



United States Department of the Interior

BUREAU OF INDIAN AFFAIRS

Midwest Regional Office

Norman Pointe II

5600 West American Boulevard, Suite 500

Bloomington, MN 55437

In Reply Refer To:
Real Estate Services
TR 4609 -P5 Elk Run

DEC 11 2024

CASE NUMBER: 54396

NOTICE OF GAMING LAND ACQUISITION FINAL DETERMINATION

Pursuant to the Code of Federal Regulations, Title 25, INDIANS, Part 151.11 Off-Reservation, notice was given of the application filed by the PRAIRIE ISLAND INDIAN COMMUNITY IN THE STATE OF MINNESOTA to have real property accepted "in trust" for said applicant by the United States of America on January 5, 2024. The final decision to acquire this property "in trust" was made in the exercise of discretionary authority which is vested in the Secretary of the Interior, or his authorized representative, U.S. Department of the Interior on December 10, 2024.

The Bureau of Indian Affairs, Midwest Regional Office, is hereby providing a curtesy copy of the Assistant Secretary – Indian Affairs decision to accept this property into trust. This decision constitutes a final agency action pursuant to 5 USC § 704.

Applicant

PRAIRIE ISLAND INDIAN COMMUNITY IN THE STATE OF MINNESOTA

Legal Land Description/Site Location:

See "Exhibit A" for legal descriptions (enclosed)

Tax Parcel ID Numbers:

850131079584, 850143079564, 850134079589, 850132079567, 851221079590, 851212038600,
851214079569, 850144078534, 850144078533, 850144079565, 850144079566, 840633079595,
840634079597, 840634078541, 840633078539, 851211079570, 840721039660, 840724039662,
851214079571, 840723079573

Any questions regarding this action may be directed to the Minneapolis Regional Office, attention: Thomas Wilkins, Realty Specialist, Midwest Regional Office, at (612) 725-4584.

Sincerely,

TAMMIE POITRA

Digitally signed by TAMMIE
POITRA
Date: 2024.12.11 14:48:19 -06'00'

Regional Director

Enclosure(s)

RPT0M01



Office Codes: F.F.50.403 AD Number: 4200418216 Case: 54396

BY FIRST CLASS MAIL:

Office of Governor
130 State Capitol
75 Rev Dr. Martin Luther King Jr. Blvd.
Saint Paul, Minnesota 55155

Office of the Mayor
City of Pine Island
Post Office Box 280
Pine Island, Minnesota 55963

County Administrator
Olmsted County Government Center
151 4th Street SE
Rochester, Minnesota 55904-3710

Township Clerk
New Haven Township
9024 County Road 3 NW
Oronoco, Minnesota 55960

Township Clerk
Oronoco Township
Post Office Box 324
Oronoco, Minnesota 55960

Honorable Cole W. Miller, Chairman
Shakopee Mdewakanton Sioux Community
2330 Sioux Trail NW
Prior Lake, Minnesota 55372

Honorable Johnny Johnson, President
Prairie Island Indian Community
5636 Sturgeon Lake Road
Welch, MN 55089

cc: Joseph F. Halloran, Attorney, Jacobson Law Group (by email only)

RPT0MDL



Office Codes: F.F.50.403 AD Number: 4200418216 Case: 54296

Case Number: 54396

Applicant Name: PRAIRIE ISLAND INDIAN
COMMUNITY IN THE
STATE OF MN

LEGAL DESCRIPTION EXHIBIT A

Tract ID:

Tract Name: ELK RUN

Land Area	Land Area Name	Tract Number	LTRO	Region	Agency	Resources	
403	PRAIRIE ISLAND		MIDWEST LTRO	MIDWEST	MINNEAPOLIS REGIONAL OFFICE	Both (Mineral and Surface)	
Section	Township	Range	State	County	Meridian	Legal Description	Acres
1	108.00N	015.00W	MINNESOTA	OLMSTED	Fifth	Principal	65.610

METES AND BOUNDS: The part of the Southwest Quarter of the Southeast Quarter and the Southeast Quarter of the Southeast Quarter, of Section 1, Township 108 North, Range 15 West, Olmsted County, Minnesota, lying northerly and easterly of the following described line: Commencing at the northwest corner of said Section 1; thence on an assumed bearing of South 00 degrees 54 minutes 41 seconds East along the west line of said Section 1 a distance of 778.98 feet; thence South 44 degrees 55 minutes 49 seconds East 764.84 feet to the north line of said Southwest Quarter of the Northwest Quarter to the point of beginning of the line to be described; thence South 44 degrees 55 minutes 49 seconds East 5121.99 feet; thence southeasterly 389.04 feet to the south line of said Section 1 along a tangential curve concave to the southwest having a radius of 1083.65 feet and a central angle of 20 degrees 34 minutes 11 seconds and there terminating. AND That part of the Southwest Quarter of the Southeast Quarter, and Southeast Quarter of the Southeast Quarter, of Section 1, Township 108 North, Range 15 West, Olmsted County, Minnesota, lying southerly and westerly of the following described line: Commencing at the northwest corner of said West Half of the Northwest Quarter; thence on an assumed bearing of South 00 degrees 54 minutes 41 seconds East along the west line of said West Half of the Northwest Quarter 778.98 feet to the point of beginning of the line to be described; thence South 44 degrees 55 minutes 49 seconds East 5886.83 feet; thence southeasterly 389.04 feet to the south line of said Section 1 along a tangential curve concave to the southwest having a radius of 1083.65 feet and a central angle of 20 degrees 34 minutes 11 seconds and there terminating. LESS: That part of the Southwest Quarter of the Southeast Quarter of Section 1, Township 108 North, Range 15 West, Olmsted County, Minnesota, described as follow: Commencing at the northwest corner of said Section 1; thence on an assumed bearing of South 00°54'41" East along the west line of the Northwest Quarter of said Section 1 for a distance of 778.98 feet; thence South 44°55'49" East 4566.75 feet to the point of beginning; thence continuing South 44°55'49" East 755.78 feet; thence South 88°57'41" West 1033.47 feet to the west line of said Southwest Quarter of the Southeast Quarter; thence North 01°13'47" West along said west line of the Southwest Quarter of the Southeast Quarter 515.04 feet; thence easterly a distance of 74.28 feet along a curve concave to the south and not tangent with the last described line, said curve has a radius of 22818.32 feet, a central angle of 00°11'11", and the chord of said curve bears South 89°57'15" East 74.28 feet; thence South 89°51'39" East tangent to said curve 7.10 feet; thence North 00°09'26" East 40.00 feet; thence South 89°51'39" East 429.10 feet to the point of beginning. AND That part of the Southeast Quarter of the Southwest Quarter of Section 1, Township 108 North, Range 15 West, Olmsted County, Minnesota, which lies easterly of the easterly right-of-way line of State Highway 52. LESS: That part of the Southeast Quarter of the Southwest Quarter and that part of the Southwest Quarter of the Southwest Quarter, all in Section 1, Township 108 North, Range 15 West, Olmsted County, Minnesota, described as follows: Commencing at the northwest corner of said Section 1; thence on an assumed bearing of South 00°54'41" East along the west line of the Northwest Quarter of said Section 1 for a distance of 778.98 feet; thence South 44°55'49" East 4566.75 feet; thence continuing South 44°55'49" East 755.78 feet; thence South 88°57'41" West 1033.47 feet to the east line of said Southeast Quarter of the Southwest Quarter and the point of beginning; thence North 01°13'47" West along said east line of the Southeast Quarter of the Southwest Quarter 515.04 feet; thence westerly a distance of 78.47 feet along a curve concave to the south and not tangent with the last described line, said curve has a radius of 22818.32 feet, a central angle of 00°11'49", and the chord of said curve bears South 89°51'15" West 78.47 feet; thence South 89°45'20" West tangent to said curve 239.41 feet; thence North 00°14'38" West 35.00 feet; thence South 89°45'20" West 267.50 feet; thence southwesterly a distance of 466.08 feet along a

