



POTAWATOMI  
(Keeper of the Fire)

# Forest County Potawatomi Community

P.O. Box 340, Crandon, Wisconsin 54520

May 10, 2011

Ms. Susan Hedman – Regional Administrator  
US Environmental Protection Agency – Region V  
77 W. Jackson Blvd.  
Chicago, IL 60604-3590

RECEIVED

JUN 09 2011

OFFICE OF REGIONAL ADMINISTRATION

Dear Ms. Hedman:

The Forest County Potawatomi Community (FCPC) would like to thank the U.S. Environmental Protection Agency (EPA) for contacting the Tribe regarding this matter and for the opportunity to provide recommendations for attainment/non-attainment/unclassifiable designations for FCPC lands.

The FCPC is, in accordance with Section 107 (d)(1)(A) of the Clean Air Act (CAA), submitting recommendations on the 2010 1-hour sulfur dioxide (SO<sub>2</sub>) designations for reservation, trust and fee (R/T/F) lands throughout Wisconsin for which the Tribe has jurisdiction. These lands are located predominantly in Forest County with smaller parcels scattered in Oconto, Oneida, Shawano, Fond du Lac and Milwaukee Counties<sup>1</sup> (see maps attached).

While tribes are not obligated to participate in the designation process, EPA has invited Tribes to do so by expressing its intent to follow the same process for tribes as for states to the extent practicable pursuant to section 301(d) of the CAA and the Tribal Authority rule (40 CFR Part 49) (see, Director Stephen D. Page's Memorandum dated March 24, 2011). Furthermore, by proposing recommendations for SO<sub>2</sub> designation on FCPC R/T/F lands under its jurisdiction, the FCPC is protecting the health of its people and its natural resources and, importantly, exercising its Tribal sovereignty.

### **Designation Requirements**

As required in 40 CFR parts 50 and 58 appendix A (1.1)(c) for siting and operation of State and Local Air Monitoring Station (SLAMS) and Prevention of Significant Deterioration (PSD) air monitoring, data collected at FCPC is in accordance with Federal Reference Method (FRM) and Federal Equivalent Method (FEM) monitors, using the EPA approved FCPC Air Monitoring Quality Assurance Project Plan (QAPP) and Standard Operating Procedures (SOPs), adopted from the Wisconsin Department of

<sup>1</sup> Forest County 14,870 acres; Oconto 200 acres, Oneida 189 acres; Shawano 89 acres, Fond du Lac 80 acres, Milwaukee 19 acres.

Natural Resources (WDNR) as part of the Primary Quality Assurance Organization (PQAO) - 1175.

The approach anticipated to be taken by EPA as described in Sections III through VI of the preamble to the final rule promulgating the revised primary SO<sub>2</sub> NAAQS uses both air quality monitoring and modeling information for designations. However, EPA acknowledged that in some cases, "monitoring data may be the more technically appropriate information for determining compliance with the 1-hour NAAQS (See e.g., 75 FR at 35552, n. 22). Design values are determined by averaging the 99<sup>th</sup> percentiles for the most recent three consecutive years. A monitoring site is classified as "in attainment" if the design value is less than or equal to 75 ppb (part per billion).

#### **FCPC R/T/F Lands within Forest County**

The FCPC Reservation and Trust lands located in Forest County consist of scattered parcels totaling approximately 15,700 acres of primarily forested lands in what is often referred to as a pristine environment. In an effort to preserve this quality of the land and air for the Potawatomi, the Tribe applied for redesignation of its airshed to Class I, which was granted by EPA in April 2008.

Sulfur dioxide (SO<sub>2</sub>) is monitored at the FCPC's single air monitoring site located on Sugarbush Hill in the Lincoln Township within Forest County, 4.5 miles east of the City of Crandon. The data has been collected in accordance with the requirements of 40 CFR Part 58, Appendix A, and is quality assured by Quality Assurance (QA) staff at the WDNR. Certification of the data is also provided by the staff at WDNR as part of the Primary Quality Assurance Organization (PQAO) and the FCPC/WDNR Air Monitoring Memorandum of Understanding (MOU), amended December, 2010.

The FCPC has been operating a SO<sub>2</sub> analyzer beginning in January of 2004. The design value for the 2010 1-hour SO<sub>2</sub> NAAQS is the average of the 99<sup>th</sup> percentile for the most recent last 3 years. Using 2008 through 2010 data (9.0, 8.0, and 8.0 ppb respectively), the average 99<sup>th</sup> percentile is 8.33 parts per billion (ppb), well beneath the 2010 SO<sub>2</sub> NAAQS of 75 ppb. (see attached USEPA AQS AMP450 Quick Look Report for FCPC site ID TT-434-0007).

