

# CITY OF MILWAUKEE

Form CA-43

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Assistant City Attorneys

April 2, 2001

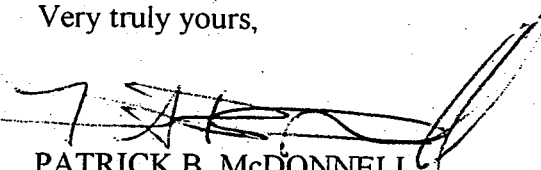
Alderman Michael D'Amato  
Chair  
Honorable Committee on  
Judiciary & Legislation  
Room 205 - City Hall

Dear Alderman D'Amato:

**Re: Common Council File No. 001684**

In accordance with your directive at the April 2<sup>nd</sup> meeting of the Judiciary and Legislation Committee, I am enclosing for inclusion in the above-captioned Common Council file various communications submitted in support of the position of the Forest County Potawatomi Community of Wisconsin. Included are two letters from Mayor John O. Norquist, a letter from Common Council President Marvin Pratt, a letter from County Board Chairperson Karen M. Ordinans and a letter from County Executive F. Thomas Ament.

Very truly yours,

  
PATRICK B. McDONNELL  
Special Deputy City Attorney

PBMCD:dms

Enc.

cc: Kathleen Marquardt

1109-2001-541  
39497

John O. Norquist

Mayor

City of Milwaukee

January 10, 2001

The Honorable  
Tommy Thompson, Governor  
State of Wisconsin  
P.O. Box 7863  
Madison, WI 53707

Dear Governor Thompson:

I write to urge you not to move forward with the Menominee Indian Tribe's application for the Kenosha casino until the project's potential negative air quality impact is adequately addressed.

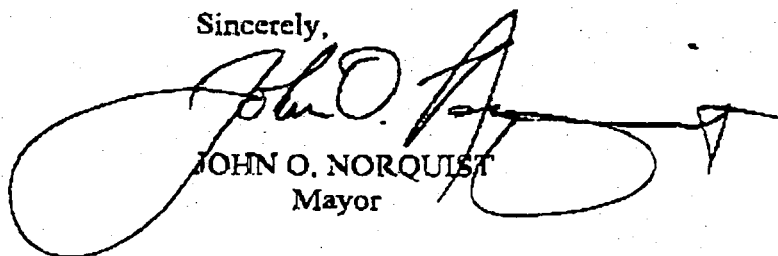
On December 6, 2000, I wrote to Bruce Babbitt, Secretary of Interior, expressing my grave concern over the significant impact on air quality in the Southeastern Wisconsin ozone non-attainment area resulting from the proposed Kenosha casino and subsequent developments. I believed that the project's original Environmental Assessment was inadequate and underestimated the mobile air source emissions.

Now, it comes to my attention that the United States Environmental Protection Agency has drawn the same conclusion. In a December 26, 2000 letter to Larry Morrin, BIA Midwest Regional Director, the EPA wrote the EA "...utilized out-of-date emission models," and that, "There needs to be a current technical analysis to determine that the proposed project will not cause any adverse impacts to local air quality for carbon monoxide. This analysis and determination needs to be done prior to any construction and operation of the proposed facility."

The air quality concerns resulting from this mammoth project and the concerns raised by the EPA cannot be ignored, especially considering the region's current severe ozone non-attainment status.

I thank you for your attention to this matter.

Sincerely,



JOHN O. NORQUIST  
Mayor

c: Lieutenant Governor Scott McCallum  
U.S. Senator Herb Kohl  
U.S. Senator Russ Feingold  
Congressman Jerry Kiecza

Office of the Mayor  
City Hall  
200 East Wells Street  
Milwaukee,  
Wisconsin  
53202  
(414) 286-2200  
fax (414) 286-3191

John O. Norquist  
Mayor  
City of Milwaukee

December 6, 2000

The Honorable  
Bruce Babbitt  
Secretary of the Interior  
1849 C Street, N.W.  
Washington, D.C. 20240

Dear Secretary Babbitt:

On November 2, 2000, I wrote Larry Morrin, Regional Director of the Bureau of Indian Affairs, requesting additional time to respond to the November 13, 2000 deadline for comment on the Environmental Assessment (EA) of the Indian Gaming Facility by the Menomonee Indian Tribe in the City of Kenosha. My request was subsequently denied.

