

Portion of FCP 2007 letter re: EPA's FCP
Class I rulemaking with
updated information on
area economics and historic
and cultural designations

1. The Unique History of the FCP Community and its Reservation serves to Underscore the Added Importance of Protecting the Resources Located on the Reservation.

As noted in the Technical Report and follow-up materials, the history of the Potawatomi is a story of hundreds of years of self-sufficiency followed by tremendous suffering and loss brought on by the forced removal from its lands. At one time, the Potawatomi had a total estimated population of 15,000 people occupying and controlling approximately thirty million acres of land in the Great Lakes Area. For hundreds of years, the Potawatomi people enjoyed a self-sufficient economy, deriving all of their sustenance from the environment. However, when the Potawatomi were displaced from their fertile homelands, the delicate balance of this lifestyle was devastated. Starting in the early 1800's, major portions of Potawatomi lands were ceded to the U.S. government. In 1833, after the Treaty of Chicago, most of the Potawatomi people were forcibly removed from the last of their lands east of the Mississippi. So many perished en route to new lands in the west that the march came to be known as the "Trail of Death."

Opposing the forced removal and fearing for their lives, many Potawatomi fled north. The Forest County Potawatomi are descendants of these people. These descendants, along with others, traveled north and settled in scattered areas near Wisconsin Rapids, the Menominee reservation, Forest County, the Upper Peninsula of Michigan and into Canada. By the early part of the twentieth century, thousands of acres of Wisconsin's finest timber had been slashed and many fires had devastated the North Woods. The Potawatomi, often fleeing and hiding from outside contact, were found "squatting" in these woods during this time, near starvation and death.

Parcels of land were purchased for the Potawatomi by the Federal government in 1913 using money owed to the Tribe from payments that had been promised under earlier treaties. This land was to become the current Forest County Potawatomi Reservation. The Tribe was formally organized into the Forest County Potawatomi Nation under a constitution and by-laws ratified by the Tribe in 1937.

2. Natural, Recreational and Scenic Qualities of FCP Community Reservation and Surrounding Areas Serve to Underscore the Importance of the Air Quality Protections afforded by Class I Standards.

The Forest County Potawatomi Reservation has a clean environment crucial to the Potawatomi lifestyle. The reservation lies within the boundaries of the Nicolet National Forest in northeastern Wisconsin. Like others, this National Forest was established to protect watersheds and supply timber. Forest County, named for the vast tracts of forest that cover the area, has a unique network of waterways. Many of its streams form the headwaters of wild and scenic rivers, the Wolf, Brule, Peshtigo, and Pine. Over 850 miles of trout streams and 120 lakes make the area a mecca for fisherman, boaters, canoers and hikers. See Attachment 9 (available at

[http://www.co.forest.wi.gov/county/app/public?COMMAND=gov.wi.county.view.command.LoadCountyHome&countyName=Forest.\)](http://www.co.forest.wi.gov/county/app/public?COMMAND=gov.wi.county.view.command.LoadCountyHome&countyName=Forest.)

Indeed, Swamp Creek, which flows nearby the FCP Community Reservation has been recently designated as an Outstanding Resource Water by the Wisconsin Department of Natural Resources. See Attachment 10 (Wisconsin Department of Natural Resources, Waters Designated in 2006 as Exceptional or Outstanding Resource Waters). Also, the Nicolet National Forest is home to over 400 natural spring ponds and 1,170 lakes. See Attachment 11 (available at www.exploringthenorth.com/nicolet/nicmain.html (information at web site provided by National Forest Service)). Likewise, the Headwaters Wilderness Area, which is a federally recognized wilderness area like the Rainbow Lakes Wilderness area but approximately three times its size, lies within 7 miles of the Reservation. See Attachment 12 (available at <http://www.fs.fed.us/r9/cnnf/rec/wilderness/index.html>).

Attached to these comments is a map showing some of the key environmental features on and surrounding the FCP Community Reservation. See Attachment 13. Among other things, this map highlights the numerous lakes, rivers and streams, the thousands of acres of wetlands, and tens of thousands of acres of tribal, federal, state and county forests that make up and surround the proposed Class I area. Also attached to these comments is a fly-over video that shows the western portion of the FCP Community Reservation and surrounding area. See Attachment 14. The video was prepared for the Crandon Mine matter and was shown at the March 27th and March 28th public meetings. The area shown in the video, unlike most of the FCP Community Reservation, is not surrounded by the Nicolet National Forest and therefore tends to be somewhat more developed. Nonetheless, the video shows the pristine nature of the FCP Community Reservation and surrounding area, as well as the richness of their water resources.

The area is also characterized by geographical features, which serve to provide important visual characteristics that would be protected by Class I standards. The Reservation itself is home to the second highest natural point of elevation in the State. Sugarbush Hill on the reservation is 1,950 feet above sea level and provides beautiful views of the rolling hills in the area, including Spirit Hill, which is sacred to the nearby Sokaogon Chippewa Community. From the six large drumlin formations that form Sugarbush Hill, four Class 1 trout streams and two wild and scenic watersheds flow. The eastern portion of the reservation, bordering the Forest County line, is adjacent to a State Wildlife management area and is a wilderness area containing many spring ponds, remote lakes, and many registered historic/traditional properties, which are remnants of ancestral homesteads.