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F ; F ; 50 ; 403 ; 4200418216 ; 54396 ; 403T000055

Office Codes: F.F.50.403 AD Number: 4200418216 Case: 54396

Case Number: 54396

Applicant Name: PRAIRIE ISLAND INDIAN
COMMUNITY IN THE
STATE OF MN

Tract ID:

Tract Name: ELK RUN

Land Area	Land Area Name	Tract Number	LTRO	Region	Agency	Resources	
403	PRAIRIE ISLAND		MIDWEST LTRO	MIDWEST	MINNEAPOLIS	Both (Mineral and Surface)	
Section	Township	Range	State	County	Meridian	Legal Description	Acres

tangential curve concave southerly having a radius of 1844.86 and a central angle of 14°28'30"; thence South 14°43'05" East not tangent to said curve 5.00 feet; thence southwesterly a distance of 389.36 feet along a curve concave southeasterly and not tangent with the last described line, said curve has a radius of 1839.86 feet, a central angle of 12°07'31", and the chord of said curve bears South 69°13'05" West 388.64 feet; thence South 27°44'48" West not tangent to said curve 56.31 feet; thence South 27°00'55" East 356.65 feet; thence North 88°57'41" East 1283.97 feet to the point of beginning. AND That part of the Southwest Quarter of the Southeast Quarter of Section 1, Township 108 North, Range 15 West, Olmsted County, Minnesota, described as follow: Commencing at the northwest corner of said Section 1; thence on an assumed bearing of South 00°54'41" East along the west line of the Northwest Quarter of said Section 1 for a distance of 778.98 feet; thence South 44°55'49" East 4566.75 feet to the point of beginning; thence continuing South 44°55'49" East 755.78 feet; thence South 88°57'41" West 1033.47 feet to the west line of said Southwest Quarter of the Southeast Quarter; thence North 01°13'47" West along said west line of the Southwest Quarter of the Southeast Quarter 515.04 feet; thence easterly a distance of 74.28 feet along a curve concave to the south and not tangent with the last described line, said curve has a radius of 22818.32 feet, a central angle of 00°11'11", and the chord of said curve bears South 89°57'15" East 74.28 feet; thence South 89°51'39" East tangent to said curve 7.10 feet; thence North 00°09'26" East 40.00 feet; thence South 89°51'39" East 429.10 feet to the point of beginning. AND That part of the Southeast Quarter of the Southwest Quarter and that part of the Southwest Quarter of the Southwest Quarter, all in Section 1, Township 108 North, Range 15 West, Olmsted County, Minnesota, described as follows: Commencing at the northwest corner of said Section 1; thence on an assumed bearing of South 00°54'41" East along the west line of the Northwest Quarter of said Section 1 for a distance of 778.98 feet; thence South 44°55'49" East 4566.75 feet; thence continuing South 44°55'49" East 755.78 feet; thence South 88°57'41" West 1033.47 feet to the east line of said Southeast Quarter of the Southwest Quarter and the point of beginning; thence North 01°13'47" West along said east line of the Southeast Quarter of the Southwest Quarter 515.04 feet; thence westerly a distance of 78.47 feet along a curve concave to the south and not tangent with the last described line, said curve has a radius of 22818.32 feet, a central angle of 00°11'49", and the chord of said curve bears South 89°51'15" West 78.47 feet; thence South 89°45'20" West tangent to said curve 239.41 feet; thence North 00°14'38" West 35.00 feet; thence South 89°45'20" West 267.50 feet; thence southwesterly a distance of 466.08 feet along a tangential curve concave southerly having a radius of 1844.86 and a central angle of 14°28'30"; thence South 14°43'05" East not tangent to said curve 5.00 feet; thence southwesterly a distance of 389.36 feet along a curve concave southeasterly and not tangent with the last described line, said curve has a radius of 1839.86 feet, a central angle of 12°07'31", and the chord of said curve bears South 69°13'05" West 388.64 feet; thence South 27°44'48" West not tangent to said curve 56.31 feet; thence South 27°00'55" East 356.65 feet; thence North 88°57'41" East 1283.97 feet to the point of beginning. ALSO, LESS AND EXCEPT THE FOLLOWING DESCRIBED PARCELS: Parcel C-1 Land Description That part of the South Half of the Southeast Quarter of Section 1, Township 108 North, Range 15 West, Olmsted County, Minnesota, described as follows: Commencing at the southwest corner of said Southeast Quarter of Section 1; thence on an assumed bearing of South 89°01'27" East along the south line of said Southeast Quarter 1501.93 feet to the point of beginning; thence continuing South 89°01'27" East along the south line of said Southeast Quarter 250.81 feet; thence northwesterly 741.40 feet along a non-tangential curve, concave to the southwest, to the west line of the Southeast Quarter of said Southeast Quarter, said curve has a radius of 1151.74 feet, a central angle of 36°52'58", and the chord of said curve bears North 38°20'36" West 728.67 feet; thence North 15°38'02" West not tangent to said curve 663.34 feet; thence South 84°45'43" West 1022.66 feet; thence southeasterly 490.48 feet along a non-tangential curve concave to the northeast, said curve has a radius of 501.97 feet, a central angle of 55°59'02", and the chord of said curve bears South 37°44'18" East 471.20 feet; thence South 65°43'49" East tangent to said curve 720.38 feet; thence southeasterly 647.74 feet along a tangential curve, concave to the southwest, said curve has a

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Office Codes: F,F,50,403 AD Number: 4200418216 Case: 54396

Applicant Name: PRAIRIE ISLAND INDIAN
COMMUNITY IN THE
STATE OF MN

Tract ID:

