



Memo

To: Acme Township Board of Trustees
From: Sharon E. Vreeland, Township Manager
Date: 08/08/2012
Re: Tribal Property Trust Application – “Hoxsie Property”

Requested Action: Create/approve final form of response to Bureau of Indian Affairs request for township input regarding application by the Grand Traverse Band of Ottawa & Chippewa Indians to place the “Hoxsie Property” into federal trust.

Due Date: Response due to BIA by August 17, 2012

Attachments:

- Initial DRAFT response for your consideration
- 07/03/2012 BIA Letter requesting input
- 07/15/2012 supplement to 11/16/2011 application to place land in federal trust
- 07/19/2012 township request for extension of time to respond
- 07/25/12 BIA extension of time to respond
- Copy of resolution regarding the request adopted by Grand Traverse County at its 08/01/12 meeting, with copy of information regarding draft intergovernmental agreement regarding replacement of lost tax revenue, which was worked on in 2008 by the County, Acme Township and the Tribe.



August 15, 2012

Mr. Gerald F. Parish, Superintendent
US Department of the Interior
Bureau of Indian Affairs, Michigan Agency
2845 Ashmun Street
Sault Ste. Marie MI 49783-3732

Re: Proposed Trust Acquisition of Land for the Grand Traverse Band of Ottawa & Chippewa Indians (Parcel 82)

Dear Mr. Parish:

On behalf of the Acme Township Board of Trustees, we are responding to your request for comments regarding the proposed trust acquisition of approximately 158.91 acres of land for the Grand Traverse Band of Ottawa & Chippewa Indians ("the Tribe.") Our responses to the questions posed in your July 3, 2012 letter are as follows:

- 1. The annual amount of property taxes currently levied on the property:** In 2011 the total summer and winter total property taxes levied on the subject parcels of land totaled \$19,498.31. Of this total the amount retained by Acme Township totals \$1,506.23, comprised of \$262.72 for township general operations, \$329.77 for farmland development rights (PDR) purchases, and a special assessment for emergency services (fire, police and ambulance protection) of \$913.74. 2012 summer taxes for the subject parcels total \$16,118.18. The total taxes for 2013 should be substantially similar to the 2012 total.
- 2. The impact of the political subdivision resulting from the removal of this land from the tax rolls:** The amounts collected by Acme Township alone in 2012 as detailed above comprise 0.09% of the operating millage receipts, 0.12% of PDR receipts and 0.15% of the emergency services receipts township-wide. The dollars involved are a very small portion of overall township revenues at the current time. It is impossible to estimate the future impact on tax revenues without an understanding of the precise size and nature of future development of the property.
- 3. Any special assessments, and amount thereof, which are currently assessed against the property:** One of the three levies discussed above, the one for emergency services, is generated by a township-wide special assessment district rather than by a voted millage. This special assessment may increase from 2.2 mills to 2.5 mills starting January 2013 to support our new ambulance service. There are no other special assessments currently assessed against the property.
- 4. Any governmental services which are currently provided to the property by our jurisdiction:** The township currently provide fire protection, police protection and ambulance service to the subject properties.
- 5. If subject to zoning, how the property is currently zoned, and potential conflicts of land use, if any, which may arise:** The properties are subject to zoning, and are currently zoned A-1, Agricultural. The Future Land Use map in our Master Plan designates our future goals for this area of the township to be as follows: for the larger/easterly parcel, continued agricultural use; for the smaller/westerly parcel, conservation/recreation use. The westerly parcel contains a segment of Yuba Creek, for which the township has protection and water and fishery quality enhancement goals. Tribal representatives have already mentioned to the township the possibility that they might voluntarily place a conservation easement over a substantial portion of this parcel, and Acme Township would sincerely welcome and appreciate such a consideration.

Mr. Gerald R. Parrish, Superintendent
US Department of the Interior
Bureau of Indian Affairs, Michigan Agency
August 15, 2012
Page 2 of 2

Section F, Land Use Plan, on pages 6-7 of the June 15, 2012 supplemental trust status application from the Tribe indicates that potential future uses of the property could include wind energy generation, a winery project, and potential housing. All of these land uses are allowable under and consistent with the current zoning designation, although it should be noted that the current allowable housing density is 1 unit per 5 acres. Most other more intensive commercial/retail uses of the property would be inconsistent with the current zoning and future land use plan for these parcels.

Thank you for the opportunity to provide comment and information to assist you in evaluating this trust acquisition application. Please let us know if there is additional information we may provide.

Sincerely,



Sharon E. Vreeland, Township Manager
svreeland@acmetownship.org

cc: Tribal Chairman Alvin Pedwaydon
Tribal Counsel William Rastetter
Grand Traverse County Commissioner Larry Inman
Grand Traverse County Administrator David D. Benda
Acme Township Planning Commission



United States Department of the Interior

BUREAU OF INDIAN AFFAIRS

Michigan Agency

2845 Ashmun Street

Sault Ste. Marie, Michigan 49783-3732

(906) 632-6809 Phone (906) 632-0689 Fax

877-659-5028 TOLL FREE

IN REPLY REFER TO:

Realty

July 3, 2012

CERTIFIED RETURN RECEIPT REQUESTED – 7007-2560-0002-5916-9414

Acme Township
6042 Acme Road
Williamsburg, MI 49690

RE: Proposed Trust Acquisition of Land for the Grand Traverse Band of Ottawa & Chippewa Indians (Parcel 82)

Dear Township Board:

This Agency has under consideration the above trust application from the Grand Traverse Band of Ottawa & Chippewa Indians, consisting of approximately 158.91 acres. This parcel is not contiguous to existing trust or reservation land and will be processed as “off-reservation.” We are enclosing a legal description and map for your information.

The determination of whether to acquire this property in trust will be made in the exercise of discretionary authority which is vested in the Secretary of the Interior. To assist us in the exercise of that discretion, pursuant to regulations published in 25 CFR Part 151, we invite your comments on the following issues in regard to the proposed acquisition:

1. The annual amount of property taxes currently levied on the property;
2. The impact of the political subdivision resulting from the removal of this land from the tax rolls;
3. Any special assessments, and amount thereof, which are currently assessed against the property;
4. Any governmental services which are currently provided to the property by your jurisdiction;

5. If subject to zoning, how the property is currently zoned, and potential conflicts of land use, if any, which may arise.

Your written comments should be addressed to this office, attention of the Agency Superintendent. Any comments received within 30 days of the date of this letter, will be considered and a copy of your comments will be made available to the Grand Traverse Band of Ottawa & Chippewa Indians. You may be granted a 30 day extension of time to furnish comments, provided you submit a written justification requesting such an extension within 30 days of receipt of this letter.

A determination of whether to acquire this land in trust will be made by the Regional Director, Midwest Regional Office, Fort Snelling, Minnesota.

If you have submitted comments within thirty (30) days of this letter, you will be notified of this determination.

Any questions may be directed to Realty Department, at the above number.

Sincerely,

A handwritten signature in black ink, appearing to read "Gerald F. Parish". The signature is fluid and cursive, with a prominent initial "G".

Gerald F. Parish
Superintendent

Enclosures

Part of the West three-fourths of the Southwest quarter of Section 31, Town 28 North, Range 9 West, Acme Township, Grand Traverse County, Michigan, more fully described as:

Commencing at the Southwest corner of said Section 31;
thence North 00°43'45" West, 109.17 feet along the West line of said Section 31 to the POINT OF BEGINNING;
thence North 00°43'45" West, 2531.10 feet,
along said West Section line;
thence North 89°35'57" East, 2123.86 feet,
along the East and West quarter line of said Section 31;
thence South 00°58'42" East, 2579.25 feet, along the East line of said West three-fourths of the Southwest quarter to a point on the Northerly right-of-way line of Highway M-72;
thence South 89°40'55" West, 99.14 feet,
along said Northerly right-of-way line;
thence North 00°04'58" East, 418.31 feet,
thence North 89°55'02" West, 577.00 feet,
thence South 00°04'58" West, 254.10 feet;
thence North 89°55'02" West, 289.00 feet,
thence South 00°04'58" West, 170.27 feet,
to a point on said Northerly right-of-way line;
thence along said northerly right-of-way line the following 3 courses:
South 89°40'55" West, 598.40 feet,
North 00°19'05" West, 45.00 feet,
South 89°40'55" West, 571.86 feet,
to the POINT OF BEGINNING.

Subject to and together with an easement for a private driveway as recorded in File No. 2009R-04732, Grand Traverse County Records.

