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TUNICA-BILOXI
TRIBE OF LOUISIANA



June 30, 2018

EMAIL (consultation@bia.gov)

Attn: Fee-To-Trust Consultation
Office of Regulatory Affairs and Collaborative Action
Office of the Assistant Secretary - Indian Affairs
U.S. Department of the Interior
1849 C Street, NW
Mail Stop 4660—MIB
Washington, DC 20240

Re: Comments Regarding 25 CFR Part 151 (Fee-to-Trust Regulations and Related Questions)

Dear Principal Deputy Assistant Secretary Tahsuda:

The Tunica-Biloxi Tribe of Louisiana, a federally-recognized tribe located near Marksville, Louisiana ("Tribe" or "Tunica-Biloxi Tribe") hereby submits the following comments in response to the Department of the Interior's ("Department") December 6, 2018 Dear Tribal Leader letter ("Tribal Leader Letter") requesting written comments relative to 25 CFR Part 151 ("Fee-to-Trust Regulations" or "Regulations") and certain specific questions set forth in the Tribal Leader Letter. As you know, the Department issued the Tribal Leader Letter after receiving feedback from tribal leaders on the Department's proposed draft revisions ("Draft Revisions") to the Regulations issued on October 4, 2017. The questions identified for consultation and comment set forth in the Tribal Leader Letter contain a number of the same questions included in the Department's October 4, 2017 Tribal Leader Letter. We appreciate the opportunity to submit these comments.

As a preliminary matter, we do not believe revisions to the Fee-to-Trust Regulations are needed or advisable at this time. Rather, we believe what is needed is for the Department to devote more resources to its land-into-trust program in order to be able to timely process applications under the existing Regulations. The Tribe, like all tribes, has experienced significant delays in its efforts to acquire additional trust lands. Also, we strongly object to the Draft Revisions and appreciate the Department's decision to withdraw them.

We are also deeply concerned that the Department's stated intent to further distinguish and impose additional requirements, beyond what is set forth in the existing Regulations, on tribes with respect to off-reservation acquisitions is not warranted and, if adopted, will result in a process that makes it even more difficult for tribes to acquire off-reservation lands. This would be especially detrimental to tribes such as the Tunica-Biloxi Tribe that have a very small reservation (less than 135 acres) because virtually all of the Tribe's future acquisitions will be considered off-reservation. Although the Tribe supports streamlining on-reservation acquisitions, we do not believe that it should be at the expense of further burdening off-reservation acquisitions. The Tribe has reacquired only a minute fraction of its aboriginal homelands. We strongly believe that if the Department moves forward with revisions to the Regulations, the Department's guiding policy should be consistent with the intent of the Indian Reorganization Act and should promote and not further hinder a tribe's ability to reacquire its homelands – even if such lands are located off-reservation.

I. Background on the Tribe

We believe it is important for the Department to understand the history of the Tribe and, in particular, the historical displacement of the Tribe from its ancestral lands and the astounding diminishment of its land base. Although the Tribe once occupied lands in at least four states, its current trust holdings today total less than 1,500 acres. Clearly, this land base is inadequate and insufficient to meet the needs of the Tribe and its members – the Tribe simply does not have enough trust lands to provide housing for its members or for economic development purposes.

The present-day Tunica-Biloxi Tribe is the successor of the historical Tunica, Ofo, Avoyel and Biloxi tribes.¹ As explained in more detail below and carefully documented by the Department in its decision to federally recognize the Tribe, the four tribes occupied vast areas of Arkansas, Louisiana, Mississippi, and Alabama before they were forced to abandon their homelands and gradually fused into one group. The Tribe's history – and displacement from their lands – is closely intertwined with the history of Louisiana.

The French Period: 1694-1763

Tunica and Ofo. The Spanish conquistador Hernando de Soto may have visited the ancestral Tunica town of Quizquiz, located near the Mississippi River in modern-day northern Mississippi, just northeast of the mouth of the Arkansas River, in 1541.² The first definitive documented contact with the Tunica Tribe was with French colonists in the 1680s in an area approximately 80 miles south of Quizquiz, in what is today central Mississippi.³ At the time, the

¹ Memorandum from Commissioner of Indian Affairs to the Assistant Secretary – Indian Affairs, Acting Deputy, Recommendation and Summary of Evidence for Proposed Finding for Federal Acknowledgment of the Tunica-Biloxi Indian Tribe of Louisiana Pursuant to 25 CFR 54, 1 (Dec. 4, 1980) [hereinafter “DOI Memorandum”].