Tract Name: ELK RUN

Land Area	Land Area Name	Tract Number	LTRO	Region	Agency	Resources	
403	PRAIRIE ISLAND		MIDWEST LTRO	MIDWEST	MINNEAPOLIS	Both (Mineral and Surface)	
Section	Township	Range	State	County	Meridian	Legal Description	Acres

radius of 921.74 feet, a central angle of 40°15'49", and the chord of said curve bears South 45°35'55" East 634.49 feet to the point of beginning. Parcel B-2 Land Description That part of the East Half of the Southwest Quarter and the West Half of the Southeast Quarter, all in Section 1, Township 108 North, Range 15 West, Olmsted County, Minnesota, described as follows: Commencing at the southeast corner of said East Half of the Southwest Quarter of Section 1; thence on an assumed bearing of North 00°28'22" West along the east line of said East Half of the Southwest Quarter 1088.11 feet to the point of beginning; thence North 89°29'55" West 1331.51 feet to the west line of said East Half of the Southwest Quarter; thence North 00°18'49" West along the west line of said East Half of the Southwest Quarter 815.48 feet; thence South 84°34'51" East 1180.79 feet; thence South 89°24'53" East 1298.60 feet; thence South 89°06'04" East 164.90 feet to the east line of said West Half of the Southeast Quarter; thence South 00°17'44" East along the east line of said West Half of the Southeast Quarter 610.13 feet; thence North 89°06'04" West 175.51 feet; thence South 84°45'43" West 1022.66 feet; thence North 89°29'55" West 112.27 feet to the point of beginning. Parcel C-2 Land Description That part of the East Half of the Southeast Quarter, Section 1, Township 108 North, Range 15 West, Olmsted County, Minnesota, described as follows: Commencing at the southeast corner of said East Half of the Southeast Quarter of Section 1; thence on an assumed bearing of North 00°07'07" West along the east line of said East Half of the Southeast Quarter 1201.60 feet to the point of beginning; thence continuing North 00°07'07" West along the east line of said East Half of the Southeast Quarter 610.10 feet; thence North 89°06'05" West 1309.09 feet to the west line of said East Half of the Southeast Quarter; thence South 00°17'44" East along the west line of said East Half of the Southeast Quarter 610.13 feet; thence South 89°06'05" East 1307.21 feet to the point of beginning. That part of the South Half of the Southwest Quarter and the Northwest Quarter of the Southwest Quarter of Section 1, Township 108 North, Range 15 West, Olmsted County, Minnesota, described as follows: Commencing at the southwest corner of said South Half of the Southwest Quarter of Section 1; thence on an assumed bearing of North 00°09'22" West along the west line of said South Half of the Southwest Quarter and along the west line of said Northwest Quarter of the Southwest Quarter 1625.14 feet to the northeasterly right of way line of Trunk Highway No. 52 per the Minnesota Department of Transportation Right of Way Plat No. 55-30 and to the point of beginning; thence southeasterly 480.53 feet along a non-tangential curve, concave to the southwest, and along said northeasterly right of way line of Trunk Highway No. 52, said curve has a radius of 3999.88 feet, a central angle of 06°53'00" and the chord of said curve bears South 50°48'44" East 480.24 feet; thence southeasterly along said northeasterly right of way line of Trunk Highway No. 52 and along a Euler Spiral Curve which falls 100.00 feet northeasterly of and parallel with the Euler Spiral Curve on the existing right of way acquisition line per said Minnesota Department of Transportation Right of Way Plat No. 55-30, the chord of said Euler Spiral Curve bears South 46°37'48" East 153.59 feet; thence South 46°15'24" East along said northeasterly right of way line of Trunk Highway No. 52 a distance of 1768.30 feet to the south line of said South Half of the Southwest Quarter; thence South 89°47'24" East along the south line of said South Half of the Southwest Quarter 160.50 feet; thence North 22°45'42" West 1188.39 feet; thence North 89°29'55" West 129.21 feet to the east line of the Southwest Quarter of said Southwest Quarter; thence North 00°18'49" West along the east line of said Southwest Quarter of the Southwest Quarter and along the east line of said Northwest Quarter of the Southwest Quarter 815.48 feet; thence North 84°34'51" West 1335.50 feet to the west line of said Northwest Quarter of the Southwest Quarter; thence South 00°09'22" East along the west line of said Northwest Quarter of the Southwest Quarter 406.41 feet to the point of beginning.

6	108.00N	014.00W	MINNESOTA	OLMSTED	Fifth Principal	70.720
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Case Number: 54396

Applicant Name: PRAIRIE ISLAND INDIAN COMMUNITY IN THE STATE OF MN

Tract ID:

Tract Name: ELK RUN

Land Area	Land Area Name	Tract Number	LTRO	Region	Agency	Resources
403	PRAIRIE ISLAND		MIDWEST LTRO	MIDWEST	MINNEAPOLIS	Both (Mineral and Surface)

Section	Township	Range	State	County	Meridian	Legal Description	Acres
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METES AND BOUNDS: The Southeast Quarter of the Southwest Quarter of Section 6, Township 108 North, Range 14 West, Olmsted County, Minnesota. AND The Southwest Quarter of the Southwest Quarter of Section 6, Township 108 North, Range 14 West, Olmsted County, Minnesota. ALSO, LESS AND EXCEPT THE FOLLOWING DESCRIBED PARCELS: Parcel D-2 Land Description That part of the Northwest Quarter of the Southwest Quarter and the South Half of the Southwest Quarter and the Southwest Quarter of the Southeast Quarter allin Section 6, Township 108 North, Range 14 West, Olmsted County, Minnesota, described as follows: Commencing at the southwest corner of said Southwest Quarter of Section 6; thence on an assumed bearing of North 00°07'07" West along the west line of said Southwest Quarter 1201.60 feet to the point of beginning; thence continuing North 00°07'07" West along the west line of said Southwest Quarter 610.10 feet; thence South 55°42'31" East 737.89 feet; thence South 00°10'16" East 80.00 feet to the north line of said South Half of the Southwest Quarter; thence North 89°35'26" East along the north line of said South Half of the Southwest Quarter 1930.47 feet to the northeast corner of said South Half of the Southwest Quarter; thence North 89°33'39" East along the north line of said Southwest Quarter of the Southeast Quarter 522.17 feet to the centerline of the Township Road; thence South 36°29'59" East along said centerline 416.88 feet; thence South 89°33'13" West 768.56 feet to the west line of said Southwest Quarter of the Southeast Quarter; thence North 00°16'06" West along the west line of said Southwest Quarter of the Southeast Quarter 161.54 feet; thence northwesterly 652.55 feet along a non- tangential curve, concave to the southwest, said curve has a radius of 2211.83 feet, a central angle of 16°54'14", and the chord of said curve bears North 81°57'27" West 650.18 feet; thence South 88°41'02" West not tangent to said curve 1896.57 feet to the point of beginning.