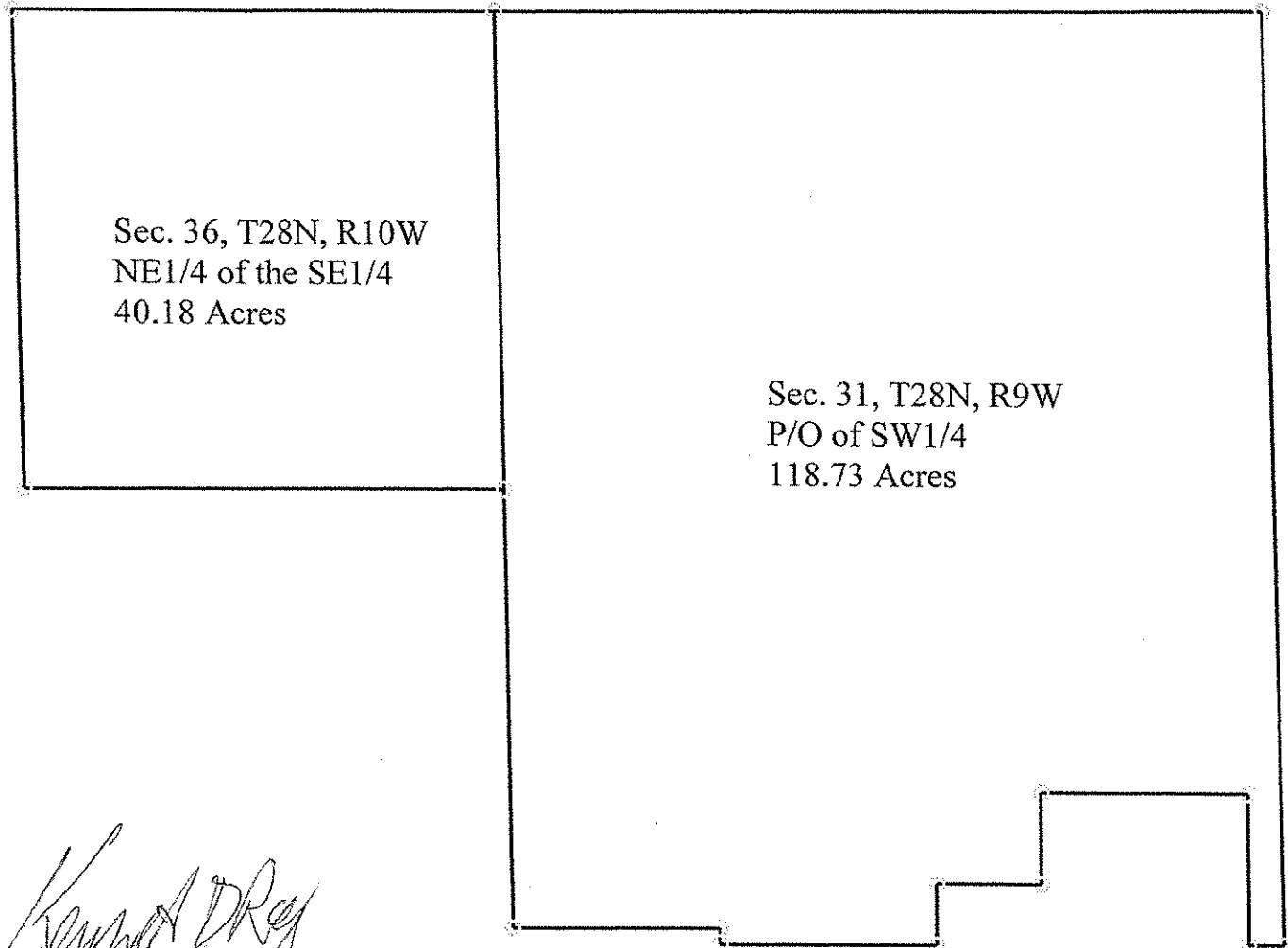
AND ALSO, The Northeast quarter of the Southeast quarter of Section 36, Town 28 North, Range 10 West, Acme Township, Grand Traverse County, Michigan, more fully described as:

Commencing at the Southeast corner of said Section 36;
thence North 00°43'45" West, 1320.27 feet, along the East line of said Section 36;
to the POINT OF BEGINNING;
thence South 89°42'55" West, 1321.10 feet,
along the South one-eighth line of said Section 36;
thence North 00°59'21" West, 1323.72 feet,
along the East one-eighth line of said Section 36;
thence North 89°52'23" East, 1327.15 feet,
along the East and West quarter line of said Section 36;
thence South 00°43'45" East, 1320.00 feet, along the East line of said Section;
to the POINT OF BEGINNING.

Said parcels contain 158.91 acres, more or less.

1 CONCUR W/ ABOVE DESCRIPTION
Kurt D. [Signature]

Township 28 North Ranges 9 & 10 West,
 Section 31 in Range 9 West and Section 36 in Range 10 West



Kenneth D. Roy

Prepared by
 Kenneth D. Roy
 BLM Indian Land Surveyor
 BIA Midwest Region
 February 8, 2012

SW Cor.
 Sec. 31

MN-72 Highway

P/O Sec. 31 in T28N, R9W and Sec. 36 in T28N, R10W 2/8/2012

Scale: 1 inch= 500 feet File: 468-Parcel-82(Hoxie)-12-11.ndp

Tract 1: 118.7266 Acres, Closure: s00.5125e 0.23 ft. (1/44791), Perimeter=10257 ft.
 Tract 2: 40.1788 Acres, Closure: s61.5559w 0.01 ft. (1/489264), Perimeter=5292 ft.

- | | |
|----------------------|----------------------|
| 01 n00.4345w 109.14 | 14 s89.4055w 571.86 |
| 02 n00.4345w 1211.10 | 15 @3 |
| 03 n00.4345w 1320.00 | 16 s89.4255w 1321.10 |
| 04 n89.3537e 2123.86 | 17 n00.5921w 1323.72 |
| 05 s00.5842e 2579.25 | 18 n89.5223e 1327.15 |
| 06 s89.4055w 99.14 | 19 s00.4345e 1320.00 |
| 07 n00.0458e 418.31 | |
| 08 n89.5502w 577.00 | |
| 09 s00.0458w 254.10 | |
| 10 n89.5502w 289.00 | |
| 11 s00.0458w 170.27 | |
| 12 s89.4055w 598.40 | |
| 13 n00.1905w 45.00 | |



6042 Acme Road, Williamsburg, MI 49690 Tel. 231-938-1350 Fax 231-938-1510 www.acmetownship.org

July 19, 2012

Mr. Gerald F. Parish, Superintendent
US Department of the Interior
Bureau of Indian Affairs, Michigan Agency
2845 Ashmun Street
Sault Ste. Marie MI 49783-3732

Re: Proposed Trust Acquisition of Land for the Grand Traverse Band of Ottawa & Chippewa Indians (Parcel 82)

Dear Mr. Parish:

In response to your July 3, 2012 letter regarding the request by the Grand Traverse Band of Ottawa & Chippewa Indians to place an additional 158.91 acres of land in federal trust, Acme Township respectfully requests a 30-day extension of our response time period.

The Acme Township Board of Trustees holds its regular monthly meetings on the first Tuesday of each month. Our last regular meeting was on July 3, the day your letter was written and three days before your letter was received. Our August meeting is the first opportunity for our Board to approve a response, and would normally be held on August 7. Because the primary elections will be held on that date and our meeting space also serves as our election precincts, our board's first opportunity to approve a response will be at their meeting scheduled for August 14. We proposed to mail the approved response to you no later than August 17.

Thank you in advance for your consideration. Please contact me should you have any questions.

Sincerely,

Sharon E. Vreeland, Township Manager
svreeland@acmetownship.org

cc: Tribal Chairman Alvin Pedwaydon
Tribal Counsel William Rastetter
Grand Traverse County Commissioner Larry Inman
Grand Traverse County Administrator David D. Benda



United States Department of the Interior

BUREAU OF INDIAN AFFAIRS

Michigan Agency

2845 Ashmun Street

Sault Ste. Marie, Michigan 49783-3732

(906) 632-6809 Phone (906) 632-0689 Fax

877-659-5028 TOLL FREE

IN REPLY REFER TO:

Administration

July 24, 2012

Sharon E. Vreeland, Manager
Acme Township
6042 Acme Road
Williamsburg, MI. 49690

Dear Ms. Vreeland:

This letter is to acknowledge receipt of your request for an extension of the comment period on the proposed trust acquisition for the parcel of land located in Acme Township that we identify as "Parcel 82". Given the circumstances cited in your letter, I am hereby approving an extension to the close of business on August 17. Although this deviates from the standard 30 day period, I believe it is reasonable in this instance.

