



# United States Department of the Interior

OFFICE OF THE SECRETARY  
Washington, DC 20240

NOV 16 2020

The Honorable Jack Potter, Jr.  
Chairman, Redding Rancheria  
2000 Redding Rancheria Road  
Redding, California 96001

Dear Chairman Potter:

In 2003, the Redding Rancheria (Tribe) submitted a request to the Department of the Interior (Department) to take lands known as “Strawberry Fields” into trust for the Tribe. In 2008, the Tribe requested that the Department determine that Strawberry Fields would qualify for gaming under the Indian Gaming Regulatory Act (IGRA) pursuant to IGRA’s “restored lands” exception. 25 U.S.C. § 2719(b)(1)(B)(iii). At the time, the Tribe was already conducting gaming on other trust land that satisfied IGRA’s restored land exception (the Win-River Casino).

On December 22, 2010, the Department denied the Tribe’s request, concluding in part that Strawberry Fields did not constitute restored lands within the meaning of IGRA because the Tribe was already gaming on other Indian lands. 25 CFR 292.12(c)(2). The denial did not address a letter submitted by the Tribe only days before, which for the first time advised the Secretary of the Tribe’s willingness to close its Win-River Casino, relocate it to the Strawberry Fields property, and to memorialize that intent in an agreement.<sup>1</sup> Though the United States District Court for the Northern District of California later issued a ruling upholding the Secretary’s decision, in 2015 the United States Court of Appeal for the Ninth Circuit disagreed in part. *Redding Rancheria v. Jewell*, 776 F.3d 706 (9th Cir. 2015). Because the Secretary had not considered the effect of the Tribe’s willingness to close its existing gaming facility and move it to Strawberry Fields, the Ninth Circuit remanded to the Secretary to do so.

In October 2016, the Tribe, the Department, and the National Indian Gaming Commission (NIGC) executed a Memorandum of Understanding (MOU) memorializing the parties’ mutual understanding that, among other things, Strawberry Fields could satisfy the requirements of 25 CFR 292.12(c)(2) if the Tribe permanently closed its Win-River Casino, or any other gaming operation, before conducting any gaming at Strawberry Fields.<sup>2</sup> Not only did the Department enter the MOU without opportunity for public comment or consultation with other federally recognized tribes, since then the Department has received numerous comments expressing concern over the MOU from public, tribal, and private parties, including United States Senator

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<sup>1</sup> See *Redding Rancheria v. Jewell*, 776 F.3d 706, 716 (9th Cir. 2015) (Callahan, J., dissenting) (quoting letter from Barbara Murphy, Redding Rancheria Vice-Chairperson, to Del Laverdure, Deputy Assistant Secretary – Indian Affairs (Dec. 14, 2010)).

<sup>2</sup> The MOU is limited to the gaming-eligibility of Strawberry Fields and expressly disclaims any effect on the Secretary’s consideration of the Tribe’s pending fee-to-trust application.

Diane Feinstein; the Paskenta Band of Nomlaki Indians; and the Shasta County Residents for Responsible Community Development.

Recently the California Supreme Court issued a decision confirming the authority of that state's governor to concur in a two-part Secretarial determination under IGRA. In light also of that decision, the Department has reconsidered the MOU and, upon further review, determined the MOU to be inconsistent with the Department's long-standing interpretation of IGRA's implementing regulations. Specifically, it is our view that the Department's 2010 prior Restored Lands Decision that the Strawberry Fields parcel is not eligible for gaming was the correct application of the regulations. Accordingly, the Department hereby withdraws its participation in the MOU.

As noted above, the California Supreme Court has confirmed that 25 U.S.C. § 2719(b)(1)(A) — the two-part Secretarial determination section of IGRA — provides an established, valid and legal avenue through which the Tribe can pursue a new gaming venue.

Sincerely,



Tara Sweeney  
Assistant Secretary – Indian Affairs

cc: National Indian Gaming Commission