

## MEMORANDUM OF UNDERSTANDING

### RECITALS & BACKGROUND

- A. This Memorandum of Understanding ("MOU") is hereby entered into between the Secretary of the Interior ("Secretary"), the Chairman of the National Indian Gaming Commission (Chairman), and the Redding Rancheria ("Tribe") (collectively, the "Parties") to set forth their mutual understanding regarding the status of certain lands owned by the Tribe, referred to herein as "Strawberry Fields."
- B. Strawberry Fields consists of approximately 232 acres of undeveloped land in an unincorporated area of Shasta County, California, located within a few miles of the Tribe's existing trust lands on the Redding Rancheria and other lands and economic enterprises of the Tribe. The Tribe presently owns Strawberry Fields in fee.
- C. In 2003, the Tribe submitted a request to the Department of the Interior, Bureau of Indian Affairs, to accept 152 acres of Strawberry Fields into trust for the Tribe's use and benefit for gaming purposes.
- D. In December 2008, the Tribe submitted a request to the Department of the Interior, Office of Indian Gaming, to issue a determination that Strawberry Fields qualifies for the restored lands exception of the Indian Gaming Regulatory Act ("IGRA"), 25 U.S.C. § 2719(b)(1)(B)(iii), 25 C.F.R. §§ 292.7-12 ("Restored Lands Exception").
- E. In June 2009, the Tribe supplemented and resubmitted its trust acquisition request to the Department.
- F. In June 2010, the Tribe supplemented its trust acquisition request again to include an additional 80 acres of land that the Tribe had recently purchased, and that is adjacent to the original 152 acres contemplated by the Tribe's initial trust land acquisition request. In July 2010, the Tribe amended its request for a restored lands determination to include these additional 80 acres. Strawberry Fields includes both the 80-acre property and the 152-acre property.
- G. During the pendency of the Secretary's consideration of the Tribe's restored lands determination, the Tribe suggested that it might be willing to permanently close its existing gaming facility (Win River Casino) and relocate that facility to Strawberry Fields. In a letter dated December 14, 2010, the Tribe's Vice-Chairperson offered her personal assurance that the Tribe was willing to close the Win River Casino and relocate that facility to Strawberry Fields.
- H. On December 22, 2010, the Secretary, through the Assistant Secretary — Indian Affairs, issued a decision ("Restored Lands Decision") concluding that Strawberry Fields did not constitute restored lands under the Restored Lands Exception. The Secretary concluded that Strawberry Fields met the historical connection and modern connection requirements of 25 C.F.R. 292.12. However, the Secretary found that Strawberry Fields did not meet the "temporal connection" requirements of 25 C.F.R. § 292.12(c). In particular, the Secretary found that Strawberry Fields did not qualify under § 292.12(c)(1) because the application did not constitute the Tribe's first request for newly acquired lands since the date of the Tribe's restoration; and that Strawberry Fields did not qualify under § 292.12(c)(2), which requires that a tribe not be gaming on other lands, because the Tribe was gaming on other lands.
- I. On March 28, 2011, the Tribe filed an action in the United States District Court for the Northern District of California ("District Court"), challenging the Restored Lands Decision on the basis that the Decision and the Department of the Interior's implementing regulations at 25 C.F.R. Part 292.12

(relating to the Restored Lands Exception) were inconsistent with the IGRA. See *Redding Rancheria v. Salazar*, 881 F.Supp.2d 1104 (N.D. Cal. 2012).

- J. On February 16, 2012, the District Court upheld the Restored Lands Decision, finding that the regulations at 25 C.F.R. Part 292 were a permissible construction of the Restored Lands Exception and that the Restored Lands Decision was not arbitrary, capricious or an abuse of the Secretary's discretion. *Redding Rancheria*, 881 F.Supp.2d. at 1116-1122.
- K. On April 11, 2012, the Tribe filed a Notice of Appeal of the District Court's decision with the United States Court of Appeals for the Ninth Circuit ("Ninth Circuit").
- L. On January 20, 2015, the Ninth Circuit reversed the District Court in part and concluded, among other things, that the Restored Lands Decision impermissibly failed to consider the effect of the Tribe's offer to move its existing gaming facility to Strawberry Fields. See *Redding Rancheria v. Jewell*, 776 F.3d 706 (9th Cir. 2015). The Ninth Circuit remanded the Restored Lands Decision to the Secretary for consideration of the Tribe's proposal.
- M. Since the Ninth Circuit issued its decision, and pursuant to its direction to the Secretary, the Tribe and the Secretary, through the Office of Indian Gaming and the Assistant Secretary — Indian Affairs, have engaged in negotiations to come to an agreement as to the application of the Restored Lands Exception to Strawberry Fields, and the Tribe's plans for permanent closure of the Win River Casino and relocation of that facility to Strawberry Fields.
- N. The general purpose of this MOU is to memorialize the Parties' understanding and agreement regarding the permanent closure of the Win River Casino and the subsequent eligibility of Strawberry Fields for gaming pursuant to the Restored Lands Exception.
- O. The Tribe presently conducts gaming at its Win River Casino, located within the exterior boundaries of the Redding Rancheria on lands which were accepted in trust by the United States before the enactment of the IGRA. The Tribe desires to permanently relocate its gaming operation to Strawberry Fields.

