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NATIVE LAND ACQUISITION
IN THE MINNESOTA RIVER VALLEY

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ABSTRACT—The economic issues that often arise from Native land acquisition and development can strain relationships between American Indian tribes and non-Indian local governments. As Indian tribes expand their landholdings, political and economic landscapes are transformed. This paper examines intergovernmental relationships and the characteristics and impacts of recent land acquisitions made by two Dakota Indian communities in the Minnesota River Valley of Minnesota. The Upper Sioux Community has enjoyed a level of cooperation from local communities in their rural land acquisitions, while the Shakopee Mdewakanton Dakota Community has experienced vigorous opposition to their urban land acquisitions. Geographic situation may help to explain the variation in level of opposition or support for Native land acquisition, as well as the possibilities for Native land “possession” vs. “ownership.”

Key Words: American Indians, land tenure, land use, regional development, political geography, economic geography

INTRODUCTION

The ownership and control of land has been a source of conflict between American Indian and white populations for over three centuries, and land tenure issues continue to play a major role in conflicts between tribes and non-Indian communities in the northern Great Plains and across the United States (Sutton 1975; Bays and Fouberg 2002; Steinman 2004). Relationships between Indian tribes and non-Indian local governments are easily strained by economic issues and perceptions of economic disparity or unequal opportunity. These issues often arise from tribal land acquisition and development.

The legal status of Indian-owned lands affects the distribution of powers among federal, state, local, and tribal governments (e.g., jurisdictional powers such as taxation or regulatory powers such as zoning). Indian reservation and trust lands are not subject to state and local regulations, including zoning codes, gaming regulations, and property taxation. Thus, Indian land tenure also affects the distribution of economic benefits between Indian and non-Indian governments.

Scholars have noted the importance of trust lands to the preservation and promotion of tribal sovereignty (Weil 1987; Sutton 2005), as well as to tribal economic development (Piner and Paradis 2004) and cultural resurgence (Wishart 1994). Wishart and Froehling argue that for tribes to extend their sovereignty, “perhaps the best opportunity . . . is to use the revenues from gaming and other economic ventures to buy back their lost land” (1996:56). Forbes-Boyte (1999) argues that past dispossession of Indian lands continues to encumber contemporary Indians and specifically that a “geography of possession” means that those who are recognized as legal landowners define the use of space (such as in the conflict between Indian and non-Indian use of Bear Butte in South Dakota). Sutton, however, notes a distinction between “ownership” and “jurisdiction” (or between “property” and “polity”) and a widespread confusion over this difference in Indian/non-Indian land-use conflicts (1991:21).

In this paper, I suggest that the acquisition of additional tribal lands may provide a way to achieve expanded tribal “ownership” but not necessarily “possession” because of the U.S. government’s interpretation of the Indian Reorganization Act and differences in tribal-local relationships. Using a comparative case-study approach, I examine these intergovernmental relationships as well as the characteristics and impacts of recent land acquisitions made by two Dakota Indian communities in the Minnesota River Valley of Minnesota. In this regard, the paper
makes a significant empirical contribution, as very little research exists on current tribal trust land acquisitions, and data are difficult to access and may require that one approach tribes directly (Sutton 2005).

BACKGROUND

Across the Plains, most Indian reservations and tribal trust lands are located far from population centers and correlate with areas of depressed economic conditions. For example, the closest major urban center to the Fort Peck reservation in northeastern Montana is Billings at 190 miles. Almost 40% of Indian reservations within the United States are located farther than 60 miles from a city with population greater than 50,000, and 15% are located farther than 100 miles from a city of that size.

In the state of Minnesota, the shorter distance of some tribes’ lands from population centers has made for unequal development opportunities among the 11 tribes in the state. The Shakopee Mdewakanton and Prairie Island Dakota communities are much better situated to take advantage of the Twin Cities’ population and market area than are other tribes, including the other two Dakota communities (Upper Sioux and Lower Sioux) along the Minnesota River (Fig. 1). The Shakopee Mdewakanton Community has benefited greatly from its location in a
southwestern suburb of Minneapolis with its Mystic Lake Casino, one of the most profitable Indian casinos in the nation (Fig. 2).

Most Indian reservations in Minnesota are faced with extremely high rates of poverty, including the Dakota communities of the Minnesota River Valley. The percentage of the population in poverty statewide in the year 2000 was 7.7%, but most reservations experienced poverty levels at least double that rate. The Upper Sioux reservation suffered from a poverty rate around 40% (U.S. Census Bureau 2000b). Therefore, it is not surprising that until the explosion in popularity of Indian gaming in the 1990s, many tribes had limited funds with which to acquire land. However, with the great success of some Indian casinos (especially those with advantageous locations near urban centers, such as Shakopee's Mystic Lake), many tribes now have increased resources with which to acquire and develop new lands.