7	108.00N	014.00W	MINNESOTA	OLMSTED	Fifth Principal		151.830
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METES AND BOUNDS: The Southeast Quarter of the Northwest Quarter and the North Half of the Southwest Quarter of the Northwest Quarter of Section 7, Township 108 North, Range 14 West, Olmsted County, Minnesota. AND The North Half of the Northwest Quarter of Section 7, Township 108 North, Range 14 West, Olmsted County, Minnesota. AND The South Half of the Southwest Quarter of the Northwest Quarter of Section 7, Township 108 North, Range 14 West, Olmsted County, Minnesota. Excepting Therefrom the Following Described Parcels: 2) That part of the Southwest Quarter of the Northwest Quarter of Section 7, Township 108 North, Range 14 West, described as follows: Commencing at a Surveyor's monument located at the southwest corner of the Southwest Quarter of the Northwest Quarter of said Section 7; thence on an assumed bearing of the North 1°24'13" West a distance of 188.00 feet along the West line of said Southwest Quarter of the Northwest Quarter; thence South 32°52'02" East 221.13 feet to the South line of said Southwest Quarter of the Northwest Quarter; thence South 88°54'04" West 115.42 feet to the point of beginning. ALSO, LESS AND EXCEPT THE FOLLOWING DESCRIBED PARCELS: Parcel E-1 Land Description That part of the Southwest Quarter of the Northwest Quarter of Section 7, Township 108 North, Range 14 West, Olmsted County, Minnesota, described as follows: Commencing at the southwest corner of said Southwest Quarter of the Northwest Quarter of Section 7; thence on an assumed bearing of North 89°39'37" East along the south line of said Southwest Quarter of the Northwest Quarter 115.42 feet to the point of beginning; thence continuing North 89°39'37" East along the south line of said Southwest Quarter of the Northwest Quarter 185.96 feet; thence northwesterly 452.55 feet along a non-tangential curve concave to the northeast, said curve has a radius of 2206.83 feet, a central angle of 11°44'58", and the chord of said curve bears North 42°29'26" West 451.76 feet to the west line of said Southwest Quarter of the Northwest Quarter and to a point that lies 334.93 feet north of the southwest corner of said Southwest Quarter of the Northwest Quarter; thence South 00°38'43" East along the west line of said Southwest Quarter of the Northwest Quarter 146.96 feet; thence South 32°06'48" East 221.10 feet to the point of beginning.

12	108.00N	015.00W	MINNESOTA	OLMSTED	Fifth Principal		109.610
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Office Codes: F.F.50.403 AD Number: 4200418216 Case: 54396

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Land Area	Land Area Name	Tract Number	LTRO	Region	Agency	Resources	
403	PRAIRIE ISLAND		MIDWEST LTRO	MIDWEST	MINNEAPOLIS	Both (Mineral and Surface)	
Section	Township	Range	State	County	Meridian	Legal Description	Acres

METES AND BOUNDS: That part of the West Half of the Northeast Quarter of Section 12, Township 108 North, Range 15 West, Olmsted County, Minnesota, described as follows: Commencing for a place of beginning at the northwest corner of the Northeast Quarter of said Section and running thence East along the north line of said Section a distance of 1304.2 feet to the northeast corner of said West Half of the Northeast Quarter; thence South along the east line of said West Half a distance of 2101 feet to the northerly right-of-way line of U.S. Trunk Highway Number 52; thence Northwesterly along said northerly right-of-way line a distance of 1816.68 feet to the west line of said Northeast Quarter; thence North a distance of 871.6 feet to the place of beginning. AND That part of the East Half of the Northwest Quarter of Section 12, Township 108 North, Range 15 West, Olmsted County, Minnesota, described as follows: Commencing for a place of beginning at the northeast corner of the Northwest Quarter of said Section 12 and running thence West along the north line of said Northwest Quarter a distance of 921.1 feet to a point in the northerly right-of-way line of U.S. Trunk Highway Number 52; thence southeasterly along said northerly right-of-way line a distance of 1264.65 feet to the east line of said Northwest Quarter thence North along the east line of said Northwest Quarter a distance of 871.6 feet to the place of beginning. AND That part of the East Half of the Northeast Quarter of Section 12, Township 108 North, Range 15 West, Olmsted County, Minnesota, lying and being north and east of Highway Number 52 and south and west of that certain Township Road, formerly known as State Highway Number 20, running northwesterly and southeasterly through said East Half of the Northeast Quarter. AND That part of the East Half of the Northeast Quarter of Section 12, Township 108 North, Range 15 West, Olmsted County, Minnesota, lying north and east of the Township Road. EXCEPTING THEREFROM THE FOLLOWING DESCRIBED

PARCELS: That part of the Southeast Quarter of the Northeast and the Northeast Quarter of the Southeast Quarter of Section 12, Township 108 North, Range 15 West, Olmsted County, Minnesota, described as follows: Commencing at a surveyor's monument located at the northeast corner of the Southeast Quarter of said Section 12; thence on an assumed bearing of South 00° 36'36" East along the East line of said Section 12 a distance of 172.31 feet to the north right-of-way line of Minnesota Trunk Highway Number 52; thence North 65°39'04" West 626.00 feet along said right-of-way line; thence North 22°10'09" East 633.60 feet to the centerline of the Township Road presently known as 59th Avenue; thence South 31°41'17" East 246.86 feet along said centerline; thence southeasterly a distance of 337.05 feet along a tangential curve concave to the northeast having a radius of 2600.00 feet and a central angle of 07°25'39" to the east line of the Southeast Quarter of the Northeast Quarter of said Section 12; thence South 01°24'13" East along the east line of the Southeast Quarter of the Northeast Quarter of said Section 12, not tangent to said curve, 188.00 feet to the point of beginning. ALSO, LESS AND EXCEPT THE FOLLOWING DESCRIBED PARCELS: Parcel D-1 Land Description That part of the East Half of the Northeast Quarter of Section 12, Township 108 North, Range 15 West, Olmsted County, Minnesota, described as follows: Commencing at the northwest corner of said Northeast Quarter of Section 12; thence on an assumed bearing of South 89°01'27" East along the north line of said Northeast Quarter 1501.93 feet to the point of beginning; thence continuing South 89°01'27" East along the north line of said Northeast Quarter 250.81 feet; thence southeasterly 83.97 feet along a non-tangential curve, concave to the southwest, said curve has a radius of 1151.74 feet, a central angle of 04°10'39", and the chord of said curve bears South 17°48'48" East 83.95 feet; thence South 15°43'28" East tangent to said curve 972.20 feet; thence South 29°45'39" East 103.08 feet; thence South 13°44'23" East 564.60 feet; thence South 30°55'39" East 552.38 feet; thence southeasterly 219.09 feet along a tangential curve, concave to the northeast, said curve has a radius of 2206.83 feet, a central angle of 05°41'18", and the chord of said curve bears South 33°46'17" East 219.00 feet to the east line of said East Half of the Northeast Quarter and to a point that lies 334.93 feet north of the southeast corner of said East Half of the Northeast Quarter; thence South 00°38'43" East not tangent to said curve and along the east line of said East Half of the Northeast Quarter 146.96 feet; thence northwesterly 336.64 feet along a non-tangential curve, concave to the northeast, said curve has a radius of 2600.00 feet, a central angle of 07°25'07", and the chord of said curve bears North 34°38'12" West 336.40 feet;

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Office Codes: F,F,50,403 AD Number: 4200418216 Case: 54396