Sincerely,

Gerald F. Parish
Superintendent

Cc: Alvin Pedwaydon, Tribal Chairman



OLSON BZDOK & HOWARD

www.envlaw.com

June 15, 2012

Mr. Gerald F. Parish, Superintendent
Bureau of Indian Affairs
Michigan Agency
2845 Ashmun Street
Sault Ste. Marie, MI 49783

Attention: Esther M. Thompson, Realty Officer

Subject: Supplemental Trust Status Application (GTB Parcel 82)
Grand Traverse Band of Ottawa and Chippewa Indians

Dear Superintendent Parish:

Enclosed is a supplement to the November 16, 2011 Request transmitted by letter dated February 3, 2012. The purpose of this supplement is to address inquiries raised by the Bureau of Indian Affairs staff, as well as to provide an updated legal description consistent with the Legal Description Review ("LDR") conducted by the BLM-BIA surveyor. For the record please substitute the enclosed narrative (entitled "Supplemental Request to the Secretary of the Interior for Trust Status") for the original one transmitted by the February 3rd letter. However, we are not enclosing the other documents referenced at subparagraphs numbered (1.), (2.) and (3.) of the February 3rd letter; thus please retain those documents and just substitute the enclosed "supplemental request" for the original one. (But we are enclosing additional documents with this letter that are listed below.)

First, please note that in Section C (Description of Land) the enclosed "supplemental request" contains the legal description approved by Kenneth D. Roy, the BLM Indian Land Surveyor on February 9, 2012.

Second, this is to confirm that the proposed acquisition of GTB Parcel 82 should be processed as an "off reservation" acquisition notwithstanding that a portion of this property is located within the Grand Traverse Band's 1836 Treaty reservation, because it is not contiguous to land(s) currently held in trust for the Band. Thus, even though Section D (at pages 4-5) asserts that Parcel 82 qualifies as an "on-reservation" acquisition, it is understood that this will be processed as an "off-reservation" acquisition.

Mr. Gerald F. Parish, Superintendent
Bureau of Indian Affairs
June 15, 2012
Page 2

Third, the "supplemental request" has been revised to address the question raised by the BIA Regional Environmental Officer with respect to intended uses of the proposed acquisition. The Grand Traverse Band has no plans in the foreseeable future to implement either of the two primary purposes discussed in Section F (Land Use Plan) at pages 6-7. Thus this proposed acquisition qualifies for a "categorical exclusion" under the NEPA analysis because there will be no change in land use. Moreover, other information is being provided with this "supplemental request" justifying a "categorical exclusion" for the additional reason that the two primary purposes are authorized under the land use regulations (Acme Township Zoning Ordinance) currently applicable to this property.

Fourth, Section G (Consultation with Local Governments) has been expanded to reflect a conceptual understanding discussed with officials of Acme Township and Grand Traverse County in 2008 during the process that resulted in the Department's acquisition of GTB Parcels 34, 42, 60, 61 and 69 into federal trust status.

Very truly yours,



William Rastetter
Tribal Attorney
Grand Traverse Band of Ottawa and Chippewa Indians

WR:djs
Enclosures (as stated)

**SUPPLEMENTAL REQUEST TO THE
SECRETARY OF THE INTERIOR
FOR TRUST STATUS**

June 15, 2012, supplementing November 16, 2011 Request

**GTB Parcel 82
Acme Township, Grand Traverse County, Michigan**

**Submitted by the
Grand Traverse Band of Ottawa and Chippewa Indians
2605 N. West Bayshore Drive
Peshawbestown, Michigan 49682**

A. Background Information

This Request to the Secretary of the Interior involves a parcel of land located in Acme Township, Grand Traverse County, Michigan which currently is owned in fee title by the Grand Traverse Band of Ottawa and Chippewa Indians (this acquisition is designated as GTB Parcel 82) and has been deeded to the United States in trust for the Tribe. A portion of this parcel is located within and the rest is adjacent to the original reservation set aside for the historic Grand Traverse Bands in Article Second of the Treaty of Washington executed March 28, 1836 (7 Stat. 491), and is one mile west of land (GTB Parcel 13) that in 1989 and other land (GTB Parcels 34, 42, 60, 61 and 69) that in 2008 were accepted/approved by the United States in trust for the Grand Traverse Band. This property is “at the heart of the region that comprised the core of the Band’s aboriginal territory and was historically important to the economy and culture of the Band.” *Grand Traverse Band of Ottawa and Chippewa Indians v U.S. Attorney for the Western District of Michigan*, 369 F.3d 960, 962 (6th Cir. 2004).

B. Not Acquired For Gaming Purposes

GTB Parcel 82 is not being acquired for gaming purposes. On August 30, 1993, the Grand Traverse Band and the Governor of the State of Michigan (the “Governor”) entered into a tribal-state gaming compact (the “Compact”) under the Indian Gaming Regulatory Act, 25 U.S.C. §§ 2701, *et seq.* (“IGRA”), authorizing class III gaming [as defined in section 4(8) of IGRA, 25 U.S.C. § 2703(4)(8)], on the Tribe’s “Indian lands” within the State of Michigan [as defined in section 2(B) of the Compact], which Compact was ratified by the Michigan House of Representatives on September 21, 1993, and by the Michigan Senate on September 30, 1993. The Compact became effective on November 30, 1993, when the United States Secretary of the Interior published his approval of the Compact in the Federal Register as required by section 11(d)(8)(D) of IGRA, 25 U.S.C. § 2710(d)(8)(D). *See* 58 Fed. Reg. 63262 (1993).

On June 14, 1996, the Grand Traverse Band commenced class III gaming operations at the Turtle Creek Casino located on Parcel 13; and that same day the Tribe filed a lawsuit in the United

States District Court for the Western District of Michigan seeking a declaration that the conduct of class III gaming operations at the Turtle Creek site was legal. On July 15, 1998, the United States, acting in the stead of the United States Attorney, moved for a preliminary injunction against the continued conduct of gaming operations at the Turtle Creek site. On March 18, 1999, United States District Court Judge Douglas Hillman issued an Opinion and Order denying the United States' motion for a preliminary injunction and staying the action in order for the National Indian Gaming Commission to review the case.¹

After an extended stay of the proceedings so that the federal agency could review the Tribe's assertions, on August 31, 2001 the National Indian Gaming Commission ("NIGC") submitted an opinion to the Court on the question "Whether the Turtle Creek Casino site that is held in trust by the United States for the benefit of the Grand Traverse Band of Ottawa and Chippewa Indians is exempt from the Indian Gaming Regulatory Act's general prohibition of gaming on lands acquired after October 17, 1988." In considering this question, the NIGC reviewed several dozen federal laws, regulations and legal precedents, as well as substantial submissions from the Grand Traverse Band and State of Michigan. The NIGC concluded "that the Turtle Creek casino site constitutes restored land for an Indian tribe that has been restored to federal recognition under 25 U.S.C. §2719(b)(1)(B)(iii) rendering it within an exception to the general prohibition of gaming on lands acquired in trust after October 17, 1988." Therefore by Stipulation and Order entered by the Court on December 27, 2001, the United States and the Grand Traverse Band dismissed their claims regarding the legality of the Turtle Creek Casino. However, the State of Michigan continued to challenge the legality of the casino, thereby necessitating both a trial and appeal. The Tribe prevailed on both, as indicated in the May 24, 2004 decision of the United States Court of Appeals for the Sixth Circuit [reported at 369 F.3d 960], which affirmed the District Court's final decision entered April 22, 2002 that is reported at 198 F.Supp. 920 (W.D. Mich. 2002).

¹ Judge Hillman's opinion is reported as *Grand Traverse Band of Ottawa and Chippewa Indians v. United States Attorney for the Western District of Michigan*, 46 F. Supp. 2d 689 (W.D. Mich. 1999).

The Turtle Creek Casino is located entirely upon Parcel 13 that was approved/accepted into federal trust status on August 8, 1989. This casino has been operating on that site continuously for the past 15 years; in 2008 the casino was rebuilt on Parcel 13 together with the new Turtle Creek Hotel, and all future casino development plans will be restricted to this 29-acre parcel (including a parking garage sufficient to handle all parking needs for casino patrons). Because of this recent development and the Tribe's acquisition of the Grand Traverse Resort and Spa in 2003 (with more than 600 rooms) located just a half mile west of Parcel 82 on M-72, there is no need to utilize any portion of Parcel 82 for gaming-related development purposes.