The Tribe is especially concerned about air deposition impacts to Devils Lake, which is located completely within Tribal boundaries, as well as to other waters that are on or connected to the Reservation. This is why the FCP Community has already designated aquatic resources and water quality as AQRVs that it wishes to protect with Class I redesignation.

Devils Lake receives most of its water from direct precipitation and surface run-off and therefore is especially susceptible to air deposition impacts. Devils Lake was set aside formally by the Tribe for wilderness, cultural, and limited recreational use only. This lake was heavily

fished by Tribal members. The lake is 30 acres, with one inlet that flows intermittently from a very large sphagnum bog. This large wetland and lake are perched just east of Sugarbush Hill.

The lake has been studied by the Wisconsin Department of Natural Resources, U.S. Geological Survey and U.S. Fish and Wildlife Service as well as the FCP Community. It has been determined that Devils Lake is very acidic, with very low conductivity. Much research has concentrated on the heavy-metal cycling and mercury accumulation in fish that inhabit this type of lake. Elevated levels of toxic mercury is caused primarily by the deposition of mercury and sulfur compounds from the air. The sulfur is used by anaerobic bacteria, which reside in the lake and wetlands. These bacteria then produce an especially toxic form of mercury called methyl mercury from the mercury that has entered the lake. See Attachment 15 (scientific studies showing the link between sulfur deposition and mercury methylation).

Mercury methylation in Devils Lake is of grave concern to Tribal members, who fish this lake and hold other fish-eating wildlife such as bald eagle, otter, and mink as special to their culture. Fish tissue analysis performed in cooperation with U.S. Fish and Wildlife and Research Triangle Institute has revealed, unfortunately, that even fish in the lake that are below the average size for human consumption are near eating-advisory levels for mercury.

This has deeply troubled tribal members. The lake is viewed as poisoned by some, and the thought of an unforeseen danger in this sanctuary has interrupted the Tribe's traditional lifestyle. As described in the following section, Devils Lake is a critical source of the pure natural resources, which form the basis of much of the Potawatomi belief system.

3. A Substantial Portion of the FCP Community Reservation Area has such Unique Qualities that the Federal Government has Determined the Area to be Eligible for National Historic Register as a Traditional Cultural Property.

Because of its unique and special natural, historic and other qualities, on August 1, 2003, the U.S. Corps of Engineers determined that much of the FCP Community Reservation and surrounding lands are eligible for the National Register of Historic Places as a Traditional Cultural Property. See Attachment 16 (August 1, 2003 Whiting letter to Banker, p.2 (finding "that the Forest County Potawatomi Traditional Resource Catchment District is eligible for the National Register of Historic Places under Criterion A, association with events that have made a significant contribution to the broad patterns of Potawatomi history")). A Traditional Cultural Property is defined as a site "that is eligible for inclusion in the National Register because of its association with cultural practices or beliefs of a living community" and that is "(a) rooted in the community's history, and (b) important in maintaining the continuing cultural identity of the community." In addition, the site must meet all of the requirements for listing on the National Register of Historic Places as described in the National Historic Preservation Act of 1966 (the "Act") as well as its implementing regulations (36 C.F.R. Part 800).

The Corps' finding regarding the Forest County Potawatomi Traditional Resource Catchment District is largely based on the importance of the district as a source of pure water and other natural resources and the critical importance of purity to the FCP Community. Because of the importance to the Tribe of pure natural resources, especially water, and the

Tribe's heavy reliance on aquatic and other natural resources, the FCP Community designated aquatic systems and water quality as AQRVs that it wishes to protect with Class I redesignation.

The Corps' finding of eligibility was based in part on information presented in a report entitled "The Elders Speak: Natural Resource Use by the Forest County Potawatomi Community (October 11, 2002)." *The Elders Speak* reflects the information discussed above, including the devastating effects of the Indian Removal Policy, the traditional relationship of the Tribe and its members to the natural environment, and the critical importance of hunting, fishing and gathering to Potawatomi subsistence. In discussing these issues, the Elders Speak notes the central role of clean water to Potawatomi spirituality and the importance of ritually-clean traditional food to the Potawatomi religion.

As is noted in the National Historic Register of Historic Places Registration Form for the Forest County Potawatomi Traditional Resources Catchment District (the "Catchment Registration Form"), there is a clear historical and current connection between the FCP Community and the natural environment.

The close historical link between the Potawatomi people and the natural environment and the continuity of this tradition into modern times is well documented (Ritzenthaler 1953: Clifton 1977: Cleland and Carlson 2002). Today, plants and animals obtained from their environment are a vital part of the religious rituals, ceremonials, and medicines which define unique aspects of Potawatomi life and which form the vital link between their cultural past and future (interview with Ned Daniels Jr., p. 6, 8, 24, 37: interview with Sam Alloway, p., 2, 3, 6, 7, 11, 13: interview with Mike Alloway, p. 2,3, and 4).

See Attachment 17 (Catchment Registration Form, p. 8).

