

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF IOWA
WESTERN DIVISION

CITY OF COUNCIL BLUFFS, IOWA,)
)
 Plaintiff,)
)
 and)
 STATE OF NEBRASKA, ex rel., DOUGLAS)
 J. PETERSON, Attorney General of the State)
 Nebraska,)
)
 and)
 STATE OF IOWA,)
)
 Intervenor-Plaintiffs)
)
 UNITED STATES DEPARTMENT OF)
 THE INTERIOR, RYAN K. ZINKE, in his)
 official capacity as Secretary of the United)
 States Department of the Interior; NATIONAL)
 INDIAN GAMING COMMISSION; JONODEV)
 OSCEOLA CHAUDHURI, in his official)
 capacity as Chairman of the National Indian)
 Gaming Commission; and KATHRYN ISOM-)
 CLAUSE, in her official capacity as Vice Chair)
 of the National Indian Gaming Commission,)
)
 Defendants.)
)
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Civ. No. 1:17-cv-00033-SMR-CFB

**PLAINTIFFS’ SUPPLEMENT
TO MOTION FOR EXPEDITED
CONSIDERATION AFTER
BRIEFING**

Plaintiffs filed a motion for summary judgment and expedited decision following briefing on August 3, 2018. ECF 22. This informational filing supplements that motion with additional information relevant to Plaintiffs’ request to expedite. The Ponca Tribe of Nebraska (Tribe) has announced plans to open its casino in less than sixty days from now.

Earlier this month, Plaintiffs' brief in this litigation described groundbreaking at the Carter Lake site. Memorandum of Law in Support of Plaintiffs' Motion for Summary judgment and Expedited Consideration After Briefing, ECF 22-1, p. 34. Recent media coverage confirms that construction is underway for what the Tribe calls the first phase of development in Carter Lake. Attachment A, Ponca Tribe Announces Casino Name, Opening Timeline (*Des Moines Register*); Attachment B, Ponca Tribe of Nebraska planning a casino in Iowa Despite a Lawsuit Brought by the State (*Daily Nonpareil Online*). As both attached articles explain, the Tribe anticipates opening its casino, featuring slot-style games, in less than two months. The building under construction will provide 9,500 square feet of space, and the Tribe has announced plans to hire about 100 people to work at the casino. Attachment B.

Plaintiffs' complaints in this litigation lay out the harms that will be caused by the opening of a gaming facility in Carter Lake. The Tribe's decision to proceed with gaming on this site during the pendency of this lawsuit reflects lack of respect for the legal process. The Tribe is deliberately disregarding the disruptive nature of its actions to the communities that will be hurt by this casino.

Plaintiffs continue to believe that the most efficient way to resolve this dispute is for both sides to have time to conclude briefing on the merits. Under the schedule negotiated with the Department of Justice and approved by this Court, the briefing in this case will not be completed at the time the Tribe plans to open its casino.

The purpose of this filing is to provide an additional factual basis in support of Plaintiffs' request that this Court expedite decision at the conclusion of briefing. By barreling through construction to open before this Court has had a chance to issue a decision, the Tribe is

positioning itself to benefit from an illegal facility. The Tribe's rushed construction willfully disregards this Court's responsibility to evaluate the legality of the underlying Federal decision. A swift decision from this Court, as soon as possible after briefing is complete, will minimize the harms to the people of Iowa and Nebraska from the Tribe's actions. The resolution of this dispute as soon as practicable is in all parties' interest.

Respectfully Submitted August 31, 2018.

<p><u>/s/ Richard Wade</u></p> <p>Richard Wade, City Attorney for Council Bluffs 209 Pearl Street Council Bluffs, Iowa 51503 Tel. (712) 890-5317 Fax. (712) 322-9255</p> <p><i>Counsel for Plaintiff</i></p>	<p>Thomas J. Miller, Iowa Atty. General Jeffrey S. Thompson, Solicitor General</p> <p><u>/s/ David M. Ranscht</u></p> <p>David M. Ranscht John R. Lundquist Assistant Attorneys General Hoover Building, 2nd Floor Des Moines, IA 50319 Tel. (515) 281-7175 Fax. (515) 281-4209 Jeffrey.thompson@ag.iowa.gov david.ranscht@ag.iowa.gov john.lundquist@ag.iowa.gov</p> <p><i>Counsel for the State of Iowa</i></p> <p>AND</p> <p>Douglas J. Peterson, Attorney General of Nebraska</p> <p><u>/s/ David A. Lopez</u></p> <p>David A. Lopez, Deputy Solicitor General Ryan S. Post (pro hac vice pending) Asst. Atty. General and Civil Litigation Bureau Chief Office of the Attorney General 2115 State Capitol Lincoln, Nebraska 68509 Tel. (402) 471-2682 dave.lopez@nebraska.gov ryan.post@nebraska.gov</p> <p><i>Counsel for the State of Nebraska</i></p>
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