



important legal, factual, and property interests at stake in the reconsideration of the Final Determination. JPA and its constituent members must be allowed to participate in this matter if the IBIA decides to reconsider the Assistant Secretary's well-reasoned, substantiated, and thorough Final Determination against acknowledgment of the Juaneno groups.

The JPA is, and will continue to be, an interested party in the federal acknowledgement process related to the various Juaneno petitioners, including this request for reconsideration brought before the IBIA by Petitioner #84A. The petitioner has asked the IBIA to reconsider the conclusion reached by the Assistant Secretary – Indian Affairs (“ASIA”) and promulgated in the Final determination Against Acknowledgement of the Juaneno Band of Mission Indians, Acjachemen Nation (“Final Determination”) on March 15, 2011. As part of its request for reconsideration, the petitioner has preemptively attacked the status of JPA as in interested party in this process. The petitioner's assertions are incorrect and unsubstantiated.

~~An interested party is one who:~~ (a) has a significant legal, factual, or property interest in an acknowledgment determination; (b) who may be adversely affected by an acknowledgment determination; and (c) who requests to be an interested party in proceedings. 25 CFR § 83.1 *et seq.*; *In re Federal Acknowledgment of the Shinnecock Indian Nation*, 52 IBIA 127, 128-30 (2010). These are permissive standards, requiring a party only to show an interest which *may* be affected by an acknowledgment decision.

The Office of Federal Acknowledgement (“OFA”) and IBIA each make an independent determination as to the status of a party as “interested” in acknowledgment proceedings pending before them. *Shinnecock*, 52 IBIA 132. These determinations follow the same standards; however, the focus of the interested party determination at the OFA level focuses on a party's interest in being involved in information gathering, while at the IBIA level, the interested party determination focuses on the potential adverse impact on a party of the Final Determination itself. *Shinnecock*, 52 IBIA 132.

As discussed below, JPA successfully demonstrated its interested party status in the acknowledgment proceedings based on its interest in the Final Determination itself; as such, JPA can successfully demonstrate that it is an interested party status in the IBIA reconsideration proceedings, assuming the IBIA even grants the reconsideration request of the petitioner.

In a letter dated September 5, 2008 (Exhibit 1), the Department, through OFA, stated that JPA, based on its creation and formation under applicable California law as an independent local governmental entity, was an interested party in proceedings pertaining to the Juaneno group. OFA found further that JPA clearly represented the interest of six local governments, none of whom had independently stated a position on any of the petitions of the Juaneno factions.

Based on the same facts and circumstances supporting the OFA's interested party finding, JPA still retains its significant legal, factual, and property interests in any proceedings pertaining to the Juaneno petitioners, and the strong possibility of an adverse effect on JPA and on its constituency flowing from a reconsideration, reversal or remand of the Final Determination. As a local government entity authorized to act on behalf of, and consisting of local government entities in immediate proximity to the Juaneno petitioners, JPA and its

constituency must consider the impact such an action will have on its governance, revenues, provision of services, and planning. These significant legal, factual, and property interests are likely to be substantially injured if the IBIA reconsiders, reverses, or remands the Final Determination. Therefore, JPA is an interested party in the proceedings before IBIA and should be allowed to fully participate in such proceedings.

- A. JPA has a significant legal, factual, and property interests in the OFA's Final Determination against acknowledgment based on its own interests and based on the interests of its constituent members.

JPA's interested party status can be proven both independently and by the significant interests of its constituent member local governments. As acknowledged by the OFA in its letter of September 5, 2008, JPA is not merely an association of local governments. JPA is itself an independent governmental entity pursuant to California law. *See* Cal. Gov't Code §§ 6503.5, 6503.7. As an independent public entity, JPA falls squarely within the specifically enumerated and contemplated types of interested parties highlighted in applicable federal regulations. 25 CFR § 83.1 ("Interested party" includes the governor and attorney general of the state in which a petitioner is located, and may include, but is not limited to, *local governmental units* . . . that might be affected by an acknowledgement determination.") (emphasis added).