C. Description of Land

Following is the legal description of this parcel located in Acme Township, Grand Traverse County, State of Michigan:

Legal Description - Parcel 82

Part of the West three-fourths of the Southwest quarter of Section 31, Town 28 North, Range 9 West, Acme Township, Grand Traverse County, Michigan, more fully described as:

Commencing at the Southwest corner of said Section 31; thence North 00°43'45" West, 109.17 feet along the West line of said Section 31 to the POINT OF BEGINNING; thence North 00°43'45" West, 2531.10 feet, along said West Section line; thence North 89°35'57" East, 2123.86 feet, along the East and West quarter line of said Section 31; thence South 00°58'42" East, 2579.25 feet, along the East line of said West three-fourths of the Southwest quarter to a point on the Northerly right-of-way line of Highway M-72; thence South 89°40'55" West, 99.14 feet, along said Northerly right-of-way line; thence North 00°04'58" East, 418.31 feet, thence North 89°55'02" West, 577.00 feet, thence South 00°04'58" West, 254.10 feet; thence North 89°55'02" West, 289.00 feet, thence South 00°04'58" West, 170.27 feet, to a point on said Northerly right-of-way line; thence along said northerly right-of-way line the following 3 courses: South 89°40'55" West, 598.40 feet, North 00°19'05" West, 45.00 feet, South 89°40'55" West, 571.86 feet, to the POINT OF BEGINNING.

Subject to and together with an easement for a private driveway as recorded in File No. 2009R-04732, Grand Traverse County Records.

AND ALSO, The Northeast quarter of the Southeast quarter of Section 36, Town 28 North, Range 10 West, Acme Township, Grand Traverse County, Michigan, more fully described as:

Commencing at the Southeast corner of said Section 36; thence North 00°43'45" West, 1320.27 feet, along the East line of said Section 36; to the POINT OF BEGINNING; thence South 89°42'55" West, 1321.10 feet, along the South one-eighth line of said Section 36; thence North 00°59'21" West, 1323.72 feet, along the East one-eighth line of said Section 36; thence North 89°52'23" East, 1327.15 feet, along the East and West quarter line of said Section 36; thence South 00°43'45" East, 1320.00 feet, along the East line of said Section; to the POINT OF BEGINNING.²

Said parcels contain 158.91 acres, more or less.

Parcel Numbers 28-01-236-011-00 and 28-01-014-016-00

D. Within 1836 Reservation and Nearby Existing Trust Status Lands

The resolution of the litigation between the United States and the Grand Traverse Band referenced in Section B followed submission to the Court (and previous submission to the National Indian Gaming Commission) of the Tribe's expert witness report prepared by James M. McClurken, Ph.D. Dr. McClurken presented uncontroverted evidence that the reservation set aside for the historic Grand Traverse Bands in Article Second of the Treaty of Washington executed March 28, 1836 probably included the Turtle Creek site.³ But four years later the Indian agent, Henry Schoolcraft, unilaterally determined to move this reservation from the east shore of Grand Traverse Bay (where it encompassed the Turtle Creek site) to the Old Mission peninsula; and the eastern boundary of the resultant reservation was "fixed" at 1.5 miles west of the Turtle Creek site.⁴ A portion of the subject-matter property (Parcel 82) is located within this 1836 Treaty reservation because it straddles the boundary that was determined in 1840.

² This legal description received the Land Description Review (LDR) certification on February 9, 2012 (BIA Land Area Code: 468-Grand Traverse Bay).

³ "At the time of the treaty no one knew the shape of the northwestern side of Lake Michigan. Some interior areas near Grand and Little Traverse Bays were not surveyed until 1855." *United States v. Michigan*, 471 F.Supp. 192, 231 (W.D. Mich. 1979) (internal citations omitted).

⁴ "Although 1.5 miles outside the 1836 treaty reservation, evidence suggests that the site was located within the contemplated reservation, which was not designated for four years after the treaty was signed." *Grand Traverse Band of Ottawa and Chippewa Indians v. United States Attorney for the Western District of Michigan*, 198 F. Supp. 2d 920, 925 (W.D. Mich. 2002).

The proposed acquisition qualifies as an “on-reservation” acquisition in another respect as well. 25 C.F.R. §151.2(f) states: “Unless another definition is required by the act of Congress authorizing a particular trust acquisition, Indian reservation means that area of land over which the tribe is recognized by the United States as having governmental jurisdiction,...” Thus, the proposed acquisition also qualifies as being within the Grand Traverse Band’s “reservation” because the land is within the Tribe’s jurisdictional service area recognized by the Bureau of Indian Affairs, U.S. Department of the Interior. See Article I, Section 2(a) of the Grand Traverse Band’s Constitution approved by the Assistant Secretary-Indian Affairs on March 29, 1988 pursuant to the Indian Reorganization Act; see also 58 Fed. Reg. 8882 (February 9, 1993).⁵

Parcel 82 is nearby existing trust lands in that it is just one mile west of land (GTB Parcel 13) that in 1989 and other land (GTB Parcels 34, 42, 60, 61 and 69) that in 2008 were accepted/approved by the United States in trust for the Grand Traverse Band. This property is “at the heart of the region that comprised the core of the Band’s aboriginal territory and was historically important to the economy and culture of the Band.” *Grand Traverse Band of Ottawa and Chippewa Indians v U.S. Attorney for the Western District of Michigan*, 369 F.3d 960, 962 (6th Cir. 2004).

E. Qualification for Trust Status

The parcel described in the preceding section may be acquired pursuant to the authority provided by Sections 5 and 7 of the Indian Reorganization Act, 25 U.S.C. §465 and §467. The Tribal Council is authorized to acquire this land by Article IV, Section 1(d) of the Constitution approved by the Secretary of the Interior on March 29, 1988. Further, this request for trust status satisfies the regulations of the Bureau of Indian Affairs, Department of the Interior, prescribed at 25 C.F.R. §151.10, in that: Parcel 82 qualifies for acceptance into federal trust status pursuant to 25 C.F.R. §151.3(a)(1), (2) and (3) because this parcel is within the exterior boundaries of the Tribe’s 1836 Reservation; because this parcel is unrestricted land already owned by the Tribe; and/or

⁵ As stated in the June 15, 2012 transmittal letter for this “Supplemental Request,” it is understood that current policy/regulations require this proposed acquisition of GTB Parcel 82 to be processed as an “off-reservation” acquisition.

because acquisition of the land is necessary to facilitate tribal self-determination, economic development and future Indian housing.

As previously indicated, the May 24, 2004 decision by the United States Court of Appeals for the Sixth Circuit resolved the State of Michigan's assertion that the Tribe's Turtle Creek Casino was not lawful under the Indian Gaming Regulatory Act. In this decision, the Court of Appeals also confirmed the historical importance of this location:

On April 20, 1989, the Band acquired title to a parcel of land in Whitewater Township, Grand Traverse County, Michigan that is commonly referred to as the "Turtle Creek" site. Located on the east shore of Grand Traverse Bay, Turtle Creek is at the heart of the region that comprised the core of the Band's aboriginal territory and was historically important to the economy and culture of the Band. Acquisition of the Turtle Creek site was important for the Band to maintain a connection to the east shore region and to provide services and economic development to its members located on the east shore.

369 F.3d 960, at 962 (6th Cir. 2004). Located just one mile west of the Turtle Creek site, parcel 82 likewise lies within the core of the Grand Traverse Band's aboriginal territory and was historically important to the economy and culture of the Band. Regarding the requirement of the fee-to-trust handbook for documentation of the location relative to state boundaries and distance from the Tribe's reservation boundaries, *see* attached maps; note also that this calculation was made during the process by which Parcels 34, 42, 60, 61 and 69 were approved /accepted into federal trust status.

F. Land Use Plan

There are two primary purpose of the proposed acquisition of Parcel 82. One is for future diversification of the Tribe's economic base by pursuing economic development opportunities including those identified in grants previously received from the U.S. Departments of Energy and Agriculture (Rural Development). In 2005, the Grand Traverse Band received a grant from the US Department of Energy: Tribal Energy Program to conduct data collection and analysis for prospective development of wind energy on Parcel 82. The final technical report was completed in 2009; this opened the doors to other funding opportunities for potential wind energy implementation, solar energy and/or biomass development. For example, in April, 2010 the Grand Traverse Band

received ARRA funding through the U.S. Department of Energy: Energy Efficiency Community Block Grant to conduct a business plan and development for wind energy on Parcel 82. This grant is still open and on-going; information regarding aspects of this project will be provided as it becomes available.

Pursuant to a grant from U.S. Department of Agriculture: Rural Development, in February, 2009 the Grand Traverse Band selected the Northwest Michigan Council of Governments to research and prepare a feasibility study and business plan for a proposed winery project that also could be located on Parcel 82. This property (termed for this study as the “Hoxie Property”) is situated along a busy highway corridor (M-72) between the Tribe’s Turtle Creek Casino & Hotel and the Grand Traverse Resort & Spa, which also is owned by the Grand Traverse Band. The “Hoxie Property” (Parcel 82) is located in an area that is projected to grow in additional traffic and population in the next ten years. This final report shows there is an adequate opportunities for successful vineyard and winery (that is consistent with “ag destination” businesses under the current Acme Township zoning ordinance). Information regarding aspects of this proposed economic development project likewise will be provided as it becomes available.

