



**Match-E-Be-Nash-She-Wish
Band of Pottawatomis Indians
GUN LAKE TRIBE**

David K. Sprague
Tribal Chairman

Federally Acknowledged
August 23, 1999

Service Area: Allegan, Barry,
Kalamazoo, Kent, and
Ottawa Counties

**TESTIMONY OF
DAVID K. SPRAGUE
CHAIRMAN, MATCH-E-BE-NASH-SHE-WISH
BAND OF POTTAWATOMI INDIANS**

**BEFORE THE
MAY 18, 2005
COMMITTEE ON INDIAN AFFAIRS
HEARING
ON
TAKING LAND INTO TRUST**

Good morning Chairman McCain, Vice Chairman Dorgan and Members of the Committee. My name is David K. Sprague. Since 1992, I have served as Chairman of the Match-E-Be-Nash-She-Wish Band of the Pottawatomis Indians, also known as the Gun Lake Tribe. Our Tribal homeland and people have always been located in Western Michigan. Today, we sit before the Committee as a federally-recognized tribe, but also a "landless tribe" in the final stages of the administrative land into trust process where ultimately the United States will accept title to lands in Allegan County, Michigan on behalf of our Tribe.

The history of the eleven (11) federally recognized Indian tribes in the State of Michigan is unique. As you may be aware, the relationship between the United States and the Indian tribes in Michigan is wrought with failures by the United States to adhere to federal policies and treaties. As a result, several treaty tribes were left off the list of federally recognized Indian tribes. Some of those Indian tribes had to rectify the failure of the United States and were recognized through enacted legislation that was supported by this Committee. In turn, they have acquired trust land for their homelands where they now exercise self-governance and conduct economic development.

Our Tribe has taken a different course; we applied for federal acknowledgment under the regulatory process administered by the Bureau of Indian Affairs (“BIA”). After seven (7) years in the process, we finally achieved federal acknowledgement as an Indian tribe in 1999. As a result of our “playing by the rules,” the restoration of a homeland for our Tribe has been delayed longer than any other federally recognized Indian tribe in Michigan.

Pursuant to our federal acknowledgement, the Tribal government administers Tribal self determination programs and services, creates tribal jobs and has developed an administrative structure that is leading the Tribe toward the goal of self-sufficiency. Every day, despite our landless status, our Tribal Council exercises self-determination and makes decisions for the betterment of our people as a sovereign nation. For example, we have complied with the procedures of the Native American Housing Assistance and Self Determination Act to obtain financing for Tribal housing. We have also benefited from Tribal Priority Allocations (TPA) administered by the BIA, which are perhaps one of the most important resources for the development of tribal infrastructure. The TPA funding received to date has allowed us to operate our tribal government and has made our path to self determination a reality.

But TPA funding is inadequate. We must continue to strengthen our Tribe. Because of the inadequacy of the funding we had to make tough decisions. As you know Senators, government officials have to make tough decisions for the good of the people they represent. Therefore, as a self-governing body we decided to investigate the economic development option that Indian gaming provides under the Indian Gaming Regulatory Act (“IGRA”) to help to our tribe exercise self-reliance. We negotiated agreements with our business partners, MPM Enterprises, LLP and Station Casinos, Inc., and moved forward pursuant to the process governed under the IGRA to establish a casino.

Our business partners are reputable and established companies and are in the process of complying with the National Indian Gaming Commission background investigation

requirements. In fact, Station Casinos, Inc. has been licensed numerous times by the State of Nevada to own and operate gaming facilities and has also been licensed by the National Indian Gaming Commission to manage the successful Thunder Valley Casino in Placer County, California, which is owned by the United Auburn Indian Community.

As you know, an Indian Tribe must accomplish three things in order to conduct Class III gaming in Michigan. First, it must be federally-recognized. Second, it must have a reservation or land held in trust by the federal government on the tribe's behalf. Third, it must have an effective gaming compact with the State of Michigan. Today, after years of hardship, we have nearly completed our journey to what we believe will be a better future.

History of Tribal Recognition

We have long and established ties to an area that is now Western Michigan. The Gun Lake Tribe descends primarily from the Pottawatomie Band, led by Chief Match-E-Be-Nash-She-Wish. Prior to European contact, the Gun Lake Tribe used and occupied lands in the Great Lakes area, in what is now known as present-day Michigan's Lower Peninsula. This is where we live today. In the late 1700s, the Gun Lake Tribe lived under the direction of Chief Match-E-Be-Nash-She-Wish at a village at Kalamazoo, which we called "Kekamazoo," and which is located near where Michigan Highway 43 crosses the Kalamazoo River. The village was described as being at the "head of the Kalamazoo River," or the area as far up the river as one could travel with loaded barges before the river became too shallow for travel.

