

KEWEENAW BAY INDIAN COMMUNITY

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2017 TRIBAL COUNCIL

WARREN C. SWARTZ, JR., President
JENNIFER MISEGAN, Vice President
SUSAN J. LAFERNIER, Secretary
TONI J. MINTON, Assistant Secretary
DOREEN G. BLAKER, Treasurer

RESOLUTION KB-055-2017

Page 1 of 5

- WHEREAS,** the Keweenaw Bay Indian Community is a federally recognized Indian tribe exercising inherent sovereign authority over its members and its territories; and
- WHEREAS,** on October 4, 1842, the Keweenaw Bay Indian Community (Tribe), along with other bands of Lake Superior Anishinaabe, ceded over 19 million acres to the United States (Treaty with the Chippewa 1842), reserving unto the bands the rights to hunt, fish, and gather across the ceded territory as they had done for centuries; and
- WHEREAS,** on September 30, 1854, the Tribe again, along with other bands of Lake Superior (Gitche Gumme) Anishinaabe, entered into the Treaty with the Chippewa, 1854, with the United States in order to avoid removal west and to secure our permanent homeland along the shores of Keweenaw Bay Gitche Gumme; and
- WHEREAS,** the Keweenaw Bay Indian Community is organized pursuant to the provisions of the Indian Reorganization Act of 1934, 48 Stat. 984, 25 U.S.C. §5123, with a Constitution and Bylaws duly approved by the Secretary of the United States Department of the Interior (Department) on December 17, 1936; and
- WHEREAS,** the Keweenaw Bay Indian Community Tribal Council (Tribal Council) is authorized under Article VI of the Keweenaw Bay Indian Community Constitution and Bylaws "to regulate the uses and disposition of tribal property, to protect and preserve the tribal property, wild life and natural resources of the Community, to cultivate Indian arts, crafts and culture, to administer charity, to protect the health, security, and the general welfare of the Keweenaw Bay Indian Community" and furthermore "to manage all economic affairs and enterprises"; and
- WHEREAS,** the Tribe was chartered as a body politic and corporate of the United States of America, pursuant to 25 U.S.C. 477, adopted by ratification, by the adult Indians living on the L'Anse Indian Reservation (Reservation) on July 17, 1937; and
- WHEREAS,** paragraph 5(e) of the Corporate Charter of the Keweenaw Bay Indian Community of the L'Anse Reservation provides the Tribe corporate powers "to engage in any business that will further the economic well-being of the members of the Community or to undertake any activity of any nature whatever, not inconsistent with law or with any provision of this Charter"; and
- WHEREAS,** the Reservation encompasses approximately 59,072 acres (92 sq. mi.) in north central Baraga County (968 sq. mi.) in the State of Michigan along the south shore of Gitche Gumme; and

LAKE SUPERIOR BAND OF CHIPPEWA INDIANS
"Home of the Midnight Two-Step Championship"

RESOLUTION

KB-055-2017

Page 2 of 5

- WHEREAS,** Baraga County is a rural county located in Michigan's Upper Peninsula, lying approximately 469 miles from Michigan's capital city of Lansing and over 180 miles from the nearest city with a population of 100,000 or greater (Green Bay, WI); and
- WHEREAS,** the latest data available from the Tribal Employment Rights Office indicates the unemployment rate amongst tribal members in Baraga County is 39.3% and 47% amongst Marquette County tribal residents; and
- WHEREAS,** although the Tribe has been the economic backbone of Baraga County for many years through its government labor force, Ojibwa Casino and small business enterprises; the location of the Reservation and its lack of proximity to any major population center limits the Tribe's exposure to populations that drive additional economic ventures; and
- WHEREAS,** the Tribe's capacity to advance self-determination and self-governance is strengthened by the ability of Tribe to extend economic ventures outside of the Reservation boundaries; and
- WHEREAS,** on April 6, 2017, the acting Assistant Secretary-Indian Affairs sent notice to all Bureau of Indian Affairs (BIA) Regional Directors stating "the delegated authority for off-reservation land-into-trust acquisitions under 25 CFR 151.11 will lie with the Acting Assistant Secretary-Indian Affairs"; and
- WHEREAS,** on October 4, 2017, the Department of the Interior issued a Dear Tribal Leader Letter with a Consultation Draft of suggested revisions, stating that the Department was considering revisions to the land into trust regulations at 25 C.F.R. Part 151, which would "create a two-step review and approval process for off-reservation trust acquisitions, while distinguishing off-reservation trust acquisitions for the purposes of gaming from off-reservation trust acquisitions for other purposes;" and
- WHEREAS,** the Department alleges to "reduce the burden on tribal applicants" by moving the process of complying with NEPA, *Carciari* and, if applicable, 25 CFR Part 292, to the second phase of the application process; and
- WHEREAS,** the Department proposes to require additional analyses by the tribes under the initial application phase, offering no details as to how these analyses should be performed nor how the Department will determine their accuracy and outcome other than to say "only if an application meets *certain threshold criteria*, would the applicant proceed to the final review"; and
- WHEREAS,** the Department proposes to distinguish "for gaming" from other "non-gaming" off-reservation applications and thereby violating the Indian Gaming Regulatory Act (IGRA), at Section 2719(c), which states "Nothing in this section shall affect or diminish the authority and responsibility of the Secretary to take land into trust;" and