Moreover, in addition to the availability of natural resources, the FCP Community's belief system requires that these resources be obtained in a pure form from a clean environment. In this regard, the Catchment Registration Form states:

Beyond the availability of these resources the Potawatomi belief system requires that they be obtained using proper rituals that include the notion of "purity." By this the Potawatomi mean both natural and spiritual purity. For example, water to prepare ritual foods or to mix medicines must be drawn from a specific spring, medicinal herbs must come from "clean" or undisturbed ground. Unless these conditions are met, the spiritual and therapeutic force of the ceremony or the medicine is lost (Sam Alloway interview, p. 8, 9, and 14; interview with Mary Daniels, p. 3). Thus, the continued functioning of the Potawatomi belief system and the link between past and future generations depend on two things, their ability to obtain the requisite natural resources for cultural practices from a "clean" environment and the knowledge required to prepare them in the prescribed fashion. The latter constitutes highly proprietary knowledge. Along with language, genealogy, and religious beliefs, natural resources form the cornerstone of Potawatomi tradition.

Attachment 17, p. 8.

The *Elders Speak* addresses the critical importance of Devils Lake as well as other water resources associated with the Reservation. *The Elders Speak* notes that because “of the importance of Devils Lake to Potawatomi history as well as its spiritual importance to the community, it is eligible for the National Register as a Traditional Cultural Property under Criteria A.” *The Elders Speak* also highlights other nearby water resources critical to the FCP Community, including Otter Springs and Swamp Creek (also known as the River of Little Medicine or *Mushggagamonsebe*), and the Stone Lake – Big Stone Catchment District.

In its finding that the FCP Community Traditional District is eligible for the National Register of Historic Places, the Corps noted that the District includes two catchment areas, with one centered around Devils Lake and the other around Newman Lake. A map showing the location of these two areas, which cover much of the FCP Community’s Reservation is included with these comments. See Attachment 13 (map).

As the Corps notes, a critical aspect of these two catchment areas is the purity of their water and other natural resources:

The proposed FCP Traditional District includes two areas known as the Devils Lake Catchment and the Thunder Catchment. . . . These two areas have been foci of the traditional procurement of resources for the Forest County Potawatomi for the last 120 years. The areas were identified through interviews with knowledgeable tribal members as documented in *The Elders Speak*. The two catchment areas contain the essential resources necessary to the maintenance of many aspects of the Forest County Potawatomi cultural identity, including the pure water, plants and animals necessary for ceremony, medicines, and special traditional foods.

Attachment 16, p. 1.

The areas are referred to as catchments because of their ability to provide for the resource needs of the Tribe. In the case of the FCP Community, the heavily-used catchments are critical sources of spirituality pure resources. The Catchment Registration Form notes:

In anthropological terminology these areas are referred to as “catchments;” that is areas with natural resources sufficient to supply the resources needed of a given human population in any given year. The theoretical basis for the catchments is derived from the theory of foraging strategy among hunters and gatherers that relates to the use of particular environments in a way that optimizes time and energy expenditures (Winterhalder 1981). Although not named by the Potawatomi per se, the catchments described here are defined by the actual resource use reported in interviews with Potawatomi foragers (see attached interviews and Cleland and Carlson 2002).

The fact that the catchments are heavily used by Potawatomi hunters, fishers, and gatherers reinforces their belief that the catchments are capable of producing spiritually pure resources (Cleland and Carlson 2002: 20-21). The fact that environmental and land use changes have steadily reduced the Potawatomi’s access to critical resources from the natural environment only serves to make these catchments as well as the resources they contain all the more valuable (Cleland and Carlson 2002: 40).

* * *

Each catchment continues to be used today because of four characteristics. Each of the two catchments was used traditionally by Potawatomi hunters and gatherers, each incorporates relatively large amounts of tribal land (see map), each is ecologically diverse, thereby increasing efficiency of use, and most importantly, each is regarded as a source of spiritually pure resources. . . .

Attachment 17, pp 6, 7.

A key element of both catchment areas is the presence of significant water resources. As noted above, Devils Lake and Newman Lake each is a center point of one of the catchment areas. In addition, the catchment areas contain an interconnected system of wetlands and waterways that serve as their core. In this regard, the Catchment Registration Form notes:

The core of each catchment is a wetland system composed of bogs, marshes, and swampland thickets, which along with their associated waterways – Swamp Creek, Rat River, and Otter Creek – have excellent water quality and support very few invasive species.

Attachment 17, p. 7.

Because of the long standing as well as current significant importance of the two catchment areas, the Corps found the Forest County Potawatomi Traditional Resource Catchment District eligible for the National Register of Historic Places under Criterion A. In making this finding, the Corps noted:

The Resource Catchment District meets Criterion A, that is, they are associated with events that have made a significant contribution of broad patterns of Potawatomi history. The long oral and written histories of the Forest County Potawatomi agree that the use of wild game, fish, and plant products gathered from nature sustained the Potawatomi until after the midpoint of the twentieth century. Today these same resources are no less important as the source of “pure” foods for ritual and for medicinal purposes and for subsistence and craft production. The Potawatomi believe that the continued health of the natural world as well as their own continued existence as a people requires the use of these resources to conduct rituals of harmony and atonement.

