

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF WISCONSIN  
GREEN BAY DIVISION

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ONEIDA TRIBE OF INDIANS OF WISCONSIN,

Plaintiff,

v.

VILLAGE OF HOBART, WISCONSIN,

Case No. 10-CV-00137-WCG

Defendant/Third-Party Plaintiff,

v.

UNITED STATES OF AMERICA, et al.,

Third-Party Defendants.

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**DECLARATION OF FRANK W. KOWALKOWSKI**

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STATE OF WISCONSIN :  
: SS.  
COUNTY OF BROWN :

FRANK W. KOWALKOWSKI, being first duly sworn on oath, deposes and says:

1. I am an attorney at law authorized to practice in the Eastern District of Wisconsin Federal Courts, with the law firm of Davis & Kuelthau, s.c., attorneys of record for the Defendant, Village of Hobart ("Village"), in the above-captioned matter. I make this affidavit in opposition to the Oneida Tribe of Indians (Tribe) Motion for Contempt and in Support of the Village's Motion to Amend Stipulation or Judgment. This affidavit is based upon my personal knowledge and the documents contained in my office received from the Village, Brown County (County), the State of Wisconsin, and the United States (U.S.) in response to

Freedom of Information Act (FOIA) requests and as a result of other requests and research of the historical facts on this matter.

2. At the time of the filing of the stipulation, briefs and other documents relied upon by the Tribe, in support of its motion for contempt, the Village was not aware of the fact that the U. S. did not recognize the 20 railroad parcels as being in trust.
3. It was not until 2013, that the Village embarked upon a series of FOIA requests and the collection of other data in an attempt to determine if the U.S. recognized the railroad parcels as being in trust. The following chart is a summary of seven FOIA requests, other inquiries, and a summary of the responses.

DATE	AGENCY	REQUEST	RESPONSE
8/23/13	Solicitor's Office	Any documents prepared in response to a 5/13/09 Memorandum drafted by the Tribe's attorney and submitted to DOI asking the federal government to consider the Tribe's position the railroad parcels were in trust. Attached as <u>Exhibit 1</u> .	9/27/13 & 10/29/13: Response from DOI Office of the Secretary containing 201 documents showing the Tribe's request to have the U.S. to acknowledge the railroad parcels as being in trust. <b><i>None of the documents received in any way indicate the U.S. recognizes the parcels as in trust or in any way agrees with the Tribe's wishes in this regard.</i></b> Additionally, 94 documents were withheld as exempt from disclosure. 9/27/13 Transmittal letter attached as <u>Exhibit 2</u> ; 10/29/13 Transmittal letter attached as <u>Exhibit 3</u> .
8/26/13	Division of Land Titles and Records	Title status reports and any other documents showing title of the 20 railroad parcels. Attached as <u>Exhibit 4</u> .	12/20/13: Response from BIA, Great Plains Regional Office – Documents represented as showing land reorganized by the U.S. in federal trust in the requested area. <b><i>The railroad parcels were not among those parcels listed by the U.S. as in trust.</i></b> Transmittal letter attached as <u>Exhibit 5</u> .

10/7/13	Brown County, Wisconsin	Public records requests for all records relating to Brown County changing the designation of the railroad parcels from in fee, owned by the railroad, to in trust for the Tribe. Attached as <u>Exhibit 6</u> .	11/7/13: Response from Brown County Corp Counsel indicating the only documents the County had was the Affidavit of Easement Cancellation drafted by and recorded at the request of the Tribe. <b><i>No documents suggesting federal approval of or knowledge of the Easement Cancellation</i></b> provided. Transmittal letter attached as <u>Exhibit 7</u> . The Village also specifically requested a copy of any easement on file at the County and was told none exist.
2/27/14	BIA, Midwest Regional Office	Any and all documents stating whether the railroad parcels were recognized as in trust. Attached as <u>Exhibit 8</u> .	3/27/14: Response indicating the request was internally forwarded to the Great Lakes Agency – In a subsequent telephone conversation with Atty. Jenna Clevers, representing the Village, Ms. Duffy of the Great Lakes office stated her office was the best place to contact to determine whether the railroad parcels were in trust. In a 3/27/14 correspondence from the Great Lakes office, it indicated they <b><i>“have not located any documents responsive to your request.”</i></b> In a subsequent phone call, Ms. Duffy indicated <b><i>“I can tell you that we did a search and we came up with nothing.”</i></b> Transmittal letter attached as <u>Exhibit 9</u> .

2/27/14	Division of Land Titles and Records	Land index reports, title status reports, title documents and any other document showing the status of title ownership for all trust parcels located within the Village and (a) Section 3, T23N, R19E, (b) Section 34, T24N, R19E, (c) Section 27, T24N, R19E, and (d) Section 25, T24N, R19E, which encompass some of the railroad parcels. Attached as <u>Exhibit 10</u> .	4/15/14: Response from U.S. DOI, Office of the Secretary, indicating they completed a search in the BIA central office trust services, DIBIA, and AS-AI records “and <b><i>found no responsive documents ....</i></b> ” Transmittal letter attached as <u>Exhibit 11</u> .
6/2/14	Department of Interior	Brown County requested information regarding ownership of railroad property in front of the golf course.	6/19/14: “In response to your request, <b><i>the Bureau of Land Management transferred title to the property in question on June 13, 1892 under the Indian Allotment Act</i></b> of February 8, 1887 (24 Stat. 388). At which time the lands were already designated as native lands under the Treaty of February 8, 1831 (7 Stat. 342). Current title would appear to be under the jurisdiction of Oneida Tribe.” Transmittal letter attached as <u>Exhibit 12</u> .
7/9/14	Division of Land Titles and Records	Tribe status reports, ownership records and any other documents showing the status of title ownership for all trust land located within 39 separating section, township, range areas within the Village, encompassing the areas which would include the railroad parcels. Attached as <u>Exhibit 13</u> .	5/19/15: Response from DOI, Office of the Secretary, containing <b><i>6,537 documents, none of which show the railroad parcels recognized as in trust by the U.S.</i></b> Given the recent date of this response, a more thorough review is underway. Transmittal letter attached as <u>Exhibit 14</u> .

7/10/14	U.S. DOI, Office of Solicitor	All documents of any nature sent to and received from the Oneida Tribe of Indians of Wisconsin regarding the title status of the railroad. Attached as <u>Exhibit 15</u> .	On March 21 (“March 21, 2015 FOIA Response”) and April 22, 2015 (“April 22, 2015 FOIA Response”), received 2,240 documents from DOI, Officer of the Solicitor showing the Tribe’s total lack of success in its attempts to get DOI to agree the railroad parcels are in trust. <b><i>None of the documents designated the parcels as being in trust or in any way suggest the U.S. believes these parcels are in trust.</i></b> 3/21/15 Transmittal letter attached as <u>Exhibit 16</u> . 4/22/15 Transmittal letter attached as <u>Exhibit 17</u> .
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4. On February 24, 2014, the Village commenced a FOIA litigation against the U.S., Case No. 14-CV-00201-WCG, in an attempt to get further clarification and disclosure of the 94 documents withheld by the DOI, relative to the Village’s August 23, 2013 FOIA request.
5. In its May 2, 2014 Answer to paragraph seven of the Complaint in Case No. 14-CV-00201-WCG, the U.S. denied having information sufficient to form a belief as to the Tribe’s recording of the Affidavit of Easement Cancellation at the Brown County Register of Deeds. Attached as Exhibit 18.
6. In its May 2, 2014 Answer to paragraph nine, in Case No. 14-CV-201-WCG, the U.S. stated “[t]he Department of Interior has not issued any decision accepting the Parcels into trust for the benefit of Tribe.” Attached as Exhibit 18.
7. On July 1, 2014, in Case No. 14-CV-00201-WCG, Attorney Rebecca Ross, Branch of Environmental and Lands, Division of Indian Affairs, filed with the Court a Declaration stating the following: “On August 13, 2001, the Tribe submitted a request to . . . BIA, asking the Department confirm that the land comprising an abandoned railroad right-of-way running across the Tribe’s

reservation is held in trust by the United States.” The Declaration went on to state that *“The Tribe has renewed its request for a determination on multiple occasions* by sending letters to various offices within the Department.” Attorney Ross’s Declaration then goes on to state the following: “...the Solicitor’s Office has never finalized its legal opinion on the matter and *no final legal opinion has ever been issued to our client offices.*” Attached as Exhibit 19. (emphasis added).