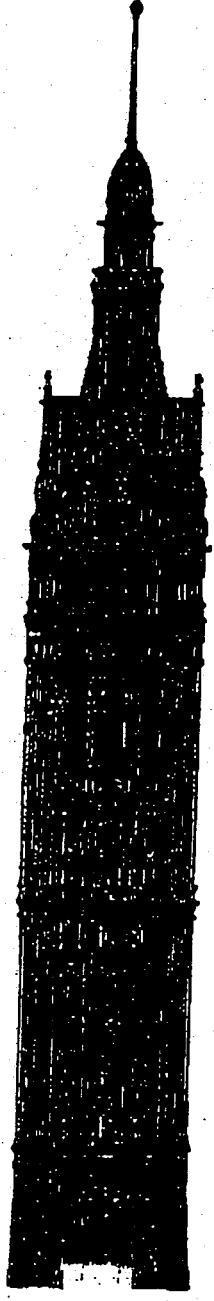
Of more critical significance, however, is the fact that both the City of Milwaukee and the City of Kenosha have been determined to be nonattainment areas for ozone under the Clear Air Act of 1990. (Milwaukee is located only 35 miles north of the City of Kenosha.)

A preliminary evaluation shows there will be a significant impact to air quality in Milwaukee because of the increased traffic generated by the Kenosha project. This requires me to once again, on behalf of the citizens of Milwaukee, request that sufficient opportunity be given to evaluate the impact of the project.

It appears that the EA underestimated the mobile source emissions to a significant degree. This means there will be additional adverse public health effects in an area that already exceeds health-based federal ozone standards by a substantial amount.

I believe it is critical that an environmental impact study be made. We must determine the impact not only on public health but also the potential adverse impact on vegetation and parklands that result when federal ozone standards are exceeded.

Office of the Mayor  
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10 East Wells Street  
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Wisconsin  
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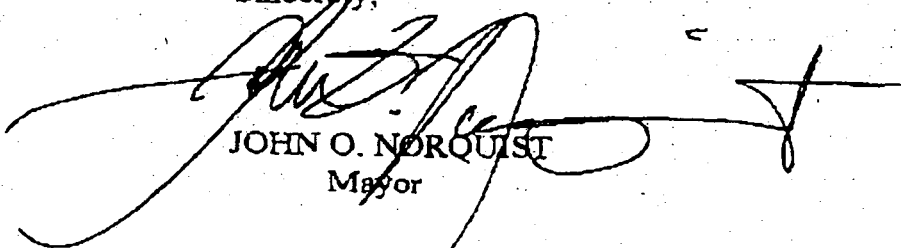


Page 2  
December 6, 2000

I request and urge you to require a thorough environmental impact study that includes an independent analysis of the project's impact on air quality in our region. There are too many possible public health and ecological threats that must be determined. Also, we must know whether there are any unknown risks and/or other uncertainties that alone or in cumulative effect will impact locally, the effected region, and/or society as a whole.

I thank you for your attention to this matter.

Sincerely,



JOHN O. NORQUIST  
Mayor

c: Senator Herb Kohl  
Senator Russ Feingold  
Congressman Jerry Kleczka  
Congressman Tom Barrett  
BIA Regional Director Larry Morrin

MARVIN E. PRATT  
Alderman, 1<sup>st</sup> District



13, 2000

COMMON COUNCIL, PRESIDENT  
CITY OF MILWAUKEE

Mr. Larry Morrin, Regional Director  
Bureau of Indian Affairs  
Midwest Regional Office  
Whipple Federal Building  
One Federal Drive, Room 550  
Ft. Snelling, Minnesota 55111-4007

City Hall, Room 205  
200 East Wells Street  
Milwaukee, Wisconsin 53202  
Office: (414) 286-2221

Re: October 9, 2000 Environmental Assessment of the Proposed Casino in  
Kenosha, Wisconsin

Dear Mr. Morrin:

As President of the Common Council for the City of Milwaukee, it is extremely troubling to learn that you intend to close the comment period on the Environmental Assessment for the largest Indian Casino in the region, proposed for Kenosha, Wisconsin.

