

ONEIDA INDIAN NATION



ONEIDA NATION TERRITORY, VIA ONEIDA, NEW YORK

April 4, 2005

By Hand

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

Real Estate Services
APR - 5 2005
BY *[Signature]*

Re: Oneida Indian Nation/Request to Take Land into Trust

Dear Mr. Keel:

Pursuant to federal law, including 25 U.S.C. §§ 465, 2202 & 2719 and 25 C.F.R. § 151.9, the Oneida Indian Nation hereby petitions the Secretary of the Department of the Interior to accept the transfer of land from the Nation to the United States to be held by the United States in trust for the benefit of the Nation. All of the land is titled to the Nation in fee and is within the Oneida reservation acknowledged in the 1794 Treaty of Canandaigua and in other federal treaties. The Nation reacquired these fee lands after many years of dispossession caused by the State of New York's acquisition of the lands in violation of federal law mandating that such acquisitions be of no validity in law or equity. 25 U.S.C. § 177; *County of Oneida v. Oneida Indian Nation*, 470 U.S. 226 (1985).

The land is precisely described in the copies of deeds that accompany the Nation Resolution enclosed with this letter. Also enclosed are (a) a spreadsheet (in hard copy and in electronic form on a compact disk) showing details for the land such as acquisition date, size and location, (b) a map showing the location of the land, (c) the Nation's most recent annual report showing its use of its lands and the positive effects of those uses on the Nation and its non-Indian neighbors in surrounding communities, and (d) a report by Colgate University to the same effect.

With respect to the environmental effect of trust acquisition, please be advised that there is no anticipated change in the use of any of the land that is the subject of this request. All uses have been in place for many years.

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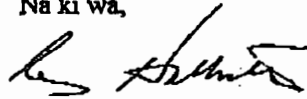
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Taking the Nation's land into trust will not impose any additional cost on the United States. The United States has administered this land for years, and, more to the point, the Nation now turns back all federal assistance funds.

This trust land application is made in light of the Supreme Court's recent decision in City of Sherrill v. Oneida Indian Nation, 2005 U.S. Lexis 2927 (March 29, 1985), which indicated that such land may be taken into trust pursuant to 25 U.S.C. § 465 and 25 C.F.R. § 151.10, which governs on-reservation acquisitions. The transfer of this land into trust to the United States for the benefit of the Oneidas will clarify uncertainties existing in the wake of the City of Sherrill decision, is needed to preserve the Nation's sovereignty and its lands, which have been threatened with foreclosures and transfers to local governments, and is necessary to facilitate the Nation's self-determination, its economic development and its ability to provide housing, jobs, education and health care for its members. The Nation's request to transfer fee lands to the United States in trust is without prejudice to other federal protections enjoyed by the Nation and its lands, including restricted status under 25 U.S.C. § 177.

The Nation stands ready to provide any other information that is needed in order to process this petition.

Na ki wa,



Ray Halbritter
Nation Representative

cc: Michael R. Smith, Esq. (w/encl.)
Troy M. Woodward, Esq. (w/ encl.)

Enclosures

**ONEIDA INDIAN NATION
TRUST LAND RESOLUTION
RESOLUTION No. O-05-01**

Pursuant to the authority vested in the Oneida Indian Nation of New York (the "Nation") by virtue of its inherent, sovereign powers of self government, the Nation hereby resolves that the Nation, through its federally-recognized Representative, will request the Secretary of the Interior to take into trust the Nation's fee lands.

**ARTICLE I
PREAMBLE**

The Nation is a sovereign Indian Nation organized pursuant to its inherent authority and law. It has the power, through its government, to make this resolution.

The Nation is recognized by the United States. 68 Fed. Reg. 68180 (Dec. 5, 2003).

The Nation is the fee owner of lands within the boundaries of the State of New York. All of the Nation's fee lands are within the boundaries of the Oneida reservation acknowledged in the 1794 Treaty of Canandaigua and in other federal treaties.

The fee lands owned by the Nation within the Oneida reservation are described in the deeds attached to this Resolution ("fee lands").

The Nation acquired its fee lands in open market transactions after many years of dispossession caused by the State of New York's acquisition of those lands in violation of federal law that declares such acquisitions to be of no validity in law or equity. 25 U.S.C. § 177.

In its recent decision in *City of Sherrill v. Oneida Indian Nation*, 2005 U.S. Lexis 2927 (March 29, 2005), the United States Supreme Court decided that the Nation's aboriginal and treaty titles do not by themselves protect the Nation's fee lands from state and local ad valorem property taxation. As a result of the *City of Sherrill* decision, local governments already have begun efforts to impose millions of dollars of property taxes, to transfer title to the Nation's land, and even to evict the Nation from its lands because of delinquent property taxes, all notwithstanding that the Nation's lands are restricted against alienation and not taxable for that reason alone. All disputes about the tax immunity and protected status of Nation lands can be eliminated, and there can be certainty about the tax immunity and protected status of Nation lands, if the lands are taken into trust by the United States for the benefit of the Nation. In its *City of Sherrill* decision, the Supreme Court acknowledged that the Nation's fee lands could be taken into trust pursuant to federal law under 25 C.F.R. § 151.10, which governs trust acquisition of "[o]n reservation" lands.

In light of the *City of Sherrill* decision, trust status under federal law will help to preserve the Nation's sovereignty, its vital government functions and its ability to provide services for Nation members. Trust status is necessary to secure an adequate territorial land base for the Nation, to facilitate the Nation's self-determination and economic development and to provide housing for Nation members and their families. The Nation's fee lands include the headquarters of the Nation Police, whose officers are commissioned by the Bureau of Indian Affairs, the Village of White Pines, which houses Nation members and was developed in part with federal funds provided by the Department of Housing and Urban Development, and the Turning Stone Casino and Resort, which provides jobs directly and indirectly to thousands of people in surrounding communities and which operates pursuant to a compact approved in 1993 by the Secretary of the Interior.

As a recognized Indian Nation, the Nation is eligible to utilize the land-into-trust provisions of federal law, including Section 5 of the Act of June 18, 1934, as amended, which is codified at 25 U.S.C. § 465, and which was extended to all tribes by the 1983 Indian Land Consolidation Act, which is codified at 25 U.S.C. § 2202.

ARTICLE II PURPOSE

The purposes of this Resolution are (a) to protect the Nation's sovereignty and its land by resolving all uncertainties about the tax immunity and protected status of the Nation's fee lands, and (b) to guard against unwarranted and unfair state and local intrusion upon the Nation's land and the Nation's sovereignty through taxation and other means.

ARTICLE III NATION TO SUBMIT TRUST APPLICATION FOR ALL FEE LANDS

It is resolved that the Nation shall petition the Secretary of the United States Department of the Interior to accept the transfer to the United States of America of fee title to all Nation fee lands, pursuant to federal law, including 25 U.S.C. §§ 465 & 467, to be held in trust for the Nation.

ARTICLE IV CONVEYANCE

It is resolved that, upon a decision of the Secretary of the United States Department of the Interior to accept the transfer of fee title to the Nation's fee lands, the Nation shall transfer fee title to those lands to the United States of America.

ARTICLE V INTERPRETATION

Nothing herein is or shall be construed to constitute in any respect a waiver of the sovereign immunity of the Nation or its officials from suit in any court, or otherwise.