The second primary purpose of the proposed acquisition of Parcel 82 is to utilize a portion for future Indian housing. Because long-term employment opportunities for Grand Traverse Band members exist at the Tribe’s Turtle Creek Casino & Hotel and the Grand Traverse Resort & Spa as well as with the anticipated diversified economic opportunities that will be located upon Parcel 82, there is a need for tribal members’ housing in this vicinity. The Tribe’s Housing Department is in the process of determining needs so that plans can be developed for various types of housing and related infrastructure. However there are no plans in the foreseeable future to implement either of these purposes

G. Consultation With Local Governments

The Grand Traverse Band has engaged and will continue to engage in substantial discussions with representatives of Grand Traverse County and Acme Township regarding a variety of planning

and development issues of mutual concerns. If any development were to occur in the future upon Parcel 82, the Grand Traverse Band will continue the discussions with representatives of the county and township governments that occurred during 2007-08 in conjunction with the acquisition of Parcels 34, 42, 60, 61 and 69. Those discussions would include the possibility of direct "2%" contributions to replace lost property taxes and participation in a joint planning process consistent with Acme Township's zoning ordinance. The Grand Traverse Band anticipates implementing elements of the 2008 conceptual understanding prior to any development upon the proposed acquisition.

H. Other Factors Mentioned in 25 C.F.R. §151.10

The Grand Traverse Band has contributed approximately four million dollars in grants to Grand Traverse County, Acme Township, and the local governmental units (including fire departments and schools) in the vicinity of Parcel 82. These grants have met such diverse needs as direct funding for the Grand Traverse County budget, purchasing fire and rescue vehicles, funding additional police officers, and substantial support for the local school districts. By comparison, the total yearly property taxes during 2011 for this parcel was \$17,422.20. In short the voluntary contributions made by the Tribe far exceed property tax revenue to the county, Township, and school districts.

I. NEPA Compliance

No significant impact on the quality of the human environment will result from the Secretary's approval of this request and the Department's acceptance into federal trust status of the lands previously described (GTB Parcel 82). Pursuant to the Department's manual and/or other established procedures, the acquisition of Parcel 82 qualifies as a categorical exclusion because no change to the existing land use is planned for the foreseeable future.

Another reason warranting a categorical exclusion is that the future contemplated uses all are permitted by Acme Township's zoning ordinance that currently governs allowable uses upon Parcel

82. The entire ordinance and related documents may be reviewed “on line;” nonetheless, copies of the following sections are included for the record:

§ 6.11, *et seq.* A-1: Agricultural District

§ 9.25, *et seq.* Wineries

§14.1, *et seq.* Wind Energy Generation Systems

J. Request for Trust Status

Pursuant to Resolution No. 11-29.2320, the Grand Traverse Band of Ottawa and Chippewa Indians hereby requests the Secretary of the Interior to accept GTB Parcel 82 into federal trust status.



The Grand Traverse Band of Ottawa and Chippewa Indians

2605 N. West Bay Shore Drive • Peshawbestown, MI 49682 • (231) 534-7750

TRIBAL COUNCIL RESOLUTION Resolution No. 11-29.2320

WHEREAS, the Grand Traverse Band of Ottawa and Chippewa Indians is a signatory to the Treaty of Washington executed March 28, 1836 (7 Stat. 491) and was restored to its former status as an Indian tribe having a government-to-government relationship with the United States by action of the Department of the Interior effective May 27, 1980, *see* 45 Fed. Reg. 18321-18322 (March 25, 1980) and *Grand Traverse Band of Ottawa and Chippewa Indians v. Office of the U.S. Attorney of the Western District of Michigan*, 198 F.Supp.2d 920, 934 (W.D.Mich. 2002), *affirmed* 369 F.3d 960 (6th Cir. 2004); and

WHEREAS, the Grand Traverse Band's governmental operations and enterprises are headquartered upon a 12 & 1/2-acre reservation proclaimed by the Department of the Interior in 1984, *see* 49 Fed. Reg. 2025-2026 (January 17, 1984), and subsequently the Secretary of the Interior approved acquisition into federal trust status of additional tribal lands located in Grand Traverse County (Parcels 13, 34, 42, 60, 61 & 69) that are nearby Parcel 82; and

WHEREAS, the Grand Traverse Band's Constitution was approved March 29, 1988 by the Assistant Secretary-Indian Affairs as authorized by the Indian Reorganization Act of June 18, 1934 (48 Stat. 984); and Article IV, Section 1 of the Constitution vests the Tribal Council with sovereign governmental executive and legislative powers; and Article III, Section 3(a) provides authority for the Tribal Chairman to execute applicable conveyance documents when authorized by Tribal Council action; and

WHEREAS, by deeds executed March 26, 2003 and May 19, 2003, the Grand Traverse Band acquired fee title ownership of both the surface and sub-surface rights to an approximately 157-acre parcel located in Grand Traverse County, Michigan (designated as GTB Parcel 82); and

WHEREAS, the land described and included within the November 16, 2011 Request (Parcel 82) is located within the reservation designated for the historic Grand Traverse Bands described in Article Second of the Treaty of Washington executed March 28, 1836 (7 Stat. 491), is nearby existing trust land in Acme Township, Grand Traverse County (GTB Parcels 34 & 60), and has been determined by the federal courts to be "at the heart of the region that comprised the core of the Band's aboriginal territory and was historically important to the economy and culture of the Band" (369 F.3d at 962); and

WHEREAS, the proposed use of this land (Parcel 82) is non-gaming related, instead its purpose is to diversify the Tribe's economic base by pursuing economic development opportunities identified in grants previously received from the U.S. Departments of Energy and Agriculture (Rural Development) as well as to provide a site for future Indian housing; and

WHEREAS, the Indian Reorganization Act (specifically, 25 U.S.C. §465) authorizes acquisition of this land; and Parcel 82 qualifies for acceptance into federal trust status pursuant to 25 C.F.R. §151.3(a)(1), (2) and (3) because it is within the reservation described in Article Second of the Treaty of Washington executed March 28, 1836 (7 Stat. 491), because it is unrestricted land already owned by the Tribe, and because acquisition of the land is necessary to facilitate tribal self-determination, economic development, and future Indian housing; and

WHEREAS, the Request to the Secretary of the Interior for Trust Status, dated November 16, 2011 (Parcel 82), confirms that acquisition of this parcel into federal trust status is necessary to facilitate tribal self-determination, economic development, and future Indian housing.

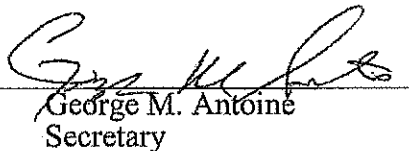
NOW THEREFORE BE IT RESOLVED, that the Secretary of the Interior is hereby requested to approve and accept into federal trust status the land described and included within the Request to the Secretary of the Interior for Trust Status, dated November 16, 2011 (Parcel 82); and

BE IT FURTHER RESOLVED, that the Tribal Chairman is authorized to execute applicable conveyance documents.

APPROVED:

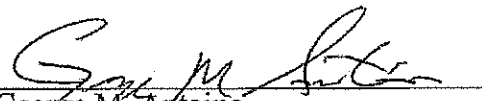

Derek J. Bailey
Tribal Chairman

ADOPTED:


George M. Antoine
Secretary

CERTIFICATION

As Secretary of the Tribal Council of the Grand Traverse Band of Ottawa and Chippewa Indians, I certify that the foregoing resolution was adopted during a regular session held at the Tribal Center in Peshawbestown, Michigan, on the 16th day of November, 2011, by a vote of 6 FOR, 0 AGAINST, 0 ABSTAINING, and 0 ABSENT.


