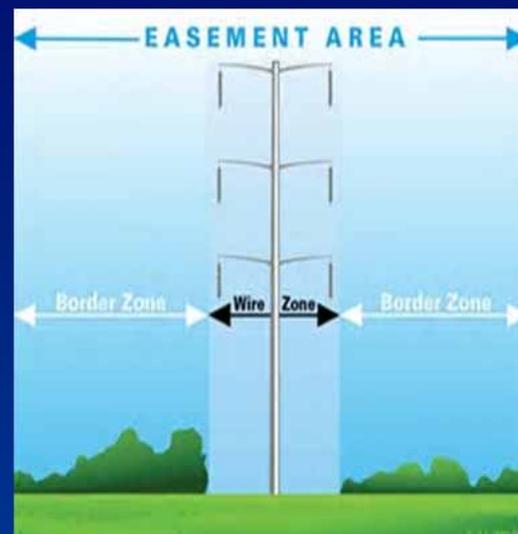




Case Study



**Tribal Real Estate Training
Thursday, April 6 & 7, 2017
Grand Lodge Waterpark Resort
Rothschild, WI
April 6-7, 2017**

Hypothetical Case Study – 1 of 6

The Three Rivers Nation (TRN), a federally-recognized tribal nation, has a 10,000 acre trust reservation within the boundaries of the state of Wisconsin in central Wisconsin. TRN also owns several parcels of land adjacent to the reservation boundaries and in the local city of Wausau, Wisconsin held in fee title. TRN has a Realty Division Director, a Register of Deeds and typically outsources surveying and appraisal services. TRN has an approved Leasing Code under the 2012 HEARTH Act and therefore, has authority to enter into agricultural, business and residential leases on trust land. The fee parcel had recently been surveyed for subdivision and development for commercial leasing and mixed use, consistent with the tribe's land use, residential and economic development plans. Title work is underway.

Case Study – 2 of 6

TRN has preliminary agreements with several commercial lessees, but notably, Starbucks, Target and Texas Roadhouse need every square inch of the assigned subdivided parcel as agreed to seal the deal. The tribe secured HUD monies to build a 50-unit apartment complex on the west side of the parcel to help meet the tribe's housing crisis. The tribe also carved out a .5 acre site containing a single effigy mound located on the northern border of the existing ROW just off Highway 51 slated for long-term protection of the site. TRN submitted a fee-to-trust application for the parcel to the local BIA agency office in November 2016.

Case Study 3 of 6

On January 3, 2017, the ABC Power Co. (ABC) sent a certified letter to TRN's Chairman Deer that ABC sought easements for new power lines infrastructure within the TRN's reservation and along the western ROW area of Highway 51 that includes TRN's fee parcels slated for development. The Wisconsin Department of Transportation (WisDOT) had been in the early phases of project planning to widen the Right-of-Way (ROW) on Highway 51 for shoulder improvement and to accommodate the demand for utility infrastructure. In fact, the WisDOT had already worked with ABC and other utility companies to conclude that the ROW must be expanded an additional 10 feet.