8. As of March 8, 2006, the date upon which the Village filed its Complaint relative to the ownership of the railroad parcels, Brown County Case No. 06-CV-480, the Brown County Register of Deeds office then referenced the railroad parcels as being owned in fee by Wisconsin Central Ltd. Attached hereto as Exhibit 20 is a printout for each of the 20 parcels which compose the railroad right-of-way, obtained on June 2, 2015 from Brown County Records through access on Laredo showing that Wisconsin Central Ltd. was the owner of record prior to the Tribe’s filing of its Affidavit of Easement Cancellation on October 18, 2007.
9. It was not until October 18, 2007 that the Tribe unilaterally, without the knowledge of the Village or the U.S., filed the document it created, entitled “Affidavit of Easement Cancellation” which is the document which resulted in the Brown County Register of Deeds office changing the title of the land from being owned by Fox Valley & Western Ltd. to being held in trust by the United States of America for the benefit of the Oneida Tribe of Indians of Wisconsin. Attached as Exhibit 21.

10. The responses to the seven FOIA requests, the U.S.'s statements in the FOIA litigation, and the other data collected by this office and the Village, all confirm that (1) the federal government does not list the railroad parcels within its inventory of property held in trust for the Tribe and (2) that this was known by the Tribe before during and after all of the its filings and representations in this case to the contrary.
11. On February 19, 2010, the Tribe filed this action asserting that "1,420 acres in Hobart were held in trust by the United States for the Tribe". (Dkt. #1, Complaint, ¶8) The 1,420 acres included the railroad parcels.
12. On May 13, 2009, nine months before it commenced this action, the Tribe sent a communication to the DOI stating that "the Oneida Tribe originally sought, and still seeks, confirmation that the land...approved for a railroad easement and right-of-way.... remains titled to the United States of America for the beneficial use of the Tribe." Attached as Exhibit 22 and received as part of the March 21, 2015 FOIA Response.
13. On February 11, 2010, Tribal Counsel sent an email to Pilar Thomas of the Solicitor's office, notifying her that this suit was filed and stating "[a]nd the stormwater management fee is a part of the Village's [sic] overall plan to challenge the Tribe's status, land, and reservation at every turn." Attached as Exhibit 23 and received as part of the March 21, 2015 FOIA Response.
14. On March 10, 2010, nineteen days after filing this lawsuit, the Tribe sent a correspondence to Pilar Thomas of U.S. referencing a February 3<sup>rd</sup> meeting where the parties met to discuss: (1) an agreement on the documents to be deemed

useable; (2) a consensus on the documents to use moving forward and (3) a discussion regarding Congress' intent with the railroad right-of-way. As to No. 3, the Tribe noted that "in comparing the Tribe's findings and the DOI's findings concerning the Boardman Surveys and the Lamb and Kelsey Allotment Books, the Tribe agrees with the DOI's findings. However, the Tribe's findings and the DOI's findings concerning the Lamb and Kelsey Allotment Books are inconsistent. The differences are laid out in the attached chart." The Tribe also changed tactics and stated the 2003 Oberly Report it previously relied on to advance its position the railroad parcels were in trust, is "unusable... due to the number of errors... in its contents...." Attached as Exhibit 24 and received as part of the March 21, 2015 FOIA Response.

15. On April 2, 2010, Tribal Counsel sent an email to Pilar Thomas stating that "[w]ithout a clear resolution of the reservation boundary issue, there will remain on-going disputes between the Village [sic] and the Tribe" and "the Tribe desires a definitive determination of the reservation boundary issue...." Attached as Exhibit 25 and received as part of the April 22, 2015 FOIA Response.

16. On December 2, 2010, the Tribe sent a correspondence to the Assistant Secretary-Indian Affairs and to the Office of Solicitor General in which the Tribe stated the following:

"Considering the Tribe has been corresponding with and providing documentation to the BIA-DOI over the past five years, I anticipate that you have access to all the additional documents referenced within this letter. I hope you find this information useful and am optimistic that it will assist the DOI in determining that the former railroad right-of-way was not allotted to tribal members and, in fact, remains treaty reserved trust land."

Attached as Exhibit 26 and received as part of the April 22, 2015 FOIA Response.

17. On April 3, 2014, Tribal Counsel sent an email to several people at the Solicitor Office of DOI stating the following:

“If you’ll recall, the Oneida Tribe claims that an abandoned RR right-of-way across its reservation has reverted to the status of treaty trust land. The Tribe has announced plans to build a nature path on the right-of-way. That announcement prompted the attached letter from Rich Heidel, President of the Hobart Board of Trustees. It is certain that this issue, too, will end up in court – only question being who sues who. Also likely that Hobart will attempt to involve the U.S., given the recent FOIA request at Interior. The Oneida Business Committee will be meeting on this (and other Hobart matters) on April 18<sup>th</sup>. I expect to receive instructions from the Tribe then. I will keep you posted.”

Attached as Exhibit 27 and received as part of the April 22, 2015 FOIA Response.

18. On April 15, 2014, Tribal Counsel sent an email to DOI stating the Tribe retained her to help them with the railroad claim and that “the Tribe expects to be in litigation with the Village of Hobart soon on this issue, either as plaintiff or defendant.” She also states that “one of the issues on the table for consideration by the business committee is the position of the United States on this issue. As you recall, a few years ago the Tribe had submitted a request to the Solicitor’s office to confirm the trust status of the right-of-way, then agreed to back burner the request. I wonder whether there is any update on the U.S. position on the issue that I can report to the Business Committee.” Attached as Exhibit 28 and received as part of the April 22, 2015 FOIA Response.

19. On April 15, 2014, a DOI Solicitor sent an email to Tribal Counsel stating the following about the railroad:

“As far as I know there is no U.S. position on this issue yet.”

Attached as Exhibit 28 and received as part of the April 22, 2015 FOIA Response.

20. On April 15, 2014, Tribal Counsel sent an email to a DOI Solicitor stating the following:

“At this point, I doubt the Tribe will be making a litigation request to the U.S., mostly because of uncertainty about where the U.S. is on the issue. But we are concerned because the Village of Hobart has FOIAD all material relating to the right-of-way and is likely, we think, to try and drag the U.S. into any litigation.”

Attached as Exhibit 28 and received as part of the April 22, 2015 FOIA Response.

21. On May 7, 2014, Tribal Counsel sent an email to a DOI Solicitor stating the following:

“Your nemesis bugging you again! Have your folks gotten back to you about a meeting on the Oneida railroad right-of-way?”

Attached as Exhibit 29 and received as part of the April 22, 2015 FOIA Response.

22. Attached hereto as Exhibit 30 are substantially all of the Patents using Indian

Claims which are affected by the Railroad right-of-way. None of these patents exclude the railroad from the land being patented.

23. Attached hereto as Exhibit 31 is the Patent for Lot 11 of Section 24, T24N, R19E given to Adam King which is not independently surveyed by N. Boardman. This patent includes Claim No. 133 which is not next to the railroad.

24. Attached hereto as Exhibit 32 is the Patent for Lot 14, Section 24, T24N, R19E given to Margaret Nelson, formerly Margaret Woodman for 26 acres which was not independently surveyed by N. Boardman.

25. Attached hereto as Exhibit 33 is the Patent for Lot 18, Section 24, T24N, R19E given to The Heirs of Kate Peters Antone for 25 acres which was not independently surveyed by N. Boardman.

26. None of the patents, whether by claim number or lot number give an indication the railroad portion of the land was to be excluded from the patent.
27. Attached hereto as Exhibit 34 is a compilation of 4 printouts from the Brown County Planning and Land Services' GIS Mapping program accessed at [maps.gis.co.brown.wi.us](http://maps.gis.co.brown.wi.us), showing the boundary lines for the Claims and lots referenced in the patents and including the property which was formerly the railroad right-of-way. The railroad and the relevant claim and lot numbers are highlighted in yellow by this office for ease of reference.
28. Attached hereto as Exhibit 35 is a copy of the historic Federal map of the entire T24N, R19E upon which the County created its GIS mapping referenced in paragraph 27 which is linked to the Brown County Survey Index and Tie Sheet viewer available on Brown County's website at <http://browncounty.maps.arcgis.com/apps/OnePane/basicviewer/index.html?appid=e278e8ad14e24e218c26563da6aa6f16>.
29. Attached hereto as Exhibit 36 is a partial enlarged image of the map referred to in paragraph 28 showing the railroad properties. The map lists acreage for each of the allottees/owners. You can see that nothing in the map identifying the land to be patented contains any indication the railroad right-of-way is to be excluded. According to this map, the total acreage for each 40 acre plot is allotted with no exception for the railroad.
30. Attached hereto as Exhibit 37 is the survey, patent and subsequent deed relating to Claim 153. The patent was recorded on September 11, 1914. A mere year and a

half later, on March 20, 1916 a portion of Claim 153 was deeded and described as follows:

All that part of claim one hundred fifty three (153) in Township twenty four (24) Range Nineteen (19) lying between the wagon road and the right of way of the Green Bay and Western Railroad, described as follows: - beginning at the point of intersection of the South line of right of way of Green Bay and Western Railroad with the section line between Section thirty three (33) and thirty four (34) Township twenty four (24) Range nineteen (19) thence along said Section line... to a point in the center of highway; thence along center of highway... to the northeast boundary line of claim one hundred fifty three, thence along said boundary line... to the southerly line of right of way of the Green Bay and Western R.R. thence along the latter line ... to the place of beginning.... *including above mentioned right of way....* (Emphasis added)

Reviewing this description along with the survey map shows that the belief at or near the time of the patents was that the railroad right-of-way was part of the patent and available for subsequent sale.