George M. Antoine
Secretary



**The Grand Traverse Band of
Ottawa and Chippewa Indians**

2605 N. West Bay Shore Drive • Peshawbestown, MI 49682-9275 • (231) 534-7750

**Certification of Tribal Council Action
Regular Session of November 16, 2011**

**I hereby certify as the Tribal Council Secretary that the foregoing
Motion was Approved and Adopted at the Regular Session of the
Grand Traverse Band of Ottawa & Chippewa Indians Tribal Council**

Trust Status Request for Parcel 82

1.
Motion made by Tribal Council Vice Chair Witherspoon and Supported by Tribal Council Secretary Antoine, as read into the record, to approve Resolution #11-29.2320, to formally request trust status for the Hoxie property, approximately 157 acres, located in Acme Township, Grand Traverse County

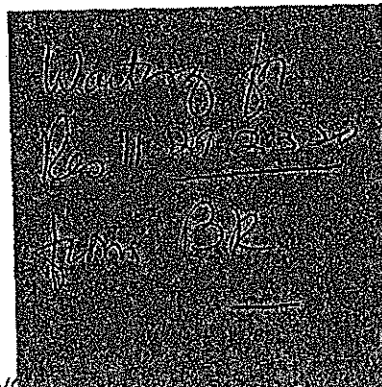
6 – FOR; 0 – AGAINST; 0 – ABSENT; 0 – ABSTAINING
Motion Carries

2.
Motion made by Tribal Council Secretary Antoine and Supported by Tribal Council Vice Chair Witherspoon to request Grand Traverse Resort & Spa LLC to deed Parcel 82 to the United States of America in trust for the Grand Traverse Band of Ottawa and Chippewa Indians

5 – FOR; 0 – AGAINST; 1 – ABSENT (Napont); 0 – ABSTAINING
Motion Carries


George M. Antoine, GTB Tribal Council Secretary

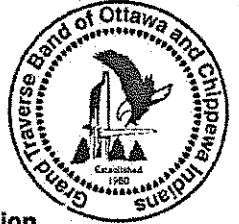
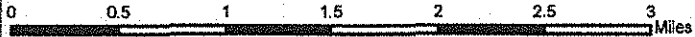
cc: Legal Department



Grand Traverse Band of Ottawa and Chippewa Indians Portions of Acme & White Water Townships - Tax Agreement Map

- Tax Agreement Area
- Jurisdictions
- State Roads
- Lakes
- * Tribe Parcels
- Survey Sections
- Public Roads
- Streams

* Tribal Parcels - Included in the Tax Agreement Area



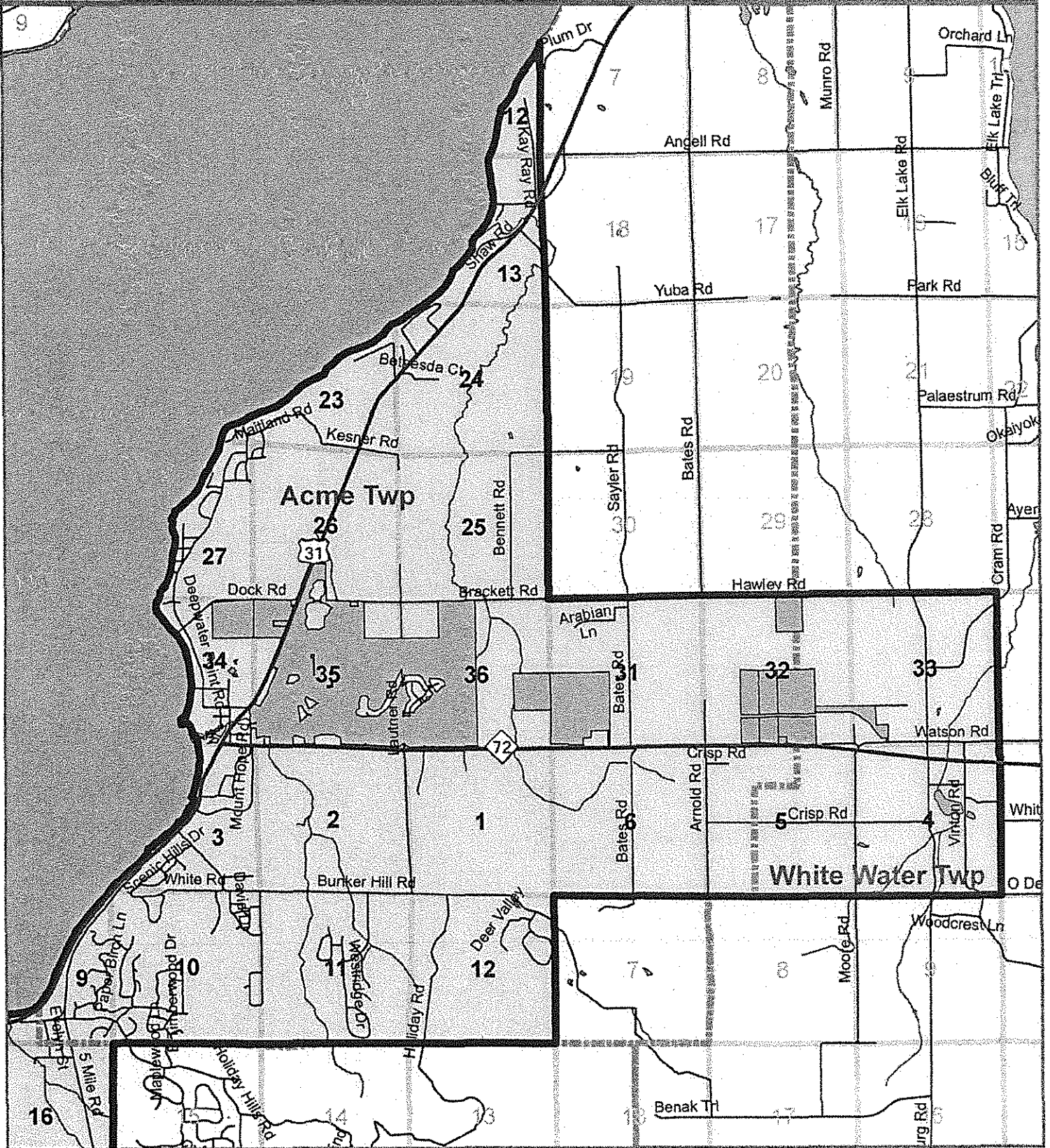
Source: Grand Traverse Band of Ottawa and Chippewa Indians
Michigan Center for Geographic Information, Dept. of Information Technology

Map Prepared May 2005 by:



**Land Information
Access Association**

Helping communities sustain their cultural and natural resources

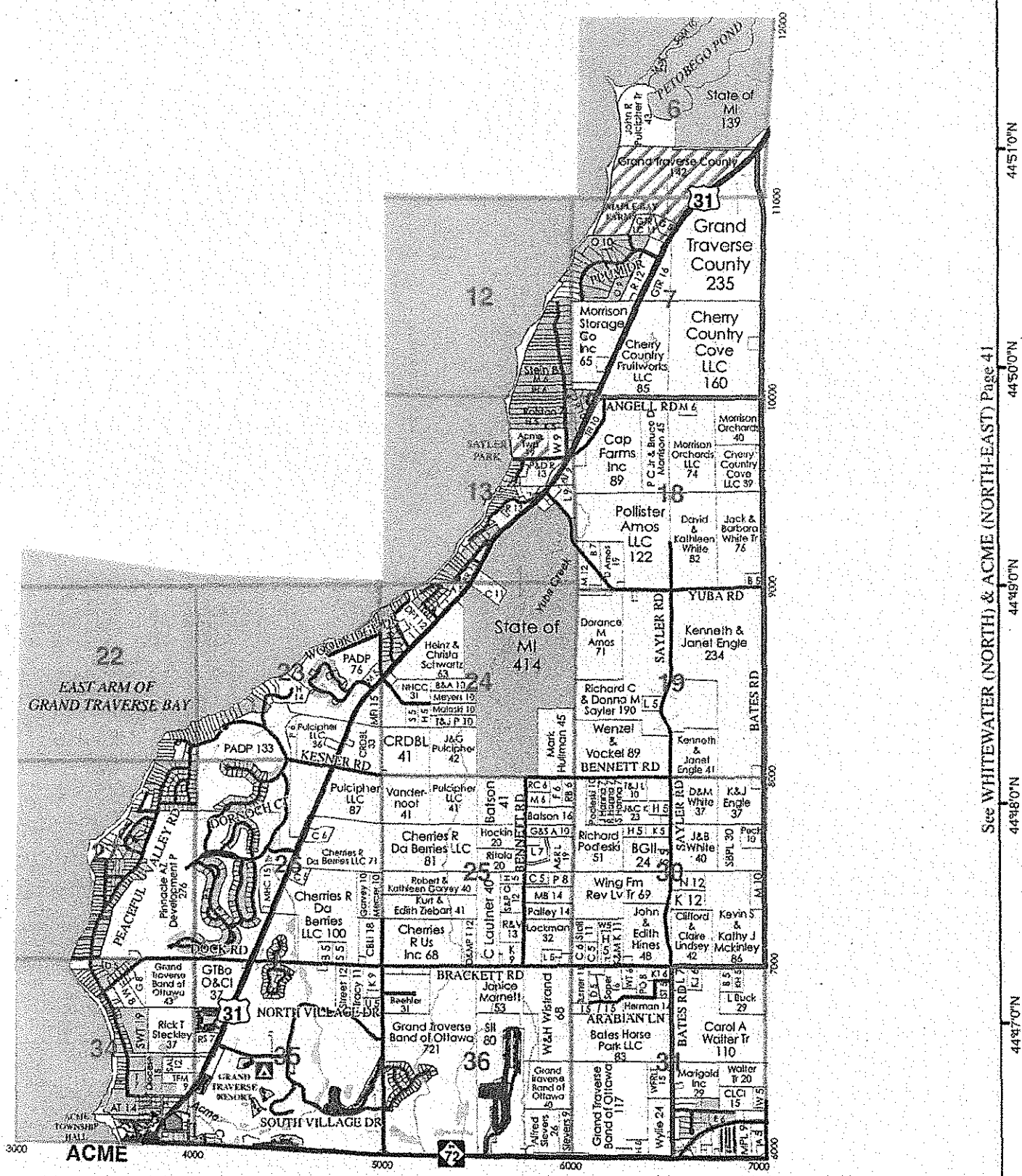


Municipality	Subdivision / Condo	Highway
Section	Lake	County Highway
Parcel	River / Stream	Major Road
		City Street