² History Report on Tunica-Biloxi Indian Tribe, DOI Memorandum, 2 [hereinafter “DOI History Report”].

³ Anthropological Report on the Tunica-Biloxi Indian Tribe, DOI Memorandum, 4 [hereinafter “DOI Anthropological Report”].

Tunica, having migrated from their homelands in southeastern Arkansas,⁴ were established in several villages along the Yazoo River, with another village on the Ouachita River.⁵ Tribal members were heavily involved in trade relations, most notably, the salt and horse trades, which would also place the Tribe in a large area in northern Louisiana.⁶

In 1706, the Tunica, in order to avoid Chickasaw slaving raids instigated by the English, moved south along the Mississippi River to an area near the mouth of the Red River, considerably closer to the French settlements.⁷

A strong friendship developed between the Tunica and the French colonists and the Tribe soon found it allied with the French.⁸ The French and the Tunica first fought together as allies during a series of wars with the Natchez Tribe in 1714, 1722-24 and 1729.⁹ At the conclusion of the last Natchez war, King Louis XV ordered the presentation of a silver medal to the Tunica chief, Joligo, and gave him the title “Brigadier of the Red Armies.”¹⁰ With the decline of the Natchez, the Tunica strategically became less important to the French.¹¹

During this period, the Ofo Tribe, which occupied a large area east of the Tunica lands in what is now central Mississippi, gradually allied itself with the Tunica.¹² Although it is not clear when the Ofo first joined the Tunica, the Department noted that by 1730, the Ofo had “permanently” joined with the Tunica.¹³

Avoyel. The Avoyel were located in the general area of the Tribe’s current reservation near Marksville, Louisiana at the time of the first European contact.¹⁴ Although not much is known about their culture, the Avoyel, like the Tunica, were involved in trade and the conflicts of the region.¹⁵

Biloxi. During this time, the Biloxi occupied an area along the Gulf Coast in what today are the states of Mississippi and Alabama.¹⁶ Before this time, there is no definitive written record of the Biloxi Tribe before French explorers first encountered them in 1699.¹⁷

⁴ Ann Early, *Tunica*, The Encyclopedia of Ark. History & Culture, <http://www.encyclopediaofarkansas.net/encyclopedia/entry-detail.aspx?entryID=552> (last updated May 28, 2014).

⁵ DOI Anthropological Report, at 4.

⁶ *Id.* at 4-5.

⁷ *Id.*

⁸ DOI History Report, at 2.

⁹ *Id.*

¹⁰ *Id.* at 3; DOI Anthropological Report, at 4.

¹¹ DOI Anthropological Report, at 4.

¹² *Id.*

¹³ *Id.*

¹⁴ *Id.* at 2.

¹⁵ *Id.* at 10.

¹⁶ DOI Anthropological Report, at 6; Laura Redish & Orrin Lewis, *Biloxi Indian Fact Sheet: Native American Facts for Kids*, NATIVE LANGUAGES OF THE AMERICAS, http://www.bigorin.org/biloxi_kids.htm (last updated 2015).

¹⁷ *History of Tunica-Biloxi Tribe*, TUNICA-BILOXI TRIBE OF LOUISIANA,

The Spanish Period: 1763-1803

As a result of the conclusion of the French and Indian War and the signing of the Treaty of Paris in 1763, Great Britain gained control over all lands east of the Mississippi formerly controlled by the French, and Spain gained control of lands west of the Mississippi, including what is today the State of Louisiana.

Although the exact dates and circumstances of the movements of the four tribes to the Avoyelles and Rapides Parish areas cannot be determined,¹⁸ it is clear that during this time the Tribes established at least four communities (two Tunica and two Biloxi), in addition to an existing Avoyel community.