Currently, there are no major sources of SO<sub>2</sub> within the FCPC Reservation or in all of Forest County. The nearest large SO<sub>2</sub> source is located in the City of Rhinelander within Oneida County, 48 km (30 miles) west of the FCPC air monitoring site. Between 2008 and 2010, the 1<sup>st</sup> hourly maximum values are 11.0, 15.0, and 22.0. Again, these annual maximum values are well beneath the new 1-hour SO<sub>2</sub> standard.

Utilizing EPA's 5 factors for evaluation:

#### **1) Air Quality Data**

The data submitted above clearly indicates that FCPC is in attainment of the 2010 1-hour SO<sub>2</sub> NAAQS.

## 2) **Emissions-related data**

There are no major SO<sub>2</sub> sources on FCPC lands in Forest County. There are diesel generators at the Tribe's Casino in Carter, and at the Tribe's Health and Wellness Center at the Stone Lake area east of Crandon, but these are for "emergency" use only.

## 3) **Meteorology**

There are no major SO<sub>2</sub> sources on FCPC lands in Forest County with emissions to determine the affects of weather conditions on plume dispersal.

## 4) **Geography/topography**

There are no large geographic or topographic features of the land that might affect the distribution of SO<sub>2</sub> in the northern half of Wisconsin. There are very broad river basins and highland areas, but they do not appear to affect air patterns. The local terrain is somewhat hilly as a result of glacial drumlins, creating shallow valleys between them that can trap local pollution (i.e., woodstove smoke), particularly during the cold months of the year as a result of temperature inversions. However, the topography is not great enough to seriously impact air masses passing through.

## 5) **Jurisdictional boundaries**

The jurisdictional boundaries of the FCPC Reservation are different from many other Indian Reservations in that the exterior boundary does not contain within it property owned by non-tribal individuals. However, the FCPC land parcels are scattered as a result of an earlier effort to "assimilate" the Potawatomi People into "white man's" culture. Therefore, the jurisdictional boundaries of the FCPC Reservation and other lands outlines each individual parcel.

Believing that all but the first factor do not apply to FCPC lands located in Forest County, the Tribe contends that in this case, "monitoring data may be the more technically appropriate information for determining compliance with the 1-hour NAAQS." Based on the FCPC design value of 8.33 ppb, much lower than the 2010 standard of 75 ppb, and having no sources that are causing or contributing to a violating area or monitor, the FCPC would like to propose "attainment" designation for FCPC R/T/F lands located within Forest County.

### **FCPC R/T/F Lands within Oneida, Oconto, and Marinette Counties**

The FCPC does not operate SO<sub>2</sub> analyzers in Oneida, Oconto, or Marinette Counties where additional FCPC parcels are located (see *Forest County Potawatomi Land Base* map, attached); however, the WDNR operates a SO<sub>2</sub> analyzer in Oneida County specifically to monitor a large SO<sub>2</sub> source.

The design value for the monitor operated by WDNR in Rhinelander appears to be 174.66 ppb (see attached USEPA AQS AMP450 Quick Look Report for WDNR Rhinelander site ID 55-085-0026), significantly higher than the NAAQS which may

result in a decision by EPA for Oneida County being in non-attainment for the 1-hour SO<sub>2</sub> NAAQS.

However, the parcel in Oneida County belonging to FCPC is located approximately 16 miles east and downwind from the SO<sub>2</sub> source in Rhinelander, the Wausau Paper plant, and approximately 14 miles west and upwind of the FCPC SO<sub>2</sub> analyzer, about half way between the source and the FCPC monitor. Most certainly SO<sub>2</sub> concentrations have dropped significantly by the time the air mass passes over the FCPC Oneida County parcel to concentrations below the NAAQS, as is demonstrated by the FCPC design value of 8.33 ppb obtained 30 miles downwind from the source and 14 miles from the FCPC Oneida County parcel. Accordingly, the FCPC would like to recommend “unclassifiable” designation for the FCPC parcel located within Oneida County since there is no information that clearly demonstrates a designation of attainment or non-attainment. See, Director Stephen D. Page’s Memorandum dated March 24, 2011.

The two parcels just outside of Forest County, in Oconto and Marinette Counties, are within 3.5 and 4.25 miles respectively, from the nearest Tribal parcel located within Forest County, and 2.5 and 4.25 miles respectively, from the county line. From the FCPC SO<sub>2</sub> monitor, the parcels are approximately 15 miles southeast in Oconto County and approximately 22 miles east in Marinette County. While they are located within other counties, these parcels are FCPC Tribal lands located within the scattered “clump” of FCPC parcels referred to as the Reservation (see maps attached). As such, the Tribe is electing to exercise its sovereignty by dissolving the county boundaries and including these two parcels as a single governmental jurisdiction with regard to the SO<sub>2</sub> NAAQS designation, and recommend that they to be designated as being in “attainment” based on the FCPC SO<sub>2</sub> NAAQS design value of 8.33 ppb.

