



# United States Department of the Interior

Office of the Assistant Secretary - Indian Affairs

Washington, DC 20240

## Office of Indian Gaming - Fact Sheet and FAQ

Tejon Indian Tribe – Secretarial (Two Part) Determination and Fee-to-Trust application to build a casino resort in Kern County, California

January 07, 2022

### Key Facts:

- Section 20 of IGRA generally prohibits gaming activities on lands acquired in trust by the United States on behalf of a tribe after October 17, 1988, subject to several exceptions. One exception, known as the “Secretarial Determination” or “Two-Part Determination” permits a tribe to conduct gaming on lands acquired in trust after October 17, 1988, where the Secretary, after consultation with the Indian tribe and appropriate state and local officials, including officials of other nearby Indian tribes, determines that:
  - A gaming establishment on the trust lands would be in the best interest of the tribe and its members; and
  - The Secretary also determines that gaming on the trust lands would not be detrimental to the surrounding community.

Under this exception, the governor of the state in which the gaming activity is to be conducted must concur in the Secretarial Determination before the applicant tribe may operate a gaming establishment on the proposed site.

- On January 8, 2021, the Assistant Secretary—Indian Affairs requested Governor Newsom’s concurrence in the Department’s Secretarial Determination which found that a gaming establishment at the Mettler Site was in the best interest of the Tejon Indian Tribe and would not be detrimental to the surrounding community.
- The Department’s Regulations at 25 CFR § 292.23(b) provides the Governor one year to concur but permits the Tribe or the Governor to request an extension up to 180 days.
- On December 20, 2021, Governor Newsom’s office submitted a request for an extension pursuant to 25 CFR § 292.23(b).
- On January 7, 2022, the Department granted the State’s request for an extension.

### Frequently Asked Questions

**Question:** Does this approval of an extension mean that the Department has approved the Tribe’s application to take land in trust?

**Answer:** No. The extension approval is a ministerial act extending the period for the Governor to review and concur in the Department’s 2021 favorable Secretarial Determination.



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Question: What are the next steps in the process?

Answer: The Governor now has until July 2022, to concur in the Department's 2021 favorable Secretarial Determination.

Question: Is it unusual for an extension to be requested or granted?

Answer: No. The Department's regulations anticipated that in some instances the Governor's office may need additional time to consider the Department's Secretarial Determination. Additionally, the Department notes that combatting the COVID-19 pandemic has required the full attention of Federal, Tribal and State governments.

Question: When will the Secretary issue a decision on the Tribe's fee-to-trust application?

Answer: If the Governor concurs in this determination, the Department will issue fee-to-trust decision consistent with the Department's regulations at 25 C.F.R. Part 151. If the Governor does not concur in this determination, the Tribe may not use the Proposed Site for gaming purposes, unless another exception to IGRA's Section 20 prohibition applies.