RESOLUTION

KB-055-2017

Page 3 of 5

WHEREAS, the Department proposes to reinstate the 30-day delay for taking land into trust following a decision by the Secretary or Assistant Secretary, or exhaustion of administrative remedies under 25 CFR Part 2, which certainly will invite costly litigation, all the while subjecting the tribe, with an otherwise approved application, to tax liability during the entire phase of litigation; and

WHEREAS, the Department hosted just three (3) consultation sessions in the later part of November 2017, all located in the western United States, to address 567 federally recognized tribes across 34 states and ignoring Presidential Executive Order 13175; and

WHEREAS, the Department, in proposing to distinguish applications for gaming from other off-reservation applications acknowledges that the four (4) additional proposed requirements are already frequently provided as a matter of practice, in responses to comments from local and state authorities and/or as part of a NEPA review; and

WHEREAS, the proposed revisions include augmented requirements for Tribes to address state and local interests, including the negotiation of Memorandums of Understanding and/or other agreements with state and local governments, and if there is no Memorandum of Understanding or agreement in place to explain why not; and

WHEREAS, the Department, currently under staffed and under-funded, makes no mention of *its* ability to handle the additional proposed requirements it's proposing in the new regulations.

NOW THEREFORE BE IT RESOLVED, that tribal sovereignty in its purest form is the ability of tribes to determine their future as opposed to the Department and Administration dictating what Indian society looks like by diminishing tribe's legal rights, political power, putting limitations on their economic systems, and influencing tribal culture and social structures through policy born of an entirely different life perspective; and

BE IT FURTHER RESOLVED, that off-reservation acquisitions are essential economic drivers to many tribes having extremely small, rural or diminished reservations that are insufficient as viable land bases for long term self-determination; and

BE IT FURTHER RESOLVED that the revisions being proposed to 25 C.F.R. 151 by the Department, dated October 4, 2017, do not "reduce the burden on tribal applicants" but rather put in place additional requirements in the overall application process that increases the technical expertise required to submit such an application and therefore places a greater financial burden on tribes; and

BE IT FURTHER RESOLVED, that the Keweenaw Bay Indian Community opposes the proposed revisions to 25 C.F.R. Part 151 and asks that the Department immediately withdraw and cease any efforts to amend the land into trust regulations; and

**RESOLUTION
KB-055-2017**

Page 4 of 5

BE IT FURTHER RESOLVED, that Keweenaw Bay Indian Community requests that Congress and the Administration work with Indian Nations on a government-to-government basis and include in their consultation all Indian Nations on matters that affect tribal sovereignty, including the recovery of traditional homelands and land into trust regulations; and

BE IT FURTHER RESOLVED that the move of all off-reservation fee to trust decision making to the Assistant Secretary-Indian Affairs is a political and bureaucratic maneuver and inconsistent with the Bureau of Indian Affairs' mission to "*... enhance the quality of life, to promote economic opportunity, and to carry out the responsibility to protect and improve the trust assets of American Indians, Indian tribes, and Alaska Natives.*"

BE IT FURTHER RESOLVED, that Keweenaw Bay Indian Community requests the Department rescind the April 6, 2017 notice to BIA Regional Directors that centralizes all decision making for off-reservation fee to trust acquisitions and immediately allow Regional Staff to begin processing off-reservation fee to trust applications under the current Part 151 regulations.

RESOLUTION
KB-055-2017
Page 5 of 5

CERTIFICATION

We, Warren C. Swartz, Jr., President and Susan J. LaFernier, Secretary of the Keweenaw Bay Indian Community, do hereby certify that this Resolution No. KB-055-2017 to be a true and exact copy as approved by the Tribal Council of the Keweenaw Bay Indian Community at a duly called meeting held on December 14, 2017 there being a quorum present, by a vote of 10 in favor, 0 opposed, and 0 abstentions, as follows:

Vice Chairwoman, Jennifer Misegan:	<u>AYE</u>	NAY	ABSTAIN	NOT PRESENT
Secretary, Susan J. LaFernier:	<u>AYE</u>	NAY	ABSTAIN	NOT PRESENT
Asst. Secretary, Toni J. Minton:	<u>AYE</u>	NAY	ABSTAIN	NOT PRESENT
Treasurer, Doreen G. Blaker:	<u>AYE</u>	NAY	ABSTAIN	NOT PRESENT
Councilperson, Robert R. D. Curtis, Jr.:	AYE	NAY	ABSTAIN	<u>NOT PRESENT</u>
Councilperson, Fred Dakota:	<u>AYE</u>	NAY	ABSTAIN	NOT PRESENT
Councilperson, Randall R. Haataja:	<u>AYE</u>	NAY	ABSTAIN	NOT PRESENT
Councilperson, Michael F. LaFernier, Sr.:	<u>AYE</u>	NAY	ABSTAIN	NOT PRESENT
Councilperson, Gary F. Loonsfoot, Jr.:	<u>AYE</u>	NAY	ABSTAIN	NOT PRESENT
Councilperson, Rodney Loonsfoot:	<u>AYE</u>	NAY	ABSTAIN	NOT PRESENT
Councilperson, Elizabeth D. Mayo:	<u>AYE</u>	NAY	ABSTAIN	NOT PRESENT
President, Warren C. Swartz, Jr.: (If required)	AYE	NAY	ABSTAIN	NOT PRESENT


Warren C. Swartz, Jr., President


Susan J. LaFernier, Secretary