#### **FCPC R/T/F Lands within Shawano, Fond du Lac and Walworth Counties**

For the remaining FCPC R/T/F parcels located Shawano, Fond du Lac and Walworth Counties (see additional maps attached), the FCPC would like to recommend “unclassifiable” designation, based on the lack of SO<sub>2</sub> data (analyzers) in these three counties.

#### **FCPC R/T/F Lands within Milwaukee County**

The FCPC does not operate any air monitoring equipment at its land parcels located in Milwaukee County (see *Forest County Potawatomi Tribal Lands – Milwaukee* map). The WDNR does operate a SO<sub>2</sub> analyzer at its Southeastern Office; however, the data was not retrievable for review on the Air Quality System.

With regard to FCPC R/T/F parcels within the City of Milwaukee, in Milwaukee County, the Tribe chooses to recommend that these parcels be designated as “unclassifiable” because of lack of available data.

Please feel free to contact Natalene Cummings, FCPC Air Resources Program Director at 715-478-7211 with any questions you might have.

Sincerely,



Harold Frank, Chairman or  
James Crawford, Vice-chairman

Attachments:

Maps of Tribal Lands  
AMP450 Quick Look Report for FCPC Sulfur Dioxide  
AMP450 Quick Look Report for WDNR Rhinelander Sulfur Dioxide

Cc:

WDNR – Air Monitoring – Bart Sponseller  
Region 5 - Air and Radiation – Cheryl Newton  
Region 5 – State and Tribal Planning - Monika Lacka  
EPA HQ – Darrel Harmon  
NTAA – Ken Cronin  
EPA OAQPS - Laura McKelvey

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
 AIR QUALITY SYSTEM  
 QUICK LOOK REPORT (AMP450)

May 10, 2011

Sulfur dioxide (42401)

Forest County, Potawatomi Community, MI

Parts per billion (008)

SITE ID	P	POAO CITY	COUNTY	ADDRESS	YEAR	METH	OBS	COMP	QTRS	1ST		2ND		99TH		1ST		2ND		Days		
										MAX	1-HR	MAX	1-HR	PCTL	1-HR	MAX	>24HR	MAX	24-HR	ARITH	MEAN	CERT
11-434-0007	1	1175 Crandon	Forest	FIRE TOWER 2008	100	8473	4	11.0	10.0	10.0	10.0	9.0	6.5	6.4	0	2.08	0	0	0	0	0	0
				RD, POTAWATOMI SITE																		
11-434-0007	1	1175 Crandon	Forest	FIRE TOWER 2009	100	8556	4	15.0	14.0	14.0	8.0	8.0	5.0	4.9	0	2.08	0	0	0	0	0	0
				RD, POTAWATOMI SITE																		
11-434-0007	1	1175 Crandon	Forest	FIRE TOWER 2010	100	8586	4	22.0	11.0	11.0	8.0	8.0	5.3	5.0	0	1.85	0	0	0	0	0	0
				RD, POTAWATOMI SITE																		

9.0 = 9.0

Note: The \* indicates that the mean does not satisfy summary criteria.

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
 AIR QUALITY SYSTEM  
 QUICK LOOK REPORT (AMP450)