85°31'0"W 85°30'0"W 85°29'0"W 85°28'0"W 85°27'0"W 85°26'0"W 85°25'0"W

ANTRIM COUNTY



44°51'0"N 44°50'0"N 44°49'0"N 44°48'0"N 44°47'0"N

See WHITEWATER (NORTH) & ACME (NORTH-EAST) Page 41

See EAST BAY (NORTH) & ACME (SOUTH-WEST) Page 15

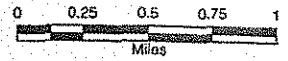
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Whitewater Township (North)

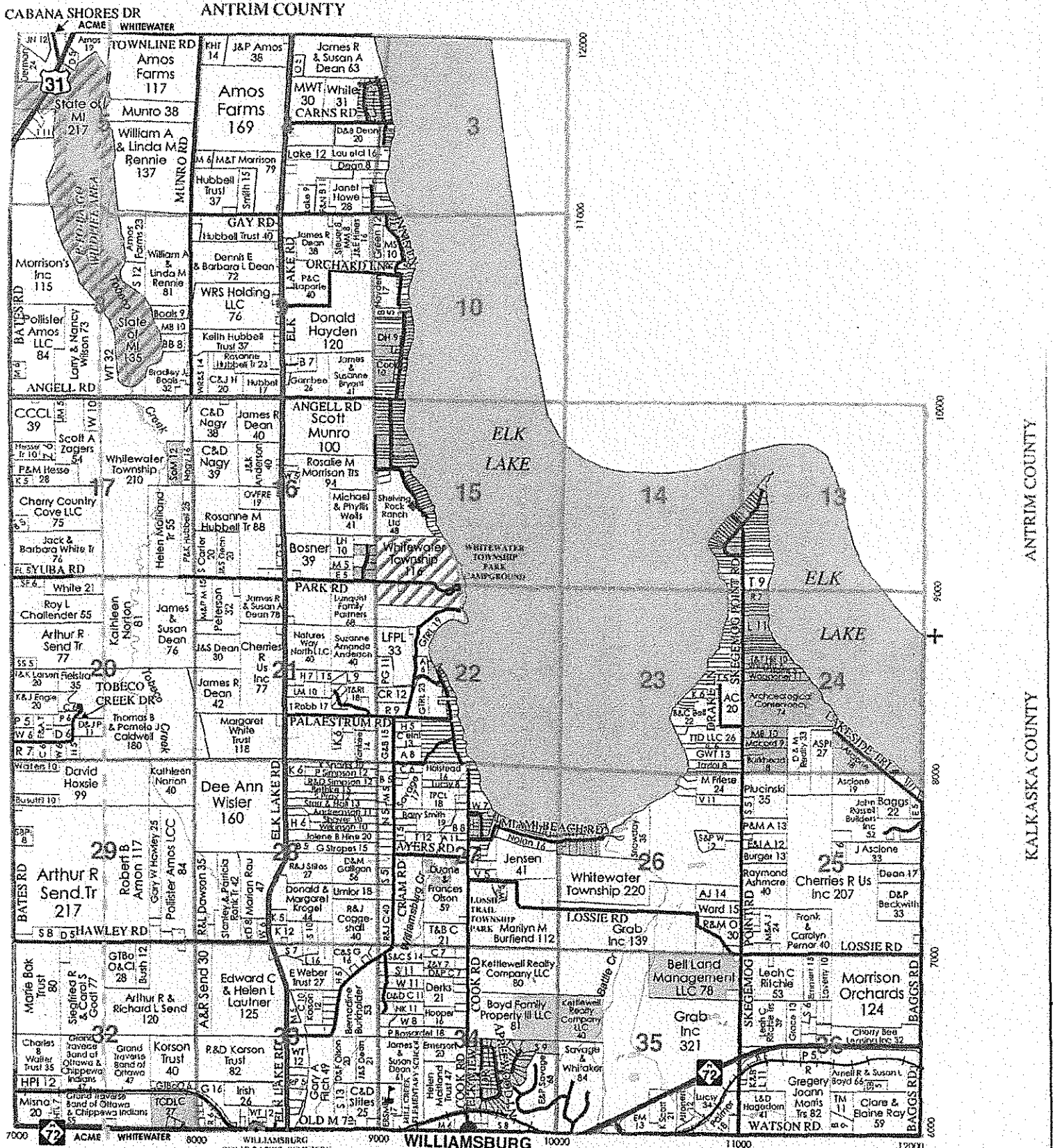
	Municipality		Subdivision / Condo		Highway
	Section		Lake		County Highway
	Parcel		River / Stream		Major Road
					City Street