The Kenosha Casino will undoubtedly cause a substantial increase in mobile source air emissions in Southeast Wisconsin because it is predicted to attract up to 8,000,000 gamblers each year who will primarily drive to the casino. These 8 million gamblers will result in a five-fold increase in peak daily vehicles and subsequent ozone precursors (VOC and NOX) when compared with Dairyland Greyhound Park. This drastic increase in air pollution in Southeastern Wisconsin causes great concern and warrants a thorough analysis by Milwaukee's environmental agencies. The City of Milwaukee deserves ample time to study the potential negative impact on its air quality by the proposed casino and development.

Milwaukee Mayor John Norquist and Milwaukee County Executive Ament have both written to you and asked to participate in the proceedings involving the Kenosha Casino. I am very concerned, therefore, to learn that you intend to go forward with the Environmental Assessment without ever notifying, let alone consulting with, the governments impacted by this decision.

Because the proposed casino in Kenosha raises the probability of significant air quality concerns for the entire region, I respectfully request that you extend the comment period to allow the environmental agencies with responsibilities for Milwaukee to evaluate and comment on the proposed Environmental Assessment.

I am looking forward to your response.

Sincerely,

A handwritten signature in black ink that reads "Marvin Pratt".

MARVIN E. PRATT  
Alderman, First District  
Common Council President

MEP:dh



Karen M. Ordinans  
*Milwaukee County*

Chairman  
County Board of Supervisors

December 12, 2000



Larry Morrin, Regional Director  
Bureau of Indian Affairs  
Midwest Regional Office  
Whipple Federal Building  
One Federal Drive, Room 550  
Ft. Snelling, Minnesota 55111-4007

Subject: Environmental Assessment (EA) prepared for the Proposed  
Menominee Indian Tribe Gaming Facility, Kenosha, Wisconsin

Dear Mr. Morrin:

Late last month we were informed that an environmental assessment (EA) had been issued for the proposed redevelopment of the Dairyland Greyhound Park site in Kenosha County. We obtained a copy of the EA the first week of this month and have reviewed the document. Based on our review, we feel that the information presented in the EA leaves a number of questions unanswered or unclear, and therefore does not warrant a FONSI. We hope that you will consider our concerns, which focus on regional issues that affect Milwaukee County residents, in your review. We also request that you respond to our questions in writing, to the attention of the sender.

### Main Comments

#### *Air Quality*

The EA raises some concern about the impact of the project on regional, as well as local, air quality. As noted in the EA, Kenosha County is part of a six-county non-attainment area, of which Milwaukee County is also a part. This area is classified by the EPA as "severe" in terms of non-attainment for ozone. Because the EPA and WDNR view this non-compliance issue from a regional perspective, Milwaukee County has reason to be concerned with new sources of ozone emissions. The EA does not clearly demonstrate that local and regional air quality will not be adversely affected, nor does it

address mitigation measures appropriate for this significant a source within the non-attainment area.

As mentioned in the EA, the Wisconsin DNR has drafted an implementation plan (SIP) that will place new restrictions on air pollutant sources throughout the state. The SIP relies on reductions in ozone-creating (precursor) compounds, including NOx and VOCs, to progress toward compliance with ozone standard.

Mobile sources are considered to be a major contributor to ground level ozone. The EPA and WDNR have imposed various requirements on residents and businesses (e.g., use of RFG, Clean Fuel Fleet Program, etc.) in attempts to reduce the precursors over the next decade. For severe ozone areas, the state is required to develop a Rate of Progress Plan, that projects how reductions in precursor compounds will be attained for milestone years. Table 1 presents WDNR's projections for precursor generation from mobile sources in the six-county non-attainment area through year 2007. A comparison of the year 2007 "budget" to the projected emission increase for VOCs and NOx is also presented.