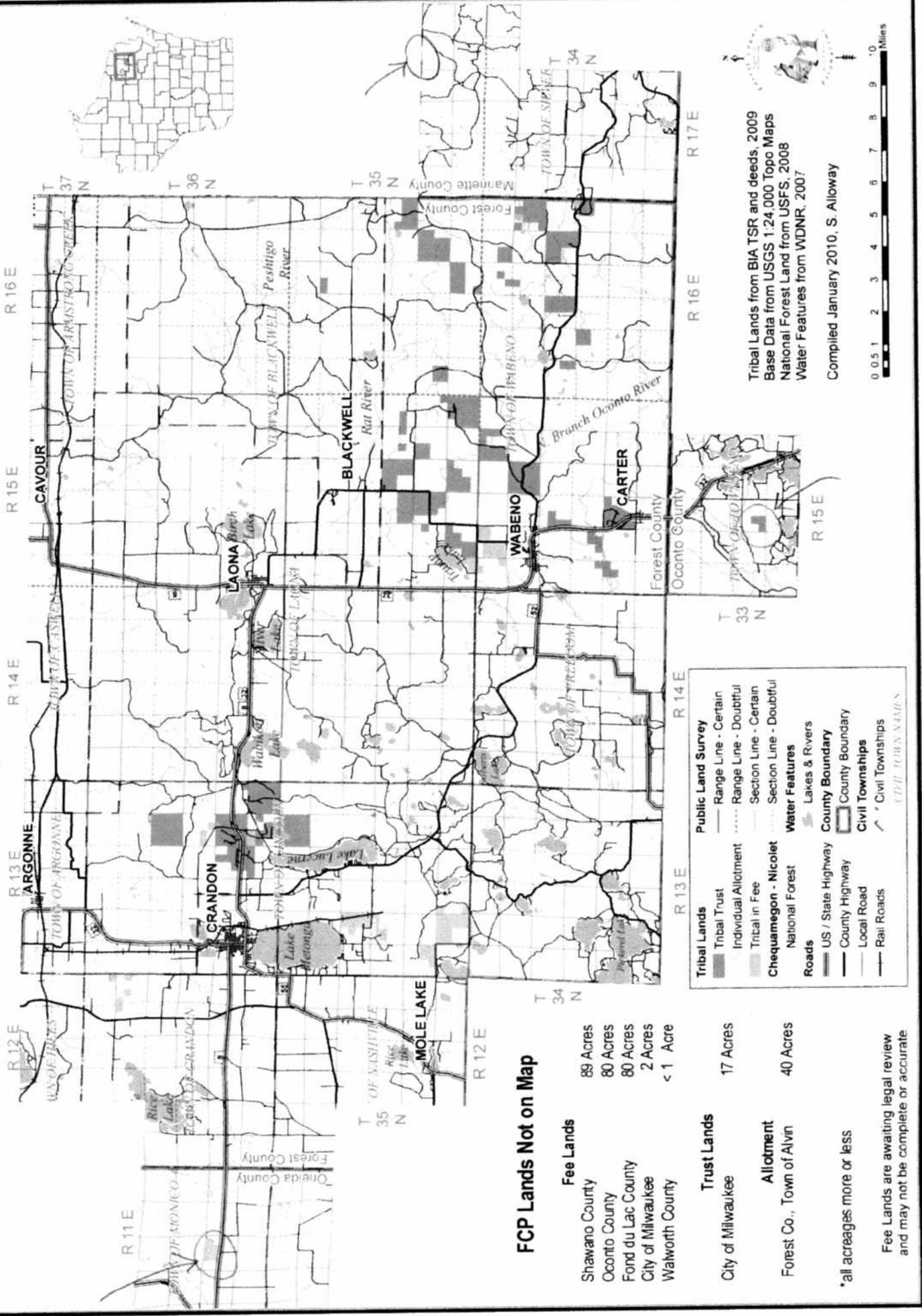
May 10, 2011

*Rhineland, Wisconsin*

Sulfur dioxide (42401)		Wisconsin										Parts per billion (008)						
P	O	C	PCAO	CITY	COUNTY	ADDRESS	YEAR	METH	OBS	QTRS	COMP	1ST MAX 1-HR	2ND MAX 1-HR	99TH PCTL 1-HR	1ST MAX 24-HR	2ND MAX 24-HR	Days >24HR STD	ARITH MEAN CERT EDT
55-085-0996	1	1175	Rhineland	Oneida	RHINELANDER 2008	077	8666	4	236.0	221.0	217.0	89.0	77.4	0	5.29	0	0	0
					WATER TOWER, LAKE & HIGH ST.													
55-085-0996	1	1175	Rhineland	Oneida	RHINELANDER 2009	077	8715	4	160.0	154.0	145.0	56.2	50.5	0	4.09	0	0	0
					WATER TOWER, LAKE & HIGH ST.													
55-085-0996	1	1175	Rhineland	Oneida	RHINELANDER 2010	077	8691	4	200.7	190.0	162.0	81.5	69.8	0	5.17	0	0	0
					WATER TOWER, LAKE & HIGH ST.													

Note: The \* indicates that the mean does not satisfy summary criteria.

# Forest County Potawatomi Land Base



Tribal Lands from BIA TSR and deeds, 2009  
 Base Data from USGS 1:24,000 Topo Maps  
 National Forest Land from USFS, 2008  
 Water Features from WDNR, 2007