JPA's interested party status can also be shown through the impact a reconsideration, reversal, or remand of the Final Determination will have on its membership, comprised solely of local governments near the area the petitioners claim as their cultural homelands. A group may show its status as an interested party based on the status of its members. *Shinnecock*, 52 IBIA 131 (noting that where "an association's standing is dependent upon its membership, the association must show, *inter alia*, that *one or more* of its members has standing in [its] own right") (second emphasis added). The analysis in the above paragraph applies with equal force to the JPA membership of the cities of Bell Gardens, Commerce, Compton, Gardena, Hawaiian Gardens and Inglewood, as local government units are a specifically contemplated category interested parties in acknowledgment proceedings. *See* 25 CFR § 83.1.

As noted above, JPA, as a local government entity, and its constituency of local government units, have significant legal, factual, and property interests that will be impacted if the IBIA reconsiders, reverses or remands the Final Determination. These include the interests of JPA and its constituents in the impact that federal acknowledgement of one or all of the Juaneno petitioners will have on the balance and process of governance within their unique jurisdictions; the impact on government revenues as they prepare for short and long term development; the impact on infrastructure planning, financing and development; the impact on current and future provision of emergency and non-emergency services; and the future of employment and business development within their boundaries. The JPA and its constituency have significant interests in the IBIA proceedings related to the Final Determination since it is the responsibility of elected leaders and government administrators to gauge and address the ramifications of externalities that will shift the governing guideposts of their respective city governments.

- B. JPA's legal, factual, and property interests and those of its constituent members will suffer significant adverse impacts if the IBIA alters the Final Determination.

1. *JPA's significant interest, and the interest of its constituent members, in their sovereignty as local governments; and their control over taxation and jurisdiction of their lands, stands to suffer significant adverse effects.*

Local government units are deemed interested parties in IBIA proceedings based on the possibility that an acknowledged tribe will substantially impact local government operations, jurisdiction, planning, and revenues. See *In re Federal Acknowledgment of Match-e-be-nash-she-wish Band of Pottawatomi Indians of Michigan*, 33 IBIA 291, 299 (1999) (“Local government units in the vicinity of a newly acknowledged tribe would be affected by an acknowledgment determination in a number of ways, but perhaps most significantly by the possibility—indeed the likelihood—that land would be taken into trust for the tribe, thus removing it from the tax rolls and from the jurisdiction of the affected local government.”).

The constituent members of JPA and their card houses are located in Los Angeles County. The San Juan Capistrano area, where the Juaneno petitioners appear to claim their heritage base and thus would likely to seek to take land into trust, is immediately adjacent to Los Angeles County. Additionally, the unfocused nature of the Juaneno petitioners’ claimed cultural heritage makes it difficult for JPA and its constituents to determine where the Juaneno petitioners’ proposed trust lands would be likely to be located. In light of the immediate proximity of Los Angeles and Orange Counties, and in light of the nebulous nature of the Juaneno groups’ understanding of their historic lands, JPA’s significant interests in its governance, jurisdiction, and the lands therein will be adversely affected by a reversal of the denial of acknowledgment. See *Match-e-be-nash-she-wish*, 33 IBIA 299 (“Because it is *not possible to determine with any certainty which local government units will ultimately have an actual ‘legal, factual or property interest,’ the Board has previously granted ‘interested party’ status to local government units in the vicinity of the group seeking acknowledgment without requiring that they ‘establish’ their interests. . . . Nothing in the regulations restricts eligibility for ‘interested party’ status to local government units in the immediate vicinity of the group seeking acknowledgment.*”) (emphasis added).

2. *JPA and its constituent members may suffer a substantial impact to its government revenue due to the economic ramifications of the petitioners’ potential gambling operations.*

As discussed above, local governments are regularly found to be interested parties based on the possibility of the movement of land into trust and the economic loss to local governments of the taxation of such land. *Match-e-be-nash-she-wish*, 33 IBIA 299. There is an equally great possibility that, if acknowledged, the petitioners will form gambling enterprises. This will result in severe and adverse economic losses due to the erosion of tax revenues from the gambling houses within the jurisdiction of JPA’s constituents. JPA and its constituency are concerned about the impact to the employment base of this industry. Any impact to the to the employment base will have a direct affect on the government revenues, management of facilities, and the provision of services by the cities to their constituents.