31. Attached hereto as Exhibit 38 is a copy of correspondence from your affiant to Mr. Blaney at the Brown County Treasurer's office dated March 6, 2013 transmitting a copy of the Judge Griesbach's Decision dated September 5, 2012.
32. Attached hereto as Exhibit 39 is a copy of the 1887 Annual Report of the Commissioner of Indian Affairs.
33. Attached hereto as Exhibit 40 is a copy of the 1891 Annual Report of the Commissioner of Indian Affairs.
34. Attached hereto as Exhibit 41 is a copy of the Report of Commissioner of Indian Affairs dated June 30, 1929.
35. Attached hereto as Exhibit 42 is a copy of Some Observations of the Results of the Allotment System Among the Oneidas of Wisconsin, dated January 24, 1933.

36. Attached hereto as Exhibit 43 is a copy of correspondence of Mr. Watkins dated January 31, 1934.
37. Attached hereto as Exhibit 44 is a copy of a memo from Commissioner Collier to Secretary Ickes dated February 26, 1934.
38. On August 13, 2001, the Tribe sent correspondence to the BIA stating “the question of who owns the right-of-way has been a frequent question.... [t]his question of ownership was present to the Great Lakes Agency Superintendent in 1972...” See attached Exhibit 45 and received as part of the March 21, 2015 FOIA Response.
39. On July 19, 2005 the Tribe sent correspondence to BIA to notify them of the existence of a treaty-reserved trust land on the Oneida Reservation. See attached Exhibit 46 and received as part of the March 21, 2015 FOIA Response.
40. On May 29, 2008, the Tribe sent correspondence to DOI referencing a meeting on April 24, 2008 where they met “to discuss the trust status of a former railroad right-of-way traversing the Oneida Reservation.” See attached Exhibit 47 and received as part of the March 21, 2015 FOIA Response.
41. Attached as Exhibit 48 is a copy of *Stevens v. County of Brown*, C.A. No. 307, E.D. Wis. 10 (1933).
42. Attached as Exhibit 49 is a copy of *United States v. Hall*, 171 F. 214 (1909).
43. Attached hereto as Exhibit 50 is a copy of an email that was sent to the Solicitor’s Office on July 21, 2010.

Dated this 2<sup>nd</sup> day of June, 2015

s/ Frank W. Kowalkowski

Frank W. Kowalkowski

Subscribed and sworn to before me  
this 2<sup>nd</sup> day of June, 2015.

s/Kay A. Marquardt

Notary Public in and for the State of Wisconsin

My Commission expires: 9/19/2017.

## Marquardt, Kay A.

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**From:** sol.foia@sol.doi.gov  
**Sent:** Friday, August 23, 2013 2:37 PM  
**To:** Clevers, Jenna E.  
**Subject:** Receipt of Your DOI FOIA Request

On 08/23/2013 at 1:36:53 PM you submitted the following request to [sol.foia@sol.doi.gov](mailto:sol.foia@sol.doi.gov):

1. Bureau or office to receive request:  
**Office of the Solicitor (SOL)**
2. Description of records being sought:  
**Carl J. Artman, Godfrey & Kahn, s.c., prepared a Memorandum to Maria Wiseman, United States Department of the Interior, Office of the Solicitor, and Karen Lindquist, United States Department of the Interior, Office of the Solicitor, dated May 13, 2009, regarding Status of the Railroad Right-of-Way Land within the Oneida Tribe of Indians of Wisconsin Reservation. I am requesting a copy of any documents which were prepared in response to the May 13, 2009 Memorandum, including any correspondence or memorandum addressed to Carl J. Artman. I am also requesting a copy of any documents which reference the May 13, 2009 Memorandum.**
3. Desired Format of Disclosure:  
**Electronic format via email**
4. Expedite process of request?  
If yes, why:  
Certification:
5. Filing a request on behalf of another party? **No**  
If yes, which party?

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### FEES AND WAIVERS

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1. Requestor:
  - o **affiliated with a private corporation and am seeking information for use in the company's business**
  - o Affiliation:
2. Willing to pay for FOIA request processing? **I agree to pay all applicable fees.**
3. Meet fee waiver criteria?  
Fee Waiver Justification:

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### NAME AND CONTACT INFORMATION

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Name: **Jenna Clevers**  
Street: **318 S. Washington Street, Suite 300**  
City: **Green Bay**  
State or Country: **WI**  
Zip or Postal Code: **54301**  
Home or business address: **Business**  
E-mail address: [jclevers@dkattorneys.com](mailto:jclevers@dkattorneys.com)

Organization (if applicable): **Davis & Kuelthau, s.c.**

Phone: **920.431.2227**

Fax: **920.431.2267**



United States Department of the Interior  
OFFICE OF THE SPECIAL TRUSTEE FOR AMERICAN INDIANS  
Washington, D.C. 20240

SOL-2013-0102

September 27, 2013

Jenna Clevers  
Davis & Kuelthau, s.c.  
318 S. Washington Street, Suite 300  
Green Bay, WI 54301

Dear Ms. Clevers:

On August 23, 2013, you filed a Freedom of Information Act (FOIA) request with the U.S. Department of the Interior, Office of the Solicitor. Your request was regarding information concerning:

“Carl J. Artman, Godfrey & Kahn, s.c., prepared a Memorandum to Maria Wiseman, United States Department of the Interior, Office of the Solicitor, and Karen Lindquist, United States Department of the Interior, Office of the Solicitor, dated May 13, 2009, regarding Status of the Railroad Rightof-Way Land within the Oneida Tribe of Indians of Wisconsin Reservation. I am requesting a copy of any documents which were prepared in response to the May 13, 2009 Memorandum, including any correspondence or memorandum addressed to Carl J. Artman. I am also requesting a copy of any documents which reference the May 13, 2009 Memorandum.”

I am writing today to respond to your request on behalf of the Office of the Solicitor. In response to your letter, the Department has searched its records and located 94 pages documents responsive to your request. However, the documents have been withheld in full on the basis of FOIA Exemption 5, which protects internal Federal government documents that are both pre-decisional and deliberative, or are work-product or attorney-client privileged.

**Attorney Client**

Exemption 5 allows an agency to withhold “inter-agency or intra-agency memorandums or letters which would not be available by law to a party... in litigation with the agency” (5 U.S.C. § 552 (b)(5)). As such, the Exemption 5 “exempt[s] those documents... normally privileged in the civil discovery context.” National Labor Relations Bd. v. Sears Roebuck & Co., 421 U.S. 132 (1975). The exemption incorporates the privileges that protect materials from discovery in litigation. These privileges include deliberative process, confidential commercial information, attorney work-product, and attorney-client. *Id.* at 149; see also Federal Open Market Committee v. Merrill, 443 U.S. 340, 363 (1979) (finding a confidential commercial information privilege under Exemption 5).

### Attorney Work-Product Privilege

The attorney work-product privilege protects documents and other memoranda prepared by an agency attorney in contemplation of litigation, including administrative proceedings. See Hickman v. Taylor, 329 U.S. 495, 509-10 (1947); Fed. R. Civ. P. 26(b)(3). Its purpose is to protect the adversarial trial process by insulating the attorneys' preparation from scrutiny. It covers all litigation-related documents prepared by an attorney or under his/her direction, such as reports prepared by a consultant or a program employee, which were prepared in reasonable anticipation of litigation. The privilege still applies after a case has ended, or even if it never was begun, as long as it was reasonably contemplated. Attorney work-product documents may be withheld in their entirety because the attorney work-product privilege protects facts.

Angela Kelsey, Attorney-Advisor with the Office of the Solicitor, Division of Indian Affairs, was consulted in reaching this decision. Lance Purvis, Acting FOIA Officer, Office of the Solicitor, is responsible for making this decision.