In 1821, the Michigan Indian Tribes and the United States entered into the 1821 Chicago Treaty, under which the Indian tribes ceded all Michigan land south of the Grand River to the United States. Match-E-Be-Nash-She-Wish signed this treaty on behalf of the Gun Lake Tribe and secured, for the Tribe, a three (3) square miles of land at Kalamazoo. Today, downtown Kalamazoo and Western Michigan University's main campus are

located approximately in the center of the three (3) square mile area, which was known as the Match-E-Be-Nash-She-Wish Reservation.

Despite previous treaties between the United States and the Michigan tribes, and despite the huge amounts of land ceded, pressure continued on the Tribe to cede more land. In 1827, Match-E-Be-Nash-She-Wish agreed to cede his small reservation at Kalamazoo for an equal size land base adjacent to the Nottawaseppi Reservation near Mendon. However, the Tribe was never paid for the land cession, nor did they move to this location. Before the land could be surveyed and provided to Match-E-Be-Nash-She-Wish and his Tribe, all the major chiefs in southwest Michigan except Match-E-Be-Nash-She-Wish signed the 1833 Chicago Treaty, ceding their land rights to the United States. Then, to avoid a forced removal to Kansas as a “hostile” Band, the Match-E-Be-Nash-She-Wish Tribe moved north, first to Cooper, then to Plainwell, then to Martin, and finally to Bradley in 1839. Tribal members maintained a connection with the Kalamazoo area into the 20th century, as residents of the Bradley settlement would collectively move south to the Kalamazoo River during the summer months to camp, fish, and socialize. The United States never fulfilled its treaty obligation to make payment for the Gun Lake Tribe’s Kalamazoo land cession.

In 1839 in Bradley, Allegan County, the Tribe placed itself under the protection of an Episcopalian Mission while the Tribe occupied what was known as the Griswold Colony, or Bradley settlement. Indian colonies like the Griswold Colony were established pursuant to the 1819 Civilization Act, which allowed five participating denominations to establish trust agreements, in which the missionary societies would hold land in trust for the Indians, build churches and schools, clear and fence fields, teach farming techniques, and make blacksmiths and mills available to the tribes.

Funding for the Griswold Colony had been set by treaty for 20 years. In 1855, the assistance provided by the treaty came to an end and a new treaty was made with the Tribe whereby they were granted outright ownership of lands in Oceana County near Pentwater, Michigan. The majority of the Griswold Indians took advantage of the

provisions of the new treaty and moved northward, while a few families stayed behind. Within 10 years, however, most of the Griswold Indians had lost their lands in Oceana County, and many returned to the mission grounds, which had not been disposed of, despite the fact that the work there had come to an end. The Indians lost their lands in Oceana County not to taxes, but because the patents to the lands were never delivered to those that held land certificates, and thus the land selection process in Oceana County was never legally completed by the United States government.

When the land patents were not delivered, the Gun Lake Tribal members returned to Allegan County, to the 360 acre reservation that was still in trust with Bishop McCoskry. However, during the period when some members lived in Oceana, the reservation members that remained behind refused to pay Allegan county taxes on the reservation lands, based on treaty rights. Tribal members returning from Oceana County met with court action by Allegan County and the reservation land was put up for sale for back taxes. Within a few years, practically all of the Tribal members had lost their land to non-Indians for failure to pay their taxes.

In 1890, pursuant to federal law allowing the "Pottawatomis of Michigan and Indiana" to receive a payment from the United States for past annuities, the Pokagon Band and Nottawaseppi Pottawatomis filed cases in federal court. However, only the Pokagon Band was paid, and not the Allegan County Pottawatomies, our Tribe. In 1899, the Supreme Court ruled that the Allegan County Indians were also eligible to share in the judgment. The Taggart Roll was developed to establish the additional parties to be paid, and it contains 268 Pottawatomis Indian names, many of whom are descendants of Match-E-Be-Nash-She-Wish's Band. The Bradley Indian community used the funds to expand and acquire land in the area.

The Tribe had unambiguous previous Federal acknowledgment, which is demonstrated by treaties extending at least through the 1855 Treaty of Detroit with the Ottawa and Chippewa Indians of Michigan, to which the Tribe's chief was a signatory, through the 1870 date at which annuity payments under prior treaties were commuted, and through

their inclusion on the Taggart Roll in (year). There was never an express congressional legislation terminating the Tribe; the Tribe was simply passed over for a Treaty before treaty making ended in 1871.

Over one hundred years later, in 1992, the Gun Lake Tribe petitioned the Bureau of Indian Affairs for acknowledgment. In August of 1999, the Tribe was acknowledged as a federally recognized Indian Tribe, re-establishing their government-to-government relationship with the United States.

Since restoration as a federally acknowledged tribe, the Tribe has identified an area in Allegan County, within the Wayland Township, as a proposed site to place in trust for the benefit of its members. In fact, many of the Tribe's approximately 300 members currently reside in the Allegan area. The Tribe chose to remain in Allegan County because it is part of the Tribe's aboriginal lands and the land on which the Tribe has lived since 1839.