Table 1  
Ozone Precursor Projections - Mobile Sources

	2002		2005		2007	
	VOC (TPD)	NOx (TPD)	VOC (TPD)	Nox (TPD)	VOC (TPD)	NOx (TPD)
WDNR Six-County <sup>1</sup> "Budget"	43.5	103.5	36.7	84.1	32.2	71.4
Apportioned Kenosha Co. Budget					2.58	5.71
Projected Peak Emission Rate <sup>2</sup>					4.95	10

<sup>1</sup> The six-counties that comprise the ozone non-attainment area in southeastern Wisconsin.  
<sup>2</sup> Taken from the EA.

A comparison of the projected peak emission rate to the budget indicates the proposed development would consume about 15% of the budget. This represents a substantial proportion for a single development. Assuming Kenosha County's 'share' of the budget is proportional to the population of Kenosha County (8% of the six-county area), the proposed emissions would be almost double the apportioned share.

This projection is based on a peak day of 44,153 vehicles, and assumes vehicles travel at a speed of 60 miles per hour over a distance of 50 miles (25 each way). The EA notes that a detailed traffic study has not been conducted, and that the Wisconsin DOT is requesting a more detailed traffic study be performed. Aside from the need for updated

input for the basis of modeling efforts, the supporting documentation provided is difficult to follow. What is provided, however, suggests that emissions of VOCs would be higher if a slower speed was assumed. Given that a significant portion of the travel in the immediate area of the parking lots will occur at slow speeds, we would expect the actual emissions generated to be higher than projected in the EA. Use of more conservative assumptions could also project an exceedence in the CO standard (presented on page 33).

### ***Solid Waste Disposal Capacity***

The EA states that the number of visitors may be as high as 8 million per year, and could increase to as much as 10 million per year (page 41). This substantial number is projected to be primarily visitors from out of state, so the additional volume of solid waste created will be significant. The EA does not provide any estimate of the volume generated by the proposed facilities. Landfill capacity has been and continues to be a major concern in southeastern Wisconsin. A shortage of landfill capacity at landfills such as Pheasant Run results in increased pressure on all municipalities in the region, not just within Kenosha County. Thus, the effect on waste disposal capacity could be both significant and adverse.

### ***Socioeconomic Impacts***

The analysis of socioeconomic conditions provides no assessment of potential adverse impacts on surrounding counties. The bottom of page 41 states that "the Forest County of Wisconsin Potawatami Tribe was also contacted" but provides no further discussion or analysis. Given that the proposed facility will attempt to attract many of the same customers as the Potawatami facility, there could very well be adverse impacts on the Potawatami's Milwaukee facility. This new facility is located in Milwaukee's Menominee River Valley ("the valley"), and industrialized zone that is on the verge of rejuvenation that can improve quality of life for lower income residents living nearby. A concerted effort is being made (including assistance from state and federal grants) to spur redevelopment of the valley. The loss of business to the proposed casino could result in a direct loss of jobs and income to businesses in the "valley".

### ***Summary Comment***

Based on the above comments, it appears that the impacts from the proposed project could be both significant and adverse. We would therefore recommend that additional studies and analyses be performed, such as would be required in an EIS.



**Minor Comments/Questions:**

1. The document makes reference to both the short-term project and the long-term project. If the long-term project is being considered in the review process, then the EA's quantitative assessments of environmental impacts should focus on the impacts of the long-term project, and provide secondary consideration to the short-term project.
2. What regulatory enforcement authority changes will occur after the property is transferred to trust? Who will ensure that promises to mitigate impacts should they arise will be met?
3. Who owns the facility? Page 2 states "The property was acquired at a reasonable price..." while page 3 (under the No Action Alternative), states that "if the Menomonee Tribe did not acquire the land...".
4. Why is only a portion of the property being converted to trust?
5. Page 5 states that "the local community, when consulted, will also affirm its support for the transfer". Without some supporting basis, this comment appears presumptuous at this stage of the EA.
6. The document (page 34) states that emissions modeling assumptions and calculations are provided in Appendix I. Upon inspection, we could not determine if the assumptions and calculations were provided. If they are included, it is not readily apparent how the table values on page 34 were computed. We find it curious that the *ton/day* results listed in the table are exactly the same as the Appendix I model output results for 60 mph in *grams/mile*. Is this coincidence or error?
7. Will the new facilities require new boilers or other stationary sources of air pollution?