Economic impacts are often not considered relevant to an *acknowledgment determination* itself. However, there is no indication in the applicable regulations or the stare decisis that economic adverse effects are not relevant to the analysis of a party’s status as an

*interested party*. A party with any legal, factual, or property interest that may be injured by an acknowledgment decision is an interested party. 25 CFR § 83.1. Economic interests are factual interests, legal interests, and property interests. This is especially poignant where, as here, an adjustment of these interests has a direct and substantial impact on governance strategies, and management of strained budgets and limited government revenues.

JPA and its constituent members are an interested party because of their significant interests in the economic benefits of and the potential impact on the businesses within the boundaries of the JPA constituency. JPA and its constituency will immediately feel the impact if the Final Determination is reconsidered, reversed, or remanded through the need to continue to monitor and participate in this process. JPA and its constituency of local governments must react to the needs of the voters and the businesses within their jurisdictions. JPA and its constituency require the stability in the marketplace that will result if IBIA does not reconsider, remand, or reverse the Final Determination. In this case the marketplace participants are the businesses that depend on stable government revenues, that are or are a part of the current gambling industry within the boundaries of the JPA constituency, the employees of those businesses, and the current and future bond holders whose instruments pay for government infrastructure upon which the businesses and residents of these cities depend. Disturbing the current status will only create instability in the local markets, threaten government revenues, and potentially impact employment.

3. *Proof that JPA and its constituent parties are interested parties does not require JPA to make showings of a type required in federal judicial standing issues.*

Before concluding, JPA finds it important to note that, in its Request for Reconsideration dated June 20, 2011, the petitioners have mistakenly conflated the concepts of an interested party showing under 25 CFR Part 83 and showings of judicial standing. Specifically, the petitioners improperly cite judicial standing cases for the proposition that competition concerns cannot create standing.<sup>1</sup> However, citations to federal judicial standing considerations are inapposite for purposes of the IBIA's determination of a party's interested party status.

Interested party status in reconsideration proceedings is governed by the applicable Code of Federal Regulations. 25 CFR § 83.1 (interested parties are those whose legal, factual, or property interests "might" be negatively impacted by acknowledgement). JPA has already demonstrated this to OFA. JPA need not, in proceedings before the IBIA, make judicial standing showings; rather, JPA must and will demonstrate that it has significant legal, factual, or property interests that would be adversely affected by an overruling of the OFA's Final Determination to deny acknowledgment to the Juaneno group.

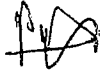
## II. Conclusion

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<sup>1</sup> Interestingly, both cases cited by the Juaneno groups are those where the courts involved *found standing* for challenges brought out of concern for economic competition. See *Hardin v. Ky. Util. Co.*, 390 U.S. 1, 5-6 (1968) (noting that where legal provisions show an intent to protect outside interests, competitive injury will support standing); *Nat'l Assn. of Sec. Dealers*, 420 F.2d 83, 84 (1969).

In closing, we would like to thank you for your consideration of the position put forth in this letter. We look forward to your response, and stand ready to address any questions you may have.

Sincerely,

A handwritten signature in black ink, appearing to be 'Pedro Aceituno', written in a cursive style.

Pedro Aceituno  
Chairman

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JUL 26 2011

OFFICE OF HEARINGS AND APPEALS  
BOARD OF INDIAN APPEALS

# EXHIBIT 1



**CALIFORNIA CITIES FOR SELF-RELIANCE  
JOINT POWERS AUTHORITY**

Bell Gardens • Commerce • Compton • Gardena • Hawaiian Gardens • Inglewood

Pedro Aceituno  
Chair, Bell Gardens

Isidoro Hall, III  
Vice Chair, Compton

Tina Bosa Del Rio  
Secretary, Commerce

Steven C. Bradford  
Gardena

Shiko A. Oyama-Casteda  
Hawaiian Gardens

Ralph L. Franklin  
Inglewood

Jimmy L. Gutierrez  
General Counsel

August 11, 2008

Scott Keep, Assistant Solicitor  
Branch of Tribal Government & Alaska  
Division of Indian Affairs  
Office of the Solicitor, Mail Stop 6513  
U.S. Department of the Interior  
1849 C Street, N.W.  
Washington, D.C. 20240