Land Taken Into Trust

After gaining federal acknowledgment in 1999, Gun Lake identified suitable land for economic development, with the intent to build a casino. The proposed site is located in an industrially zoned area. The location of the proposed casino facility lies between a highway and railroad tracks and will occupy an empty industrial building that was once used for the manufacture of lawn-care products. The Tribe submitted its fee to trust application pursuant to 25 C.F.R. §151 et seq., to the Minneapolis Area office of the BIA on August 12, 2001.

As part of the fee to trust application to take land into trust for gaming purposes, the Tribe and the BIA conducted an Environmental Assessment in satisfaction of the requirements of the National Environmental Policy Act (NEPA). Our Tribe is highly sensitive to our environment and the natural world. That is why we have made every effort to be extraordinarily cooperative and responsive to the BIA during the agency's

determination of whether our casino project might pose a significant impact on the environment of West Michigan.

As you know, the federal regulations require compliance with the NEPA. Compliance with NEPA is achieved if an Environmental Assessment (EA) of the proposed project results in a Finding of No Significant Impact, to the environment by the BIA —often referred to as a FONSI. However, NEPA requires that if the BIA finds that a project has a *significant* impact on the human environment, an Environmental Impact Statement must be written by the agency.

Over a three (3) year period, beginning in mid-2002, the Tribe worked closely with the Regional Office of Bureau of Indian Affairs environmental resources experts to produce an Environmental Assessment (“EA”). The Tribe prepared several revisions of the EA following comments from both the BIA and the public. During an extensive and atypically long 75-day public comment period, as compared to the normal 30 day comment period (November 2002 – February 2003), Michigan citizens and local government officials submitted over 300 letters with project comments and concerns to the BIA. Each public comment, as reflected in the administrative record, was painstakingly reviewed by the BIA. In the end the EA examined everything from the projects’ effects on the water supply to traffic, and from effects on animals in the surrounding area and air quality. In addition, since such great scrutiny is placed on casino projects, the EA examined the effects of secondary development over a period of time resulting from the casino and its operations and examined whether the Tribe should explore alternatives to this project.

After an exhaustive review of the evidence and the extensive public comment, the BIA concluded that a FONSI was appropriate, and with this finding of *no* significant impact, an EIS is not required. The BIA issued the FONSI on February 27, 2004, over 14 months ago. Since then the Tribe has been waiting for the BIA to issue a Notice of Intent to take the land into trust for the Gun Lake Tribe. No regulation or law provided for such a

delay. Only last Friday, May 13, 2005 did the BIA finally publish in the Federal Register its intent to place the land in trust.

Gaming Compact

Finally, before the Tribe can conduct Class III gaming, it needs a gaming compact with the State approved by the Michigan legislature. Eleven (11) federally recognized Tribes in Michigan have gaming compacts that were negotiated by former Governor John Engler, and subsequently approved by the Legislature. Currently, 23 Indian gaming casinos are operating in the State of Michigan.

On December 5, 2000, the Tribe submitted a Class III Tribal Compact to the Legislature. A resolution passed the House and the Senate. The Compact was approved in both chambers and was ordered enrolled and presented to the Governor. On December 30, 2000, Governor Engler wrote a detailed letter declining to sign the approved Compact due to a perceived personal conflict, and urged incoming Governor Granholm to sign the Compact. Since that time, the Tribe has worked diligently with Governor Granholm. We are hopeful that the Governor will sign the Compact now that the BIA has published the Notice of Intent to place the land in trust for the Tribe.

The Project is Widely Supported

Gun Lake's project has received broad support from the neighboring communities. Throughout this process, no state or local governmental entity has objected to the proposed acquisition. As part of the public comment period for the Environmental Assessment, the BIA received letters supporting the Tribe's proposed land acquisition and development from the following groups/individuals:

- o Kalamazoo Chamber of Commerce

- Kalamazoo County Convention and Visitors Bureau
- Wayland Township
- International Brotherhood of Electrical Workers
- City of Wayland
- City of Allegan
- Barry County Economic Alliance
- Gun Lake Area Chamber of Commerce
- Allegan County Health Department
- Wayland Area Chamber of Commerce
- Plainwell Chamber of Commerce
- Plumbers/Pipe Fitters Union
- Dorr Township
- Barry County Area Chamber of Commerce
- Allegan County Board of Commissioners
- Wayland City Police
- Deputy Sheriff's Association of Michigan
- West Michigan Economic Alliance

The support is truly gratifying and greatly welcome, but should come as no surprise given the fact that the Gun Lake Casino is expected to bring 4,300 new jobs to the area, as well as local supplier purchases, local and state revenue sharing, a proven recreational attraction, and other economic development to a very economically depressed area.

I wish to sincerely express my appreciation for the honor and privilege of having been invited to present testimony to Committee today. I am happy to answer any questions you have of me.