Subject:	Tribe's motion for summary judgment
From:	ARLINDA LOCKLEAR (alocklearesq@verizon.net)
To:	FKowalkowski@dkattorneys.com;
Cc:	JBITTORF@oneidanation.org;
Date:	Friday, October 14, 2011 10:08 AM

Good morning, Frank:
We have no more information about a US response to your client's demand letter. As a result, we are preparing to file the Tribe's motion for summary judgment next Friday.
Toward that end, we have revised our proposed stipulation of facts for your consideration. We have deleted those paragraphs that you thought needed editorial comment or that you revised to include facts we cannot verify.
Also, we have deleted the references to sources for the facts. Such references are not necessary if the parties agree to the facts; we had included them in the first draft for your information only.
Finally, we have also attached the spreadsheet showing the 148 trust parcels that are the subject of the Tribe's suit. This list was drawn from the list you provided the US in support of your demand letter, with two exceptions: first, the individual trust parcels that appear on your list are deleted from the attached spreadsheet; second, there are 3 parcels of tribal trust list that were added to your list - the specific explanation for these parcels is noted on the spreadsheet.
We'd appreciate your response at your earliest convenience.
Arlinda.

Exhibit 4

Draft #2, 10/12/11

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN

ONEIDA TRIBE OF INDIANS OF WISCONSIN,

Plaintiff,

v. Case File No. 10-CV-00137

VILLAGE OF HOBART, WISCONSIN,

Defendant.

STIPULATION OF FACTS
IN ACCORDANCE WITH LOCAL RULE 56(b),
UNITED STATES COURT FOR THE EASTERN DISTRICT OF WISCONSIN

1. The Oneida Tribe of Indians of Wisconsin ["Tribe"] appears on the list of Indian Entities Recognized and Eligible to Receive Services From the United States Bureau of Indian Affairs.

2. The Bureau of Indian Affairs has published a list of recognized Indian entities since 1994 in accordance with an amendment that year to the Indian Reorganization Act [IRA], 25 U.S.C. §479a-1, Act of Nov. 2, 1994, and the Tribe has appeared on every such list.

3. The Tribe is organized under a Constitution adopted pursuant to the IRA, 25 U.S.C. §476, and approved by the Secretary of the Interior on December 21, 1936.

4. The Village of Hobart ["Hobart"] is an incorporated municipality in Brown County, Wisconsin, and is located within the exterior borders of the Oneida Reservation set aside in 1838.

5. The United States holds 148 parcels of land in trust for the Tribe located within the boundaries of Hobart; these parcels are referred to collectively herein as the subject trust lands.

6. The subject trust lands total approximately 1400 acres, all of which parcels were either already held or placed into trust between 1937 and 2007.

7. Since July 2007, Hobart has purported to impose a "charge" upon all the subject trust lands in accordance with its Stormwater Management Ordinance. The "charge" consists of two parts: first, a base charge that is imposed on each and every lot or parcel within Hobart; and second, an equivalent runoff unit charge based upon the amount of impervious area located on the lot or parcel.

8. Hobart's stormwater "charges" are incorporated into property bills issued by Brown County and arrearages are collected through foreclosure proceedings in the same manner as delinquent property taxes.

9. By letter dated January 31, 2008, the Tribe advised Hobart that it had received a tax bill that included an assessment in the amount of $70,462.80, representing "charges" purportedly imposed under the Stormwater Management Ordinance for the Tribe's fee land and subject trust lands located in Hobart. The Tribe further advised that it would not pay the "charges" as to either the fee land or the subject trust lands since the Tribe believed the "charges" to be invalid under federal law.

10. In December 2008, Hobart again sought to impose "charges" under its Stormwater Management Ordinance on the Tribe's fee and subject trust lands. By letter dated January 14, 2009, the Tribe advised that it paid the "charges" for its fee lands in the amount of $34,427.07 under protest, representing the total amount billed by Hobart for the previous year and for 2008. The Tribe further advised that it would not pay the "charges" imposed on the subject trust lands since the Tribe believed the "charges" to be invalid under federal law.