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<u>Land Area</u>	<u>Land Area Name</u>	<u>Tract Number</u>	<u>LTRO</u>	<u>Region</u>	<u>Agency</u>	<u>Resources</u>	
403	PRAIRIE ISLAND		MIDWEST LTRO	MIDWEST	MINNEAPOLIS REGIONAL OFFICE REGIONAL OFFICE	Both (Mineral and Surface)	
<u>Section</u>	<u>Township</u>	<u>Range</u>	<u>State</u>	<u>County</u>	<u>Meridian</u>	<u>Legal Description</u>	<u>Acres</u>

thence North 30°55'38" West tangent to said curve 246.86 feet; thence South 22°55'47" West 117.64 feet; thence North 30°55'39" West 384.85 feet; thence northwesterly 278.59 feet along a tangential curve, concave to the northeast, said curve has a radius of 1049.93 feet, a central angle of 15°12'10", and the chord of said curve bears North 23°19'34" West 277.77 feet; thence North 15°43'28" West tangent to said curve 186.13 feet; thence North 33°43'44" West 210.30 feet; thence North 09°33'15" West 372.16 feet; thence North 15°43'28" West 652.20 feet; thence northwesterly 156.73 feet along a tangential curve concave to the southwest, said curve has a radius of 921.74 feet, a central angle of 09°44'32", and the chord of said curve bears North 20°35'44" West 156.54 feet to the point of beginning. Parcel D-3 Land Description That part of the Northeast Quarter of the Northwest Quarter, Section 12, Township 108 North, Range 15 West, Olmsted County, Minnesota, described as follows: Commencing at the northwest corner of said Northwest Quarter of Section 12; thence on an assumed bearing of South 89°47'24" East along the north line of said Northwest Quarter 1756.95 feet to the northeasterly right of way line of Trunk Highway No. 52 per the Minnesota Department of Transportation Right of Way Plat No. 55-15 and to the point of beginning; thence South 46°15'24" East along said northeasterly right of way line of Trunk Highway No. 52, a distance of 1012.61 feet; thence North 39°13'29" West 903.04 feet to the north line of said Northeast Quarter of the Northwest Quarter; thence North 89°47'24" West 160.50 feet to the point of beginning.

WDAEA01

F ; F ; 50 ; 403 ; 4200418216 ; 54396 ; 403T000055
Office Codes: F,F.50.403 AD Number: 4200418216 Case: 54396



United States Department of the Interior

OFFICE OF THE SECRETARY
Washington, DC 20240

DEC 10 2024

The Honorable Grant Johnson
President, Prairie Island Indian Community
in the State of Minnesota
5636 Sturgeon Lake Road
Welch, Minnesota 55089

Dear President Johnson:

On October 11, 2023, the Prairie Island Indian Community in the State of Minnesota (Tribe) submitted an application to the Bureau of Indian Affairs (BIA), requesting the Department of the Interior (Department) transfer into trust approximately 397.77 acres¹ of land in Olmsted County, Minnesota (Elk Run Site) for gaming and other purposes. The Tribe also requested that the Secretary of the Interior (Secretary) determine whether the Elk Run Site is eligible for gaming pursuant to the Indian Gaming Regulatory Act's Secretarial Determination exception. On February 7, 2024, the Tribe requested the Department process the Elk Run Fee-to-Trust application under the Department's revised regulations at 25 C.F.R. Part 151, pursuant to Section 151.17(a).

The Tribe plans to use the Elk Run Site as an emergency interim gaming facility in the event that a catastrophic flood or nuclear disaster from the Prairie Island Nuclear Generating Plant (PINGP) renders the Tribe's main casino inoperable. Should the need arise after a catastrophic event, the Tribe plans to make the necessary improvements to the site to convert the barn structure and outbuildings into a gaming facility.

We have completed our review of the Tribe's request, the Regional Director's Findings of Fact², comments received, and documentation in the record. As discussed below, I determine that the Elk Run Site will be acquired in trust for the benefit of the Tribe for gaming and other purposes pursuant to Section 5 of the Indian Reorganization Act, 25 U.S.C. § 5108. Once acquired in trust, the Tribe is eligible to conduct gaming on the Elk Run Site pursuant to Section 20 of the Indian Gaming Regulatory Act, 25 U.S.C. § 2719.

Background

The Prairie Island Indian Community is a modern body politic of the Mdewakanton Dakota people who have had a government-to-government relationship with the United States of America for over 200 years. The Tribe is a successor in interest to the Mdewakanton Band of Dakota, who were signatories to eight treaties with the United States between 1805 and 1858. In 1851, the Tribe ceded the remainder of its lands in Minnesota and Iowa, comprising more than 24 million acres, to the United States. At that time, the Tribe urged the United States to place their Reservation in the vicinity of modern-day Pine Island, a territory that would have included the Elk Run Site and would have allowed the Tribe to continue its traditional means of subsistence since time immemorial. By 1884, and against the Tribe's urgings and best efforts, the United States placed the Tribe on its current Reservation. Presently, the Tribe's reservation occupies an area of approximately 3,100 acres.

¹ The Tribe's application describes the property as approximately 419.8 acres, which was the acreage used in the Environmental Assessment, however, review of a legal description and ALTA Survey by a BLM Indian Lands Surveyor resulted in an approximately 22.06-acre reduction of actual acreage to approximately 397.77 acres.

² Memorandum to Director, Office of Indian Gaming, from Regional Director, Midwest Region, Findings of Midwest Region Concerning the Factors Codified in 25 CFR § 151 for the Fee-to-Trust (Gaming) Application, Elk Run Tract, for the Prairie Island Indian Community in the State of Minnesota, dated August 30, 2024 (hereinafter, Regional Director's Part 151 Findings of Fact)

In 1937, the Secretary of War, with the Secretary of the Interior's endorsement, approved the construction of Lock and Dam No. 3. The construction of Lock and Dam No. 3 flooded much of the Tribe's remaining land. The operation of Lock and Dam No. 3 results in the continuous erosion of natural levees and inundation and degradation of the Tribe's remaining island. The Tribe has experienced several catastrophic floods because of changing hydrological conditions stemming from the U.S. Army Corps of Engineers' construction and operation of Lock and Dam No. 3.

Much of the Tribe's current trust land lies within a 100-Year Flood Plain as designated by the Federal Emergency Management Agency (FEMA), and the Tribe regularly experiences catastrophic flooding that results in the widespread destruction of property, inundation of agricultural activities, the displacement of families, and oftentimes the inundation of sacred burial sites.³ The Tribe believes that, due to the continual erosion of barrier islands and inundation of their current trust land at Prairie Island, catastrophic floods will occur with increasing frequency and intensity. Further, it is the Tribe's belief that a catastrophic flood which renders the Tribe's main Treasure Island Casino (Casino) inoperable for an indeterminate amount of time is inevitable.⁴ The combined threat of flooding and loss of governmental revenue poses an extreme threat to the Tribe's continued existence as a functioning government, requiring the creation of a contingency plan.⁵

The Tribe's current gaming facility is located approximately 700 yards from PINGP, one of the oldest nuclear powerplants still in operation in the United States. There have been containment failures at PINGP and other nearby nuclear powerplants resulting in the release of nuclear contaminants into the local ecosystem.⁶ Nuclear waste created from PINGP is stored on-site, and the waste storage facility is directly visible from Tribal members' homes. There are currently no plans to relocate the nuclear waste to a safer storage facility away from the Tribe. Due to the operation of the PINGP and the continual storage of nuclear waste dangerously close to the Prairie Island Indian Community, the Tribe and its members are extremely concerned about a potential catastrophe that could render the Reservation and Casino uninhabitable and inoperable for potentially hundreds of years, if not longer.⁷

The Tribe acquired the Elk Run Site as the first step in implementing a contingency plan in the event of that a catastrophic flood or other catastrophic event cripples the Tribe's economy. The Elk Run Site is located outside of flood risks from the Mississippi River, as well as the FEMA designated nuclear incident impact zone and 10-mile radius emergency planning zone (EPZ) for PINGP. The Elk Run Site is in Olmsted County, Minnesota, near the city of Pine Island, and the Olmsted County - Goodhue County line. The Elk Run Site is also located within the Tribe's ceded lands and within the area the Tribe requested be set aside as its Reservation in 1851.