The study has demonstrated that the District retains integrity of relationship to the practice and belief of the Potawatomi. Interviews revealed that use of the same areas to obtain culturally important resources can be traced back three generations, and are in active use today.

Attachment 16, p. 2.

Unfortunately, despite the generally pristine nature of the FCP Community Reservation and surrounding areas, the pure water and food that the community wishes to protect have already been substantially impacted. As discussed above, Devils Lake and its fish have been significantly impacted by toxic methyl mercury due to the deposition of mercury and sulfur

compounds from air emissions. These impacts greatly concern the FCP Community, because they affect the core of Potawatomi life. For this reason, the Catchment Registration Form notes not only the importance of pure resources to the FCP Community's cultural beliefs but the Tribe's significant concerns about the availability of pure resources:

Cultural beliefs, which include dances, rituals, ceremonies, as well as traditional Potawatomi religion and ideology remain the core of Potawatomi life. These activities depend in large part on the natural resources which must be drawn from spiritually pure natural environments. Concern about access to these resources and the ability of the environment to provide the pure resources needed to sustain Potawatomi culture occupies the thoughts and prayers of the community. Elder Jim Thunder offers a prayer in this native language which expresses these concerns:

Today, we see what the people who have knowledge of coming events, our elders, were trying to tell us in the past. We were told to respect all living things – those that soar above us in the sky, those that walk or crawl upon the earth, those that belong under water: all of the roots, herbs, trees, shrubs, grasses, and flowers. We were cautioned to take only what we need, for the creator has set these upon Mother Earth for all our use.

Today, we are abusing our Mother Earth. Our air, water and soil is polluted: We are told not to eat fish out of certain streams and lakes.

I pray to our creator that we look back so that we may see ahead. Let us examine our lives so that we are respectful to our fellow humans and to nature. Let us respect our children and, above all, let us live our lives in accordance with our beliefs.

Let us share our natural resources for the good of our people. Let us work for clean air and water and pray for the courage to stand up to those who would abuse our Mother Earth.

Thha ge na gom ge (So be it) –

Jim Thunder, member

Attachment 17, p. 12.

D. Clean Air is Important to the Economies of the FCP Community and Northern Wisconsin.

Another significant value of the area is that is directly related to air quality is the recreational economy in Northern Wisconsin. The Technical Report discusses the significant economic strides made by the FCP Community and importance of the recreational economy to the region. Since the time of the Technical Report, the FCP Community has become the largest employer in Forest County and one of the largest in Northern Wisconsin. In addition, during the period from 1994, the recreational economy in Forest County and the region has grown tremendously.

The comments below were prepared with the assistance of Dr. Sammis White, a professor with the University of Wisconsin-Milwaukee's Department of Urban Planning. See Attachment 18 (Affidavit of Dr. White).

1. The FCP Community's Economic Role in the Forest County Area is Significant and Directly Related to Clean Air.

The FCP Community now directly employs about 800 persons in tribal enterprises located in Forest County. This accounts for more than 15% of all the jobs in the county. In fact, according to the state of Wisconsin's Department of Workforce Development, as of December 2005, the FCP Community's tribal government was the number one employer in Forest County and its Northern Lights Casino facility was the County's number two employer. See Attachment 19 (Top 100 Private & Public Employers by County in December 2005, Source: Department of Workforce Development, B. Workforce Information, ES-202, September 2006). The success of the Northern Lights Casino is heavily dependent upon the tourists drawn by outdoor recreational attractions due to the pristine nature of the area.

The Tribe's enterprises also include a state-of-the-art medical clinic, the "Health and Wellness Center," which provides needed medical care services to persons throughout the region, retail trade establishments and a significantly expanded and upgraded hotel and casino facility, as well as a wide variety of governmental services. The Tribe also brings millions of dollars into the regional economy through the payments made to its adult members on and near the Reservation from revenues from its Milwaukee bingo and casino facility.

2. The Importance of the Recreational Economy in Forest County and Surrounding Areas and its Relationship to Air Quality Related Values is a Significant Factor Supporting the Class I Application.

The Forest County area is filled with beautiful forests, lakes, streams and other natural assets that make it an important recreational area. Forest County's recreational economy is growing rapidly and is heavily dependent on clean air and clean water. If these resources are protected in the future by Class I designation for the FCP Community, it is likely that the area's recreational economy will continue to grow.

a. Outdoor Recreational Resources are an Important Feature of the Area.

As discussed above, the Forest County area is filled with beautiful forests, lakes, streams and wetlands. One of the most important recreational resources in the area, is the Nicolet National Forest. The Nicolet National Forest, which surrounds much of the FCPC reservation and covers most of Forest County, serves as a key recreational resource to the area, not only because of its 661,000 acres of beautiful woods but also because of its rich water resources. As noted in information provided by the National Forest Service:

The Nicolet National Forest naturally draws people interested in swimming, boating, canoeing, rafting, and fishing. Come to hike, ski, snowmobile, hunt, fish, swim or view wildlife. Anglers can expect to find a large variety of fish including trout, pike, bass, muskellunge, walleye, and panfish. Canoeing enthusiasts may wish to try the Brule, Pine, Popple, Peshtigo, Rat, Oconto, and Wolf Rivers, all of which are easily accessible.

