

- ✓ On August 1, 1996, the Tribe submitted the fee-to-trust application for the Monticello site to the BIA Eastern Region for processing under BIA regulations and policies.
- ✓ From August 1996 to April 2000, the Tribe's fee-to-trust application and its proposed Monticello project was the subject of two Environmental Assessments under the National Environmental Protection Act ("NEPA") which resulted in two Findings of No Significant Impact ("FONSI") for the proposed federal action: to approve the Tribe's fee-to-trust application for the Monticello casino project. The project was also fully studied and evaluated under the more rigorous and demanding New York State Environmental Quality Review Act ("SEQRA") process. These independent and extensive evaluations concluded there would be no adverse environmental impacts from the Tribe's project.
- ✓ On April 6, 2000, then-Assistant Secretary for Indian Affairs ("ASIA") Kevin Gover issued an affirmative Section 20 determination that the Tribe's application would be in the best interest of the Tribe and its members, and would not be detrimental to the surrounding community. ASIA Gover wrote to then-New York Governor George Pataki requesting his concurrence in this determination, and asserted that the Department would acquire the land into trust upon the Governor's concurrence.
- ✓ For several reasons, the Tribe switched gaming development partners, and from May 2000 through July 2005, explored the viability of pursuing an alternative Section 20 project at a nearby location ("Kutcher's site"). During part of this timeframe, the Cayuga Indian Nation filed its own an application for the Monticello Raceway site and spent considerable time updating and revising the environmental reviews.
- ✓ In July 2005, the Cayugas dropped their application and the St. Regis Mohawk Tribe reactivated its own fee-to-trust application for the 29.31 acre site at the Monticello Raceway site. The Tribe took immediate steps to confirm the validity of the April 2000 Section 20 secretarial determination and then proceeded with updating the environmental work.
- ✓ In September 2005, George T. Skibine, Acting Deputy Assistant Secretary for Policy and Economic Development/Director of Indian Gaming Management Staff confirmed that the April 6, 2000 two part determination issued by then ASIA Gover was still valid, and upon the Governor's concurrence the Department would resume consideration of the St. Regis Mohawk Tribe's application to take land into trust at Monticello Raceway. Skibine also informed the Tribes that environmental work would likely need to be "refreshed" and revised.
- ✓ A year later, on September 8, 2006, after extensive consultations and tedious revisions to the EA and discussions between the Tribe and Departmental officials, the BIA Eastern Region issued a Notice of Availability ("NOA") commencing a 30 day comment period on the draft EA, and on September 12, 2006, published the NOA inviting public comments on the most recent draft EA.
- ✓ On October 31, 2006, the BIA Eastern Region submitted the FONSI and final EA to the BIA Central Office with the recommendation to take the land into trust and issue the FONSI.
- ✓ On December 21, 2006, Associate Deputy Secretary Cason signed the FONSI and sent transmittal letters to the Tribe and to Governor Pataki requesting his concurrence with the Department's Section 20 secretarial determination. The December 2006 FONSI was the third one issued by the Department for the construction of the Tribe's casino project at the Monticello Raceway site.

- ✓ On February 18, 2007, Governor Spitzer signed a letter concurring with the Department's affirmative Section 20 secretarial determination to take the land into trust, and, on behalf of New York State, entered into a gaming compact with the Tribe. Gov. Spitzer requested Secretary Kempthorne to "expeditiously take the land into trust and approve the gaming compact...so that the Tribe can begin construction of the proposed casino."
- ✓ On February 27, 2007, the St. Regis Mohawk Tribal Council sent a letter to Secretary Kempthorne formally requesting that he approve the Tribe's fee-to-trust application and acquire the land into trust for its intended purpose.
- ✓ From February 2007 through November 2007, the St. Regis Mohawk Tribal Council submitted numerous and repeated requests to meet with Secretary Kempthorne to discuss the Secretary's inextricable delay in rendering a final decision on the Tribe's application. Secretary Kempthorne did not respond to any of the Tribe's requests. Other Departmental officials could not provide any specific answers or reasons for the delay, though some of the same senior officials remarked both publicly and privately that the real source of delay was directed by Secretary Kempthorne for what many attributed to be his personal views and objections to "off reservation" gaming. During this timeframe and leading up to the January 4, 2008 denial, neither Secretary Kempthorne nor any official within the Department indicated to the Tribe that the application was deficient or that it lacked any key information.
- ✓ Faced with an intractable impasse, the Tribe filed a complaint against the Department and Secretary Kempthorne in the U.S. District Court for the District of Columbia for judicial review of the continued failure to act on the Tribe's application, and to compel a decision on the application. The government sought and received an extension to answer the Tribe's complaint – the response was due on January 4, 2008.
- ✓ On January 4, 2008, the Department issued a denial letter to the Tribe based solely on the failure of the Tribe's application to meet a new "commutability" standard, which was simultaneously issued through an internal memorandum dated January 3, 2008 from Assistant Secretary Carl Artman to the BIA Regional Directors.