T. 28N-R. 09W

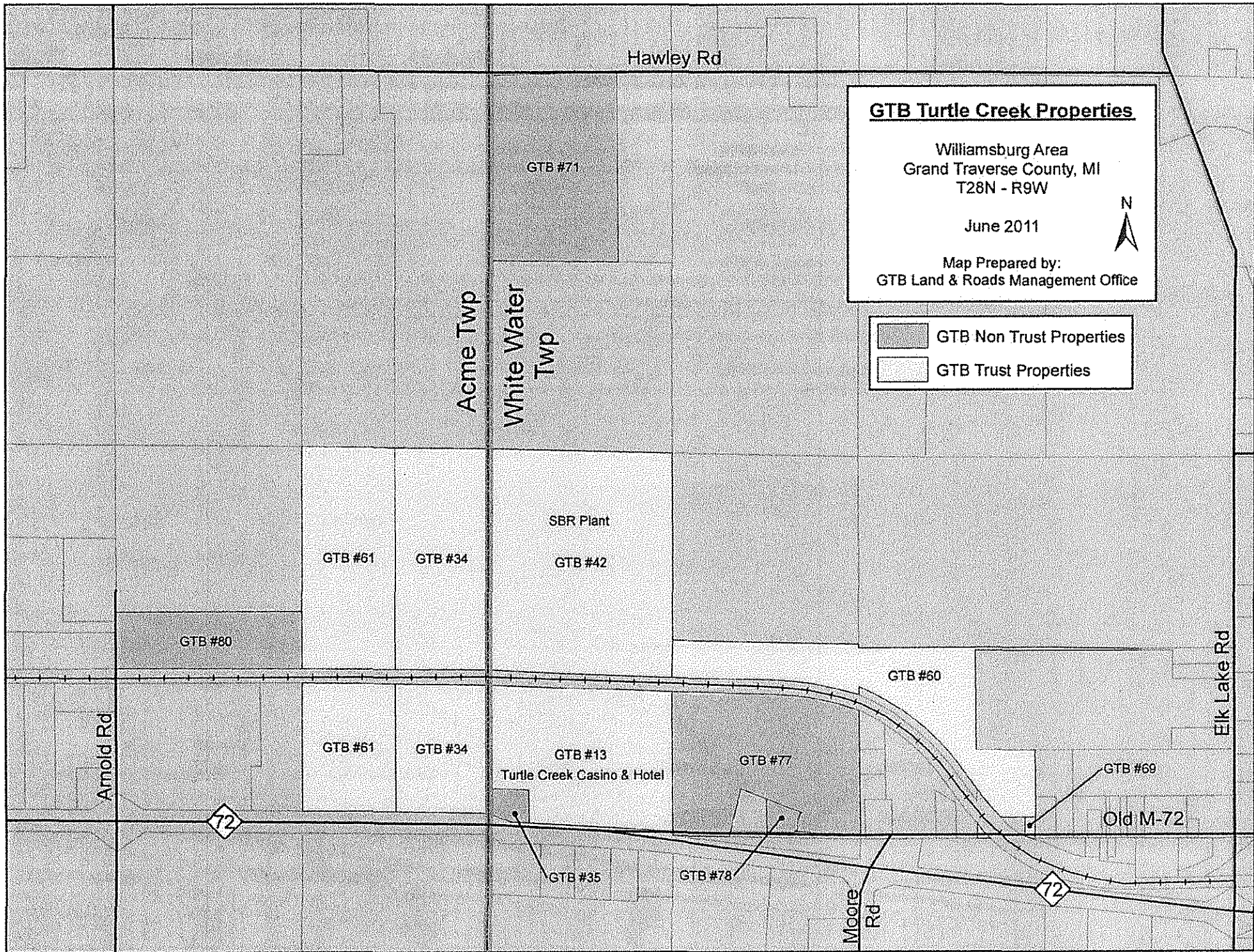


85°26'0"W 85°25'0"W 85°24'0"W 85°23'0"W 85°22'0"W 85°21'0"W 85°20'0"W



See WHITWATER (SOUTH) & ACME (SOUTH-EAST) Page 43

5°26'0"W 85°25'0"W 85°24'0"W 85°23'0"W 85°22'0"W 85°21'0"W 85°20'0"W



Conceptual Understanding between the Grand Traverse Band of Ottawa and Chippewa Indians, Grand Traverse County and Acme Township

This conceptual understanding between the Tribe, County and Township addresses future economic development that may take place on Tribal trust lands, including the 145 acres currently under consideration. The goal of this conceptual understanding is to address potential loss of personal and property tax revenue to local taxing entities.

- Federal law prohibits any property tax assessments being charged to land or infrastructure owned by the United States in trust for the Grand Traverse Band.
- The Tribe and its Economic Development Corporation will develop a process for making replacement payments for property tax revenues that otherwise would have been received for any building and structural improvements on trust property, which will be collected by the Tribe and remitted to the Township where parcels are developed for distribution to local units of government.
- The County and Township will use these replacement payments in part for continuing governmental services to trust property, including emergency services, fire protection and police protection between the County and the Tribe.
- If and when portions of trust property are developed, such portions may be assigned identification numbers and will be assessed annually by the Township assessor in the same manner as done with all other property in Grand Traverse County, with the understanding that the process will provide for the possibility that the Tribe may obtain independent assessment and will prescribe a dispute resolution procedure.
- The current tax levy or alternate method agreed upon by the governments will be used to calculate the replacement payments.
- The Grand Traverse Band will be responsible for making payment to the Township where parcels are developed. Replacement monies will be distributed to agencies in the same percentage amount that they would receive from all monies received.
- The Grand Traverse Band may develop procedures for allocating and collecting payments from tenants of leaseheld portions of developed trust property.
- The Grand Traverse Band, Grand Traverse County and Township agree to complete this process prior to any economic development of trust property or by December 31, 2008.

Revised 6/17/08



8-1-12

**GRAND TRAVERSE COUNTY
ADMINISTRATION OFFICE**

400 BOARDMAN AVENUE
TRAVERSE CITY, MI 49684-2577

DAVID D. BENDA, ADMINISTRATOR 231/922-4780
BOARD OF COMMISSIONERS 231/922-4797

**Resolution Approving an Agreement with the
Grand Traverse Band of Ottawa and Chippewa Indians**

WHEREAS, The Grand Traverse County Board of Commissioners (The Board) received notification in a letter dated July 3, 2012 from the Bureau of Indian Affairs that the Grand Traverse Band of Ottawa and Chippewa Indians (GTB) has requested to put an additional 158.91 acres, located on M-72 and identified as Parcel 82, into trust; and

WHEREAS, In its "Supplemental Request to the Secretary of the Interior For Trust Status, June 15, 2012, supplementing November 16, 2011 Request," the GTB stated on page eight, Section G, Consultation With Local Governments:

The Grand Traverse Band has engaged and will continue to engage in substantial discussions with representatives of Grand Traverse County and Acme Township regarding a variety of planning and development issues of mutual concerns. If any development were to occur in the future upon Parcel 82, the Grand Traverse Band will continue the discussions with representatives of the county and township governments that occurred during 2007-08 in conjunction with the acquisition of Parcels 34, 42, 60, 61 and 69. Those Discussions would included the possibility of direct "2%" contributions to replace lost property taxes and participation in a joint planning process consistent with Acme Township's zoning ordinance. The Grand Traverse Band anticipates implementing elements of the 2008 conceptual understanding prior to any development upon the proposed acquisition.

WHEREAS, the Grand Traverse County Board of Commissioners (The Board) on June 25, 2008 adopted Resolution 91-2008, which authorized its Chairman and County Administrator to negotiate an agreement based upon the attached Conceptual Understanding between the Grand Traverse Band of Ottawa and Chippewa Indians, Grand Traverse County and Acme Township, and directed that such agreement be completed prior to any economic development of trust property or by December 31, 2008, and

WHEREAS, The Board has filed a 30-day extension of the deadline to file a response to the GTB request to place additional lands into trust, and it is the desire of The Board to enter into discussions and an agreement with the GTB based upon the attached Conceptual Understanding before additional parcels are placed into trust.

THEREFORE BE IT RESOLVED, that the Grand Traverse County Board of Commissioners hereby adopts the attached Conceptual Understanding in its entirety and hereby authorizes the Chairman to sign an agreement with the Grand Traverse Band of Ottawa and Chippewa Indians that includes the concepts provided therein.

BE IT FURTHER RESOLVED that the Chairman send a letter to the Chairman of the Grand Traverse Band of Ottawa and Chippewa Indians requesting a formal approval of the 2008 Conceptual Understanding by the current Tribal Council, and requesting a meeting to discuss the development of a formal agreement for presentation to The Board and Tribal Council.

Conceptual Understanding between the Grand Traverse Band of Ottawa and Chippewa Indians, Grand Traverse County and Acme Township

This conceptual understanding between the Tribe, County and Township addresses future economic development that may take place on Tribal trust lands, including the 145 acres currently under consideration. The goal of this conceptual understanding is to address potential loss of personal and property tax revenue to local taxing entities.

- Federal law prohibits any property tax assessments being charged to land or infrastructure owned by the United States in trust for the Grand Traverse Band.
- The Tribe and its Economic Development Corporation will develop a process for making replacement payments for property tax revenues that otherwise would have been received for any building and structural improvements on trust property, which will be collected by the Tribe and remitted to the Township where parcels are developed for distribution to local units of government.
- The County and Township will use these replacement payments in part for continuing governmental services to trust property, including emergency services, fire protection and police protection between the County and the Tribe.
- If and when portions of trust property are developed, such portions may be assigned identification numbers and will be assessed annually by the Township assessor in the same manner as done with all other property in Grand Traverse County, with the understanding that the process will provide for the possibility that the Tribe may obtain independent assessment and will prescribe a dispute resolution procedure.
- The current tax levy or alternate method agreed upon by the governments will be used to calculate the replacement payments.
- The Grand Traverse Band will be responsible for making payment to the Township where parcels are developed. Replacement monies will be distributed to agencies in the same percentage amount that they would receive from all monies received.
- The Grand Traverse Band may develop procedures for allocating and collecting payments from tenants of leaseheld portions of developed trust property.
- The Grand Traverse Band, Grand Traverse County and Township agree to complete this process prior to any economic development of trust property or by December 31, 2008.

Revised 6/17/08

Resolution 91-2008
Grand Traverse Band/Acme Township
Land Trust Proposal

WHEREAS, The Ways & Means Committee met in regular session on June 17, 2008, and reviewed Conceptual Understanding between the Grand Traverse Band of Ottawa and Chippewa Indians, Grand Traverse County and Acme Township; and,

WHEREAS, this issue has been discussed for many years and having reached an agreement in concept to address future economic development that may take place on Tribal trust lands is a substantial achievement; and,

WHEREAS, the goal of this agreement will be to address potential loss of personal and property tax revenue to local taxing entities; and,

WHEREAS, the Ways & Means Committee recommends negotiation based on the conceptual understanding presented with no appeal filed.

NOW, THEREFORE, BE IT RESOLVED BY THIS BOARD OF COMMISSIONERS, THAT Grand Traverse County approves the Chairman and County Administrator take part in negotiation of an agreement to address future economic development of Tribal trust lands in the county based on the conceptual understanding attached; and,

BE IT FURTHER RESOLVED THAT this process be completed prior to any economic development of trust property or by December 31, 2008. (see file for attachment)

APPROVED: June 25, 2008