Tunica and Ofo. The Tunica and Ofo resented the transfer of French authority to Great Britain in 1763 and had no desire to live under British sovereignty.¹⁹ As a result, the Tunica (now including a majority of the Ofo²⁰) gradually began to move across the Mississippi into Spanish Louisiana in the 1770s, and settled in the Avoyelles Parish area.²¹ During this time, the Tunica established a close relationship with the Spanish colonial authorities and, at times, collaborated together to ward off attacks from the Choctaws and other tribes allied with the British.²²

The Tunica established two separate settlements in Avoyelles Parish, one at present-day Marksville and the other approximately ten miles away on Bayou Rouge near the town of Goudeau.²³ It is very unlikely that only two Tunica settlements were established at this time as evidence shows Tunica members present in the Red River area and the Bayou Boeuf in Rapides Parish.²⁴

In or around the 1770s, the Tunica were given lands near what is today Marksville, Louisiana, pursuant to “titles and orders” from the Spanish government.²⁵ Specifically, between 1779 and 1786, the Tunica obtained approximately a “league square” of land from the Spanish

<https://www.tunicabiloxi.org/history-of-tunica-biloxi-tribe/> (last visited July 9, 2018).

¹⁸ DOI Anthropological Report, at 6.

¹⁹ DOI History Report, at 3.

²⁰ *Id.* It appears that not all of the Ofo joined the Tunica at Marksville, at least not initially, as a separate Ofo village had been reported on the west bank of the Mississippi as late as 1784. *Id.*

²¹ *Id.* at 3-4. According to the Department, it is likely that the movement occurred over a period of time rather than as a single migration of the entire tribe. Tunica members were still reported on the Mississippi River in 1784, and several sources indicate that some Tunica members were still in that area as late as 1824. DOI Anthropological Report, at 6.

²² *Id.* at 4.

²³ DOI History Report, at 4. As noted in the DOI Anthropological Report, these settlements may have paralleled their division on the Mississippi River between “Grand” and “Petite” Tunica villages. DOI Anthropological Report, at 6.

²⁴ *Id.* at 6-7.

²⁵ *Id.* at 7.

authorities.²⁶ A league square is approximately 4,400 acres.²⁷ This land near Marksville historically was referred to as the Tunica Indian Village.²⁸

Although the second Tunica settlement at Bayou Rouge is difficult to date, the earliest clearly established date is 1791.²⁹ The amount of land occupied by the Tunica at Bayou Rouge is unclear, however, records of land sales indicate that members occupied, and eventually sold, several parcels.³⁰

Avoyel. The Avoyel were already present in the Red River area in and around Marksville in 1699.³¹ They were reported in 1794-8 as having a village with 40 men, suggesting that they did not immediately merge with the Tunica when the latter came.³² Although little is known about their culture, in the 1700s they, like the Tunica, were serving as middlemen in the horse trade, and otherwise trading and acting in the conflicts of the region.³³ Accordingly, it can be assumed that the Avoyel traded within a larger geographic area well beyond Avoyelles Parish.

Biloxi. After several moves from their original aboriginal lands along the Mississippi and Alabama coasts, by 1763 the Biloxi had settled on the Mississippi, across the river from the Tunica.³⁴ Like the Tunica, they wanted to avoid the British who at that point had taken over the Biloxi's former territories, and began to move west.³⁵ The Biloxi movements, like those of the Tunica, may have taken place over a period of time, involving a considerable number of different locations.³⁶

According to oral tradition and testimony, the Biloxi had been granted a village at the same time as the Tunica, just across the Coulee des Grues from the Tunica.³⁷

In addition to the Coulee des Grues site near Marksville, another group of Biloxi moved to the Bayou Boeuf in Rapides Parish in about 1797.³⁸ Although the group sold their land in

²⁶ DOI History Report, at 5.

²⁷ *League*, ENCYCLOPEDIA BRITANNICA, <https://www.britannica.com/science/league-measurement> (last visited July 9, 2018). The DOI Report indicates that a league square is "several thousands of acres." DOI History Report, at 5.

²⁸ *Id.* at 6.

²⁹ DOI Anthropological Report, at 7.

³⁰ *Id.* at 8-9.

³¹ *Id.* at 10.

³² *Id.*

³³ *Id.*

³⁴ *Id.* at 6.

³⁵ *Id.*

³⁶ *Id.* at 9. As late as 1784, the Biloxi were still reported on the Mississippi near the mouth of the Red River, across from the area where the Tunica had been. *Id.* at 6.

³⁷ DOI History Report, at 4. (Coulee des Grues is the name of a stream south of Marksville.)