### AGREEMENT

- 1 The Secretary agrees to process the Tribe's trust land acquisition request for Strawberry Fields as a gaming application.
- 2 The Secretary previously determined, and the Parties agree, that the Tribe qualifies as a "restored tribe" as defined in 25 U.S.C. § 2719(b)(1)(B)(iii) and 25 C.F.R. § 292.7(a)-(c) because:
  - a. the Tribe and the United States engaged in government-to-government relations as early as 1922, when the United States acquired lands for the benefit of the Tribe and established the original Redding Rancheria;
  - b. the Tribe's government-to-government relationship with the United States was terminated in 1962, pursuant to the California Rancheria Act (Pub. L. No. 85-671, 72 Stat. 619 (1958)); and,
  - c. the Tribe's government-to-government relationship with the United States was restored in 1984 pursuant to the stipulation and judgment in *Hardwick v. United States*, Case No. C-79-1710-SW (N.D. Cal. 1983), notification of which was published in the Federal Register at 49 Fed. Reg. 24084 (1984).

- 3 The Secretary previously determined, and the Parties agree, that the Tribe has a sufficient modern connection to Strawberry Fields for purposes of 25 C.F.R. § 292.12(a) because Strawberry Fields is only 3.7 miles by road from the Tribe's existing reservation, and is located within a 25-mile radius of the Tribe's headquarters.
- 4 The Secretary previously determined, and the Parties agree, that the Tribe has a sufficient historical connection to Strawberry Fields for purposes of 25 C.F.R. § 292.12(b) because:
  - a. the Tribe's villages and burial grounds are in the vicinity of Strawberry Fields; and
  - b. Strawberry Fields lies within the historical territory of the Wintu people, one of the historical groups now comprising the Tribe.
- 5 The Parties agree that the Tribe can establish a temporal connection to Strawberry Fields, as required by 25 C.F.R. § 292.12(c)(2), as follows:
  - a. The Tribe has already satisfied the first requirement of 25 C.F.R. § 292.12(c)(2) because it submitted a trust land acquisition request and request for a determination under the Restored Lands Exception within 25 years of the date of the Tribe's restoration.
  - b. The Tribe can satisfy the second requirement of 25 C.F.R. § 292.12(c)(2) if it permanently closes its Win River Casino, or any other gaming operation of the Tribe, before it conducts any gaming at Strawberry Fields.
- 6 Accordingly, the Parties agree that gaming may occur at Strawberry Fields if and only if the Tribe has permanently closed the Win River Casino and is not gaming under the Restored Lands Exception at the time any Strawberry Fields casino opens.
- 7 The Tribe agrees that it shall permanently close its existing gaming facility, the Win River Casino, prior to engaging in gaming activities at Strawberry Fields, and, further, that the conduct of gaming at Strawberry Fields constitutes a relocation of the Tribe's existing gaming operations, and not a second gaming facility of the Tribe.
- 8 The Secretary agrees that, if the Tribe meets the conditions set forth in Paragraphs 6-7 above, Strawberry Fields would qualify for the Restored Lands Exception, and agrees to:
  - a. issue a determination that, so long as the Tribe has permanently closed any and all gaming operations before gaming is conducted at Strawberry Fields, Strawberry Fields will be gaming-eligible under the Restored Lands Exception if and when it is taken into trust; and,
  - b. process the Tribe's trust land acquisition request for Strawberry Fields as a gaming application for which the Restored Lands Exception applies, and accept Strawberry Fields into trust for the benefit of the Tribe when the Secretary has determined that all statutory and regulatory requirements, including but not limited to those set forth in the Indian Reorganization Act, the National Environmental Policy Act, and the regulations published at 25 C.F.R. Part 151, have been fulfilled, notwithstanding the temporary continued operation of the existing Win River casino on the Tribe's reservation until such time as gaming begins at Strawberry Fields.
- 9 The Tribe stipulates that gaming at the Win River Casino, or any other casino operating under the Restored Lands Exception, at the time any Strawberry Fields casino operates would render

Strawberry Fields ineligible for the Restored Lands Exception, would constitute a violation of the IGRA, and thus would be unlawful, and all gaming at Strawberry Fields would be subject to immediate and permanent closure (and other appropriate enforcement actions) by the United States. In such situation, the Tribe stipulates to the maximum civil fines for the operation of gaming in violation of IGRA. 25 U.S.C. § 2713(a); 25 C.F.R. § 575.4. As of August 1, 2016, the maximum fine for each violation of IGRA is \$49,467.00. 81 Fed. Reg. 43941, 43942 (July 6, 2016).

- 10 The Parties agree that this Memorandum of Understanding addresses only the eligibility of Strawberry Fields for gaming, and does not otherwise affect the Secretary's consideration of the Tribe's request that Strawberry Fields be taken into trust.

**SECRETARY OF THE INTERIOR**

By: *Dave Roberts*  
Principal Deputy  
Assistant Secretary — Indian Affairs

Date: 10/3/16

**NATIONAL INDIAN GAMING COMMISSION**

By: *Robert O. Miller*  
Chairman

Date: 9/23/16

**REDDING RANCHERIA**

By: *Jack E. Fott Jr*  
Chairman

Date: 9-22-16