EXHIBIT B

Royal

United States Department of the Interior

OFFICE OF THE SOLICITOR
Washington, D.C. 20240

IN REPLY REFER TO.

Honorable Bart Stupak
House of Representatives
Washington, D.C. 20515

JUL 26 2006

Dear Mr. Stupak:

Deputy Secretary P. Lynn Scarlett has asked me to respond to your April 28, 2006, letter to her concerning an opinion of this office relating to a possible new gaming casino for the Sault Ste. Marie Band of Chippewa Indians (Band). We appreciate your comments, and welcome the opportunity to respond to you. I apologize for the delay in responding to your correspondence.

After the Supreme Court ruled in *California v. Cabazon Band of Mission Indians*, 480 U.S. 202 (1987), that states had no civil regulatory authority over gaming in Indian country, Congress enacted the Indian Gaming Regulatory Act (IGRA) in an effort to strike a balance between the needs and rights of Indian tribes to pursue economic development and the needs and rights of states to safeguard the well-being of all their citizens and those passing through their jurisdiction. Part of that balance included limiting the circumstances under which tribes could game on lands acquired in trust after the passage of the Act. In Section 20 of the IGRA, 25 U.S.C. § 2719, Congress made very specific and limited exceptions to the general prohibition against gaming on lands acquired after October 18, 1988, the date of the IGRA.

In her February 2006 opinion as acting Associate Solicitor for the Division of Indian Affairs, Edith Blackwell concluded that the Band's 1983 parcel should not be considered a reservation within the meaning of the IGRA. The office stands behind the legal analysis of the opinion. The opinion is, however, only the first step in determining whether the Band can conduct gaming on this site. We understand that the Band has asked the National Indian Gaming Commission (NIGC) to consider whether the Band can conduct gaming on the lands adjacent to the 1983 parcel because the land qualifies as "restored lands" under Section 20 of IGRA (25 U.S.C. § 2719(b)(1)(B)(iii)). If the land does not qualify as "restored lands," the Band might still be able to game on the land with the concurrence of the Governor. (25 U.S.C. § 2719(b)(1)(A)).

We recognize the significant potential economic impact our opinion may have on the Band. The Band was, however, advised in July 2004 by the acting General Counsel for NIGC that she had "serious questions as to whether the lands constitute Indian lands on which the Band may conduct gaming." Several months later the staff attorney handling the matter for the General Counsel's office specifically advised the Band's attorneys "against beginning construction of the facility until the Indian lands question [was] resolved." By proceeding in the

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face of these warning statements, the Band must have chosen to assume the risks described in your correspondence.

We will keep your comments in mind as the Department's consideration of this matter continues. If we can be of further help, please do not hesitate to call on me.

Sincerely,

David L. Bernhardt
Deputy Solicitor