³⁸ *Id.*

1802, they continued to live in the area until at least 1886.³⁹ This became known as the Indian Creek community.⁴⁰

The American Period: Continued Loss of Tribe's Lands

With the conclusion of the Louisiana Purchase in 1803, the Tribe became subject to the policies of the United States. Although the Louisiana Purchase Treaty included a provision stating that the United States would honor all previous agreements between the tribes and the French and Spanish, it failed to do so.⁴¹ Whereas the Spanish expressly recognized the land grant to the Tribe and affirmatively protected the Tribe's lands from encroachment by non-Indians, the United States government did nothing to protect the Tribe's lands until the 1980s.⁴²

At the commencement of the American period, the Tunica's land near Marksville consisted of at least a league square (approximately 4,400 acres) and an unknown amount occupied by the Avoyels. However, as a result of a lawsuit and subsequent settlement in the 1840s, and the failure of the United States to protect the Tribe's lands, the Tribe's lands in Marksville were reduced to approximately 130 acres.⁴³ The Tribe also gradually lost its land holdings in the Bayou Rouge area. According to the Department, the Bayou Rouge settlement "probably broke up" due to land sales and encroachment by outsiders.⁴⁴ Eventually, the community or what was left of it merged with the community at Marksville.⁴⁵

Given the lack of federal protection of its lands, the Biloxi Tribe also lost both of its land bases: the lands south of the Coulee des Grues were either abandoned or sold⁴⁶ and the settlement at Indian Creek was abandoned in the 1930s as a result of the Depression and the closing of the local sawmills.⁴⁷

In 1924, the Biloxi formally merged with the Tunica Tribe.⁴⁸

The Tribe's historical movement down the Mississippi and into the Marksville area is depicted in the attached map titled "Migrations of the Tunica" (Exhibit A).⁴⁹ We also attach a

³⁹ *Id.*

⁴⁰ DOI Anthropological Report, at 14. 1924 Indian Creek Biloxi were formally incorporated into the Tribe. *Id.* at 13.

⁴¹ THE TUNICA-BILOXI TRIBE: ITS CULTURE AND PEOPLE 21 (Brian Klopotek, John D. Barbry, Donna M. Pierite, & Elisabeth Pierite-Mora eds., 2nd ed. 2017).

⁴² *Id.*

⁴³ DOI History Report, at 10. A settlement agreement reached in a 1915 lawsuit also acknowledged that the Tunica owned the 130 acre village – an area that "has been carried as a tax-free 'Indian reservation' on county surveys since then." DOI Anthropological Report, at 13.

⁴⁴ DOI History Report, at 4.

⁴⁵ DOI Anthropological Report, at 11.

⁴⁶ DOI History Report, at 4.

⁴⁷ DOI Anthropological Report, at 18.

⁴⁸ DOI History Report, at 12.

⁴⁹ DOI Anthropological Report, Map 1.

map that shows the Tribe's existing trust land holdings in relation to its ancestral lands. (Exhibit B).

Tribe's Trust Land Holdings Today

Despite once occupying vast lands over several different states, the Tribe's current trust lands consist of *less than 1,500 acres* – a minute fraction of its former lands. (Please see attached map, Exhibit C, "Tunica-Biloxi Tribe of Louisiana Trust Properties"). The Tribe's modest trust acquisitions over the last thirty years demonstrate that the Tribe has only begun to reacquire its homelands. Moreover, given the small size of the Tribe's reservation, there are no fee lands within the exterior boundaries of the reservation and there are only a handful of parcels of land adjacent to the reservation. As such, virtually all of the Tribe's future fee-to-trust petitions will be "off-reservation" acquisitions.

II. Comments to Questions Set Forth in Letter

The Tribal Leader Letter includes ten questions for consultation and comment. We set forth below the questions and our comments to each.

1. What should the objective of the land-into-trust program be? What should the Department be working to accomplish?

At a minimum, the objective of the Department's land-into-trust program should be to vigorously carry out and implement the underlying directive and policies of the Indian Reorganization Act⁵⁰ ("IRA"). Section 5 of the IRA expressly authorizes the Secretary to acquire "any interest in lands, water rights, or surface rights to lands, within or without existing reservations, for the purpose of providing land for Indians."⁵¹ Then-Chairman of the Senate Committee on Indian Affairs Senator Daniel K. Akaka concisely summarized the Congressional intent of the IRA at a 2011 hearing titled "The Indian Reorganization Act – 75 Years Later: Renewing Our Commitment to Restore Tribal Homelands and Promote Self-Determination":

When Congress enacted the Indian Reorganization Act in 1934, its intent was very clear. Congress intended to end Federal policies of termination and allotment and begin an era of empowering tribes by restoring their homelands and encouraging self-determination. Those fundamental goals still guide Federal Indian policy today.⁵²

The existing Fee-to-Trust Regulations, although limiting the Secretary's discretion in a number of respects, also include these objectives. Part 151.3 ("Land Acquisition Policy") provides, in part, that

"land may be acquired for a tribe in trust status:

⁵⁰ 25 U.S.C. §§ 5103 *et seq.*

⁵¹ *Id.* § 5108.