Swimming is offered at most of the campground lakes and at several developed beach and picnic areas. The Nicolet is 62 miles long, north to south, and 36-1/2 miles wide. There are 1,170 lakes and over 400 spring ponds. The lakes have 34,000 surface acres of water and 500 miles of shoreline. Fresh water streams have a total length of 400 miles, including 580 miles of trout streams. There are 40 miles of white water canoeing rivers, of which 40 miles are state protected "wild rivers." Sixty-eight species of fish live in these waters.

See Attachment 11 (available at <http://www.exploringthenorth.com/nicolet/nicmain.html>.) Protection of the air around this important recreational and natural resource will help to protect its financial as well as environmental value to the area for generations to come.

Likewise, natural resources are very important to Michigan's economy, especially its rural Upper Peninsula. As the Michigan Department of Natural Resources web site notes, natural resources boost Michigan's economy. For example, licensed anglers contribute \$2 billion to Michigan's economy, recreational boating contributes another \$2 billion, boating trips contribute \$873 million, hunting contributes \$1.3 billion, non-consumptive users contribute \$1.2 billion, visitors to Michigan state parks and recreational areas contribute \$580 million, and the forest products industry and recreational users of Michigan's state forest system (which is the largest in the nation) contribute \$12 billion. See <http://www.michigan.gov/dnr/0,1607,7-153-10366-121641--,00.html>. Accordingly, protection of these resources is equally important to Michigan's economy.

b. The Importance of the Recreational and Pristine Environment Qualities of the Area are Highlighted on Forest County's Web Site.

The importance of recreation and the area's pristine environment are discussed in detail in Forest County's marketing materials. For example, the front page of Forest County's web site extensively touts the County's many pristine environmental features, saying:

Forest County has an abundance of lakes totaling 21,882 acres. Its network of waterways is unique and consists of 850 miles of fabulous trout streams. There are 120 lakes in Forest County where pan fish, smallmouth bass, largemouth bass, walleyed pike, pickerel, and muskies are common.

Forest County is the high part of our state. Sugar Bush Hill, just off State Highway 32 and US Highway 8 between Laona and Crandon, has an elevation of 1,960 feet above sea level.

Opportunities for recreation abound here, with acres of Nicolet National Forest land waiting to be explored, beautiful lakes, rivers and streams for all types of water sports and unique spots for dining and socializing with friends. Whatever your plans, Forest County is waiting to do what we can to help you enjoy your time.

See Attachment 9 (available at <http://www.co.forest.wi.gov/county/app/public?COMMAND=gov.wi.county.view.command.LoadCountyHome&countyName=Forest>).

c. Tourism Employment is Especially Important in Forest County.

In 2005, Forest County tourism was responsible for 18% of the total employment in that county. That means it is a very important industry to the county. In contrast, in all of Wisconsin, leisure and hospitality is responsible for 8.6% of total employment (Wisconsin Department of Workforce Development Labor Market Information Web site).

d. The Importance of Recreational Economy and Need to Protect Clean Air and Clean Water was Identified by the Comments of All of the Area's Public Officials.

All of the public officials that spoke at the March 27th and March 28th public hearings noted the importance of the area's recreational economy and the need to protect clean air and clean water to allow this economy to continue to thrive. For example, State Representative Jeff Mursau noted:

Tourism is, in the district I represent, Marinette, Forest, Florence, parts of Langlade, Oconto, Menominee, and Marathon Counties, which is pretty much a good portion of Northeastern Wisconsin, and tourism is probably our main business that we have here in this district. And it's a very important business. We definitely want to keep our streams, we want to keep our air as clean as possible.

Likewise, Chuck Sleeter, Town Chairman of the Town of Nashville in Forest County, stated:

As Jeff Mursau had mentioned to you, and he's completely right, in that tourism, tourism, tourism, the Town of Nashville depends on tourism. That's the driving force for our community. We depend on it, we need it to survive.

* * *

On March 20th, the Town of Nashville had a town board meeting. At that town board meeting, the supervisors, and the town board, and myself voted to support the Potawatomi and their Class I designation. They also asked me to attend this public hearing and to tell you what I tell you tonight. And I have to tell you that we're very strongly in support of the Clean Air Act that is taking place.

Mr. Sleeter was equally supportive of Class I air redesignation when he spoke on behalf of the Pickerel/Crane Lake District and its approximately 1,000 property owners. In doing so, he noted the importance of clean air and clean water to protecting property values on the lake, and therefore the real estate tax income from these properties. In particular, he noted:

[Air and water quality] means a lot to the people that pay high taxes. It means a lot to people who run the Town of Nashville, who run Forest County, because those taxes then pay the bills. They support the schools. So this is important, this whole thing is a ball that depends on quality of air and water.