Compiled January 2010, S. Alloway



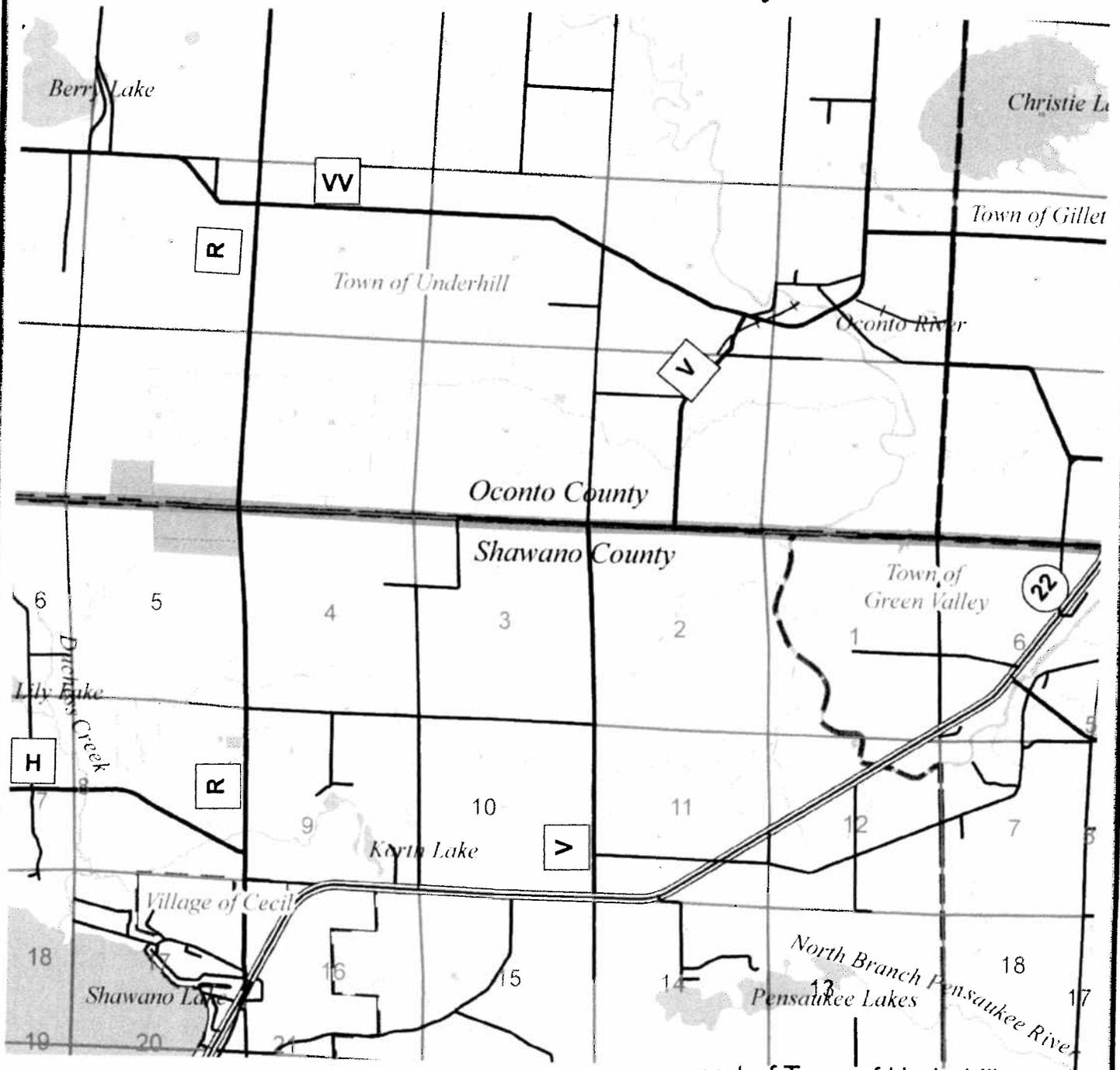
## FCP Lands Not on Map

- Fee Lands**
  - Shawano County 89 Acres
  - Oconto County 80 Acres
  - Fond du Lac County 80 Acres
  - City of Milwaukee 2 Acres
  - Walworth County < 1 Acre
- Trust Lands**
  - City of Milwaukee 17 Acres
- Allotment**
  - Forest Co., Town of Alvin 40 Acres
- \*all acreages more or less

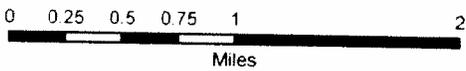
Fee Lands are awaiting legal review and may not be complete or accurate

Tribal Lands	
	Tribal Trust
	Individual Allotment
	Tribal in Fee
	Chequamegon - Nicolet
Public Land Survey	
	Range Line - Certain
	Range Line - Doubtful
	Section Line - Certain
	Section Line - Doubtful
Water Features	
	Lakes & Rivers
Roads	
	US / State Highway
	County Highway
	Local Road
	Rail Roads
County Boundary	
	County Boundary
Civil Townships	
	Civil Townships

# Forest County Potawatomi Tribal Lands Oconto & Shawano County Line



part of Town of Underhill,  
Oconto County - T28N R17E  
part of Town of Washington,  
Shawano County - T27N R17E



