



UNITED STATES
DEPARTMENT OF THE INTERIOR

BUREAU OF INDIAN AFFAIRS

Midwest Regional Office

Norman Point II

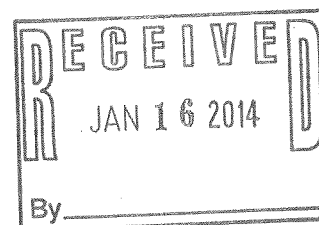
5600 West American Boulevard, Suite 500
Bloomington, MN 55437



IN REPLY REFER TO:
Real Estate Services

JAN 13 2014

Mr. David Hartwell
Chair, Lessard-Sams Outdoor Heritage Council
The State of Minnesota
100 Dr. Rev. Martin Luther King Jr. Blvd.
Saint Paul, Minnesota 55155



Dear Mr. Hartwell:

On November 26, 2013 the Fond du Lac Band (Band) sent a letter to our office dated November 20, 2013, from the Lessard-Sams Outdoor Heritage Council (L-SOHC) in which you requested a meeting with the Band and the Bureau of Indian Affairs' (BIA) Solicitor's Office to discuss the recommendation of the transfer of 720 acres to the Band pursuant to Minnesota Statutes 2012, Chapter 97A.056. The letter further clarifies that the Band plans on applying to the BIA to have the 720 acres of land placed in trust to be held by the United States of America in trust for the Fond du Lac Band. As such, the L-SOHC is seeking assurance from the BIA that as trustee it is willing to accept the terms and conditions outlined in Minnesota Statute 2012, Chapter 97A.056, subdivisions 15 and 16.

Although time does not permit for a meeting prior to the recommendation review on January 15, 2014, and there is no actual application for our review or otherwise pending with our office, we can offer you the following general guidance only. First, please be advised that 25 U.S.C. § 465 and 25 C.F.R. Part 151, provides the authority and process for BIA to acquire land in trust for the Fond du Lac Band. However, before a federal agency may acquire land, the Attorney General must approve the sufficiency of title. See 40 U.S.C. 3111 (formerly 40 U.S.C. § 255). Second, we can confirm that the BIA has previously acquired land in trust subject to a right of reverter set forth in a state statute. In that instance, the Attorney General reviewed the specific facts surrounding that acquisition and determined that title may be accepted because the conditions complied with the Attorney General's title regulations. See U.S. Dept. of Justice Letter dated May 4, 1999 (copy enclosed). Finally, be advised that any and all trust applications are reviewed on a case by case basis pursuant to the same regulations.

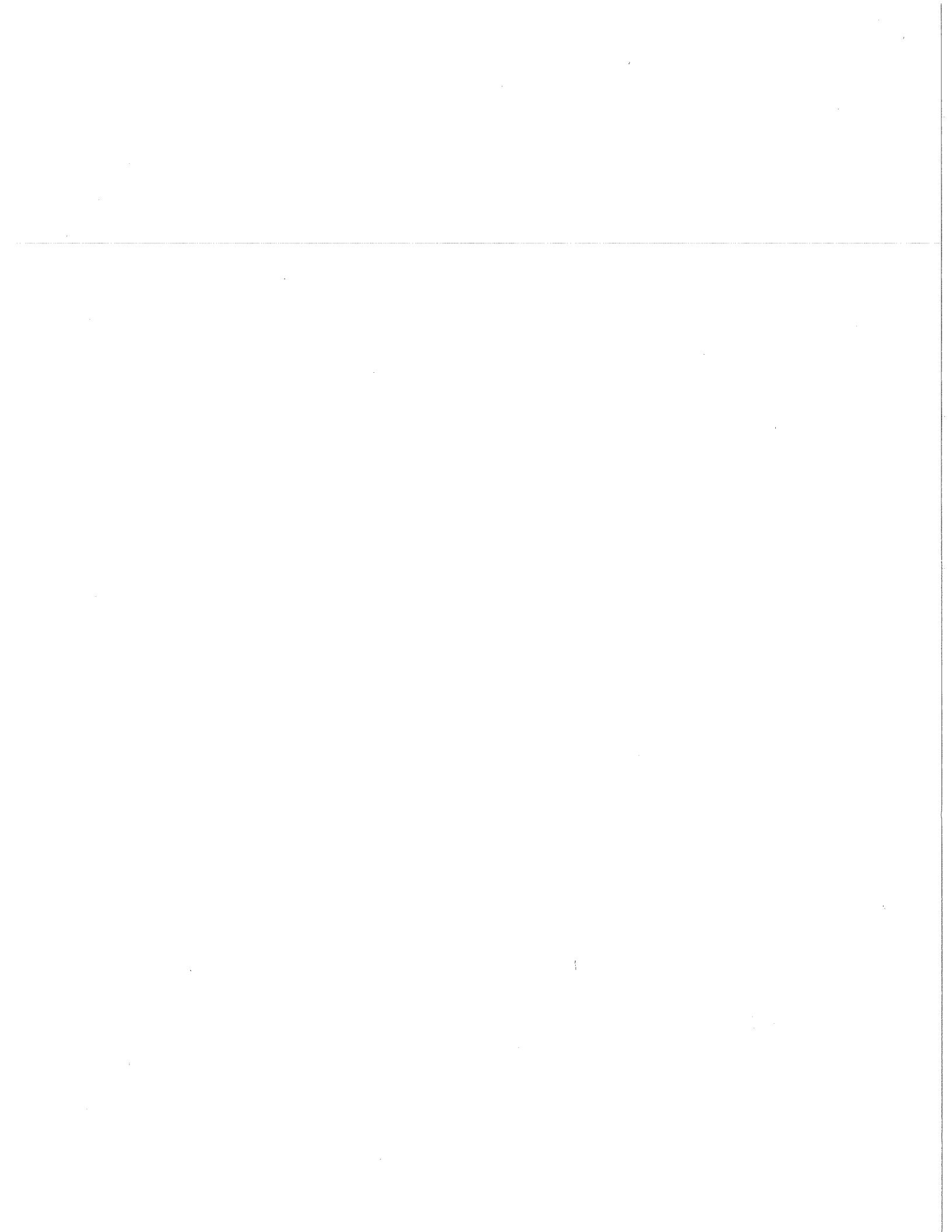
We hope that this information assists you in your final recommendation review. You may direct any questions to Kayla Danks, Regional Realty Officer at (612) 725-4541.