Lloyd Fulcer, Chairman of the Town of Wabeno, reiterated Mr. Sleeter's position, saying:

I'm Lloyd Fulcer. I'm the Chairman of the Town of Wabeno. And rather than take your time, what Mr. Sleeter says, I agree with totally. Thank you.

Similarly, Gary Bradley, the Mayor of Crandon, noted the importance of clean air to the area:

But as far as the air purification, we're all in favor of that, those of us that live here and the people that come to visit us. This is a pristine part of the United States. Our county is probably 1,100 square miles or close to that, and we've got less than 10,000 people. So we've got to protect that for the future. That much, I really am and would like to see enforced.

Finally, Shirley Mills, a Supervisor for Forest County, noted the importance of Class I air to the area, saying:

So we would hope that the EPA would please go ahead and give the Potawatomis Class I air quality, okay? Thank you very much.

e. Significant Growth of Recreational Tourism in Forest County Area.

While the recreational economy has always been important to Northern Wisconsin, it has blossomed in Forest County and the region since the time of the Technical Report. From 1994 to 2005, traveler expenditures *more than tripled* in Forest County from about \$10.6 million to over \$32.5 million. See Attachment 20 (available at [http://agency.travelwisconsin.com/Research/EconomicImpact Active/04_05_countyimpact.pdf](http://agency.travelwisconsin.com/Research/EconomicImpact%20Active/04_05_countyimpact.pdf)). Similarly, traveler expenditures almost doubled in Oneida County (from about \$110 million to over \$212 million), almost quadrupled in Florence County (from about \$4.5 million to over \$18 million), over doubled in Langlade County (from about \$21.5 million to over \$44 million), over doubled in Marinette County (from about \$76.8 million to over \$126.5 million), and almost tripled in Oconto County (from about \$23.2 million to over \$65.5 million). See *id.*

Tourism in these seven counties is growing faster than it is in the state overall. Tourist expenditures in these seven counties grew by 117% between 1994 and 2005 compared to 107% for Wisconsin as a whole. See *id.* In 2005 in these seven counties, the \$715 million spent by tourists created some 18,005 equivalent full-time jobs and generated some \$23.2 million in revenue for local governments through such means as property taxes, sales taxes, lodging taxes, and so forth (Wisconsin Department of Tourism County Economic Profiles 2005).

It should also be noted that because of the FCP Community and the Sokaogon Chippewa Community's purchase of the controversial Crandon Mine site after a three-decade-long battle and the tribes' commitment to prevent unsafe mining at the site, the recreational economy in Forest County and the region is poised to grow even more. Now that a major environmental threat and the potential land use most inconsistent with the recreational economy has been removed, the stage is set for continued and expanded tourism-related investments and activity in the area.

f. The Recreational Values help Support the Significant Growth of Housing Values in Area.

One other piece of evidence that reinforces the value of the environmental resources in the Forest County area is the growth in property values in the seven county region. Between 2001 and 2006 property values in the seven counties grew faster (+55%) than values in the state as a whole (+50%). See Attachment 21 (available at <http://www.revenue.wi.gov/slf/cotvc/06corate.html>) (Wisconsin Department of Revenue 2007)). There is an increased interest in locating in this region, especially for retirees and second-home owners who appreciate the natural beauty and generally pristine nature of the area.

g. Existing Class I Areas have Experienced Great Economic Vitality.

Based on the available evidence, it appears that Class I designation may help the Forest County area to continue to grow economically. Dr. Sammis White explored whether areas that have received Class I air designation are able to grow their economies as rapidly as areas that do not have that designation. To gain some insight into the issue, Dr. White examined three upper Midwest areas that contain Class I air designations. The three areas are the Rainbow Lakes Wilderness Area in Bayfield County, Wisconsin, the Boundary Waters Canoe Area Wilderness in northern Minnesota, and the Seney Wilderness Area in the Upper Peninsula of Michigan. Rainbow Lakes contains just under 6,600 acres. Boundary Waters contains 1.3 million acres. And Seney Wilderness area has just over 25,000 acres.

These are not easy areas to track, given that they are rustic areas. But if one examines available evidence, the areas around all three Class I areas have grown faster in terms of employment over recent years than the states in which they are located. Bayfield County experienced a 5.6% average annual growth in tourism expenditures between 2001 and 2005. That is faster than Wisconsin (4.4%) and even faster than Forest County (5.4%) for the same period. In terms of total jobs in the county for the same period, Bayfield County grew by 3.7%, Forest County by 1.1% and Wisconsin by 0.7%. Clearly, Class I air designation did not hurt the economy of Bayfield. See Attachment 20 (available at http://agency.travelwisconsin.com/Research/EconomicImpact_Active/04_05?countyimpact.pdf).

Since the Boundary Waters Wilderness area is more than 150 miles long, any comparison must deal with the Northeast region of Minnesota. A recent Minnesota publication states: "Over the past five years (between second quarter 2001 and second quarter 2006) private employment growth in the region (+3.6%) has outpaced the state of Minnesota (+2.5%) by nearly 50% (DEED Labor Market Information Office Quarterly Census of Employers and Wages (QCEW) Program, as quoted in *Minnesota Employment Review* "Regional Spotlight: Northeast Minnesota," Matt Schoeppner, February 2007. See Attachment 22 (available at <http://www.deed.state.mn.us/lmi/publications/review/0207/rs.htm>).