You may file a FOIA appeal by writing to the FOIA Appeals Officer, U.S. Department of the Interior, 1849 C Street, N.W., MS 6556 - MIB, Washington, D.C. 20240. Your appeal letter must be received no later than 30 workdays after the date of our final response. Your appeal letter must be marked, both on its envelope and at the top of its first page, with the legend "FREEDOM OF INFORMATION APPEAL." Your appeal letter must be accompanied by a copy of your original FOIA request, a copy of this letter, and a brief explanation of why you believe that this decision is in error.

There is no billable fee for the processing of this request. This concludes the Office of the Solicitor's response to your request.

If you have any questions regarding any of the issues discussed in this letter, you may contact me by fax at 202-208-5206, email at [lance.purvis@sol.doi.gov](mailto:lance.purvis@sol.doi.gov), or by mail at U.S. Department of the Interior, Office of the Solicitor, MS 6429, Washington, D.C. 20240.

Sincerely,



Lance Purvis  
Acting Office of the Solicitor FOIA Officer



# United States Department of the Interior

OFFICE OF THE SECRETARY  
Washington, DC 20240

**OCT 29 2013**

Jenna Clevers, Associate  
Davis & Kuelthau, S.C.  
318 S. Washington Street, Suite 300  
Green Bay, WI 54301

RE: FOIA Request BIA-2013-02027

Dear Ms. Clevers,

This letter is in response to your Freedom of Information Act (FOIA) request of August 23, 2013, in which you seek, *"Carl J. Artman, Godfrey & Kahn, s.c., prepared a Memorandum to Maria Wiseman, United States Department of the Interior, Office of the Solicitor, and Karen Lindquist, United States Department of the Interior, Office of the Solicitor, dated May 13, 2009, regarding Status of the Railroad Right-of-Way Land within the Oneida Tribe of Indians of Wisconsin Reservation. I am requesting a copy of any documents which were prepared in response to the May 13, 2009 Memorandum, including any correspondence or memorandum addressed to Carl J. Artman. I am also requesting a copy of any documents which reference the May 13, 2009 Memorandum."*

Your request was referred to the Bureau of Indian Affairs FOIA Office for processing on September 9, 2013 and assigned Request No. BIA-2013-02027. Please reference this number in any future communications regarding your request.

We have classified your request as an "other-use" request. As an "other-use" requester, you are entitled to receive 2 hours of search time and 100 pages of duplication of responsive records without charge before being asked to pay for document search and reproduction. However, the Department of the Interior does not bill for FOIA fees when they do not exceed \$50.00. (43 C.F.R. §2.49). The fee incurred in responding to your request did not exceed \$50.00 and has been waived.

We have conducted a search for documents in the Midwest BIA Region, Assistant Secretary – Indian Affairs (AS-IA), and American Indian Records Repository (AIRR) in Lenexa, Kansas. Five documents were located, consisting of 201 pages of which are being released to you in entirety. You may also submit a FOIA request to the Office of the Solicitor or Office of the Secretary, this response is a search of Indian Affairs records only.

For your information, Congress excluded three discrete categories of law enforcement and national security records from the requirements of FOIA. See U.S.C. §552(c) (2006) & Supp. IV (2010). This response is limited to those records that are subject to the requirements of the FOIA. This is a standard notification that is given to all our requesters and should not be taken as an indication that excluded records do, or do not, exist.

This concludes our response to your request. If you have any questions regarding this response, please contact Hillary Renick, FOIA Specialist, at (202) 513-7781.

Sincerely,

A handwritten signature in cursive script, reading "Daphne J. Berwald". The ink is dark and the signature is fluid.

Daphne J. Berwald  
Acting IA FOIA Officer

August 26, 2013

Mr. Quentin M. Jones, Chief (Acting)  
Division of Land Titles and Records  
MS-4620-MIB  
1849 C Street, N.W.  
Washington, D.C. 20240

Re: FOIA Request

Dear Mr. Jones:

The following is a request for information under the federal Freedom of Information Act, 5 U.S.C. § 552. On behalf of the Village of Hobart, in Brown County, Wisconsin, I am requesting access to and/or copies of the following:

1. Title documents, ownership records, title status reports, instruments, conveyance and encumbrance documents, and any other documents showing the status of title ownership, for the period of 2000 to the present, for the following parcels of land in the Village of Hobart, as described in the enclosed Affidavit of Easement Cancellation, and accompanying documents, including the Railroad Survey, recorded with the Brown County Register of Deeds on October 18, 2007:

HB-1036 (Tax Legal Description: 12.946 AC M/L; R-O-W OVER SEC 19 T24N R20E).

HB-1330 (Tax Legal Description: 1.047 AC M/L; R-O-W OVER INDIAN CLAIM 153 ONEIDA RESERVATION).

HB-1342-1 (Tax Legal Description: 1.408 AC M/L; R-O-W OVER INDIAN CLAIM 154 ONEIDA RESERVATION).

HB-1364-1 (Tax Legal Description: 0.533 AC M/L; R-O-W OVER INDIAN CLAIM 164A ONEIDA RESERVATION).

Phone 920.435.9378 Direct 920.431.2227 Fax 920.431.2267  
318 S. Washington Street Suite 300, Green Bay, WI 54301  
jclevers@dkattorneys.com

HB-1368-1 (Tax Legal Description: 1.113 AC M/L; R-O-W OVER INDIAN CLAIM 171 ONEIDA RESERVATION).

HB-1372 (Tax Legal Description: 1.910 AC M/L; R-O-W OVER INDIAN CLAIM 172 ONEIDA RESERVATION).

HB-1380 (Tax Legal Description: 1.197 AC M/L; R-O-W OVER INDIAN CLAIM 173 ONEIDA RESERVATION).

HB-1389 (Tax Legal Description: 6.011 AC M/L; R-O-W OVER INDIAN CLAIMS 174 & 177 ONEIDA RESERVATION).

HB-1409-1 (Tax Legal Description: 0.786 AC M/L; R-O-W OVER INDIAN CLAIM 194 ONEIDA RESERVATION).

HB-1410-1 (Tax Legal Description: 2.601 AC M/L; R-O-W OVER INDIAN CLAIM 195 ONEIDA RESERVATION).

HB-1414-1 (Tax Legal Description: 1.051 AC M/L; R-O-W OVER INDIAN CLAIM 196 ONEIDA RESERVATION).

HB-1416 (Tax Legal Description: 1.991 AC M/L; R-O-W OVER INDIAN CLAIM 197 ONEIDA RESERVATION).

HB-1420-1 (Tax Legal Description: 3.274 AC M/L; R-O-W OVER INDIAN CLAIM 198 ONEIDA RESERVATION).

HB-1422 (Tax Legal Description: 3.056 AC M/L; R-O-W OVER INDIAN CLAIM 199 ONEIDA RESERVATION).

HB-1425-1 (Tax Legal Description: 2.933 AC M/L; R-O-W OVER INDIAN CLAIM 200 ONEIDA RESERVATION).

HB-1426-1 (Tax Legal Description: 1.314 AC M/L; R-O-W OVER INDIAN CLAIM 201 ONEIDA RESERVATION).

HB-1428-1 (Tax Legal Description: 1.461 AC M/L; R-O-W OVER INDIAN CLAIM 202 ONEIDA RESERVATION).

HB-1429-1 (Tax Legal Description: 5.861 AC M/L; R-O-W OVER INDIAN CLAIM 203 ONEIDA RESERVATION).

Page 3

HB-742 (Tax Legal Description: 7.234 AC M/L; R-O-W OVER SEC 24 T24N R19E).

HB-786 (Tax Legal Description: 2.241 AC M/L; R-O-W SEC 26 T24N R19E).

I would like to receive the information in electronic format.

I agree to pay reasonable duplication fees for the processing of this request in an amount not to exceed \$500.00. However, please notify me prior to incurring any expenses in excess of that amount.

If my request is denied in whole or part, I ask that you justify all deletions by reference to specific exemptions of the act. I will also expect you to release all segregable portions of otherwise exempt material. I, of course, reserve the right to appeal your decision to withhold any information or to deny a waiver of fees.

I look forward to your reply within 20 business days, as the statute requires.

Thank you for your assistance. I can be reached at 920.431.2227 with any questions or concerns.

Very truly yours,

Davis & Kuelthau, s.c.