Mr. George T. Skibine  
Acting Deputy Assistant Secretary, Policy and Economic Development  
Office of the Assistant Secretary - Indian Affairs  
U.S. Department of the Interior  
1849 C Street, N.W.  
Washington, D.C. 20240

Mr. R. Lee Fleming  
Director, Office of Federal Acknowledgment  
Office of the Assistant Secretary - Indian Affairs  
U.S. Department of the Interior  
1849 C Street, N.W.  
Washington, D.C. 20240

RE: Letter from George T. Skibine dated July 28, 2008

Dear Mr. Keep:

This letter furthers our telephone conversation of August 8, 2008 regarding the status of the Governmental entity known as the "California Cities for Self Reliance Joint Powers Authority" ("JPA") and its jurisdiction pertaining to gaming issues including the San Juaneno Petition on behalf of its members, which are the Cities for Bell Gardens, Commerce, Compton, Gardena, Hawaiian Gardens and Inglewood.



August 11, 2008  
Scott Keep  
Re: Letter from George T. Skibine  
Page 2 of 3

I have been the General Counsel for the JPA, since its inception on July 11, 2001. The JPA is an independent governmental entity although composed of six separate cities under the authority of the "Joint Exercise of Powers Act" found in Article I of Chapter 5 of Division 7 Title 1 of the California Government Code commencing with Government Code Section 5500.

Under the Joint Powers Authority Act, two or more public agencies may agree to the joint exercise of any power common to the contracting parties. (Government Code Section 6502). Further, the agreement may provide for the creation of an agency or entity that is separate from the parties to the agreement. (Government Code Section 6503.5). Once formed, the agency is a public entity separate from the parties to the agreement. (Government Code Section 6507). Copies of these sections are attached as Exhibit A.

The California Cities for Self Reliance Joint Powers Authority was so created by an agreement dated July 11, 2001. In addition, the creation was effectuated by the filing of the following documents:

- A. The "Notice of a Joint Powers Agreement" was filed with the Secretary of State of the State of California on July 23, 2001. That filing was confirmed by letter of the Secretary of State dated July 27, 2001.
- B. The "Statement of Facts- Roster of Public Agencies Filing" was filed with the Secretary of State of the State of California on August 1, 2001.
- C. The "Statement of Facts- Roster of Public Agencies Filing" was filed with the County Clerk of the County of Los Angeles on August 22, 2001.

Copies of these documents are attached as Exhibit B.

Therefore, all the statutory requirements for the creation and formation of a Joint Powers Authority as a separate public entity have been completed.

With respect to the Petition for Recognition filed by the San Juaneno Indians, the JPA has previously asserted its position under the Authority granted to it by virtue of the execution of the Joint Powers Agreement and the appropriate governmental filings. Therefore, I believe that no further consent or authorization is required by the member cities. Likewise, the member cities have not individually stated their own positions regarding the petition of the San Juaneno Tribe.

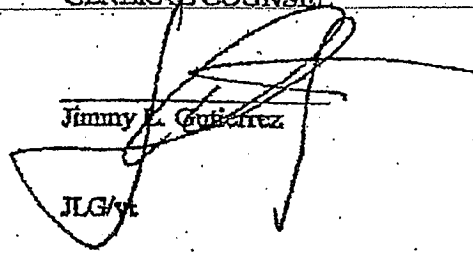
Based upon the foregoing, the California Cities for Self Reliance Joint Powers Authority constitutes an "Interested Party" for purposes of asserting its position on the San Juaneno Petition and there is no need for the further consent by the member cities of the JPA.

August 11, 2008  
Scott Keep  
Re: Letter from George T. Sidbinc  
Page 3 of 3

Upon review of this letter, please contact me if you have any questions or desire any further documentation.