Employment around the Seney Wilderness area in Schoolcraft County, Michigan, grew by 2.5% between 2001 and 2006, far eclipsing Michigan's overall job loss of -4.8%. See <http://www.milmi.org/cgi/dataanalysis/areaselection.asp?tablename=ces> (Michigan Labor Market Information Data Explorer)).

h. Protecting Air Quality through Class I Designation is Important for the Continued Recreational and Economic Vitality of Forest County Area.

As discussed above, the natural and generally pristine condition of the Forest County area, including its numerous lakes, rivers, and streams are of critical importance to the region's growing and thriving recreational economy. Protecting the area's air and water quality through Class I designation should allow the area's recreational economy to continue to grow. In addition, this special designation may also allow the recreational and overall economy to grow even more, as has occurred with other counties and regions near existing Class I areas in the upper Midwest.

Recreational and other economic growth in the Forest County area is of great importance to the Tribe because of its large investment in the region's tourism economy through its expanded hotel and casino facility. It is also important to the thousands of jobs and other businesses that depend on direct recreational expenditures, as well as the indirect spending that those expenditures generate.

Thus, the economic benefits of Class I are great and substantially outweigh any theoretical adverse economic effects on hypothetical proposed or modified major sources in Wisconsin or Michigan. These economic benefits further support EPA's finding that Class I redesignation will not have an adverse annual economic impact to the economy of \$100 million or more.

E. The FCP Community has Expended Significant Resources to Expand its Environmental Expertise and Infrastructure in Reliance on its Class I Application.

In the FCP Community's August 4, 1999 letter requesting EPA to adopt a FIP for implementing the Class I area, the FCP Community noted that it was not yet ready to submit a Tribal Implementation Plan. However, the Tribe indicated that it was continuing to build its capacity and infrastructure to run a Tribal Air Program. Indeed, shortly after the letter was sent, the agreement between the State of Wisconsin and the FCP Community was executed, resolving the dispute between the two sovereigns. In the almost eight years following the issuance of the letter and the agreement with the State of Wisconsin, the FCP Community has lived up to all of its statements regarding building that environmental capacity and infrastructure.

All of this effort was conducted in accordance with the Tribe's efforts to continue to create the infrastructure to assist with the implementation of the Wisconsin/FCP Community Class I Agreement and to create the capacity necessary to file a Tribal Implementation Plan in the future. However, none of these efforts are required to obtain Class I. Compare CAA Section 164(c) and (e) and 40 C.F.R. §52.21(g)(4) (neither of which provide any requirements regarding a tribe's infrastructure) with CAA Section 301(d)(2) (which sets forth infrastructural requirements for treatment as state). Moreover, all of the Tribe's substantial expenditures have been undertaken under the reasonable assumption that a FIP would be adopted as the interim method to implement the Class I request.

The FCP Community has expanded its Tribal Natural Resources/Environmental Protection Agency capacity significantly since it notified the EPA in 1993 of its intent to apply

for Class I redesignation and requested the adoption of a FIP in 1999. An Environmental Specialist was first employed by the Tribe in 1992 and the FCP Community's Natural Resources Department was formally created in 2000. Since that time, the department began developing monitoring programs to inventory natural resources and gather data to establish baseline environmental information.

In October, 2000, the Tribal Natural Resources Department was created by combining a number of programs including Land Use, Fish and Game, and Solid Waste. In 2002, the Department was substantially expanded with the addition of a Water Resources Specialist, an Air Specialist, an Air/Water Technician, and an Administrative Assistant. By 2004, a Brownfield Coordinator position was added, as well as an Environmental Technician and a receptionist. In 2006, the Brownfield position evolved into a Solid Waste Management Specialist, and an Environmental Program Assistant position was created. Most recently, a water program assistant was hired, bringing the department full-time staff to nine, in addition to four full-time solid waste/recycling crew members, who are also supervised by the Department.

The Department has not only grown in numbers, but in expertise as well. Currently, the department employee base includes two Bachelors of Sciences, three Masters of Sciences and one Doctorate in sciences, all in the field of natural, environmental and/or biological sciences.

The rapid and substantial expansion of the department in 2002 required a larger facility, resulting in the construction of a new Natural Resources Building in September of 2003, which includes a GIS lab, science lab, conference rooms, and eight offices. In late 2006, construction of a garage was started to house department vehicles and field equipment and to provide a classroom for educational outreach activities.

Through the use of various grant monies and a huge investment of Tribal dollars, the department began developing monitoring programs to inventory resources and gather data to establish baseline information and habitat improvement – including, but not limited to:

- the establishment of monthly water sampling of Reservation lakes and streams, including testing for pH, acid and base actions, and sulfur (aluminum is also tested on five-year cycle), groundwater monitoring at the casino/hotel lagoons, and biological surveys of plants, fish, and macro invertebrates (which information is used as additional indices of water quality), and fish-tissue sampling for mercury, all funded in part through the U.S. EPA 106 Clean Water Act Grant;
- fish surveys, erosion control projects and dam removal and stream restoration projects funded with Bureau of Indian Affairs ("BIA") funds;
- a wetland survey and restoration project, a mercury cycling model study on Devils Lake, and a pond restoration project funded by a matching funds grant through the BIA's Circle of Flight Program;
- a number of erosion control projects funded through cost-share agreements with the Natural Resource Conservation Service ("NRCS"); and

- fish surveys in lakes and streams funded through reimbursable agreements with the U.S. Fish and Wildlife Service.