⁵² *The Indian Reorganization Act—75 Years Later: Renewing Our Commitment to Restore Tribal Homelands and Promote Self-Determination: Hearing Before the S. Comm. on Indian Affairs*, 112th Cong. 1 (2011) (statement of Senator Daniel K. Akaka).

- (1) When the property is located within the exterior boundaries of the tribe's reservation or adjacent thereto, or within a tribal consolidation area; or
- (2) When the tribe already owns an interest in the land; or
- (3) When the Secretary determines that the acquisition of the land is necessary to facilitate tribal self-determination, economic development, or Indian housing."⁵³

Consistent with the purpose and intent of Section 5 of the IRA and the existing Regulations, the objective and goal of the Department's land-into-trust program should be to restore tribal land bases in order for tribes to meaningfully exercise rights of self-determination and for other tribal purposes. We believe the existing Regulations sufficiently embody this objective and therefore, do not believe that revisions to the Regulations are warranted. As discussed above, in the case of the Tunica Tribe, this goal remains unachieved as the Tribe has reacquired only a miniscule portion of its former lands.

2. How effectively does the Department address on-reservation land-into-trust applications?

Historically, the Tribe has had very few on-reservation acquisitions because there is no fee land within the Tribe's reservation and given the small size of the reservation, there are very few adjacent parcels, none of which are currently available. As such, virtually all of the Tribe's future acquisitions will be "off-reservation." This is very unfortunate because the Tribe clearly needs additional lands for different governmental purposes and the only available lands are located off-reservation. The process to acquire such lands is subject to additional requirements and considerations than "on-reservation" acquisitions. As such, and given the Tribe's loss of its land base, the Tribe agrees with the position of the National Congress of American Indians ("NCAI") that a fee-to-trust petition in a tribe's ancestral homelands should be considered and processed as an "on-reservation" acquisition.

Although the Tribe enjoys a good working relationship with the Eastern Region, we believe that all applications, whether on-reservation or off-reservation, could and should be processed in a more timely manner.

3. Under what circumstances should the Department approve or disapprove an off-reservation trust application?

As mentioned above, the Tribe believes that the Department's decisions on all fee-to-trust requests, including off-reservation petitions, should be driven by the Congressional directive and intent set forth in the IRA. We note that Section 5 of the IRA does not distinguish between on-reservation and off-reservation acquisitions. Rather, Section 5 states clearly that the Secretary may acquire "any interest in lands . . . *within or without existing reservations*, for the purpose of providing land for Indians."⁵⁴

⁵³ 25 C.F.R. § 151.3(a).

⁵⁴ 25 U.S.C. § 5108 (emphasis added).

Despite the IRA's lack of distinction between on- and off-reservation lands, the existing Fee-to-Trust Regulations distinguish between such land acquisitions. If the land is not located within the exterior boundaries of a tribe's reservation, the Secretary nevertheless has the authority to acquire the land if the tribe already owns an interest in the land or "[w]hen the Secretary determines that the acquisition of the land is necessary to facilitate tribal self-determination, economic development, or Indian housing."⁵⁵ There are many different circumstances where trust land not only facilitates but is necessary for a tribe to exercise self-determination. A tribe's ability to exercise its governmental authority is in many cases uniquely tied to the trust status of the land.

We believe that the IRA and the existing Regulations sufficiently identify the circumstances under which the Department can approve or disapprove an off-reservation application. We are very concerned that the Department may be considering revisions that further distinguish between on- and off-reservation petitions and impose additional requirements and hurdles on the latter. Again, the reality of the Tribe's situation is that it needs additional trust lands and the only available lands are off-reservation. However, it is entirely possible, if not likely, that such lands will be located very close – perhaps a distance measured in feet, not miles – to the Tribe's reservation. As such, we do not believe that the Department should in any way impose additional requirements on off-reservation acquisitions which would further build upon a distinction that is not found in the IRA.

4. What criteria should the Department consider when approving or disapproving an off-reservation trust application?

We believe this question is very similar to Question #3 because we interpret "criteria" and "circumstances" to have a similar meaning. Accordingly, we refer you to our answers above.