Jenna E. Clevers

Enclosure

cc: Village of Hobart (via e-mail)



# United States Department of the Interior

BUREAU OF INDIAN AFFAIRS  
Great Plains Regional Office  
115 Fourth Avenue S.E.  
Aberdeen, South Dakota 57401

IN REPLY REFER TO:  
FOIA #BIA-2013-02012

DEC 20 2013

Jenna E. Clevers, Attorney  
Davis & Kuelthau  
318 S. Washington Street, Suite 300  
Green Bay, WI 54301

Dear Ms. Clevers:

This is in response to your Freedom of Information Act (FOIA) request dated August 26, 2013, FOIA No. BIA-2013-02012. In this request you are asking for copies of title documents, ownership records, title status reports, instruments, conveyance and encumbrance documents, and any other documents showing the status of title ownership, for the period of 2000 to present for 20 parcels of land in the Village of Hobart, in Brown County, Wisconsin.

We have received notification that your payment in the amount of \$2,403 was received in Reston, VA. Enclosed are copies of the documents you requested.

We have been asked to inform all of our FOIA requestors that Congress excluded three discrete categories of law enforcement and national security records from the requirements of FOIA. See 5 U.S.C. § 552(c) (2006) & Supp. IV (2010). This response is limited to those records that are subject to the requirements of the FOIA. This is a standard notification that is given to all our requesters and should not be taken as an indication that excluded records do, or do not, exist.

As part of the 2007 FOIA amendments, the Office of Government Information Services (OGIS) was created to offer mediation services to resolve disputes between FOIA requesters and Federal agencies as a non-exclusive alternative to litigation. Using OGIS services does not affect your right to pursue litigation. If you are requesting access to your own records (which is considered a Privacy Act request), you should know that OGIS does not have the authority to handle requests made under the Privacy Act of 1974. You may contact OGIS in any of the following ways:

Office of Government Information Services  
National Archives and Records Administration  
(OGIS) 8601 Adelphi Road  
College Park, MD 20740-6001  
E-mail: [ogis@nara.gov](mailto:ogis@nara.gov)  
Web: <http://ogis.archives.gov>  
Telephone: 202-741-5770  
Facsimile: 202-741-5769  
Toll-free: 1-877-684-6448

This completes our response to your request.

If you have any questions or require further information, please contact Charissa Peterson, Legal Instruments Examiner, at (605) 226-7393, or Peggy Geffre, Regional FOIA Coordinator, at (605) 226-7343.

Sincerely,

  
ACTING Regional Director

Enclosures

October 7, 2013

Brown County Property Listing Department  
Attn: Custodian of Records  
P.O. Box 23600  
Green Bay, WI 54305-3600

Brown County Register of Deeds  
Attn: Custodian of Records  
P.O. Box 23600  
Green Bay, WI 54305-3600

Atty. Juliana M. Ruenzel  
Brown County Corporation Counsel  
P.O. Box 23600  
Green Bay, WI 54305-3600

RE: Public Records Request

To Whom It May Concern:

This is a public records request pursuant to Wis. Stat. § 19.35. Inasmuch as some of the documents requested may be in the custody of one or more legal custodians, this correspondence is addressed to all of you in the hopes of facilitating a coordinated response.

Please forward me copies of the following documents:

1. Any and all documents, including e-mail correspondence, related to the Affidavit of Easement Cancellation recorded with the Register of Deeds on October 18, 2007 as Document No. 2337382.
2. Any and all documents, including e-mail correspondence, related to the change in title that occurred for the parcels listed below after October 18, 2007:

HB-1036 (Tax Legal Description: 12.946 AC M/L; R-O-W OVER SEC 19 T24N R20E).

HB-1330 (Tax Legal Description: 1.047 AC M/L; R-O-W OVER INDIAN CLAIM 153 ONEIDA RESERVATION).

Phone 920.435.9378 Direct 920.431.2221 Fax 920.431.2261  
318 S. Washington Street Suite 300, Green Bay, WI 54301  
fkowalkowski@dkattorneys.com

BROOKFIELD | GREEN BAY | MADISON | MILWAUKEE | OSHKOSH | SHEBOYGAN

HB-1342-1 (Tax Legal Description: 1.408 AC M/L; R-O-W OVER INDIAN CLAIM 154 ONEIDA RESERVATION).

HB-1364-1 (Tax Legal Description: 0.533 AC M/L; R-O-W OVER INDIAN CLAIM 164A ONEIDA RESERVATION).

HB-1368-1 (Tax Legal Description: 1.113 AC M/L; R-O-W OVER INDIAN CLAIM 171 ONEIDA RESERVATION).

HB-1372 (Tax Legal Description: 1.910 AC M/L; R-O-W OVER INDIAN CLAIM 172 ONEIDA RESERVATION).

HB-1380 (Tax Legal Description: 1.197 AC M/L; R-O-W OVER INDIAN CLAIM 173 ONEIDA RESERVATION).

HB-1389 (Tax Legal Description: 6.011 AC M/L; R-O-W OVER INDIAN CLAIMS 174 & 177 ONEIDA RESERVATION).

HB-1409-1 (Tax Legal Description: 0.786 AC M/L; R-O-W OVER INDIAN CLAIM 194 ONEIDA RESERVATION).

HB-1410-1 (Tax Legal Description: 2.601 AC M/L; R-O-W OVER INDIAN CLAIM 195 ONEIDA RESERVATION).

HB-1414-1 (Tax Legal Description: 1.051 AC M/L; R-O-W OVER INDIAN CLAIM 196 ONEIDA RESERVATION).

HB-1416 (Tax Legal Description: 1.991 AC M/L; R-O-W OVER INDIAN CLAIM 197 ONEIDA RESERVATION).

HB-1420-1 (Tax Legal Description: 3.274 AC M/L; R-O-W OVER INDIAN CLAIM 198 ONEIDA RESERVATION).

HB-1422 (Tax Legal Description: 3.056 AC M/L; R-O-W OVER INDIAN CLAIM 199 ONEIDA RESERVATION).

HB-1425-1 (Tax Legal Description: 2.933 AC M/L; R-O-W OVER INDIAN CLAIM 200 ONEIDA RESERVATION).

HB-1426-1 (Tax Legal Description: 1.314 AC M/L; R-O-W OVER INDIAN CLAIM 201 ONEIDA RESERVATION).

HB-1428-1 (Tax Legal Description: 1.461 AC M/L; R-O-W OVER INDIAN CLAIM 202 ONEIDA RESERVATION).

HB-1429-1 (Tax Legal Description: 5.861 AC M/L; R-O-W OVER INDIAN CLAIM 203 ONEIDA RESERVATION).

HB-742 (Tax Legal Description: 7.234 AC M/L; R-O-W OVER SEC 24 T24N R19E).

HB-786 (Tax Legal Description: 2.241 AC M/L; R-O-W SEC 26 T24N R19E).

3. Any and all documents showing federal approval of the change in title that occurred for the above-referenced parcels after October 18, 2007.
4. Any and all documents in the Register of Deeds' records and any other departments' records showing why the title to the above-referenced parcels was changed after October 18, 2007.
5. To the extent not produced in response to the above requests, any and all documents received from the Oneida Tribe of Indians of Wisconsin related to the above-referenced parcels from 2000 to the present.
6. To the extent not produced in response to the above requests, any and all documents received from the United States, or any of its departments or agencies, related to the above-referenced parcels from 2000 to the present.

Pursuant to the guidelines set by the Attorney General, please forward these documents to us within ten (10) days. In the event that there are any questions or any clarification needed regarding these requests, please feel free to contact me. In the event that the documents requested are voluminous, please contact me to explore the possibility of viewing the documents. Also, please let me know if there is a requirement of prepayment for any of these documents.

Very truly yours,

Davis & Kuelthau, s.c.

*Jenna E. Clevers*

Frank W. Kowalkowski  
Jenna E. Clevers

CORPORATION COUNSEL OFFICE

*Brown County*

305 E. Walnut Street, Suite 680  
P.O. Box 23600  
Green Bay, WI 54305-3600

Juliana M. Ruenzel  
Corporation Counsel

PHONE (920) 448-4006  
FAX (920) 448-4003  
ruenzel\_jm@co.brown.wi.us

November 7, 2013

Attorney Frank Kowalkowski  
Davis & Kuelthau  
318 S. Washington Street, Suite 300  
Green Bay, WI 54301

RE: Open Records Request Easement Cancellation recorded October 18, 2007

Dear Mr. Kowalkowski:

The County has located your documents regarding your open records request on the Easement Cancellation recorded on October 18, 2007. The departments have submitted the documents attached which meet your request. As it is clear you already have the Quit Claim Deed, document No. 1403221, I have not included that document with your request, nor charged you for said document.

