

BOARD OF SUPERVISORS SENECA COUNTY

Waterloo, New York 13165

SUPERVISORS OPPOSE LAND-INTO TRUST APPLICATION OF CAYUGA INDIAN NATION RESOLUTION NO. 134-09, moved by Dr. Dresser, seconded by Mr. Hayssen and adopted by 617 ayes (Dresser, Hayssen, Barto, Davidson, Same, Lafler, Terryberry, Amidon, Mooney, Shipley and Westfall) and 133 absentees (Reynolds, Serven, Kaiser).

WHEREAS, the Bureau of Indian Affairs (BIA) has released a Draft Environmental Impact Statement (DEIS) supporting the proposed fee-to-trust conveyance of certain real property owned by the Cayuga Indian Nation (CIN) and located in Cayuga and Seneca Counties in the State of New York; and

WHEREAS, the DEIS acknowledges that the property in question is on "ancestral land" and therefore not on a current reservation, thus the CIN application is being treated improperly as an "on-reservation" rather than an "off-reservation" application; and

WHEREAS, the DEIS concludes erroneously that there would be no significant environmental impact if the approximately 125+ subject acres owned by the CIN were taken into federal trust for the use and benefit of the CIN because it fails to address, analyze and consider mitigation of significant negative impacts that will result from such action; and

WHEREAS, taking the subject land into trust would render it sovereign territory and therefore exempt from local property taxes, special district charges and other fees, thus reducing the revenue of relevant counties, towns, villages, and school, fire, water, and sewer districts; and

WHEREAS, despite the fact that the stated purpose of the CIN application is to foster activities that will result in economic growth for the Nation, the DEIS nevertheless contends incredulously that the CIN has "no plans for further development on the properties subject to the proposed action;" and

WHEREAS, the DEIS fails to take into consideration the fact that the CIN already owns some 765 additional acres in the Counties and intends to buy more with the intent of making future trust applications, and allegedly intends to acquire up to 64,015 such acres of ancestral land that the Nation contends would thereby become eligible for trust status; and

WHEREAS, the DEIS fails to take into consideration the fact that the CIN's LakeSide Trading enterprises have driven other gas stations and convenience stores out of business and severely reduced the profits of others because the CIN has not collected state sales and excise taxes on motor fuel, tobacco, and other products sold, thereby also reducing the sales tax revenue of the Counties; and

WHEREAS, the DEIS treats gaming as an existing condition and makes no study of its prior impact or future impact on the community, stating only that "the Nation would provide information to its patrons regarding gambling addiction counseling services available in the area;" and

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WHEREAS the DEIS admits that the sole source of CIN's tribal revenue is its gas station and convenience store businesses and gaming operations but does not acknowledge that the sale of untaxed cigarettes and its gaming operations were both determined to be illegal; and

WHEREAS, in Table 3.8-27 figures are omitted for the annual amount of purchases of cigarettes and gas outside the Counties, apparently for the purpose of hiding the enormous volume of sales of these untaxed items; and

WHEREAS, the DEIS states that "No members of the Nation are known to reside in Cayuga County/Seneca County" and that "[t]he proposed action is intended to further the lifestyle, cultural values and objectives of the Nation by advancing the Nation's goals of re-establishing tribal presence in its former homeland," yet on the very same page (4.8-2) the document makes the incongruous statement that "[i]t is not anticipated that members of the Cayuga Nation would relocate to the Project area;" and

WHEREAS, the DEIS reports the median household income of CIN members to be \$26, 722, compared to \$37,487 in Cayuga County and \$37, 140 in Seneca County, but it provides no analysis of any potentially adverse impact upon the provision of State, County and local services, including social services, if the application were granted and members of CIN relocated to Cayuga and Seneca Counties; and

WHEREAS, the DEIS minimizes the costs of road, water, and sewer infrastructure, police and fire protection, and other public services that would be provided to the subject properties without guaranteed reimbursement from the CIN; and

WHEREAS, land placed in trust is removed from local governmental jurisdiction in terms of air, soil, and water regulations, zoning and land use regulations, building codes, and other community standards, thereby exposing both humans and the environment to unnecessary health, safety and welfare risks; and