5. Should different criteria and/or procedures be used in processing off-reservation applications based on:

- a. Whether the application is for economic development as distinguished from non-economic development purposes (for example Tribal government buildings, or Tribal health care, or Tribal housing)?
- b. Whether the application is for gaming purposes as distinguished from other (non-gaming) economic development?
- c. Whether the application involves no change in use?

No, we do not believe that the Department should use or establish different criteria in processing trust acquisitions based on different planned uses for such lands. The existing Regulations acknowledge that tribes can acquire trust lands for different purposes. We believe that it should be up to a tribe, in exercising its right to self-determination consistent with federal law, to determine the appropriate use of its lands. If the Department imposes different criteria

⁵⁵ 25 C.F.R. § 151.3(a)(3) (emphasis added).

(which in all likelihood will effectively mean additional requirements) on acquisitions based on the intended use of the land, it will result in the Department unduly influencing a tribe's decision how best to use its lands. This would be directly contrary to tribal self-determination which is a cornerstone of the IRA and which remains at the core of federal Indian policy.

We also note that given the application of the National Environmental Policy Act to trust applications, there already are different levels of review and analyses depending upon the impact of the proposed use on the environment.

6. What are the advantages/disadvantages of operating on land that is in trust versus land that is owned in fee?

We do not know why the Department is asking this question. To be clear, the Department should not weigh the advantages/disadvantages to a tribe operating on trust versus non-trust land in the fee-to-trust process. If a tribe submits a petition to have land taken into trust, it has exercised its rights to self-determination and has made the decision to have land moved from fee to trust status. The tribe's decision should not be questioned.

7. Should pending applications be subject to new revisions if/when they are finalized?

We believe the petitioning tribe should be able to select whether its application should be considered under the existing Regulations or the revised regulations.

8. How should the Department recognize and balance the concerns of state and local jurisdictions? What weight should the Department give to public comments?

At the onset, it is important to point out that Section 5 of the IRA makes no mention of the Department balancing concerns of state and local jurisdictions. Rather, its focus is on rectifying the devastating consequences of the Allotment Era and authorizing the Secretary to acquire (and in the majority of cases, reacquire) land bases for tribes.

We also note that the existing Regulations already require the Department to consider concerns raised by state and local governments. With respect to on-reservation acquisitions, the Department is required to notify state and local governments having regulatory jurisdiction over the land to be acquired that they are allowed to provide written comments "as to the acquisition's potential impacts on regulatory jurisdiction, real property taxes and special assessments."⁵⁶ As for off-reservation acquisitions, in addition to considering these impacts, the Department is also required to "give greater scrutiny to the tribe's justification of anticipated benefits from the acquisition . . . [and] give greater weight to the concerns" raised by state and local governments "as the distance between the tribe's reservation and the land to be acquired increases."⁵⁷ As such, the existing Regulations sufficiently consider these concerns. Should the Department move forward with revisions to the Regulations, the Tribe agrees with NCAI's comment that the Department should strike the current language at 25 C.F.R. § 151.11(b) and replace it with

⁵⁶ *Id.* § 151.10.

⁵⁷ *Id.* § 151.11(b).

explicit language that states that “as the intended economic benefits of the acquisition to the Tribe increase, the Secretary will give lesser weight to concerns raised pursuant to paragraph (d) of this section.”

As far as the amount of weight that should be given to public comments, given that Congress did not require this in its directive, we believe the Department should give the greatest weight to the tribe’s justification for the acquisition consistent with the IRA’s objective of reacquiring lands and establishing a permanent tribal homeland.

9. Do Memoranda of Understanding (MOUs) and other similar cooperative agreements between tribes and state/local governments help facilitate improved tribal/state/local relationships in off-reservation economic developments? If MOUs help facilitate improved government-to-government relationships, should that be reflected in the off-reservation application process?

First, the Tribe firmly believes that the decision to enter into or not enter into a MOU is solely within the sovereign authority and prerogative of the particular tribal government and should not be influenced by any other government. Similarly, it should be solely a tribe’s determination whether a MOU or other agreement would improve relationships with state/local governments.