1 inch = 4,350 feet

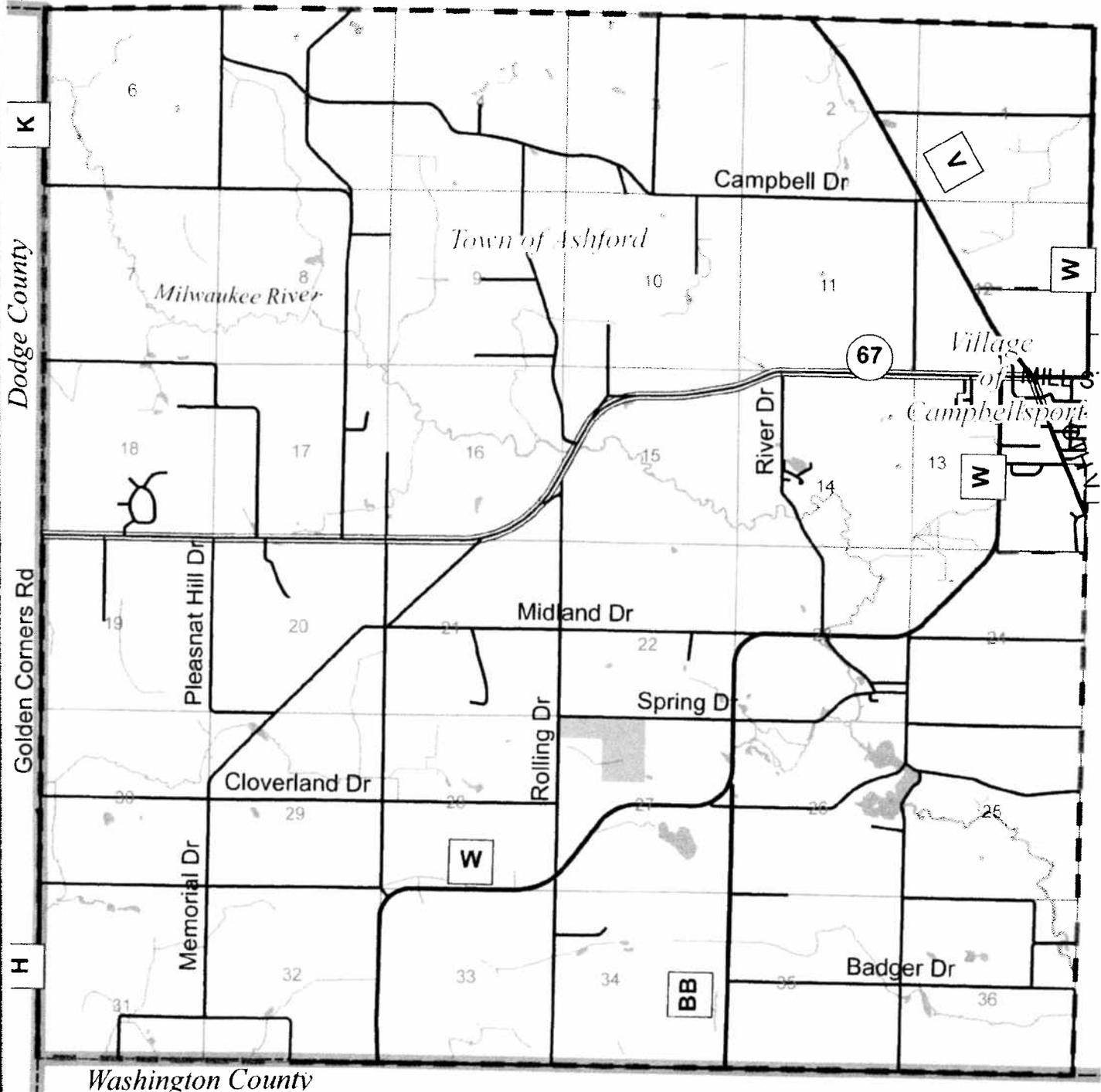
Tribal Lands	Other Land Owners	Public Land Survey
Reservation	Nicolet Forest	Range Line - Certain
Tribal Trust	State of WI	Section Line - Certain
Allotment	Moie Lake Reservation	Range Line - Doubtful
Tribal in Fee	Moie Lake Fee	Section Line - Doubtful
Tribal Fee, Man Forest	WI DNR	1 - 36 Section Numbers
Tribal Fee, Closed Man Forest	Forest Co	County Line
Roads	Private Land	Civil Towns
US/State Highway	<b>Water Features</b>	
County Highway	Lakes & Rivers	
Local Road		



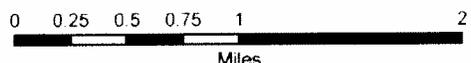
FCP GIS Program  
S. Alloway, Sept., 2009

Tribal Lands from BIA TSR and deeds, 2009  
Other Land Owners from Forest Co., 2007  
US Forest Service Land from USFS, 2009  
Base Data from Oconto Co. Land Information  
Systems & Shawano County GIS, 2009  
Hydro Data from WDNR, 2007