Indian Landownership

As stated earlier, the legal status of Indian lands determines the jurisdictional and regulatory powers of the federal, state, and local governments, and the tribes. Indian trust lands are not subject to state and local regulations, including property taxation, zoning codes, land-use laws, or gaming regulations; the lands are held "in trust" by the federal government for the tribe or individual Indian owner. Trust lands are a product of the allotment era of Indian lands in the United States, during which time communal reservation lands were surveyed into parcels and assigned to individual Indians in an attempt to assimilate them into mainstream American culture as landowners and farmers. Due to implementation of allotment policy, the amount of Native-owned lands was drastically reduced from nearly 140 million acres of tribal landholdings at the time of passage of the General Allotment Act in 1887 to only 48 million acres by 1934 (Clinton et al. 1991:152).

The Indian Reorganization Act (IRA) of 1934 signaled the end of the federal policy of allotment and also authorized the secretary of interior to acquire new land in trust for tribes, whether inside or outside reservation boundaries. Historically, this provision of the IRA has been used to reacquire and protect reservation lands that had fallen out of tribal ownership, and to help promote self-determination by reestablishing tribal land bases. Off-reservation acquisitions (defined as land that is both outside of and noncontiguous to a reservation) are rare. For example, in 1996 the Bureau of Indian Affairs (BIA) reported that only 4% of trust applications were for off-reservation acquisitions (278 out of 6,941 total applications) (U.S. BIA 1999:17575). Similarly, most of the new trust acreage acquired by tribes in Minnesota in the 1990s was located within or contiguous to reservations, including those lands acquired by the Dakota communities of the Minnesota River Valley.

To place any land in trust requires an application to the Bureau of Indian Affairs. There is a presumption in favor of applications for on-reservation lands, but applications for off-reservation lands are subject to more demanding criteria (e.g., justification of need for the land to be placed in trust, intended uses of the land, impacts on state and local governments, etc.). Also, as distance between the tribe's reservation and the proposed land increases (especially into urban areas), the BIA gives greater scrutiny to the tribe's plan and greater weight to the concerns of state and local governments. Implementation of the law depends on geography.

DAKOTA LAND ACQUISITIONS IN THE MINNESOTA RIVER VALLEY

Tribal land acquisitions inevitably produce a variety of political and economic reactions and consequences for the tribe, the state, and county and local governments. Much of the land owned (or recently purchased) by tribes across the Plains is undeveloped and without great value in relation to the total property value of the respective counties in which the land is located. However, in more rural areas, American Indian development (especially gaming operations) may make up a substantial portion of a relatively low total property tax base. Tribal acquisition of lands located close to or within urban areas is often opposed by local communities because of the increased
market value (and tax potential) of the land. Because of their suburban location, the land acquisitions of the Shakopee Mdewakanton Community have been among the most controversial in the region and even the nation. In the state of Minnesota, tension and hostility over Native land acquisitions have been apparent, as indicated by newspaper headlines such as “Indians Gain Land; Counties Lose Money” and “Indian Property Trusts Irk Counties” (Whereatt 1995).

To illustrate the process and impacts of Native land acquisition in the Minnesota River Valley, I examined tribal land acquisitions from the early 1990s to the present—three by the Shakopee Mdewakanton Community and four by the Upper Sioux Community. Information for these cases was collected from regional media and local newspaper coverage, semistructured interviews with county assessors, county auditors, and tribal officials, and from primary documents (tribal trust applications, state and local government responses, and decision letters) that I obtained from the Bureau of Indian Affairs through the Freedom of Information Act.

**Upper Sioux Community**

The Upper Sioux reservation is located along the Minnesota River in Yellow Medicine County, five miles south of the city of Granite Falls (population 3,070 in the year 2000) and about 15 miles southeast of Montevideo (population 5,346 in 2000). The original reservation of 746 acres, consisting primarily of farmland and prairie, was established in 1938 (USC 2004). In 1990, the tribe built Firefly Creek Casino, which was expanded over the decade and replaced by Prairie’s Edge Casino Resort in 2004 (Fig. 3).

Upper Sioux is one of the smallest and poorest of Minnesota’s Indian reservations. Tribal enrollment in 2004 was 414, but the reservation had only 57 residents in the year 2000 (47 of whom identified themselves as American Indian). The Indian population increased at both Upper Sioux and in Yellow Medicine County from 1990 to 2000, while the county suffered a 5% decrease in overall population due to stagnation of the region’s rural agrarian-based economy (U.S. Census Bureau 1990a; U.S. Census Bureau 2000a).