WHEREAS, the DEIS has failed to take into consideration the disruptive practical consequences of checker-boarded sovereign parcels, which practice was squarely rejected by the U. S. Supreme Court ruling in *City of Sherrill vs. the Oneida Indian Nation*; and

WHEREAS, the DEIS has failed to recognize the U.S. Supreme Court decision in *Carcieri vs. Salazar* which prohibited the Secretary of the Interior from taking land into trust for an Indian tribe, such as the CIN, which was not federally recognized and under federal jurisdiction in 1934, be it therefore

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RESOLVED, the Seneca County Board of Supervisors rejects the preferred alternative contained in the DEIS and calls upon the BIA to elect the No Action alternative, and be it further

RESOLVED, the Seneca County Board of Supervisors calls upon the BIA to reject all further fee-to-trust applications of the CIN in accordance with the Carcieri vs. Salazar decision referred to above, and any other applicable law, and be it further

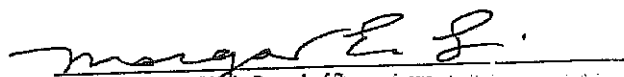
RESOLVED, a copy of this resolution shall be sent to Franklin Keel, Regional Director, Eastern Regional Office, Bureau of Indian Affairs, 545 Marriott Drive, Suite 700, Nashville, Tennessee 37214 so as to be received by July 6, 2009, and be it further

RESOLVED, a copy of this resolution shall be sent to the following public officials:

Barack Obama, President of the United States
Kenneth Salazar, Secretary of the Interior
Charles Schumer, United States Senator
Kirsten Gillibrand, United States Senator
Michael Arcuri, United States Congressman
David Paterson, Governor of the State of New York
Michael Nozzolio, New York State Senator
Brian Kolb, New York State Assembly Minority Leader

I do hereby certify that I have compared the preceding with the original thereof, on file in the Office of the Clerk of the Board of Supervisors at Waterloo, New York, and that the same is a correct transcript therefrom and of the whole of said original; and that said original was duly adopted at a meeting of the Board of Supervisors of Seneca County held at Waterloo, New York on the 9 day of June 2009.

STATE OF NEW YORK)
County of Seneca)


Margaret E. Li, Clerk, Board of Supervisors
Seneca County, Waterloo, New York 13165

Given under my hand and official seal

6/17/2009

RESOLUTION NO. **325-09** (623/09)

COA-OppgLandIntoTrstApplOfCayIndNatrev

OPPOSING LAND INTO TRUST APPLICATION OF CAYUGA INDIAN NATION

BY: MR. MITCHELL, Chairman, Ways & Means Committee.

Whereas, the Bureau of Indian Affairs (BIA) has released a Draft Environmental Impact Statement (DEIS) supporting the proposed fee-to-trust conveyance of certain real property owned by the Cayuga Indian Nation (CIN) and located in Cayuga and Seneca Counties in the State of New York; and

Whereas, the DEIS acknowledges that the property in question is on "ancestral land" and therefore not on a current reservation, thus the CIN application is being treated improperly as an "on-reservation" rather than an "off-reservation" application; and

Whereas, the DEIS concludes erroneously that there would be no significant environmental impact if the approximately 125+ subject acres owned by the CIN were taken into federal trust for the use and benefit of the CIN because it fails to address, analyze and consider mitigation of significant negative impacts that will result from such action; and

Whereas, taking the subject land into trust would render it sovereign territory and therefore exempt from local property taxes, special district charges and other fees, thus reducing the revenue of relevant counties, towns, villages, and school, fire, water, and sewer districts; and

Whereas, despite the fact that the stated purpose of the CIN application is to foster activities that will result in economic growth for the Nation, the DEIS nevertheless contends incredulously that the CIN has "no plans for further development on the properties subject to the proposed action;" and

Whereas, the DEIS fails to take into consideration the fact that the CIN already owns some 765 additional acres in the Counties and intends to buy more with the intent of making future trust applications, and allegedly intends to acquire up to 64,015 such acres of ancestral land that the Nation contends would thereby become eligible for trust status; and

Whereas, the DEIS fails to take into consideration the fact that the CIN's LakeSide Trading enterprises have driven other gas stations and convenience stores out of business and severely reduced the profits of others because the CIN has not collected state sales and excise taxes on motor fuel, tobacco, and other products sold, thereby also reducing the sales tax revenue of the Counties; and