Sincerely,

GENERAL COUNSEL



Jimmy L. Gutierrez

JLG/yt

- cc: Chairman and Board Members, JPA
- John A. Ornelas, City Manager, City of Bell Gardens
- Jorge Rifa, City Administrator, City of Commerce
- Charles Evans, City Manger, City of Compton
- Mitchell Lansdell, City Manager, City of Gardena
- Ernesto Marquez, City of Hawaiian Gardens
- Timothy J. Wanamaker, City Manager, City of Inglewood



United States Department of the Interior

OFFICE OF THE SECRETARY  
WASHINGTON, D.C. 20240



SEP 05 2008

Mr. Jimmy L. Gutierrez  
California Cities for Self-Reliance  
Joint Powers Authority  
12616 Central Avenue  
Chino, California 91710

Dear Mr. Gutierrez:

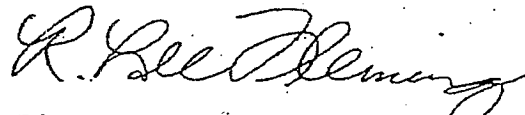
Thank you for your letter of August 11, 2008, on behalf of the California Cities for Self-Reliance Joint Powers Authority (JPA), further clarifying its request for interested party status in the acknowledgment process for the groups known as the Juaneño Band of Mission Indians, Acjachemen Nation (Petitioner #84A) and Juaneño Band of Mission Indians (Petitioner #84B). We requested additional clarification in our letter dated July 28, 2008.

By your letter of August 11, 2008, JPA clarified its status and authority to act on behalf of the cities of Bell Gardens, Commerce, Compton, Gardena, Hawaiian Gardens and Inglewood. Your letter indicated further that all the statutory requirements for creation and formation under a joint powers agreement under California law have been completed. Although Exhibit B to your letter provided documentation for only four of the six cities, you sent copies of your correspondence to all six. In addition, your letterhead reflects participation by all six cities. Finally, none of those cities has individually stated its position on the acknowledgment petition.

Based on the foregoing, for purposes of the acknowledgment process before the Office of Federal Acknowledgment, JPA is granted interested party status for Petitioners #84A and #84B.

Should you have further questions, please direct them to the Office of Federal Acknowledgment, 1951 Constitution Avenue, N.W., MS 34B SIB, Washington, D.C. 20240.

Sincerely,

  
Director, Office of Federal Acknowledgment

cc: Mr. George T. Skibine, Office of the Assistant Secretary Indian Affairs  
Mr. Scott Keep, Office of the Solicitor

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JUL 26 2011

UNITED STATES DEPARTMENT OF THE INTERIOR  
OFFICE OF HEARINGS AND APPEALS

OFFICE OF HEARINGS AND APPEALS  
BOARD OF INDIAN APPEALS

IN RE FEDERAL ACKNOWLEDGMENT :  
OF THE JUANENO BAND OF : Certificate of Service  
MISSION INDIANS, ACJACHEMEN :  
NATION : Docket No. IBIA 11-124

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**Certificate of Service**

I hereby certify that on the 26<sup>th</sup> day of July 2011, a copy of the foregoing Entry of Appearance was served by US mail upon the following:

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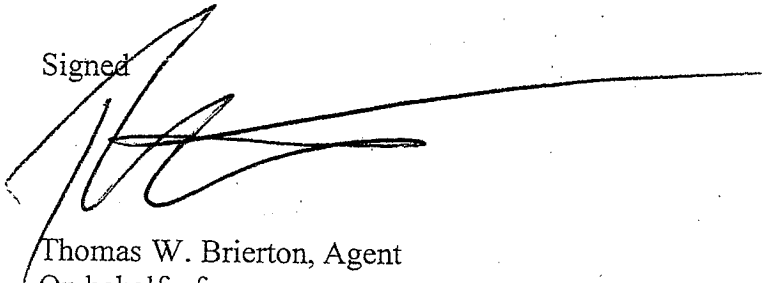
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Signed



Thomas W. Brierton, Agent  
On behalf of  
California Cities for Self Reliance  
Joint Powers Authority

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