Description of the Property

The Site consists of approximately 397.77 acres⁸ located in Olmsted County, Minnesota. The Site is owned in fee simple by the Tribe.⁹ And includes the following tax parcels:

Tax Parcel ID No. 850131079584, 850143079564, 850134079589, 850132079567, 851221079590, 851212038600, 851214079569,

³ Tribe's Application at 19.

⁴ *Id.* at 18.

⁵ See *Prairie Island Indian Community Unmet Needs Report and Community Resilience Plan (May 21, 2024)* (Unmet Needs Report) at 20.

⁶ Unmet Needs Report at 13.

⁷ *Id.* at 14.

⁸ The Tribe's application describes the property as approximately 419.8 acres, which was the acreage used in the EA, however review of a legal description and ALTA Survey by a BLM Indian Lands Surveyor resulted in an approximately 22.06-acre reduction of actual acreage to approximately 397.77 acres.

⁹ Application, Appendix 26.

850144078534, 850144078533, 850144079565, 850144079566, 840633079595, 840634079597, 840634078541, 840633078539, 851211079570, 840721039660, 840724039662, 851214079571, 840723079573.

The full legal description of the Site is included as Enclosure 1.

Prior Determinations

The Indian Gaming Regulatory Act

Section 20 of IGRA generally prohibits gaming activities on lands acquired in trust by the United States on behalf of a tribe after October 17, 1988, subject to several exceptions. One exception, known as the "Secretarial Determination" or "two-part determination" permits a tribe to conduct gaming on lands acquired after October 17, 1988, where the Secretary of the Interior (Secretary), after consultation with the Indian tribe and appropriate state and local officials, including officials of other nearby Indian tribes, determines that:

1. A gaming establishment on the trust lands would be in the best interest of the tribe and its members; and
2. The Secretary also determines that gaming on the trust lands would not be detrimental to the surrounding community.

The governor of the state in which the gaming activity is to be conducted must concur in the Secretarial Determination before the applicant tribe may conduct gaming on the proposed site.

On November 8, 2024, I issued a positive Secretarial Determination finding the Tribe's proposed gaming establishment on the Elk Run Site would be in the best interest of the Tribe and its members and would not be detrimental to the surrounding community. The Secretarial Determination is included as Enclosure 2.

On November 18, 2024, Governor Walz concurred with the Secretarial Determination.¹⁰ Governor Walz' concurrence letter is included as Enclosure 3.

Accordingly, once acquired in trust, the Nation is eligible to conduct gaming on the Beloit Site pursuant to Section 20 of IGRA.

The National Environmental Policy Act

The Department's regulations require that issuance of a Secretarial Determination and approval of a tribe's trust acquisition application comply with the National Environmental Policy Act (NEPA), 42 U.S.C § 4321 *et seq.*¹¹ As discussed in detail in Section 151.15 below, the Department issued a Finding of No Significant Impacts for the Elk Run Site on November 8, 2024. The Finding of No Significant Impacts determined that the issuance of the Secretarial Determination, acquisition of the Elk Run Site in trust, and subsequent development of the Proposed Project will have no significant impact on the quality of the human environment. The Finding of No Significant Impacts is included as Enclosure 4.

¹⁰ See letter from Tim Walz, Governor of Minnesota, to Assistant Secretary Bryan Newland (November 18, 2024).

¹¹ See 25 C.F.R. § 292.18(a) (requiring NEPA compliance for a Secretarial Determination) and § 151.15 (requiring NEPA compliance for a trust acquisition determination).

Trust Acquisition Determination Pursuant to 25 C.F.R. Part 151

The Secretary's general authority for acquiring land in trust is found in Section 5 of the Indian Reorganization Act (IRA).¹² The Department's land acquisition regulations at 25 C.F.R. Part 151 set forth the procedures for implementing Section 5 of the IRA. As noted above the Tribe requested the Department process this application under the Department's revised regulations which went into effect on January 11, 2024.

25 C.F.R. § 151.3 – Land acquisition policy.

Section 151.3(b) sets forth the conditions under which the Secretary may acquire land in trust for an Indian tribe:

- (1) When the property is located within the exterior boundaries of the Tribe's reservation or contiguous thereto; or
- (2) When the Tribe already owns an interest in the land; or
- (3) When the Secretary determines that the acquisition of the land will further Tribal interests by establishing a Tribal land base or protecting Tribal homelands, protecting sacred sites or cultural resources and practices, establishing or maintaining conservation or environmental mitigation areas, consolidating land ownership, reducing checkerboarding, acquiring land lost through allotment, protecting treaty or subsistence rights, or facilitating Tribal self-determination, economic development, Indian housing, or for other reasons the Secretary determines will support Tribal welfare.

The acquisition of the Elk Run Site in trust satisfies the criteria of Section 151.3(b)(3).¹³ As discussed in more detail in the Secretarial Determination, acquisition of the Elk Run Site for gaming and other purposes is in the best interest of the Tribe and will facilitate Tribal self-determination, economic development, and support Tribal welfare.

The Tribe acquired the Elk Run Site as the first step in implementing a contingency plan in the event of that a catastrophic flood or other catastrophic event cripples the Tribe's economy. The Elk Run Site is located outside of flood risks from the Mississippi River, as well as the FEMA designated nuclear incident impact zone and 10-mile radius emergency planning zone (EPZ) for PINGP. The Elk Run Site is in Olmsted County, Minnesota, near the city of Pine Island, and the Olmsted County - Goodhue County line. The Elk Run Site is also located within the Tribe's ceded lands and within the area the Tribe requested be set aside as its Reservation in 1851.

Therefore, acquisition of the Elk Run Site, will facilitate Tribal self-determination, economic development, and support Tribal welfare satisfying the Department's land acquisition policy.

25 C.F.R. § 151.4 – Criteria to demonstrate the Tribe was under Federal jurisdiction in 1934.

Section 151.4 sets forth the Department's evaluation if a Tribe was under Federal jurisdiction in 1934, when the Tribe's application relies on the first definition of "Indian" in the Indian Reorganization Act (48 Stat. 988; 25 U.S.C. 5129) (hereinafter IRA), as is the case here. Section 151.4(a)(1) provides a list of *conclusive evidence* which includes:

- (i) a vote under section 18 of the IRA ... as recorded in *Ten Years of Tribal Government Under the I.R.A.*, Theodore Haas, United States Indian Service (Jan. 1947) (Haas List) ...

¹² 25 U.S.C. § 5108.

¹³ Although only one factor in Section 151.3(b) must be met, the Nation's Application also satisfies the requirements of subsection (b)(2) because the Tribe owns the Site in fee.