Whereas, the DEIS treats gaming as an existing condition and makes no study of its prior impact or future impact on the community, stating only that "the Nation would provide information to its patrons regarding gambling addiction counseling services available in the area;" and

Whereas, the DEIS admits that the sole source of CIN's tribal revenue is its gas station and convenience store businesses and gaming operations but does not acknowledge that the sale of untaxed cigarettes and its gaming operations were both determined to be illegal; and

Whereas, in Table 3.8-27 figures are omitted for the annual amount of purchases of cigarettes and gas outside the Counties, apparently for the purpose of hiding the enormous volume of sales of these untaxed items; and

Whereas, the DEIS states that "No members of the Nation are known to reside in Cayuga County/Seneca County" and that "[t]he proposed action is intended to further the lifestyle, cultural values and objectives of the Nation by advancing the Nation's goals of re-establishing tribal presence in its former homeland," yet on the very same page (4.8-2) the document makes the incongruous statement that "[i]t is not anticipated that members of the Cayuga Nation would relocate to the Project area;" and

Whereas, the DEIS reports the median household income of CIN members to be \$26,722, compared to \$37,487 in Cayuga County and \$37,140 in Seneca County, but it provides no analysis of any potentially adverse impact upon the

provision of State, County and local services, including social services, if the application were granted and members of CIN relocated to Cayuga and Seneca Counties; and

Whereas, the DEIS minimizes the costs of road, water, and sewer infrastructure, police and fire protection, and other public services that would be provided to the subject properties without guaranteed reimbursement from the CIN; and

Whereas, land placed in trust is removed from local governmental jurisdiction in terms of air, soil, and water regulations, zoning and land use regulations, building codes, and other community standards, thereby exposing both humans and the environment to unnecessary health, safety and welfare risks; and

Whereas, the DEIS has failed to take into consideration the disruptive practical consequences of checker-boarded sovereign parcels, which practice was squarely rejected by the U. S. Supreme Court ruling in City of Sherrill vs. the Oneida Indian Nation; and

Whereas, the DEIS has failed to recognize the U.S. Supreme Court decision in Carcieri vs. Salazar which prohibited the Secretary of the Interior from taking land into trust for an Indian tribe, such as the CIN, which was not federally recognized and under federal jurisdiction in 1934; now, therefore, be it

RESOLVED, the Cayuga County Legislature rejects the preferred alternative contained in the DEIS and calls upon the BIA to elect the No Action alternative, and be it further

RESOLVED, the Cayuga County Legislature calls upon the BIA to reject all further fee-to-trust applications of the CIN in accordance with the Carcieri vs. Salazar decision referred to above, and any other applicable law, and be it further

RESOLVED, a copy of this resolution shall be sent to Franklin Keel, Regional Director, Eastern Regional Office, Bureau of Indian Affairs, 545 Marriott Drive, Suite 700, Nashville, Tennessee 37214 so as to be received by July 6, 2009, and be it further

RESOLVED, that the County of Cayuga shall submit documents to the BIA in opposition to the Cayuga Indian Nations fee to trust application; and be it further

RESOLVED, a copy of this resolution shall be sent to the following public officials: Barack Obama, President of the United States; Kenneth Salazar, Secretary of the Interior; Charles Schumer, United States Senator; Kirsten Gillibrand, United States Senator; Michael Arcuri, United States Congressman; David Paterson, Governor of the State of New York, Michael Nozzolio, New York State Senator; and Brian Kolb, New York State Assemblyman.

I HEREBY CERTIFY, THAT I HAVE COMPARED THE FOREGOING COPY OF A RESOLUTION DULY PASSED AND ADOPTED BY THE LEGISLATURE OF CAYUGA COUNTY AT A MEETING HELD ON THE 23rd DAY OF JUNE, 2009 WITH THE ORIGINAL RESOLUTION, AND THAT THE SAME IS A TRUE AND CORRECT COPY AND TRANSCRIPT THEREOF, AND THE WHOLE THEREOF.

6/24/2009 10:00 AM


CLERK, CAYUGA COUNTY LEGISLATURE