Second, the Tribe strongly believes that MOUs should in no way be included in the fee-to-trust application process. Although we understand that the Draft Revisions did not require an MOU as a condition to take land into trust, if the Department revises the Regulations in a way that references MOUs it will effectively signal that the Department favors such agreements when taking land into trust and therefore, will increase the leverage a state or local government has in negotiating an MOU. Moreover, if a tribe does not have an MOU (which is entirely possible as there are counties and municipalities across the country with standing resolutions or practices of opposing every single fee-to-trust acquisition), opponents to fee-to-trust acquisitions will likely use this fact to urge the Department to deny the petition.

10. What recommendations would you make to streamline/improve the land-into-trust program?

As mentioned above, the Tribe does not believe that existing Regulations require revisions. However, we believe that the program can be improved if the Department devotes enough resources and manpower to process fee-to-trust applications. The process works; however, the existing time frames do not.

If the Department moves forward with revisions to the Regulations, we urge the Department not to impose additional requirements or hurdles on the fee-to-trust process. The Draft Revisions suggested an intent to do so with respect to off-reservation petitions. We believe that approach is inconsistent with the IRA and long-standing federal Indian policy to re-establish tribal homelands. Moreover, it does not take into consideration a tribe’s unique history or circumstances. In the case of the Tunica-Biloxi Tribe, as demonstrated above, we have

reacquired only a small sliver of our homelands and our current land holdings are insufficient to meet the needs of our government and people.

The Tribe appreciates the opportunity to submit our comments.

Sincerely,

A handwritten signature in black ink that reads "Marshall Pierite". The signature is written in a cursive, flowing style.

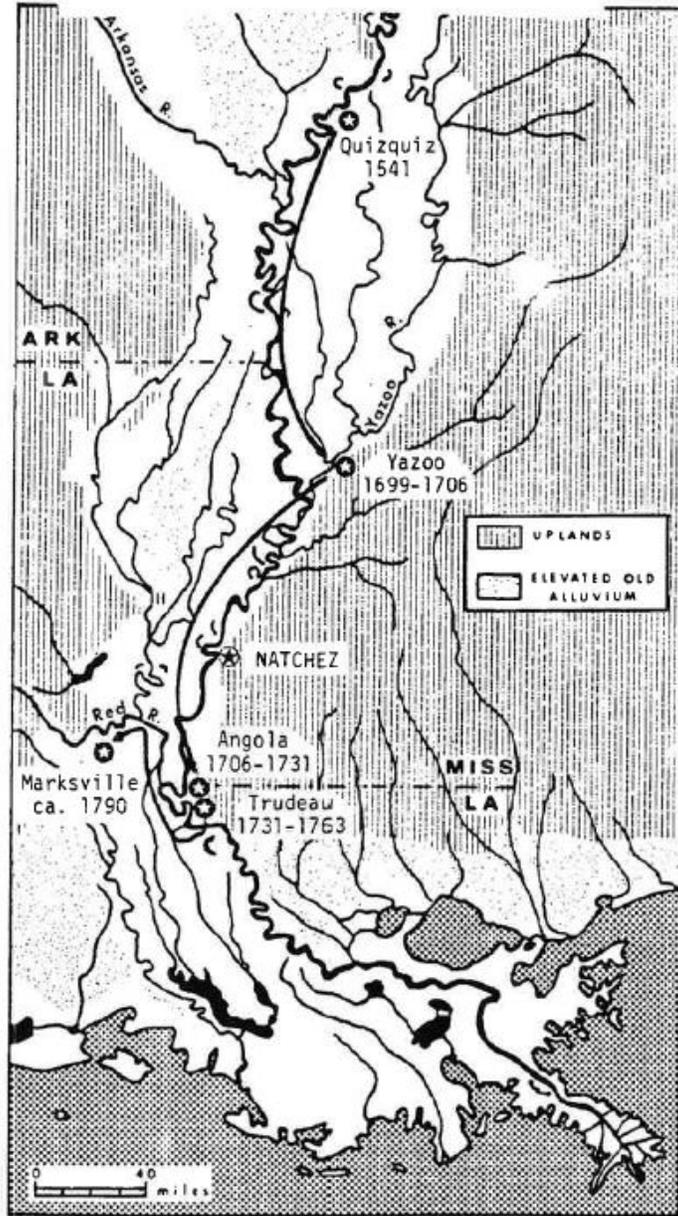
Marshall Pierite
Tribal Chairman

Attachments

EXHIBIT A

Map 1

From: Brain: 1977



Migrations of the Tunica.

EXHIBIT B

Historic Homelands of The Tunica-Biloxi Tribe of Louisiana



EXHIBIT C

