

**From:** [ARLINDA LOCKLEAR](#)  
**To:** [Thomas, Pilar](#)  
**Cc:** [Moran, David](#); [Craig Alexander](#); [James Bittorf](#); [Becky Webster](#)  
**Subject:** supplemental materials, Oneida reservation boundary litigation request  
**Date:** Friday, April 02, 2010 11:18:55 AM  
**Attachments:** [BJA Amended Notice of Decision - Former Boyea Property 031710.pdf](#)  
[Hobart Gambling Ordinance.pdf](#)  
[Notice of Decision-63011.PDF](#)  
[Ownership Map - March 2010 NOD .pdf](#)  
[SAMPLE Notice of Issuance of Tax Certificate for Tax Roll of 2007.pdf](#)

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Good morning, Pilar:

At our meeting of March 30, you requested copies of two documents: first, the revised notice of decision on trust acquisition for the Oneida Tribe of Wisconsin of an 80 acre parcel located in the Village of Hobart and on the Oneida Reservation; second, an ordinance by the Village of Hobart purporting to regulate gaming, including that done by the Tribe on the reservation. Those documents are attached for your information.

We've also attached three additional documents, for your information: first, the Notice of Decision on the one acre residential property located in the Village of Hobart; second, an ownership map of the Oneida Reservation, showing the location of tribal fee and trust lands; and third, a Sample Notice that the Tribe has received regarding the collection of the stormwater fee on its trust land.

Just a few observations as follow up on our meeting:

1. We have reviewed the Village's various submissions and remain uncertain that a Village suit on the trust acquisition will present the reservation boundary issue directly.
2. The Village cannot challenge the trust acquisition as an off-reservation acquisition since even they admit that the Village is located within what was once the Oneida Reservation. And the Part 151 regulations use the same standard for acquisitions that are on reservation or within a former reservation.
3. Without a clear resolution of the reservation boundary issue, there will remain on-going disputes between the Village and the Tribe. These include:
  - violations of the per se rule against state taxation of tribes located within Indian country, such as the Village's attempt to impose & collect personal property taxes against the Tribe on the reservation. See *Oklahoma Tax Comm'n v. Chickasaw Nation*, 515 U.S. 450 (1995); *McClanahan v. Arizona Tax Commission*, 411 U.S. 164 (1973);
  - violations of the Tribe's authority to manage relations with its own members, including the issuance of building permits, well permits, etc., on both individual trust and fee land. See *Gobin v. Snohomish County*, 304 F.3d 909 (9th Circ. 2002);
  - infringement of long exercised tribal self-governance to protect the health and welfare of the reservation, such as regulation of stormwater management, on both fee and trust tribal lands, under the balancing test. See *White Mountain Apache Tribe v. Bracker*, 448 U.S. 136 (1980).

For these reasons, the Tribe desires a definitive determination of the reservation boundary issue, one that may not be possible in the expected suit by the Village of Hobart on the notice trust acquisition. We will soon know since the Village must file any such suit by April 16. We will consult with the Tribe's Business Committee on the alternative ways that the issue might be presented that we discussed at the meeting. Once we get guidance from the Business Committee, we will formally supplement the litigation request.

Arlinda.