# Forest County Potawatomi Tribal Lands - T13N R18E



## Town of Ashford, Fond du Lac County T13N R18E



1 inch = 4,350 feet

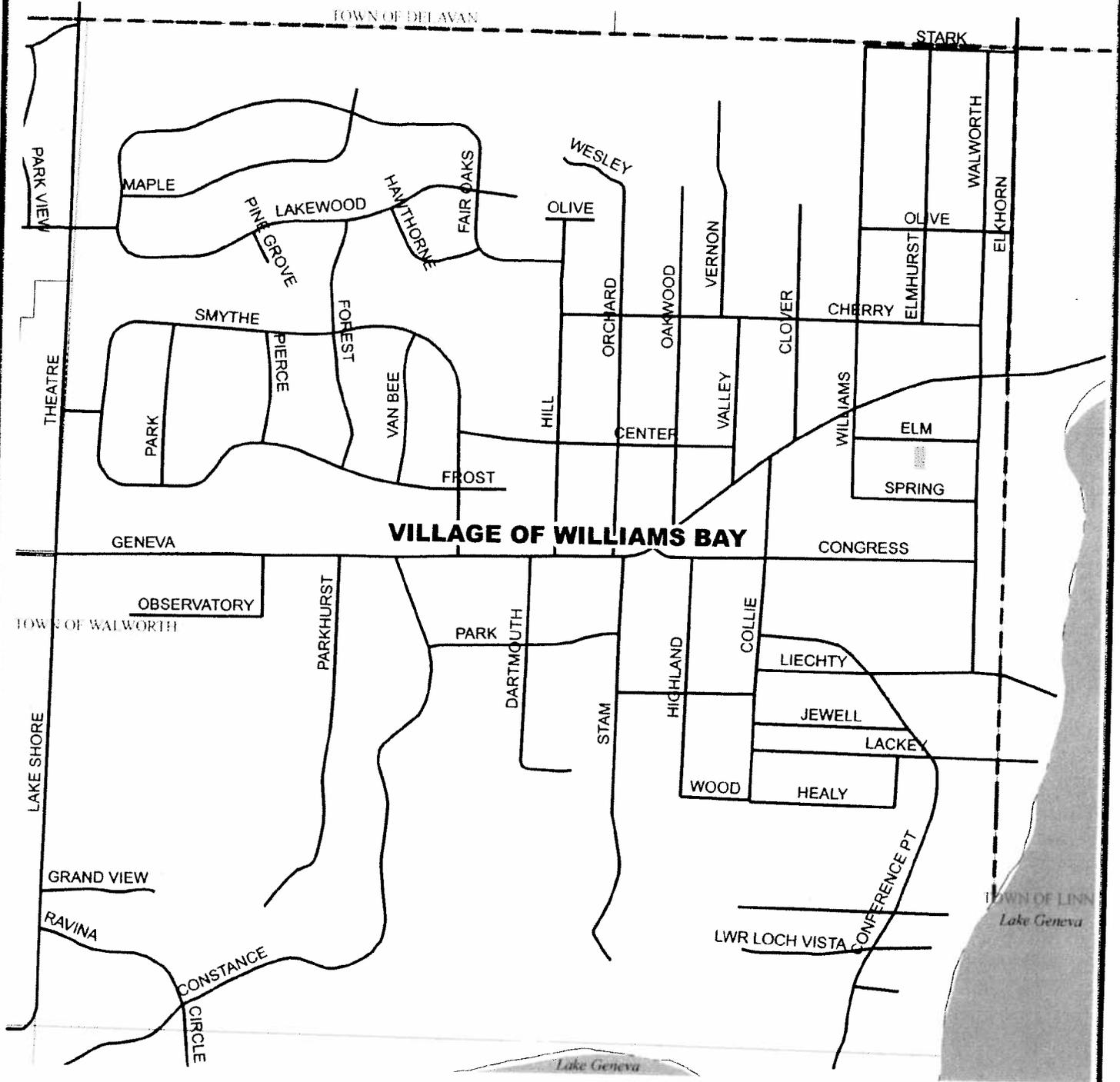
Tribal Lands	Other Land Owners	Public Land Survey
Reservation	Nicolet Forest	Range Line - Certain
Tribal Trust	State of WI	Section Line - Certain
Allotment	Mole Lake Reservation	Range Line - Doubtful
Tribal in Fee	Mole Lake Fee	Section Line - Doubtful
Tribal Fee Man Forest	WI DNR	1 - 36 Section Numbers
Tribal Fee Closed Man Forest	Forest Co.	County Line
	Private Land	Civil Towns
Roads	Water Features	
US/State Highway	Lakes & Rivers	
County Highway		
Local Road		



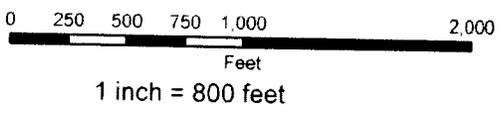
FCP GIS Program  
S Alloway, Sept. 2009

Tribal Lands from BIA TSR and deeds, 2009  
Other Land Owners from Forest Co., 2007  
US Forest Service Land from USFS, 2009  
Base and Hyrdo Data from Fond du Lac  
County Land Information Department, 2009

# Forest County Potawatomi Tribal Lands - T1N R16E Section 1



part of Town of Walworth,  
 Village of Williams Bay,  
 Walworth County,  
 T1N R16E Section 1