As detailed in the Haas Report, on October 27, 1934,¹⁴ the adult Indians residing at Prairie Island together with members of the adult Indians residing at Lower Sioux and Granite Falls elected to accept the provisions of the IRA by a vote of 94 to 2.¹⁵ This is conclusive evidence that the Tribe was under federal jurisdiction for the purpose of the IRA.

Additionally, Section 151.4(c) provides that the above *under federal jurisdiction* analysis is not required for Tribes for which the Department has previously issued an analysis finding the Tribe was under Federal jurisdiction. On January 7, 2022, the Office of the Solicitor, United States Department of Interior, released a memorandum (Solis 4722) which confirmed that the Tribe was considered to be under federal jurisdiction in 1934 and the Secretary is authorized to acquire land in trust for the Tribe under Section 5 of the IRA.¹⁶ This Solicitor's Opinion also satisfies the requirements of Section 151.4 that the Tribe was under federal jurisdiction for the purpose of the IRA.

25 C.F.R. § 151.11 – Off-reservation acquisitions.

Section 151.11(a) sets forth the conditions under which land may be acquired in trust by the Secretary for an Indian tribe when it is located outside of and noncontiguous to an Indian reservation.

25 C. F.R. § 151.11(a)(1) - The existence of statutory authority for the acquisition and any limitations contained in such authority

Section 151.11(a)(1) requires the Secretary to consider whether there is statutory authority for the trust acquisition, and if such authority exists, to consider any limitations contained in it including the effect, if any, of the decision in *Carcieri v. Salazar*. In *Carcieri*, the United States Supreme Court held that the Secretary's authority to take land into trust for an Indian tribe under the first definition of "Indian" in the IRA extends only to those tribes that were "under federal jurisdiction" on June 18, 1934, when the IRA was enacted.¹⁷ As discussed above under Section 151.4, the Tribe was "under Federal Jurisdiction" in 1934, and the Department is authorized to acquire land in trust under Section 5 of the IRA.

Section 151.11(a)(2) – The individual Indian's need for additional land

Section 151.11 (a)(2) applies to individual Indian Applicants, not to applicant Tribes as is the case here. That being said, the Tribe's need for additional land and the proposed emergency interim gaming facility is discussed in detail in Secretarial Determination, the EA, and FONSI.

25 C.F.R. § 151.11(a)(3) - The purposes for which the land will be used

This section requires the consideration of the propose for which the land will be used.

¹⁴ Haas Report states that the election at Pipestone School occurred on November 17, 1934; after reviewing subsequent correspondence from Commissioner Collier and an October 29, 1934, Western Union Telegram confirming the election results, we conclude that the election much more likely occurred on October 27, 1934. On November 5, 1934, Commissioner of Indian Affairs John Collier wrote to the "Indians of the Pipestone Reservation" to confirm the results of the Secretarial election stating that "the Indians of the Pipestone jurisdiction have accepted the Indian Reorganization Act." Letter from Commissioner Collier to the Indians of the Pipestone Reservation (Nov. 5, 1934).

¹⁵ *Id.*

¹⁶ Kara Pfister, Senior Attorney, Northeast Regional Solicitor's Office, to Tammie Poitra, Regional Director, Bureau of Indian Affairs, Midwest Regional Office, *Federal Jurisdiction Status of the Prairie Island Indian Community in the State of Minnesota in 1934* (January 7, 2022).

¹⁷ *Carcieri v. Salazar*, 555 U.S. 379 (2009) (*Carcieri*).

The Tribe plans to use the Elk Run Site as an emergency interim gaming facility in the event that a catastrophic flood or nuclear disaster from the Prairie Island Nuclear Generating Plant (PINGP) renders the Tribe's main casino inoperable. Should the need arise after a catastrophic event, the Tribe plans to make the necessary improvements to the site to convert the barn structure and outbuildings into a gaming facility.

25 C.F.R. § 151.11(a)(4) - If land to be acquired is in fee status, whether BIA is equipped to discharge the additional responsibilities resulting from the acquisition of the land in trust status

The Regional Director has found, and I concur, that accepting the Elk Run Site into trust will be minimal and will not impose any significant additional responsibilities or burdens on the BIA.¹⁸

25 C.F.R. § 151.11(b)

Section 151.11(b) requires the Secretary to give great weight to acquiring land that serves any of the following purposes in accordance with Section 151.3: ... "(8) facilitates Tribal self-determination, economic development, or Indian housing."

As discussed above acquisition of the Elk Run Site will facilitate Tribal self-determination and economic development, by providing for an emergency interim gaming facility in the event that a catastrophic flood or nuclear disaster from the Prairie Island Nuclear Generating Plant (PINGP) renders the Tribe's main casino inoperable. Therefore, I give great weight to acquiring the Elk Run Site in trust for the benefit of the Tribe.

25 C.F.R. § 151.11(c) – Notification to State and local governments and consideration of potential impact on regulatory jurisdiction, real property tax, and special assessments from acquiring the land in trust.

This section requires the Department to provide notice to the State and local governments with regulatory jurisdiction over the land and invite comments during a 30-day response period on potential impact on regulatory jurisdiction, real property tax, and special assessments from acquiring the land in trust. The Department will consider the location of the land and potential conflicts of land use. The Department will presume the Tribe will benefit from the acquisition.

The Department, by correspondence dated January 5, 2024,¹⁹ provided notice to the State and local governments, and as a courtesy, to certain interested parties:

- The State of Minnesota,
- Olmsted County,
- City of Pine Island,
- Oronoco Township, and
- New Haven Township

The Department received the following responses.

¹⁸ Regional Director's Finding of Fact from Tammie Poitra, Regional Director, Midwest Region, to Paula Hart, Director, Office of Indian Gaming, dated August 30, 2024, at 19. (Regional Director's Finding of Fact).

¹⁹ Regional Director's Finding of Fact at 17.

State of Minnesota²⁰

The State reported that several of its Departments had weighted in and expressed either no objections or no noted concerns with potential loss of tax revenue or jurisdiction. Further, the State's Department of Employment and Economic Development expressed support for the Tribe's proposed project.

Olmsted County²¹

The County provided information on the currently assessed property tax and special assessments, governmental services provide to the property, and currently applicable land use restrictions. The County noted under currently applicable land use restrictions portions of the Elk Run Site are subject are located in Oronoco Township and subject to county zoning as A-2 Agriculture.

New Haven Township²²

The New Haven Township noted a portion of the Elk Run Site is within the Township, and the Township received \$421.18, in property taxes from the Site in 2023. The Township also noted that the portions of the Elk Run Site that is within the Township are zoned as A-2 Agricultural.

