

Editorial

Ennisko:wa / March 3, 2008

Last week, in Washington, D.C. I testified before the House Natural Resources Committee at the oversight hearings held on the Department of the Interior's recently released "guidance" on taking land into trust for tribes and its broad ramifications.

The St. Regis Mohawk Tribe gave testimony because we were tremendously affected by the new "guidance" policy that introduced a "commutable distance factor" in determining land into trust applications for off reservation gaming. The Mohawks received a denial on our trust application that, prior to the new guidance, received approvals and favorable determinations from the Dept. of the Interior—including a recent environmental approval or Finding of No Significant Impact (FONSI) last December under Secretary of the Interior Dirk Kempthorne. Given the series of favorable determinations over a period of nearly 12 years, it is wholly apparent that the Interior is not only a vortex of contradictions, but is intent on making up rules as they go along, as it suits them.

This new guidance should have all of Indian Country concerned for several reasons.

Assistant Secretary of the Interior Carl Artman made on-the-record statements at the hearing that the guidance is not a policy change, but an "internal management tool." Indian Country should be worried with wonder asking both Kempthorne and Artman: Exactly how dumb do you think we Indians are? Parading the guidance out to Indian Country and the United States House of Representatives as a management tool that allowed the agency to simply clear their desks of land into trust applications in one fell swoop and testifying that this is not policy is altogether laughable.

Chairman Nick Rahall pointedly asked Artman, "What tribes and with whom did the Department consult with?" To which Artman replied in a barely audible tone, he was "Not sure." Artman testified that the Interior believed in tribal consultation, but reserved it for "special occasions" and explained that there was "some communication" with tribes, but he was unable to name any.

Congressman Dale Kildee (D) Michigan, pointed out to Artman that Indian tribes are not "social clubs" but are sovereign entities requiring more than casual communication. However, it would appear that officials at the Interior have their own definitions of tribal consultation and have devised new, unpublished standards by which those consultations might take place, presumably at their own convenience and willful discretion.

Call it what you want, but this policy has not only run roughshod over Indian Country as a whole, in failing to abide by the federal Administrative Procedures Act that requires tribal consultation, but it has circumvented federal law and deprived tribes of due process. The Mohawks were one of eleven tribes that received blanket denials based on the new guidance, all eleven having received notification of the new rules only a day after they were issued.

Rest assured, that beyond the 11 affected tribes, there are tremendous ramifications to all of Indian Country for placing land into trust for purposes beyond gaming—for housing or other means of economic development.

The Secretary of the Interior has effectively set Indian relations back some 150 years with the prevailing attitude that it is in the Indians' best interests to stay on the reservations. Apparently Kempthorne would rather ignore the stubborn realities of crippled remote Indian economies where few job opportunities exist. He would instead prefer to prevent the future from arriving at isolated reservation lands, impeding struggling tribes' attempts to change their fate.

All of Indian Country should not let the Interior so easily off the hook. It is our people, our communities, our grandchildren and all of our futures that are at stake.

Sincerely,
St. Regis Mohawk Tribal Chief Lorraine M. White
Akwesasne, New York

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The St. Regis Mohawk Tribal Council is the duly elected and federally recognized government of the Mohawk people.