

San Manuel Band of Mission Indians

November 16, 2023

Office of Information and Regulatory Affairs
Office of Management and Budget
Executive Office of the President

Re: RIN 1076-AF71

To whom it may concern,

On behalf of the Yuhaaviatam of San Manuel Nation (also known as the San Manuel Band of Mission Indians), thank you for taking the time to meet with us yesterday regarding the Department of the Interior's proposed amendments to 25 C.F.R. Part 151. As I stated during our discussion, the Nation fully supports the Department's proposed regulations and requests that they be finalized as soon as possible.

The Nation is located in southern California, about 60 miles inland from Los Angeles. We have a small reservation located on the steep hillside of the San Bernadino Mountains, surrounded by our Serrano ancestral lands. We are proud of what we have built on our reservation, including housing, two fire stations, a healthcare clinic, education facilities for our kids and other important resources for our Tribal Citizens.

But we have faced challenges with very limited developable land on our reservation and a growing population that wants to live within the community. To meet the current and future needs of our growing community, we must be able to reclaim some of our ancestral lands and restore our land base. We applaud the Administration for prioritizing regulations that empower tribes to secure their land bases and protect their tribal homelands, and also thank the Administration for recognizing the need for these important regulatory updates, some parts of which have not been updated in decades.

The regulations will not expand tribes' rights to have land taken into trust, but rather bring certainty and clarity to the existing process and for the first time properly balance the rights and needs of tribes with those of the surrounding communities. By bringing clarity and timeliness to the land-into-trust process, the regulations will also make it easier for tribes to submit complete applications the first time and ensure that those applications are reviewed and decided upon in a reasonable and predictable amount of time, allowing tribes to plan for their futures with greater certainty.

While it is inarguable that these regulations will have a positive impact on tribes, we reject any claims that the regulations will otherwise have a significant or substantial economic impact on state or local governments. For the first time, the proposed amended Part 151 regulations articulate a policy to acquire land so that tribes can strengthen their self-determination and sovereignty and correctly presume that all acquisitions, on and off-reservation, advance a legitimate tribal purpose. That positive impact for Indian country does not, however, somehow create a negative impact on states or surrounding communities, economic or otherwise.

These regulations do not grant tribes any new rights to land. Rather, they take the existing process, create certainty with definitive processes and actual timelines, and put the focus where it should be – on tribes and tribes' needs for trust land. The regulations' provision for requests involving land outside the reservation, for example, still requires the Secretary to consider the existence of any statutory authority for the acquisition and still requires notice to the state and local government with regulatory jurisdiction over the land and consideration of their written comments.

However, rather than focusing on the *potential* economic impact the trust acquisition *may* have on the local and state government, the regulation correctly shifts that focus to the positive impacts acquiring land into trust *will* have on a tribe's ability to establish and protect its homelands, protect its sacred sites and cultural resources and other important impacts. States and local jurisdiction can still weigh in on the acquisition, and those comments will still be considered by the Secretary. This regulation simply puts all the considerations into proper balance.

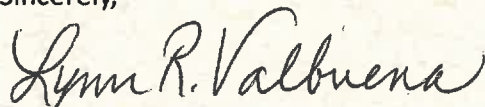
We also understand that some commenters have attempted to conflate the proposed regulations with gaming. Any such claims are demonstrably false, or at least misunderstand the requirement of the Indian Gaming Regulatory Act (IGRA). Pursuant to IGRA, tribes are prohibited from gaming on land taken into trust after October 17, 1988, unless an exception applies. Those exceptions are administered under part 25 CFR Part 292, which is not at issue here, and for which no changes have been proposed.

The proposed amendments to part 151 have not changed the requirement that a tribe notify the Secretary of the intended use of the land to be acquired in trust. If the tribe identifies "gaming" as the intended use, the Tribe must satisfy the requirement of Part 292, which are stringent. And even if the tribe does not identify gaming as the intended use, and the land goes into trust without the Part 292 analysis as part of the trust decision, that does not mean that a tribe can simply change its mind and unilaterally decide to put a casino on the land.

Before the tribe could open its casino, it would be required to submit a facility license to the NIGC, which adopted the 292 regulations, and would apply them as part of the licensing review. If the NIGC does not believe the land is eligible for gaming, and the tribe opens its casino anyway, the Chairman of the NIGC has the authority to close the casino. There is nothing in the Part 151 regulations that provides any workaround the Part 292 regulations. They are not about gaming and do not make gaming on trust land any easier or more likely.

Thank you again for considering our comments on this important matter and request that these regulations be finalized as quickly as possible to further empower tribes to secure their homelands.

Sincerely,



Lynn R. Valbuena
Chairwoman
San Manuel Band of Mission Indians