Consideration of potential impact on regulatory jurisdiction, real property tax, and special assessments from acquiring the land in trust

As discussed in detail in the Secretarial Determination, the EA, and FONSI, the proposed emergency interim gaming facility would have less than significant impacts on community character and land use. *See* EA § 3.9.3. Potential future development, including the Tribe's North Elk Run Community Development Project and growth and development envisioned in the in the City of Pine Island Comprehensive Plan, Olmsted County General Land Use Plan, the Oronoco Planned Future Land Use map, and the Oronoco Township Land Use Plan, has the potential to result in cumulative land use effects associated with potential conflicts with existing land uses, and conversion of agricultural land. Generally, adherence to local planning documents is intended to prevent disorderly growth or incompatible land uses. The City of Pine Island and Olmsted County have included the Elk Run Site and vicinity within the designated Urban Growth Area, with future land uses to include low, medium, and high density residential, as well as commercial, land uses. The Elk Run Site is adjacent to other properties owned by the Tribe and planned for Tribal Housing and community development, known collectively as the North Elk Run Community Development Project.

Future development of the North Elk Run Community Development Project could include residential areas and commercial development, in addition to infrastructure support facilities. The Elk Run Site and adjacent PUC North Elk Run Community Development are part of a larger, previously planned development area referred to as the "Elk Run Concept Master Plan." The Elk Run Concept Master Plan originally envisioned the Elk Run Site as a mixture of regional commercial/retail, neighborhood commercial, and rural residential lots ranging from a quarter of an acre to an acre in size. The development components of the emergency interim gaming

²⁰ Letter from Adam Johnson, Associate General Counsel, State of Minnesota, to Tammie Poitra, Regional Director, Midwest Regional Office, Bureau of Indian Affairs, dated February 27, 2024. *Note* on January 16, 2024, the State requested an extension of 30-days to provide responsive comments (*see* email from Adam Johnson, Associate General Counsel, Minnesota, to Thomas Wilkins, Realty Specialist, Midwest Regional Office, BIA), therefore the State's response is timely.

²¹ Letter from Heidi Welsch, County Administrator, Olmsted County, Minnesota, to Tammie Poitra, Regional Director, Midwest Regional Office, Bureau of Indian Affairs, dated January 23, 2024.

²² Letter from Donna Breyer, Clerk, For the New Haven Town Board, to the Midwest Regional Office, Bureau of Indian Affairs, dated February 13, 2024.

facility are similar to those included in the Elk Run Concept Master Plan but would be smaller in scale (City of Pine Island, 2008).

Further, as discussed in detail in the Secretarial Determination, the EA, and FONSI, acquisition of the Elk Run Site in trust and the proposed emergency interim gaming facility would have less than significant impacts on public services in the surrounding community. The Tribe has entered into an enforceable IGA with the City of Pine Island. The IGA addresses law enforcement needs for the Tribe, emergency response, and water and sewer infrastructure. Law enforcement services would primarily be provided by the Tribe's PIPD, and the Tribe has established an IGA regarding law enforcement services with the City of Pine Island, which contracts with the Goodhue County Sheriff's Department.²³ The Tribe has proposed similar agreements with other local governments.

I have considered the location of the Elk Run Property and its proximity to the Tribe's North Elk Run Community Development Project, as well as the potential conflicts of land use and expected impacts.

25 C.F.R. § 151.14 – Evidence of Title to the Land.

Section 151.14 sets forth the required evidence of title to the land to be acquired that the Tribe must submit as part of its application package.

- (1) The deed or other conveyance instrument providing evidence of the applicant's title or, if the applicant does not yet have title, the deed providing evidence of the transferor's title and a written agreement or affidavit from the transferor that title will be transferred to the United States on behalf of the applicant to complete the acquisition in trust status; and
- (2) Either:
 - (i) A current title insurance commitment issued by a title company; or
 - (ii) The policy of title insurance issued by a title company to the applicant or current owner and an abstract of title issued by a title compact dating from the time the policy of title insurance was issued to the applicant or current owner to the present. The Secretary may accept a preliminary title report or equivalent document prepared by a title company in place of an abstract of title for purposes of this paragraph (a)(2)(ii) if the applicant provides evidence that the title company will not issue an abstract of title based on practice in the local jurisdiction, subject to the requirements of paragraph (b) of this section.

The Tribe submitted a deed to the Elk Run Site as part of the Application.²⁴ Additionally, the Tribe submitted a title insurance policy for the Elk Run Site.²⁵ Therefore, the requirements of § 151.14 have been satisfied.

25 C.F.R. § 151.15 – The extent of information to allow the Secretary to comply with 516 DM 6, Appendix 4, National Environmental Policy Act Revised Implementing Procedures, and 602 DM 2, Land Acquisitions: Hazardous Substances Determinations.

Section 151.15 requires the Secretary to consider the availability of information necessary for compliance with the National Environmental Policy Act (NEPA), 42 U.S.C. § 4321 *et seq.* As noted above the Department previously issued a Finding of No Significant Impacts for the Elk Run Site on November 8, 2024. The Department must also complete an Environmental Site Assessment (ESA) pursuant to Departmental Manual at 602 DM 2. The Department finalized a Phase I ESA and certified it on December 2, 2024, determining that

²³ EA §§ 1.5 and 2.1.

²⁴ Warranty Deed, Elk Farm, LLC and Tower Elk Farm III to Prairie Island Indian Community, dated December 28, 2018.

²⁵ Owner's Policy of Title Insurance, Title Services, Inc., for Prairie Island Indian Community, dated December 28, 2018.

there were no hazardous materials or contaminants on the Elk Run Site.²⁶ This satisfies the requirements of 602 DM2.

Conclusion

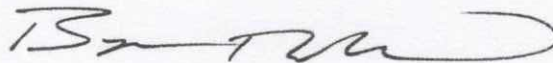
Having thoroughly considered the Part 151 criteria and all of the documents on the record, I conclude that the Tribe's application meets all of the regulatory requirements as well as the spirit and purpose of the underlying statutes. Therefore, the Elk Run Site will be acquired in trust for the Tribe.

Decision to Approve the Tribe's Fee-to-Trust Application

Having thoroughly considered the Part 151 criteria, the Secretarial Determination, and all of the documents in the record, I conclude the Tribe's application meets all of the regulatory requirements as well as the spirit and purpose of the underlying statutes and therefore the Elk Run Site will be acquired in trust for gaming and other purposes for the Tribe.

Pursuant to Section 5 of the IRA, 25 U.S.C. § 5108, the Department will acquire the Elk Run Site in trust for the Prairie Island Indian Community. After the Elk Run Site is acquired in trust, the Tribe will be eligible to conduct gaming on the Site pursuant to Section 20 of IGRA, 25 U.S.C. § 2719 (b)(1)(A). Consistent with applicable law, upon completion of the requirements of 25 C.F.R. § 151.16, and any other Departmental requirements, the Regional Director shall immediately acquire the Elk Run Site in trust. This decision constitutes a final agency action pursuant to 5 U.S.C. § 704.

Sincerely,



Bryan Newland
Assistant Secretary – Indian Affairs

Enclosures:

1. Legal Description of the Elk Run Site
2. Secretarial Determination
3. Governor Walz Concurrence
4. Finding of No Significant Impacts

²⁶ Phase I Environmental Site Assessment Report, Prairie Island Indian Community Emergency Gaming Parcels, prepared by Acorn Environmental on November, 25, 2024, and reviewed and approved by Scott Doig, Regional Environmental Scientist, Midwest Regional Office, Bureau of Indian Affairs, on December 2, 2024.