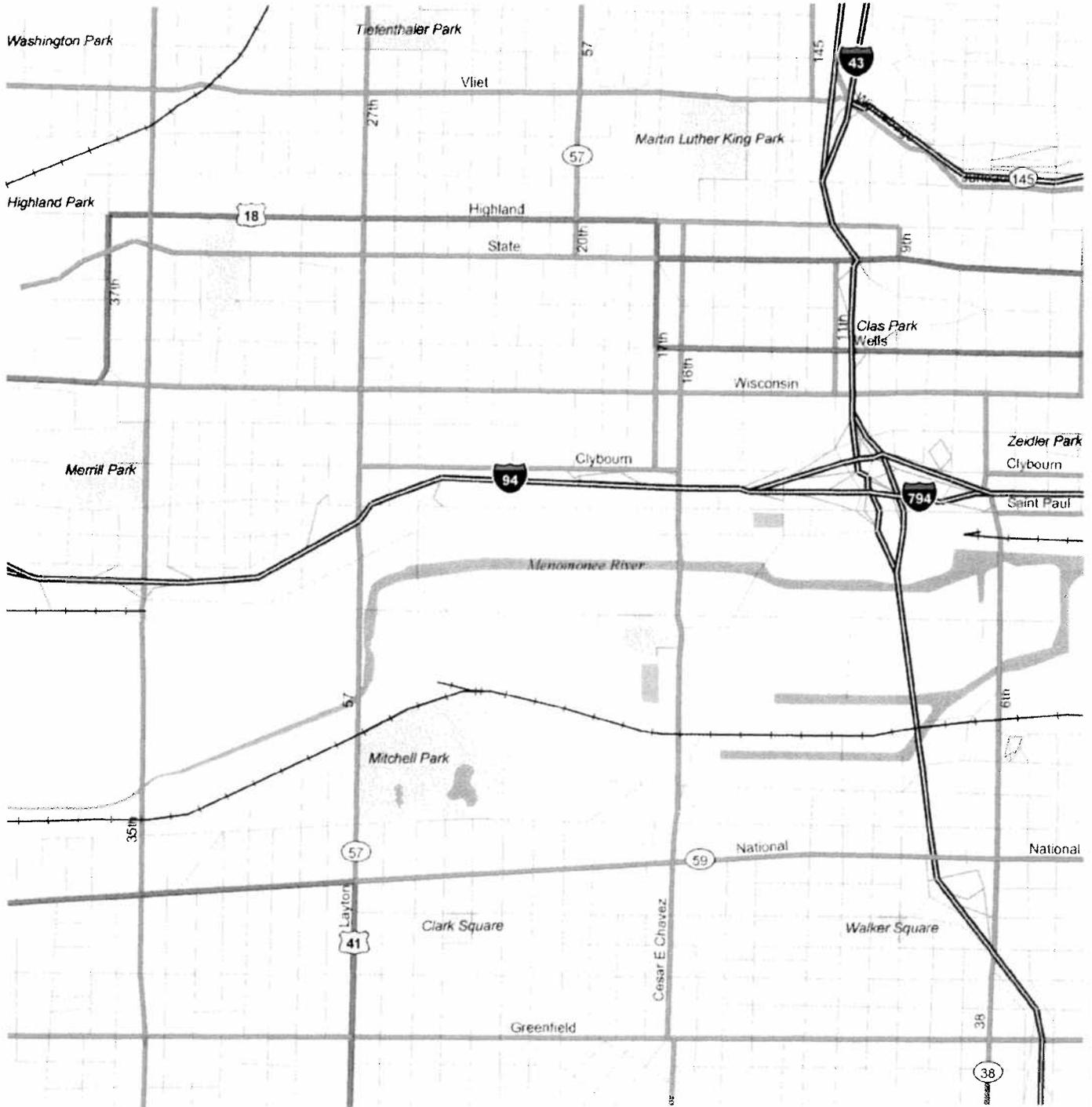


Tribal Lands	Roads	Water Features
Reservation	US/State Highway	Lakes & Rivers
Tribal Trust	County	Section Lines
Abolment	Local Road	Townships
Tribal in Fee		
Tribal Fee, Man Forest		
Tribal Fee, Closed Man Forest		

FCP GIS Program  
 S. Alloway, Sept. 2009

Tribal Lands from BIA TSR and deeds, 2009  
 Base Data from Walworth County GIS, 2009  
 Water Features from WDNR, 2007

# Forest County Potawatomi Tribal Lands - Milwaukee

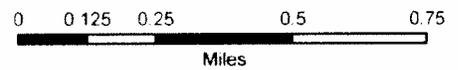


Tribal Lands	Roads
Reservation	Limited Access
Tribal Trust	Highway
Allotment	Major Road
Tribal in Fee	Local Road
Tribal Fee, Man Forest	Ramp
Tribal Fee, Closed Man Forest	Rail Road



FCP GIS Program  
S. Alloway, Sept., 2009

part of City of Milwaukee  
Milwaukee County



1 inch = 1,785 feet

Tribal Lands from BIA TSR and deeds, 2009  
Street and Hydro Data from ESRI  
StreetMap USA, 2006