The Upper Sioux Community’s median household income of $7,642 in 1989 represented just 35% of the median household income for Yellow Medicine County ($21,537) and less than one-fourth of the median household income for the state of Minnesota ($30,909) (U.S. Census Bureau 1990b). With the construction of the original Firefly Creek Casino, median household income rose dramatically over the decade to $25,625 in 1999. Even so, this figure was only 54% of the state’s median household income ($47,111) and still only 75% of the median household income for Yellow Medicine County ($34,393) (U.S. Census Bureau 2000b).

Despite the casino development, the Upper Sioux Community continues to struggle with extremely high rates of poverty; in both 1990 and 2000 more than one-third of the population at Upper Sioux lived below the
The county responded to notice of these trust applications with concerns over “substantial loss of property tax revenue,” zoning conflicts, and the cost of service provision to the lands without tax revenue to cover the costs. Included with the county’s letter to the BIA was a copy of a “Policy Position” from the Association of Minnesota Counties on land purchases by American Indians. This boilerplate document describes the general opposition of Minnesota counties to tribal fee-to-trust transfers, arguing that removing lands from the property tax rolls places a significant burden on local governments.

The BIA approved both applications, determining that any detrimental impact on local governments would not outweigh the benefits to the tribe of placing the lands in trust. Taxes on these properties represented less than 0.01% of the total property tax base, and the tribe’s voluntary annual contributions to county projects and service providers (such as the Granite Falls fire department) more than offset the lost tax revenue for the property (Table 1).

Trust applications made by the Upper Sioux Community in 2002 and 2003 experienced similar outcomes. The applications again proposed additional lands for housing development above the Minnesota River floodplain. By 2002, only 89 tribal members were housed in the 45 homes located on tribal trust lands. The nearby towns of Granite Falls and Montevideo had limited available housing due to severe flooding of the Minnesota River in both 1997 and 2001. Again, the BIA determined that removal of the properties from the tax rolls would have a minimal impact, and that Upper Sioux donations made to the local school district and to community service providers far offset the loss of tax revenue. Numerous community organizations, including the county sheriff’s department and the Granite Falls fire department, even sent letters of support for the tribe’s applications.

**Shakopee Mdewakanton Community**

The Shakopee Mdewakanton Dakota Community is located between the cities of Shakopee and Prior Lake in Scott County, south of the Minnesota River and part of the rapidly growing southwestern suburbs of the Twin Cities metropolitan area. Scott County was the fastest-growing county in the state of Minnesota from 1990 to 2000.

The Shakopee reservation is the youngest in Minnesota; it received official federal recognition in 1969 with establishment of a new tribal constitution under the provisions of the Indian Reorganization Act. The original reservation established for the tribe in the 1880s consisted
of only about 250 acres, but about 400 additional acres were placed in trust over the decade of the 1990s. Other lands were purchased but not placed in trust, so that the tribe now holds about 2,000 acres. Substantial profits from the tribe’s extremely successful gaming operations have allowed for tribal land acquisition over the decade, and for expanded and diversified development options, even in a rapidly appreciating urban market.

Tribal enrollment in the Shakopee Community was about 300 in the year 1999. Of 338 reservation residents in 2000, 244 identified themselves as American Indian. The Indian population greatly increased at both the Shakopee Community and in Scott County from 1990 to 2000, with the county experiencing over 200% growth in its Indian population. The county also experienced a 55% increase in total population over the decade, due to its rapidly growing suburban municipalities (U.S. Census Bureau 1990a; U.S. Census Bureau 2000a).

The population increase at the Shakopee Community from 1990 to 2000 was likely due to the tribe’s economic success. The Shakopee Community was by far the wealthiest of Minnesota’s reservations, with a median household income of $60,000 in 1989, exceeding even the median for Scott County and just about double the median for the state ($30,909) (U.S. Census Bureau 1990b). This figure is quite surprising, as is the fact that the community’s median household income dropped to $55,000 by 1999 (falling behind the county median, although still ahead of the state median) and the percentage of the population in poverty increased from 5% to 20% over the decade (U.S. Census Bureau 2000b). These trends may be due to the employment and income characteristics of the population added to the reservation over the decade, as well as a significant increase in non-Indian population on the reservation (who would not be eligible to receive casino revenue per-capita payments).

A strong indication of the wealth generated by casino profits and subsequent investments made by community members is the rise in median value of owner-occupied housing for the Shakopee Community. In 1990, a median-priced house in the community was $70,500, just less than the statewide median, and 78% of the Scott County median (U.S. Census Bureau 1990a). By 2000, the median value of housing in the Shakopee Community was $210,700, surpassing both the county and state median values (U.S. Census Bureau 2000b). In fact, the community’s median value of owner-occupied housing was 1.7 times that of the state in 2000.