Please find attached the time sheets for location fees from the Brown County Property Lister, Register of Deeds and Corporation Counsel office indicating the total actual cost involved in the location of the documents your requested to be as follows:

Register of Deeds Office	10.33 hours @ \$27.54 per hour =	\$ 284.49
Property Listing Office	8.5 hours @ \$49.02 per hour =	\$ 416.67
Corporation Counsel Office	7.25 hours @ \$65.75 per hour =	\$ 476.69
Total location fee		\$1,177.85

Further, you will find attached the cost sheet for copies of the documents requested totaling \$643.00.

Based on the costs involved the total due for this request is as follows:

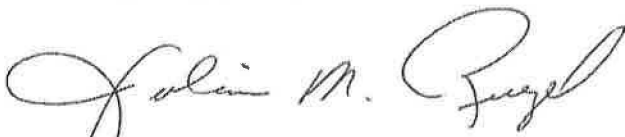
Location Costs	\$1,177.85
Copy Charge	643.00
Postage and Handling 3 lbs. 3.8 oz	8.45 (\$7.45 postage + \$1.00 envelope)
TOTAL DUE	\$1,829.30

Prepayment	\$ 2,181.44
Total Due	<u>- 1,829.30</u>
Refund enclosed	\$ 352.14

Please find enclosed a check from Brown County in the amount of \$ 352.14 as the refund due you on this request.

Open records denials are subject to review by mandamus under Wis. Stat. §19.37 (1) or upon application to the Attorney General or District Attorney. Wis. Stat. §19.35 (4)(b).

Very truly yours,



Juliana M. Ruenzel  
Brown County Corporation Counsel

Enc: Copies as requested  
Location cost sheets for Register of Deeds, Property Lister and Corporation Counsel  
Copy charge sheet  
Refund check

cc: Cathy, Williquette Lindsay, Register of Deeds  
James Wallen, Manager Property Listing

February 27, 2014

Midwest Region Office  
Bureau of Indian Affairs  
Department of the Interior  
Norman Pointe II Building  
5600 W. American Blvd., Suite 500  
Bloomington, MN 55347

Re: FOIA Request

To Whom It May Concern:

The following is a request for information under the federal Freedom of Information Act, 5 U.S.C. § 552. On behalf of the Village of Hobart, in Brown County, Wisconsin, I am requesting copies of the following:

1. Any and all documents showing whether the parcels of land listed below are in trust, including land index reports, title status reports, maps, title documents, ownership records, instruments, conveyance and encumbrance documents, and any other documents showing the status of title ownership for the following parcels of land located within the Village of Hobart, Brown County, WI:

HB-1036 (Tax Legal Description: 12.946 AC M/L; R-O-W OVER SEC 19 T24N R20E).

HB-1330 (Tax Legal Description: 1.047 AC M/L; R-O-W OVER INDIAN CLAIM 153 ONEIDA RESERVATION).

HB-1342-1 (Tax Legal Description: 1.408 AC M/L; R-O-W OVER INDIAN CLAIM 154 ONEIDA RESERVATION).

HB-1364-1 (Tax Legal Description: 0.533 AC M/L; R-O-W OVER INDIAN CLAIM 164A ONEIDA RESERVATION).

Phone 920.435.9378 Direct 920.431.2227 Fax 920.431.2267  
318 S. Washington Street Suite 300, Green Bay, WI 54301  
jclevers@dkattorneys.com

HB-1368-1 (Tax Legal Description: 1.113 AC M/L; R-O-W OVER INDIAN CLAIM 171 ONEIDA RESERVATION).

HB-1372 (Tax Legal Description: 1.910 AC M/L; R-O-W OVER INDIAN CLAIM 172 ONEIDA RESERVATION).

HB-1380 (Tax Legal Description: 1.197 AC M/L; R-O-W OVER INDIAN CLAIM 173 ONEIDA RESERVATION).

HB-1389 (Tax Legal Description: 6.011 AC M/L; R-O-W OVER INDIAN CLAIMS 174 & 177 ONEIDA RESERVATION).

HB-1409-1 (Tax Legal Description: 0.786 AC M/L; R-O-W OVER INDIAN CLAIM 194 ONEIDA RESERVATION).

HB-1410-1 (Tax Legal Description: 2.601 AC M/L; R-O-W OVER INDIAN CLAIM 195 ONEIDA RESERVATION).

HB-1414-1 (Tax Legal Description: 1.051 AC M/L; R-O-W OVER INDIAN CLAIM 196 ONEIDA RESERVATION).

HB-1416 (Tax Legal Description: 1.991 AC M/L; R-O-W OVER INDIAN CLAIM 197 ONEIDA RESERVATION).

HB-1420-1 (Tax Legal Description: 3.274 AC M/L; R-O-W OVER INDIAN CLAIM 198 ONEIDA RESERVATION).

HB-1422 (Tax Legal Description: 3.056 AC M/L; R-O-W OVER INDIAN CLAIM 199 ONEIDA RESERVATION).

HB-1425-1 (Tax Legal Description: 2.933 AC M/L; R-O-W OVER INDIAN CLAIM 200 ONEIDA RESERVATION).

HB-1426-1 (Tax Legal Description: 1.314 AC M/L; R-O-W OVER INDIAN CLAIM 201 ONEIDA RESERVATION).

HB-1428-1 (Tax Legal Description: 1.461 AC M/L; R-O-W OVER INDIAN CLAIM 202 ONEIDA RESERVATION).

HB-1429-1 (Tax Legal Description: 5.861 AC M/L; R-O-W OVER INDIAN CLAIM 203 ONEIDA RESERVATION).

Page 3

HB-742 (Tax Legal Description: 7.234 AC M/L; R-O-W OVER SEC 24 T24N R19E).

HB-786 (Tax Legal Description: 2.241 AC M/L; R-O-W SEC 26 T24N R19E).

I agree to pay reasonable duplication fees for the processing of this request in an amount not to exceed \$500.00. However, please notify me prior to incurring any expenses in excess of that amount.

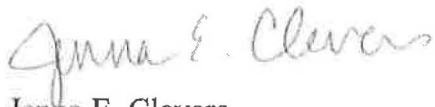
If my request is denied in whole or part, I ask that you justify all deletions by reference to specific exemptions of the act. I will also expect you to release all segregable portions of otherwise exempt material. I, of course, reserve the right to appeal your decision to withhold any information or to deny a waiver of fees.

I look forward to your reply within 20 business days, as the statute requires.

Thank you for your assistance. I can be reached at 920.431.2227 with any questions or concerns regarding this FOIA Request.

Very truly yours,

Davis & Kuelthau, s.c.

A handwritten signature in cursive script that reads "Jenna E. Clevers".

Jenna E. Clevers

cc: Village of Hobart (via e-mail)



United States Department of the Interior  
BUREAU OF INDIAN AFFAIRS  
Great Lakes Agency  
916 Lake Shore Drive West  
Ashland, Wisconsin 54806-1357



IN REPLY REFER TO:

BIA-2014-00646

CERTIFIED MAIL RECEIPT NO.: 7004 2890 0003 9320 7851  
Return receipt requested

March 27, 2014

Jenna E. Clevers  
Davis & Kuelthau, S.C.  
318 S. Washington Street  
Suite 300  
Green Bay, WI 54301

Dear Ms. Clevers:

This letter acknowledges receipt as well as provides a final response to your Freedom of Information Act (FOIA) request, dated February 27, 2014, and received at the Great Lakes Agency on March 05, 2014, in which you requested copies of "Any and all documents showing whether the parcels of land listed below are in trust, including land index reports, title status reports, maps, title documents, ownership records, instruments, conveyance and encumbrance documents, and any other documents showing the status of title ownership for the following parcels of land located within the Village of Hobart, Brown County, WI:

1. HB-1036 (Tax Legal Description: 12.946 AC M/L; R-O-W OVER SEC 19 T24N R20E).
2. HB-1330 (Tax Legal Description: 1.047 AC M/L; R-O-W OVER INDIAN CLAIM 153 ONEIDA RESERVATION).
3. HB-1342-1 (Tax Legal Description: 1.408 AC M/L; R-O-W OVER INDIAN CLAIM 154 ONEIDA RESERVATION).
4. HB-1364-1 (Tax Legal Description: 0.533 AC M/L; R-O-W OVER INDIAN CLAIM 164A ONEIDA RESERVATION).
5. HB-1368-1 (Tax Legal Description: 1.113 AC M/L; R-O-W OVER INDIAN CLAIM 171 ONEIDA RESERVATOIN).
6. HB-1372 (Tax Legal Description: 1.910 AC M/L; R-O-W OVER INDIAN CLAIM 172 ONEIDA RESERVATOIN).
7. HB-1380 (Tax Legal Description: 1.197 AC M/L; R-O-W OVER INDIAN CLAIM 173 ONEIDA RESERVATOIN).
8. HB-1389 (Tax Legal Description: 6.011 AC M/L; R-O-W OVER INDIAN CLAIM 174 & 177 ONEIDA RESERVATOIN).
9. HB-1409-1 (Tax Legal Description: 0.786 AC M/L; R-O-W OVER INDIAN CLAIM 194 ONEIDA RESERVATOIN).
10. HB-1410-1 (Tax Legal Description: 2.601 AC M/L; R-O-W OVER INDIAN CLAIM 195 ONEIDA RESERVATOIN).
11. HB-1414-1 (Tax Legal Description: 1.051 AC M/L; R-O-W OVER INDIAN CLAIM 196