We appreciate the opportunity to submit these comments and hope that you will consider them as part of your review. If you questions regarding our comments, please call me at 414-278-4247.

Sincerely,

*Karen M. Ordians*

Karen M. Ordians

Chairman

Milwaukee County Board of Supervisors

KMO:khg



OFFICE OF COUNTY EXECUTIVE

# Milwaukee County

F. THOMAS AMENT • COUNTY EXECUTIVE

December 7, 2000

Larry Morrin  
Regional Director  
Bureau of Indian Affairs  
Midwest Regional Office  
Whipple Federal Building  
One Federal Drive, Room #550  
Fort Snelling, MN 55111-4007

Dear Mr. Morrin:

I ask you to require an Environmental Impact Statement for the proposed Menominee Indian Gaming facility in Kenosha, Wisconsin.

The Environmental Assessment (EA) for the proposed facility falls critically short in addressing the full potential environmental and economic impact on Southeastern Wisconsin. In addition, surrounding communities and interested parties were given inadequate notice and opportunity to comment on the EA.

Upon review of the EA it is apparent that it fails to adequately address the adverse impact on Southeastern Wisconsin's air quality. The projected five-fold increase in harmful pollutants will cause injurious health effects to citizens most sensitive to air pollution, including children, asthmatics and the elderly. The increase in air pollutants will also make achieving emission reduction plans for Southeastern Wisconsin extremely difficult. Both of these adverse impacts are hardly "a finding of no significance" considering Southeastern Wisconsin already exceeds health-based federal ozone standards and is classified as a severe ozone non-attainment area.

Secondly, the EA omits any analysis of the economic impact on surrounding communities. The Application establishes that the proposed Kenosha casino would be enormously detrimental to the City and County of Milwaukee. Yet, the EA ignores these adverse impacts and, instead, focuses exclusively on the benefits to the Menominee Tribe and City and County of Kenosha. In addition, the EA conveniently ignores the harmful and predatory effects on the Potawatomi Bingo Casino in Milwaukee, an employer of 1200 and a good neighbor who shares \$40 million in profits with the State of Wisconsin, the City and County of Milwaukee and hundreds of charities and community organizations. Among the recipients of these funds is the Milwaukee Indian Community School whose sole source of income is tied directly to Potawatomi gaming.

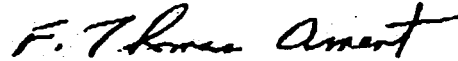
Finally, I received no direct notice of the EA. This is despite that I have written to you in the past expressing my concerns, that Milwaukee County is in the same ozone non-attainment area and that the proposed Kenosha casino will directly affect the Milwaukee County economy.

Public availability to comment appears to have been limited to those who saw the notice printed in a local Kenosha Newspaper. This type of notice is not appropriate considering the impact of the proposed casino. Furthermore, the lack of notice and time to respond has made it impossible for Milwaukee County to provide comprehensive and thorough comments on the adverse environmental and economic impacts, and, consequently, for you to have an understanding of our concerns.

For these reasons it is critical, and only reasonable, that an Environmental Impact Statement be prepared for the proposed Menominee Indian Gaming facility in Kenosha, Wisconsin.

Thank you for your attention to this matter.

Sincerely,



F. Thomas Arment  
Milwaukee County Executive

Cc: Senator Herb Kohl  
Senator Russ Feingold  
Congressman Jerry Kleczka  
Congressman Tom Barrett