation following consultation with Attorney Joseph Heath, who represents a group of the Nation's governing council.

D. Section 151.10 Factors

25 C.F.R. Part 151 requires the Nation to consider various factors when evaluating requests to take land in trust status. Consequently, the Nation offers the following information to assist the BIA in making its determination on this request.

1. Statutory Authority (151.10(a)). As set forth above, 25 U.S.C. §465 authorizes the United States to take land in trust for Indian tribes. The Nation is a federally recognized Indian tribe.

2. Need (151.10(b)). The Nation is made up of descendants of the Cayuga tribe whose aboriginal territory included central New York State. In the 1794 Treaty of Canandaigua, New York State established a reservation for the Nation consisting of 64,015 acres in the Finger Lakes region of the State. The next year, New York State purported to enter into an agreement with the Nation to purchase a portion of the reservation back from the Nation, but the treaty was never ratified by the United States Congress, as required by the 1790 Federal Non-Intercourse Act. In 1807, Congress failed to ratify another treaty between New York State and the Nation in which the Nation purported to sell the remaining lands of the reservation to New York State.

The Nation has long sought to return to its aboriginal homelands and re-establish its presence in this area. The transfer of the Property in trust will enable the Nation to accomplish this and to purchase additional lands around the Property with its gaming revenues. The Nation seeks to reestablish its lands in this area because the location is close to areas that are historically and culturally significant to the Nation.

2. Purposes (151.10(c)). The Property will continue to be used for its current purposes; i.e., 2 gas stations, a car wash, gaming facilities and a campground. These activities will produce income that will enable the Nation to purchase additional land in and around the original reservation. The largest parcel of the Property, consisting of approximately 108 acres, is currently vacant and there are no immediate plans for expansion.

3. 151.10(d). Not applicable

4. Impact (151.10(e)). The Property is not currently receiving any direct town, county or state services. The roads adjoining the Property are maintained by the State, but this was done long before the Property was purchased by the Nation. As a result, taking the Property into trust will have little to no impact on town, county or state services. Because no services from these entities are provided directly to the Property, removing the Property from the tax rolls should not significantly adversely affect these political subdivisions.

Additionally, any future change in use will likely require review by the BIA, National Indian Gaming Commission and/or Indian Health Services. These agencies will have to meet the review requirements of the National Environmental Policy Act and the New York State Environmental Quality Review Act and analyze the impacts any proposed development/change could have on human health and/or the environment in the project area. As a result, potential impacts to the State or its political subdivisions most likely will be addressed before any change in the existing uses.

5. Jurisdiction/Land Uses (151.10(f)). Once the Property is taken into trust, the United States of America and the Nation will have concurrent civil and criminal jurisdiction over any activities occurring on the Property. The Nation will be required to comply with all federal laws. New York State will exercise criminal jurisdiction over non-Indians in situations where there is no exclusive federal or tribal criminal jurisdiction under 18 U.S.C. Section 1166. The Nation would maintain exclusive control over land use and zoning issues on the Property.

It is not likely that significant additional development will occur on the portions of the Property that are already developed for the uses set forth in section D(2) above. The Nation does not currently plan any changes in the use of the vacant parcel. The Nation's primary goal in having this land taken into trust is to reestablish its presence in its aboriginal and former reservation territories. Any development that does occur will have to be done in compliance with all federal laws. Consequently, any changes in use for the Property will have minimal impact on local and adjoining land uses, thus minimizing any jurisdictional problems and potential conflicts. Also, as the Nation acquires more land around the Property, the likelihood of any such

problems or conflicts will decrease because the Property will be surrounded by more property owned by the Nation and, ultimately, in trust by the United States.

6. Responsibilities (151.10(g)). The taking of this Property in trust status should not result in a significant increase in BIA's workload because the Nation is not proposing any change in use that would require the expenditure of additional BIA funds or resources.

7. Environmental Compliance (151.109(h)).

a. **NEPA Compliance.** The Nation is not proposing any change in the current use of the Property and, therefore, issuance of a Categorical Exclusion under BIA regulations will evidence total compliance with NEPA.

b. **Phase I Environmental Site Assessment.** Phase I Environmental Site Assessments (collectively, Assessments) were conducted on the parcels that comprise the Property prior to the acquisition by the Nation. The Assessments included full searches of both federal and state environmental databases to determine the presence of any contamination or potential contamination causing activities. In addition, detailed site inspections were also conducted on the Property to determine the presence of any contamination on the Property. The Assessments found no evidence of any release, discharge or presence of any contamination on the Property or surrounding properties.

c. **Wetlands, Historic Resources, Endangered Species and Other Issues.** The site inspections did not locate any wetlands or find any sign of historically significant resources, the presence of any threatened or endangered species or other areas of special consideration.

E. Conclusion

More than two hundred years have passed since the land of the ancestors of the Nation was taken away by New York State. Many of the Nation's historical and culturally significant sites are located on or near the Property. Despite having limited economic resources, the Nation has obtained land in its former reservation territory and is requesting that the BIA authorize the Property to be taken into trust pursuant to the authority set forth in the United States Code. As set forth above, the nation does not plan any change in the current use of the Property. Instead, the Property will form a nucleus around which the Nation would like to reestablish its presence in its former reservation territory. The Nation is happy to provide any additional information and/or assistance the BIA requires to complete the process of having the Property taken in trust. Please feel free to contact Clint

Halftown at 716-998-1054 if you have any questions or require additional information.

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