- ONEIDA RESERVATOIN).
12. HB-1416 (Tax Legal Description: 1.991 AC M/L; R-O-W OVER INDIAN CLAIM 197 ONEIDA RESERVATOIN).
  13. HB-1420-1 (Tax Legal Description: 3.274 AC M/L; R-O-W OVER INDIAN CLAIM 198 ONEIDA RESERVATOIN).
  14. HB-1422 (Tax Legal Description: 3.056 AC M/L; R-O-W OVER INDIAN CLAIM 199 ONEIDA RESERVATOIN).
  15. HB-1425-1 (Tax Legal Description: 2.933 AC M/L; R-O-W OVER INDIAN CLAIM 200 ONEIDA RESERVATOIN).
  16. HB-1426-1 (Tax Legal Description: 1.314 AC M/L; R-O-W OVER INDIAN CLAIM 201 ONEIDA RESERVATOIN).
  17. HB-1428-1 (Tax Legal Description: 1.461 AC M/L; R-O-W OVER INDIAN CLAIM 202 ONEIDA RESERVATOIN).
  18. HB-1429-1 (Tax Legal Description: 5.861 AC M/L; R-O-W OVER INDIAN CLAIM 203 ONEIDA RESERVATOIN).
  19. HB-742 (Tax Legal Description: 7.234 AC M/L; R-O-W OVER SEC 24 T24N R19E).
  20. HB-786 (Tax Legal Description: 2.241 AC M/L; R-O-W OVER SEC 26 T24N R19E)."

Requests for Department records are processed as one made pursuant to the Freedom of Information Act (FOIA), 5 U.S.C. §552 and 43 CFR Part 2. Your FOIA request has been assigned FOIA Control No. BIA-2014-00646. Please include this number on all correspondence associated with this particular FOIA.

There are four categories of requestors for the purposes of determining fees: commercial, educational and non-commercial scientific institutions, new media and all other. The bureau's decision to place your client's FOIA request in a particular fee category is made on a case-by-case basis depending on the information submitted in the request and the requestor identity (43 CFR §2.7). We have determined that your client's FOIA request falls under the "All Other" requester category for determining fees for processing this FOIA request. As stated in 43 CFR §2.39 (a), "All Other" requesters are charged fees for document search and duplication, except the first two hours of search time and the first 100 pages of duplication are without charge. As a matter of policy, the Department does not bill FOIA requesters for fees incurred for processing their FOIA request when the fees do not exceed \$50.00. You would have been notified in writing and asked for your written assurance to pay the appropriate fees associated with your FOIA request if the processing fees exceeds the \$500.00 you agreed to pay for processing this FOIA request(43 CFR §2.6).

We have conducted a thorough and diligent search of the records maintained at the Bureau of Indian Affairs, Great Lakes Agency, and the Midwest Regional Office, and have not located any documents responsive to your request.

In accordance with 43 CFR §2.57 (a)(3) you must be advised of your appeal rights when informing you we have no records responsive to your FOIA request. If you believe this response to be incorrect or that the search was inaccurate, then you may treat this

correspondence as a full denial of your request and may appeal this response to the FOIA Appeals Officer. The FOIA Appeals Officer must receive your FOIA appeal no later than 30 workdays from the date of this final letter responding to your FOIA request. Appeals arriving or delivered after 5 p.m. E.T., Monday through Friday, will be deemed received on the next workday. Your appeal must be in writing and addressed to:

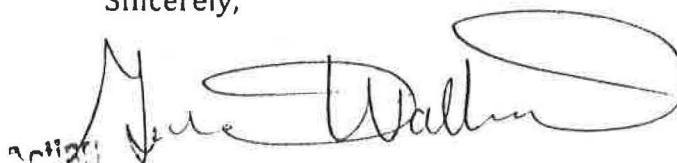
Freedom of Information Act Appeals Officer  
Department of the Interior  
Office of the Solicitor  
1849 C Street, NW, MS 6556  
Washington, DC 20240

You must include with your appeal copies of all correspondence between you and the bureau concerning your FOIA request, including a copy of your original FOIA request and this denial letter. Failure to include this documentation with your appeal will result in the Department's rejection of your appeal. The appeal should be marked, both on the envelope and the face of the letter, with the legend, "FREEDOM OF INFORMATION APPEAL." Your letter should include in as much detail as possible any reason(s) why you believe the bureau's response is in error.

For your information, Congress excluded three discrete categories of law enforcement and national security records from the requirements of FOIA. See 5 U.S.C. §552(c) (2006 & Supp. IV (2010)). This response is limited to those records that are subject to the requirements of FOIA. This is a standard notification that is given to all our requestors and should not be taken as an indication that excluded records do, or do not, exist.

If you have additional questions, you may contact Marion K. Duffy, FOIA Coordinator at: (715) 682-4527 ext. 401.

Sincerely,

A handwritten signature in black ink, appearing to read "Mike Wallin", with a large, stylized loop at the end.

Superintendent

cc: M. McCormick, FOIA Coordinator, Midwest Region

February 27, 2014

Mr. Quentin M. Jones, Chief (Acting)  
Division of Land Titles and Records  
MS-4620-MIB  
1849 C Street, N.W.  
Washington, D.C. 20240

Re: FOIA Request

Dear Mr. Jones:

The following is a request for information under the federal Freedom of Information Act, 5 U.S.C. § 552. On behalf of the Village of Hobart, in Brown County, Wisconsin, I am requesting copies of the following:

1. Land index reports, title status reports, title documents, ownership records, instruments, conveyance and encumbrance documents, and any other documents showing the status of title ownership, for all trust land located within the following section, township, ranges, in the Village of Hobart, Brown County, WI:
  - a. Section 3, Township 23 North, Range 19 East
  - b. Section 34, Township 24 North, Range 19 East
  - c. Section 27, Township 24 North, Range 19 East
  - d. Section 25, Township 24 North, Range 19 East

I agree to pay reasonable duplication fees for the processing of this request in an amount not to exceed \$500.00. However, please notify me prior to incurring any expenses in excess of that amount.

If my request is denied in whole or part, I ask that you justify all deletions by reference to specific exemptions of the act. I will also expect you to release all segregable portions of

Phone 920.435.9378 Direct 920.431.2227 Fax 920.431.2267  
318 S. Washington Street Suite 300, Green Bay, WI 54301  
jclevers@dkattorneys.com

Page 2

otherwise exempt material. I, of course, reserve the right to appeal your decision to withhold any information or to deny a waiver of fees.

I look forward to your reply within 20 business days, as the statute requires.

Thank you for your assistance. I can be reached at 920.431.2227 with any questions or concerns regarding this FOIA Request.

Very truly yours,

Davis & Kuelthau, s.c.

A handwritten signature in cursive script, appearing to read "Jenna E. Clevers".

Jenna E. Clevers

cc: Village of Hobart (via e-mail)



# United States Department of the Interior

OFFICE OF THE SECRETARY  
Washington, DC 20240

APR 15 2014

Ms. Jenna Clevers  
Davis Kuelthau Attorneys At Law  
318 S. Washington Street, Suite 300  
Green Bay, WI 54301

RE: FOIA Control No. BIA-2014-00846

Dear Jenna Clevers,

This letter is in response to your Freedom of Information Act (FOIA) request of February 27, 2014, in which you seek, *"Land index reports, title status reports, title documents, ownership records, instruments, conveyance and encumbrance documents, and any other documents showing the status of title ownership, for all trust land located within the following section, township, ranges, in the Village of Hobart, Brown County, WI: a. Section 3, Township 23 North, Range 19 East; b. Section 34, Township 24 North, Range 19 East; c. Section 27, Township 24 North, Range 19 East; d. Section 25, Township 24 North, Range 19 East."*

Your request was referred to the Bureau of Indian Affairs FOIA Office for processing on April 2, 2014, and assigned Request No. BIA-2014-00846. Please reference this number in any future communications regarding your request.