### TABLE 1

<table>
<thead>
<tr>
<th>Date of application</th>
<th>Acreage</th>
<th>Type of development</th>
<th>Property tax ($)</th>
<th>Percentage of tax base (%)</th>
<th>Outcome</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Upper Sioux Community</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>June 1995</td>
<td>165</td>
<td>Housing</td>
<td>696</td>
<td>N/A</td>
<td>Approved (1998)</td>
</tr>
<tr>
<td>January 1996</td>
<td>291</td>
<td>Housing</td>
<td>4,324</td>
<td>0.0045</td>
<td>Approved (8/97)</td>
</tr>
<tr>
<td>May 2002</td>
<td>114</td>
<td>Housing, relocation of government and business</td>
<td>1,348</td>
<td>0.021</td>
<td>Approved (12/02)</td>
</tr>
<tr>
<td>January 2003</td>
<td>75</td>
<td>Housing</td>
<td>1,182</td>
<td>0.13</td>
<td>Approved (6/04)</td>
</tr>
<tr>
<td><strong>Shakopee Mdewakanton Dakota Community</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>March 1993</td>
<td>200+</td>
<td>Residential and economic</td>
<td>N/A</td>
<td>N/A</td>
<td>Approved (3/93)</td>
</tr>
<tr>
<td>May 1995</td>
<td>593</td>
<td>Residential, commercial, institutional, and agricultural</td>
<td>18,594</td>
<td>N/A</td>
<td>Denied (10/98)</td>
</tr>
<tr>
<td>February 2000</td>
<td>776</td>
<td>Residential and government</td>
<td>26,000</td>
<td>0.12</td>
<td>Pending</td>
</tr>
</tbody>
</table>
The landholdings of the Shakopee Community greatly increased over the decade of the 1990s, but not all of the acquisitions were placed in trust. One trust application was successful, while one was not (and the third is still pending). Through the Freedom of Information Act request made to the Minneapolis Area Office of the BIA and an interview with the Scott County assessor, I obtained copies of the trust applications and correspondence reflecting the various arguments made by the Shakopee Community, the Bureau of Indian Affairs, Scott County officials, and State of Minnesota officials in support or opposition to each of these applications.

**Urban Land Acquisition.** In 1994, the tribe bought 593 acres of farmland on the edge of the city of Shakopee, bidding $4.5 million. This was more than twice the amount of the next highest bid; the land was appraised at just $1.1 million (Kaszuba 1994). In 1995, the tribe applied to transfer the property into trust, with wide-ranging development plans from institutional to commercial and residential. When the state and local governments were notified of the application, all responded with very strong opposition. This followed years of tension between the tribe and county, which maintained that Mystic Lake Casino placed a burden of over $2 million annually on the county budget through highway costs, traffic signals, 911 calls, jail space, and criminal prosecutions (Kaszuba 1996). In 1997, the county even considered placing tollbooths on county roads leading to the casino in an attempt to recoup some of the cost (Doyle 1997). This action was averted when the tribe signed an agreement to make annual payments of $200,000 to the county for increased service costs in lieu of taxes (Kaszuba 1997). Since then, the tribe has also contributed to the cost of rebuilding highways leading to the casino and has worked with the city of Prior Lake to share road equipment and to fund a Prior Lake police officer who is housed at the tribe’s community center (Doyle 1999; SMSC 2003).

In their response to the trust application, the county was most concerned about the loss of property tax base and increased service costs. The City of Shakopee was also concerned about lost property taxes but further argued that the acquisition would create jurisdictional and land-use problems, and that the tribe did not need additional trust land. The city even sought an injunction to prevent the secretary of interior from taking the land into trust. The Scott County assessor argued that no matter their development plans, the tribe held an “unfair advantage” over other developers if the land was placed in trust (L. Arnoldi, pers. comm. 1999). State governor Arne Carlson also stated that it was “fundamentally unfair to subsidize” the development activities of “a population that is fully able to utilize existing opportunities.”

Even though the BIA found the loss of property tax revenue to be insignificant and found no detriment to the state or local governments, it finally denied the tribe’s application in 1998. It appeared that the critical factor in this decision was the tribe’s failure to show a need for trust status to achieve its development goals, which is the first time that the “economic success” of a tribe had been cited in a decision.

