

LONE BAND OF MIWOK INDIANS TRUST ACQUISITION

Decision

- The Assistant Secretary – Indian Affairs has approved the Lone Band of Miwok Indians’ (Band) application to have approximately 228 acres of land acquired in trust on its behalf for gaming purposes.
- In 2006, the Department determined that the Tribe’s application satisfied the Indian Gaming Regulatory Act’s (IGRA) “Restored Lands” exception; meaning that the Tribe was a “restored tribe,” and established both a modern and historical connection to the proposed gaming site. This opinion was issued *before* the Department promulgated its gaming regulations in 2008.

Background

- The Tribe is located in Amador County, California, and has approximately 750 members. The Tribe does not have any lands held in trust by the United States
- The Tribe is proposing to develop a class III gaming facility on approximately 228 acres of land near Plymouth, California – approximately 11 miles from the City of Lone, California.
- The Tribe submitted its initial fee-to-trust application for the gaming site in 2005.
- The Indian Gaming Regulatory Act (IGRA) generally prohibits gaming on lands acquired in trust after its enactment in 1988, except where those trust lands meet certain conditions explicitly specified in IGRA.
- The “Restored Lands” Exception permits gaming on restored lands of a tribe that is restored to federal recognition.

Overview of Analysis

- The Department determined that the Tribe constituted a “restored tribe,” and that the proposed gaming site constituted “restored lands” under IGRA in 2006. This determination was made before the Department adopted the regulations at 25 C.F.R. Part 292 in 2008 (Part 292 Regulations).
- In determining that the Band constituted a “restored tribe” for purposes of IGRA, the Department concluded that the Band was once recognized by the Federal government, the federal government subsequently did not recognize it and that, ultimately, the Federal government restored its recognition of the Band. This analysis closely tracked the requirements adopted in the Part 292 Regulations in 2008.
- In determining that the proposed gaming site constituted the “restored lands” of the Band, the Department concluded that the Band demonstrated both a modern and historical connection to the land, as well as a reasonable temporal connection between the date the land is acquired and

the date the tribe was restored. This analysis closely tracked the requirements adopted in the Part 292 Regulations in 2008.

- The Part 292 Regulations expressly state that they do not alter written opinions on IGRA's exceptions issued prior to the time the Department adopted those regulations. Therefore, the Assistant Secretary may rely upon the Department's 2006 determination that the Band's application satisfies IGRA's Restored Lands Exception.
- The Part 292 Regulations adopted standards that the Department had previously used to analyze whether tribal gaming applications satisfied IGRA's Restored Lands Exception.

Noteworthy Issues

- This decision marks the first trust acquisition approved for gaming purposes pursuant to IGRA's "Restored Lands Exception" since September 2008.