



United States Department of the Interior

OFFICE OF THE SECRETARY
Washington, DC 20240

DEC 30 2015

The Honorable Diane Feinstein
United States Senate
Washington, DC 20510

Dear Senator Feinstein:

Thank you for your letter dated May 29, 2015, addressed to Secretary Jewell regarding your request for a re-evaluation of how tribal gaming is regulated as to land into trust. She has asked me to respond on her behalf.

On matters involving land into trust for gaming, we are guided by Section 20 of the Indian Gaming Regulatory Act (IGRA), 25 U.S.C. §§2701-21 (1988), which prohibits gaming on lands acquired in trust after October 17, 1988, unless one of the following exceptions or exemptions applies:

1. Such lands are located within or contiguous to the boundaries of the reservation of the Indian tribe on October 17, 1988; or
2. Such lands are within the tribe's last recognized reservation within the state or states within which such tribe is presently located; or
3. A determination is made by the Secretary of the Department of the Interior, after consultation with the Indian tribe and appropriate state and local officials, including officials of other nearby tribes, that a gaming establishment would be in the best interest of the Indian tribe and its members, and would not be detrimental to the surrounding community, but only if the Governor of the state in which the gaming activity is to be conducted concurs in the Secretary's determination; or
4. Lands are taken in trust as part of (i) a settlement of a land claim, (ii) the initial reservation of an Indian tribe acknowledged by the Secretary under the Federal acknowledgment process, or (iii) the restoration of lands for an Indian tribe that is restored to Federal recognition.

The Indian Gaming Regulatory Act, 25 U.S.C. § 2701-21 (1988)(IGRA), expressly contemplates and authorizes both on and off-reservation gaming.

We appreciate your request to re-evaluate the Department of the Interior's (Department) regulations governing gaming. However, we believe that the concerns you raise regarding tribes engaging in off-reservation gaming were thoroughly reviewed during the rulemaking process as the regulations were developed. During an eight-year period, the Department's Office of Indian Gaming engaged in public comments and consultation with tribal governments in accordance

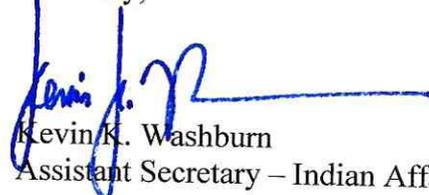
with Executive Order No. 13175 regarding the standards for implementing Section 20 of IGRA. The previous Administration published final regulations at 25 C.F.R. Part 292 to standardize the Department's procedure for reviewing applications for gaming on after-acquired lands. Publication of the regulations was the culmination of a process that included two Notices of Proposed Rulemaking, tribal consultations carried out at numerous locations, and multiple extended public comment periods.

We believe that Part 292 requires a transparent, rigorous, and thorough evaluation of each tribal application. Moreover, for many such acquisitions, IGRA provides a powerful check by requiring gubernatorial concurrence with all favorable two-part determinations. Only after the Governor concurs can tribes benefit from casinos located away from their reservations, and cooperative and beneficial relationships can be forged with those local communities. For example, in Wisconsin a tribal community once struggled, but because of a positive determination by the Secretary of the Interior and the Governor of Wisconsin that gaming was in the tribe's best interest and was not detrimental to the surrounding communities, that Tribe has experienced a renaissance. In that case, the Tribe had no aboriginal connection to site, no demonstrated modern-day connection to the site, and was more than 150 miles from the Tribe's reservation boundaries. Sometimes, the choice to pursue economic development off-reservation may be the only choice a tribe may have. In sum, off-reservation gaming, while rare, was clearly authorized by Congress and can be very important for tribal communities.

Your letter refers to the State of California's referendum on the North Fork Rancheria of Mono Indians and Wiyot Tribe compacts. However, the referendum concerned gaming compacts and not off-reservation trust acquisitions or even gaming generally. While the referendum is an important expression of the will of voters in California on an important issue, it is not directly applicable to the request for off-reservation gaming. Interior remains bound by IGRA and the Part 292 regulations in reviewing applications for gaming on after-acquired lands.

Thank you for your interest in Indian gaming. We appreciate the opportunity to respond to your important concerns.

Sincerely,



Kevin K. Washburn
Assistant Secretary – Indian Affairs