Case Study – 4 of 6

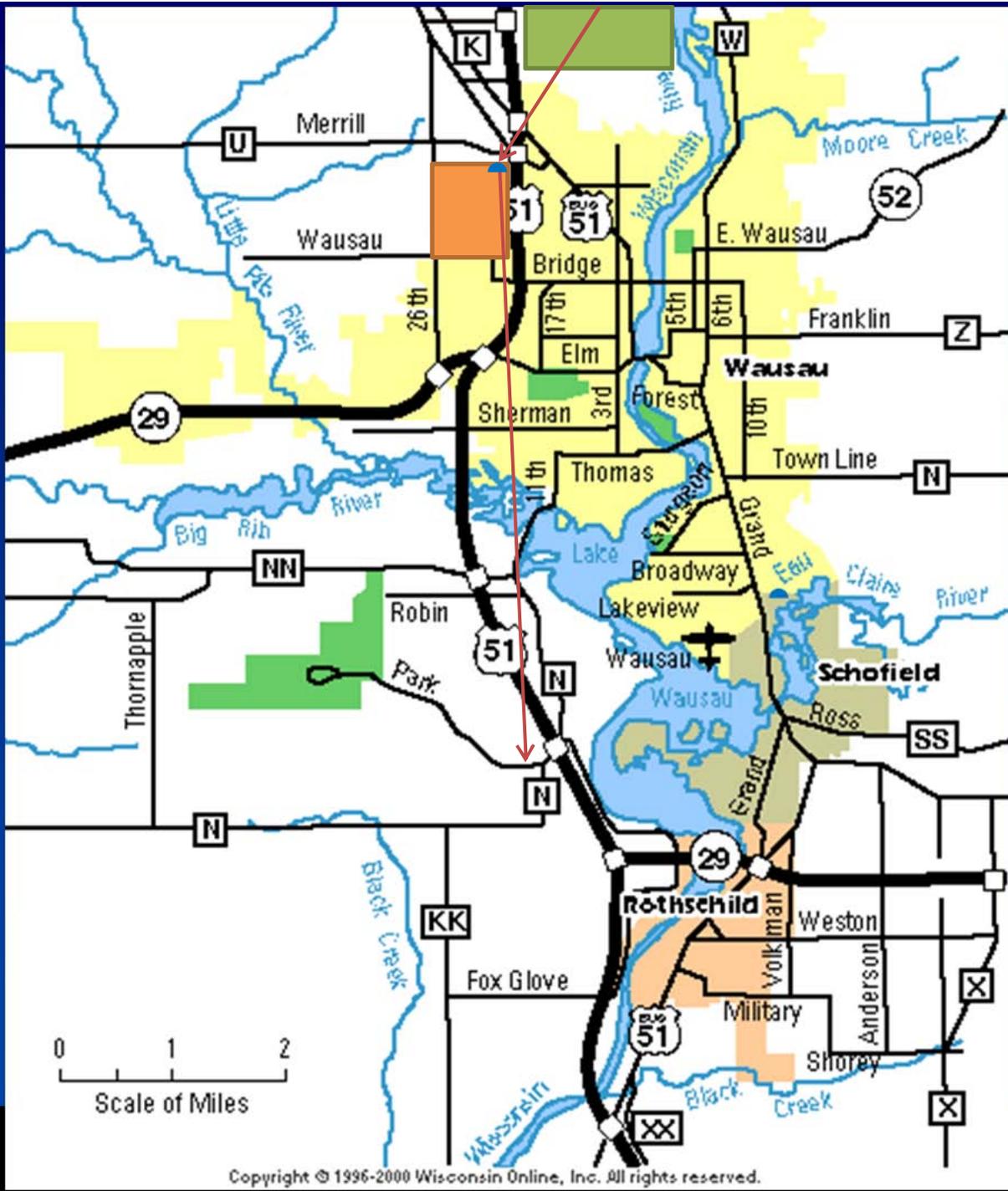
WisDOT began the appraisal process based on its authority to condemn tribal fee land as established in the case *Oneida Tribe of Indians of Wisconsin v. Village of Hobart*, 542 F.Supp.2d 908 (2008) (holding that tribally-owned fee lands, even if within the tribe's reservation boundaries, is subject to eminent domain, unless it is taken into trust by the United States). The project impact through the reservation involves original reservation land, allotted land parcels, some of which fell outside of tribal ownership due to taxation and some repurchased in 2007-2010 in fee.

Case Study – 5 of 6

Based on demands by utility companies, WisDOT is processing temporary limited easements (TLEs). ABC's notice to TRN only included a plat map showing a proposed encumbrance through the reservation and beyond the existing easement on the fee parcel. No other supportive documents accompanied the notice leaving Chairman Deer and his Realty Director infuriated. TRN reaches out the BIA Great Lakes Regional office as soon as they learn of ABC and WisDOT's plans for support.

Case Study – 6 of 6

- Discuss:
 - TLE
 - Appraisals, negotiation and settlement or no settlement
 - BIA process/views
 - Tribal view
 - WisDOT view
 - ABC view
 - Other issues



TRN Reservation
 TRN Fee Land
 Sacred Site
 Proposed Line

CASE STUDY

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On January 3, 2017, the ABC Power Co. (ABC) sent a certified letter to TRN's Chairman Deer that ABC sought easements for new power lines infrastructure within the TRN's reservation and along the eastern ROW area of Highway 51 that includes TRN's fee parcels slated for development. The Wisconsin Department of Transportation (WisDOT) had been in the early phases of project planning to widen the Right-of-Way (ROW) on Highway 51 for shoulder improvement and to accommodate the demand for utility infrastructure. In fact, the WisDOT had already worked with ABC and other utility companies to conclude that the ROW must be expanded an additional 10 feet. WisDOT began the appraisal process based on its authority to condemn tribal fee land as established in the case *Oneida Tribe of Indians of Wisconsin v. Village of Hobart*, 542 F.Supp.2d 908 (2008)(holding that tribally-owned fee lands, even if within the tribe's reservation boundaries, is subject to eminent domain, unless it is taken into trust by the United States). The project impact through the reservation involves original reservation land, allotted land parcels, some of which fell outside of tribal ownership due to taxation and some repurchased in 2007-2010 in fee.

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