In 2000, the Shakopee Community once again applied to move the 593 acres (plus three additional acquisitions for a total of 776 acres) into trust, this time for proposed housing development only. Governor Jesse Ventura continued the strong opposition of his predecessor to the application, arguing that “the state cannot encourage tribal activity that may harm local governments and other citizens” (Olson 2000). Scott County stated its desire to “foster and maintain” a positive intergovernmental relationship with the tribe but was concerned that approval of this trust application could “negate the positive, constructive foundation established for all future County-Tribal relationships.” The City of Prior Lake also opposed the application, at the same time acknowledging the agreement between the tribe and city for police and fire protection, as well as the numerous gifts and contributions made by the tribe to the city. The city argued that the loss of this land to trust status would reduce the future tax base and shift the tax burden from individuals who “possess significant wealth” (tribal members) to city taxpayers who are “considerably less well off.”

In both 2001 and 2002, a delegation of county and city officials traveled to Washington, DC, to voice their opposition to the tribe’s application in meetings with regional and national Bureau of Indian Affairs staff and Minnesota’s congressional delegation (Mueller 2002). In these meetings, the BIA recommended that a local solution to the conflict over the trust land application be negotiated. Six years after the application was made, there has been no progress in negotiating a local solution, and the BIA director has overruled the Midwest regional office’s decision to approve the application with no final decision (Lonetree 2006).

**RESULTS**

All of the applications from both Dakota communities included plans for residential development, with a stated primary objective of providing housing opportunities on
previously agricultural land located near existing tribal lands to accommodate a growing tribal membership (although the Shakopee plans included other forms of development that are typically of higher concern to county and local governments, such as commercial development). In each case, the respective county argued that placement of the lands in trust would harm the county through loss of tax revenue. In each case, the percentage of tax base that would be lost was minimal (the highest percentages being just over 0.1%), and the BIA consistently determined that the loss of tax base was not significant enough to warrant denial of the application.

However, all four Upper Sioux applications were approved while the 1995 Shakopee application was denied and the current application remains undecided after six years of deliberation. The vigor with which county government (as well as state and city government) opposed the applications reflects a range of tribal-local relationships from cooperation to conflict.

It is true that Yellow Medicine County expressed concern over the loss of tax revenue, stating in one response that “all citizens owning property should pay taxes.” However, in each of the four Upper Sioux applications, the county’s argument was brief and was stated in more general terms as opposition of all local governments in the state to the placement of lands in trust (rather than as an argument against the specific application under consideration). The responses to the Upper Sioux applications were much more positive in nature than the local responses to the Shakopee applications. All applications mentioned the donations the Upper Sioux Community made to local organizations, and ongoing agreements made between the tribe and local governments to cover costs of service provision. The 2002 application even included letters of support from local service providers.

In contrast, Scott County, as well as the State of Minnesota and the cities of Shakopee and Prior Lake, were adamant in their opposition to the Shakopee tribe’s applications, and detailed specific objections to each application. The issue of equity among tribal members and other local citizens was mentioned repeatedly, especially in terms of income (casino wealth) and taxation. The State of Minnesota argued of “harm” to local citizens in terms of an unfair tax burden and questioned the tribe’s “need” to place the lands in trust for its long-term survival or to achieve its development goals. The Shakopee applications were characterized by conflict between the tribe and local governments rather than the tribal-local cooperation evident in the Upper Sioux applications. I would argue that because of this conflict (and the subsequent decisions on trust status made by the U.S. government), the Shakopee tribe was denied possession of their newly acquired lands.

CONCLUSIONS

Despite the rather even distribution of impact on tax revenues from tribal land acquisitions, there may be more potential benefits to rural areas than urban areas because of the decreased likelihood of other types of development. This may also help to explain the variation in level of opposition or support in the local-tribal relationship. Do local governments believe that tribal development will displace other types of development or will contribute to the region’s success?

In stark contrast to the situation in Shakopee, we may begin to see struggling communities across the Plains actually solicit tribal land acquisition to try to jumpstart their economies, often through proposed gaming developments. In a dramatic turn, Minnesota’s Governor Pawlenty and Republican legislators introduced failed bills in both 2004 and 2005 that would have allowed tribes to acquire land and operate a state-run casino within the Twin Cities metro area.

For over a century, tribes across the Plains have suffered from extremely depressed economic conditions on their reservation lands. A few tribes have been privileged by geography in their development options; others are now attempting to use land acquisitions to overcome their geographic disadvantages or simply to expand their landholdings. The land acquisitions made by Dakota communities in the Minnesota River Valley help illustrate the range of possible outcomes, from cooperation to conflict, and from ownership to possession. The recent increase in Native land acquisition reflects a significant transformation of the political and economic landscapes of this region of the Plains.

REFERENCES