Grants with the State of Wisconsin provided for the development of a Tribal Recycling Program, and Brownfield grants through the U.S. EPA enabled the clean-up of a number of dump sites.

The FCP Community air monitoring program began in 2002 with the filling of a newly created air specialist position. During 2002, the Tribe installed an IVL mercury deposition sampler on loan from the Wisconsin Department of Natural Resources ("WDNR"), and purchased as well as installed a precipitation collector.

In 2003, the FCP Community received the first Air Quality Assessment Grant from EPA pursuant to Section 103 of the Act. With funds provided by the grant, the air site was cleared and leveled to meet siting criteria outlined in EPA air monitoring protocols. In the years that followed, a mobile trailer on loan from the WDNR was brought to the site to house the gaseous air pollutant analyzers including sulfur dioxide and ozone, adding to the particulate samples for Total Suspended Particulates ("TSP"), PM10 (0-10 ug/m3) and PM2.5 (0-2.5 ug/m3). The Tribe expanded the monitoring parameters under the National Atmospheric Deposition Program ("NADP") by installing deposition collectors to measure acid and mercury precipitation. Nearly all equipment initially on loan from the WDNR has now been returned and replaced with equipment purchased with Tribal and/or EPA 103 grant monies.

Below is a chart showing the timeline of the Tribe's monitoring efforts:

TIMELINE CHART

Parameter	On-line	Off-line
TSP	June 2002	July 2005
PM 10	June 2002	September 2005
IVL wet Hg deposition	June 2002	August 2004
Ozone	January 2004	
Sulfur Dioxide	January 2004	
Belford Precipitation Gauge	January 2004	August 2004
Belford Precipitation Gauge	July 2005	
PM 2.5	March 2004	
NADP – MDN (Hg deposition)	July 2005	
NADP – NTN (acid deposition)	July 2005	
Tekran Vaporous Hg	September 2005	
Meteorological Instruments	Anticipated Spring 2007	

As the air monitoring program has grown, so have the administrative duties and responsibilities that come with becoming a fully operational air program. An air technician position was added to the program and filled in 2004. The FCP Community air staff have actively participated in on-site technical training provided through various Memoranda of Understanding between the Tribe and the WDNR. Other training activities have included FCP Community air staff attendance of classes specific to Tribal air program operations through the University of Arizona's Institute for Tribal Environmental Professionals ("ITEP") and the Tribal Air Monitoring Services Center programs ("TAMS"), as well as participation in other air-

resource related conferences and symposiums. The focus of training has shifted over time from technical monitoring operations activities to courses pertaining to federal policy. The more recent sessions included the following training topics: the environment; Tribes and air resources; and program management, including the following ITEP classes: "The Clean Air Act and Permitting," "Title V Permit Review," and "Management of Tribal Air Programs and Grants."

Below is a list of pertinent training attended by the air specialist:

Training/Conference/Workshop Title	Dates	Place	Provided by	Received Certificate?
Management of Tribal Air Programs and Grants	03/14-18/2005	Coeur d'Alene, ID	ITEP	✓
SI-422 Air Pollution Control Orientation Course	04/11/2005	On-line	USEPA-Air Pollution Training Institute	✓
National Tribal Environmental Council (NTEP) Annual Conference	05/03-05/2005	Green Bay, WI	NTEP	n/a
The Clean Air Act and Permitting	05/17-20/2005	Ignacio, CO	ITEP	✓
NADP – MDN and NTN sample collection	06/01/2005	Crandon, WI	NADP staff	n/a
7 th Annual National Tribal Conference on Environmental Management	06/06-09/2005	Traverse City, MI	Grand Traverse Tribe and USEPA	n/a
Reviewing Title V Permits	10/18-20/2005	Green Bay, WI	ITEP	✓
USEPA R5 State, Tribal and Federal Air Contacts Meeting	11/1-2/2005	Chicago, IL	USEPA R5	n/a
Mercury Deposition in the Upper Midwest Workshop	02/22/2006	Chicago, IL	LADCO	n/a
Air Quality Computations Course	03/27-31/2006	Flagstaff, AZ	ITEP	✓
National Air Monitoring Conference	11/6-9/2006	Las Vegas, NV	USEPA, STAPPA, ALAPCO	n/a

It is anticipated that as inventories and data are gathered and baselines are established for air, water, flora and fauna, Tribal natural resource professionals will begin to be able to develop and establish environmental standards from which future ordinances can be drafted. With ordinances in place, the department will move towards accomplishing the FCP Community goals for a Natural Resources department with regulation and enforcement capabilities. Progress has already been made with the approval of an ordinance to prohibit dumping on FCPC lands, while