We have conducted a search in the Bureau of Indian Affairs (BIA) Central Office Trust Services, D/BIA and AS-IA records and found no responsive documents. The Midwest Regional BIA Office responded to this request under BIA-2014-00646. You initially addressed this request to Mr. Quentin Jones, who recently retired, and we apologize for the delay in assigning this request.

If you feel this decision was made in error, you may appeal this decision to the FOIA Appeals Officer. The FOIA Appeals Officer must receive your FOIA Appeal no later than 30 workdays from the date of this final letter responding to your FOIA request. Appeals arriving or delivered after 5 p.m. E.T., Monday through Friday, will be deemed received on the next workday. Your appeal must be in writing and addressed to:

Freedom of Information Act Appeals Officer  
Department of the Interior  
Office of the Solicitor  
1849 C Street, NW, MS 6556  
Washington, DC 20240

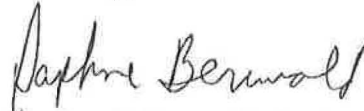
You must include with your appeal copies of all correspondence between you and the bureau concerning your FOIA request, including a copy of your original FOIA request and this denial letter. Failure to include this documentation with your appeal will result in the Department's rejection of your appeal. The appeal should be marked, both on the envelope and the face of the letter, with the legend "FREEDOM OF INFORMATION APPEAL." Your letter should include in as much detail as possible any reason(s) why you believe the bureau's response is in error. As part of the 2007 FOIA amendments, the Office of Government Information Services (OGIS) was created to offer mediation services to resolve disputes between FOIA requesters and Federal agencies as a non-exclusive alternative to litigation. Using OGIS services does not affect your right to pursue litigation. You may contact OGIS in any of the following ways:

Office of Government Information Services  
National Archives and Records Administration  
8601 Adelphi Road, Room 2510  
College Park, MD 20740-6001  
Email: [ogis@nara.gov](mailto:ogis@nara.gov)  
Telephone: (301) 837-1996  
Facsimile: (301) 837-0348  
Toll-Free: (877) 684-6448

For your information, Congress excluded three discrete categories of law enforcement and national security records from the requirements of FOIA. See 5 U.S.C. §552(c) (2006) & Supp. IV (2010). This response is limited to those records that are subject to the requirements of the FOIA. This is a standard notification that is given to all our requesters and should not be taken as an indication that excluded records do, or do not, exist.

This concludes our response to your request. If you have any questions regarding this response, please feel free to contact Hillary Renick at (202) 513-7781 or [Hillary.Renick@Bia.Gov](mailto:Hillary.Renick@Bia.Gov).

Sincerely,



Daphne J. Berwald, Acting IA FOIA Officer



# United States Department of the Interior



BUREAU OF LAND MANAGEMENT  
Eastern States  
7450 Boston Boulevard  
Springfield, Virginia 22153  
<http://www.es.blm.gov>

In Reply Refer To:

1278 (952)  
FOIA ES-2014-26

June 19, 2014

Attorney Juliana M. Ruenzel  
305 E. Walnut Street  
Green Bay, WI 54301

Dear Ms. Ruenzel:

This letter is in response to your Freedom of Information Act (FOIA) request dated and received on June 2, 2014.

In order to obtain an easement on a driveway to the Brown County's Golf Course, you have requested information and/or documentation regarding who has ownership of the property in Brown County, Wisconsin.

In response to your request, the Bureau of Land Management transferred title to the property in question on June 13, 1892 under the Indian Allotment Act of February 8, 1887 (24 Stat. 388). At which time the lands were already designated as Native lands under the Treaty of February 8, 1831 (7 Stat. 342). Current title would appear to be under the jurisdiction of the Oneida Tribe.

To obtain an easement for Brown County you will need to contact:

Oneida Nation of Wisconsin  
Division of Land Management  
470 Airport Drive  
Oneida, Wisconsin 54155  
(920) 869-1690  
(920) 869-1689 (Fax)

Generally, the FOIA provides for the collection and processing of fees for FOIA requests. These fees can cover research, duplication, and review costs. However, the Department of the Interior's FOIA regulations provides for the waiver of fees if they do not exceed the \$50 threshold. The fee associated with your request was under \$50; therefore you will not be charged.

As of October 1, 2012, it is required for us to provide you with the following information: Congress excluded three discrete categories of law enforcement and national security records from the requirements of the FOIA. See 5 U.S.C. § 552(c) (2006 & Supp. IV (2010)). This response is limited to those records that are subject to the requirements of the FOIA. This is a

standard notification that is given to all our requesters and should not be taken as an indication that excluded records do, or do not, exist.”

If you have any questions concerning your request, please contact Pam Mozina, FOIA Coordinator, at (703) 440-1561.

Sincerely,

*/s/ Pam Mozina*

Pam Mozina  
FOIA Coordinator

July 9, 2014

**VIA CERTIFIED RETURN RECEIPT MAIL**

Division of Land Titles and Records  
MS-4620-MIB  
1849 C Street, N.W.  
Washington, D.C. 20240

Re: FOIA Request

Dear FOIA Coordinator:

This office represents the Village of Hobart ("Village"). The following is a request for information under the federal Freedom of Information Act, 5 U.S.C. § 552. On behalf of the Village, I am requesting copies of the following:

1. Land index reports, title status reports, title documents, ownership records, instruments, conveyance and encumbrance documents, and any other documents showing the status of title ownership, for all trust land located within the following section, township, ranges, in the Village of Hobart, Brown County, WI:
  - a. Section 3, Township 24 North, Range 19 East
  - b. Section 10, Township 24 North, Range 19 East
  - c. Section 11, Township 24 North, Range 19 East
  - d. Section 12, Township 24 North, Range 19 East
  - e. Section 15, Township 24 North, Range 19 East
  - f. Section 14, Township 24 North, Range 19 East
  - g. Section 13, Township 24 North, Range 19 East
  - h. Section 22, Township 24 North, Range 19 East
  - i. Section 23, Township 24 North, Range 19 East

Phone 920.436.9378 Direct 920.431.2227 Fax 920.431.2267  
318 S. Washington Street Suite 300, Green Bay, WI 54301  
jclevers@dkattorneys.com

- j. Section 35, Township 24 North, Range 19 East
- k. Section 36, Township 24 North, Range 19 East
- l. Section 2, Township 23 North, Range 19 East
- m. Section 1, Township 23 North, Range 19 East
- n. Section 10, Township 23 North, Range 19 East
- o. Section 11, Township 23 North, Range 19 East
- p. Section 12, Township 23 North, Range 19 East
- q. Section 15, Township 23 North, Range 19 East
- r. Section 14, Township 23 North, Range 19 East
- s. Section 13, Township 23 North, Range 19 East
- t. Section 22, Township 23 North, Range 19 East
- u. Section 23, Township 23 North, Range 19 East
- v. Section 24, Township 23 North, Range 19 East
- w. Section 27, Township 23 North, Range 19 East
- x. Section 26, Township 23 North, Range 19 East
- y. Section 25, Township 23 North, Range 19 East
- z. Section 34, Township 23 North, Range 19 East
- aa. Section 35, Township 23 North, Range 19 East
- bb. Section 3, Township 22 North, Range 19 East
- cc. Section 2, Township 22 North, Range 19 East

- dd. Section 10, Township 22 North, Range 19 East
- ee. Section 18, Township 24 North, Range 20 East
- ff. Section 17, Township 24 North, Range 20 East
- gg. Section 20, Township 24 North, Range 20 East
- hh. Section 6, Township 23 North, Range 20 East
- ii. Section 7, Township 23 North, Range 20 East
- jj. Section 8, Township 23 North, Range 20 East
- kk. Section 18, Township 23 North, Range 20 East
- ll. Section 17, Township 23 North, Range 20 East
- mm. Section 19, Township 23 North, Range 20 East

I agree to pay reasonable duplication fees for the processing of this request in an amount not to exceed \$500.00. Please contact me prior to incurring any expenses in excess of that amount.

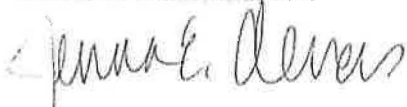
If my request is denied in whole or part, I ask that you justify all deletions by reference to specific exemptions of the act. I will also expect you to release all segregable portions of otherwise exempt material. I, of course, reserve the right to appeal your decision to withhold any information or to deny a waiver of fees.

I look forward to your reply within twenty (20) business days, as the statute requires.

Thank you for your assistance. I can be reached at 920.431.2227 with any questions or concerns regarding this FOIA Request.

Very truly yours,

Davis & Kuelthau, s.c.



Jenna E. Clevers

cc: Village of Hobart (via e-mail)