11. In December 2009, Hobart again sought to impose "charges" under its Stormwater Management Ordinance on the subject trust lands in the amount of $42,156.00.

12. In December 2010, Hobart again sought to impose "charges" under its Stormwater Management Ordinance on the subject trust lands in the amount of $41,868.00.

13. On May 18, 2011, Hobart made a demand for payment to the Great Lakes Agency, Bureau of Indian Affairs, in the amount of $237,682.06, representing "charges," interest, and penalties unpaid by the Tribe as to the subject trust lands, among other lands, under its Stormwater Utility Management Ordinance.

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Dated: _____

Parcels Titled United States of America in Trust for the Oneida Tribe of Indians of Wisconsin

HB-1002-2	HB-1323-4-1	HB-1420-1	HB1695-25	HB-763
HB-1004-1	HB-1327-1*	HB-1422	HB-1695-26	HB-764-2
HB-1015	HB-1330	HB-1425-1	HB-1695-27	HB-786
HB-1026	HB-1333	HB-1426-1	HB-1695-8	HB-792
HB-1027	HB-1334	HB-1427-5	HB-193-4	HB-793
HB-103	HB-1335-1	HB-1428-1	HB-232	HB-794
HB-1032	HB-1340	HB-1428-B	HB-235	HB-795
HB-1033	HB-1342**	HB-1429-1	HB-252	HB-796
HB-1036	HB-1342-1	HB-1456	HB-442	HB-798
HB-110	HB-1344	HB-1457	HB-453	HB-799
HB-112	HB-1347	HB-1459	HB-475-2	HB-800-1
HB-1295	HB-1355	HB-1475	HB-508	HB-801
HB-1297-1	HB1355-1	HB-1476	HB-509	HB-805
HB-1298-1	HB-1364-1	HB-148	HB-516	HB-808
HB-1300	HB-1368-1	HB-1484	HB-563-5-1	HB-81
HB-1301	HB-1372	HB-1491-K-2	HB-581-2	HB-812
HB-1304-1	HB-1380	HB-1491-K-7	HB-631-1	HB-829-15
HB-1304-2	HB-1382	HB-1492-A-24-1	HB-648-1**	HB-829-16
HB-1304-4	HB-1382-1	HB-1493-A-2	HB-650	HB-841
HB-1313-1	HB-1382-2	HB-1493-A-3	HB-657-2	HB-844
HB-1313-2	HB-1389	HB-1493-A-40	HB-657-4	HB-844-1
HB-1315	HB-1390-4**	HB-150-2-1	HB-742	HB-854
HB-1315-1	HB-1390-7	HB-1695-11	HB-74-4	HB-861
HB-1316	HB-1407	HB-1695-16	HB-745	HB-87
HB-1317	HB-1409-1	HB-1695-17	HB-746	HB-97
HB-1318	HB-1409-5	HB-1695-18	HB-746-1	HB-977
HB-1318-3	HB-1410-1	HB-1695-21	HB-746-2	HB-99
HB-1318-4	HB-1414-1	HB-1695-22	HB-746-3	part HB-511***
HB-1318-5	HB-1415	HB-1695-23	HB-753	
HB-1321	HB-1416	HB-1695-24	HB-753-2	

* The county tax records incorrectly identified this parcel as tribal fee land. The Tribe paid the charges levied against this property at the same time it paid for such other charges on tribal fee properties. The county tax records have since been updated and now identify this parcel as tribal trust land.

** The Tribe acquired beneficial interest in these parcels from individuals trust owners and the parcels are now held by the United States in trust for the benefit of the Tribe. When the Tribe acquired its interest in these parcels, the Tribe recorded the trust deeds with the federal government and did not record the trust deeds with the county.

*** The federal government partitioned this parcel into seven (7) smaller lots. Two (2) of these lots are tribal trust land and the remaining parcels are individual trust land.