Sincerely,

A handwritten signature in black ink, appearing to read 'Kayla Danks', with a long horizontal flourish extending to the right.

Acting Regional Director

cc: Honorable Karen R. Diver, Chairperson, Fond du Lac Tribe
Superintendent, Minnesota Agency





U.S. Department of Justice

Environment and Natural Resources Division

LMB/TLP
33-0

Land Acquisition Section
P.O. Box 561
Washington, DC 20044

Telephone (202) 305-0316
Facsimile (202) 305-0398

May 4, 1999

Jean Sutton, Esq.
U.S. Department of the Interior
Office of the Field Solicitor
Bishop Henry Whipple Federal Building
1 Federal Drive, Room 686
Ft. Snelling, MN 55111-4007

JWS
RECEIVED
FIELD SOLICITOR
TWIN CITIES
MAY 10 1999
FILE

Via U.S. Mail and FAX to (612) 713-7121

Re: Approval of land acquisition in trust for Grant Portage Band of Chippewa Indians subject to a right of reverter (Grand Portage State Park matter)

Dear Ms. Sutton:

This letter responds to your correspondence concerning acquisition of Minnesota land in trust for the Grant Portage Band of Chippewa Indians (the "Band") pursuant to 25 U.S.C. § 465. On behalf of the Bureau of Indian Affairs ("BIA"), the Office of the Field Solicitor is requesting authority to accept title to this land from the State of Minnesota subject to a right of reverter as described in legislation which created Grand Portage State Park. Minn. Laws 1989, Ch. 259, § 7. We hereby inform you of our determination that title may be accepted subject to the right of reverter set forth in the state statute.

Our decision is based on the following relevant provisions of the Attorney General's title regulations¹:

5. CHARACTER OF TITLE WHICH MAY BE APPROVED

* * *

(b) Frequently vendors desire to convey lands to the Government by deeds which contain provisions for the reversion of the title when

¹ Regulations of the Attorney General promulgated in accordance with Public Law 91-393 approved September 1, 1970, 84 Stat. 835, An Act to Amend Section 355 of the Revised Statutes, as amended, Concerning Approval by the Attorney General of the Title to Lands Acquired for and on Behalf of the United States and for Other Purposes (issued under Order No. 440-70 of the Attorney General, dated October 2, 1970).

Jean Sutton, Esq.
U.S. Department of the Interior

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the property ceases to be used for a specified purpose. Also there may be restrictive covenants or agreements in conveyances to prior owners under which the title might revert to the grantors in such deeds upon the use of the property for an unauthorized purpose or for other reasons. When permanent type improvements or improvements of substantial value are to be erected on lands, a defeasible title to such lands is not acceptable and must not be approved, unless the estate is clearly authorized by the Congress.

* * *

(f) A defeasible fee title to land may be acquired by purchase or donation when no permanent improvements are to be erected thereon, provided that the statute authorizing the acquisition in question does not preclude acquisition of title to the interest which the agency intends to acquire, the interest intended to be acquired is sufficient to permit the use of the land contemplated, and the consideration for the land has been determined with reference to the value of the limited interest that is acquired. In the event it is decided at some future time to erect permanent improvements on such land, the provision for defeasance must be eliminated.

(g) When it is desired to accept the title to lands, subject to any rights of reversion, the opinion of the Attorney General must be requested and full supporting facts containing a reference to any authorizing authority must be submitted for consideration.

* * *

Your letter indicated that no improvements to the property are planned by the Band or the United States. The authority for acquisition, 25 U.S.C. § 465, places no limits on the title to be acquired. Consideration for the conveyance will be lease of the land back to the State of Minnesota pursuant to the terms set forth in the Grand Portage State Park legislation. Accordingly, we have no objection to BIA's proceeding with this trust acquisition.

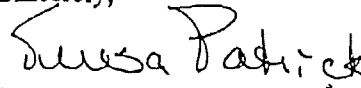
You may contact me at (202) 305-0316 or via Internet email at Teresa.Patrick@usdoj.gov with any questions or comments. We appreciate the opportunity to advise your department.

Jean Sutton, Esq.
U.S. Department of the Interior

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Please accept my utmost apologies that our department has taken so long to respond to this request.

Sincerely,



Teresa L. Patrick
Chief, Title Unit
Land Acquisition Section

