



**SHINGLE SPRINGS BAND
OF MIWOK INDIANS**

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November 19, 2015

Honorable Kevin Washburn
Assistant Secretary – Indian Affairs
Department of the Interior
1849 C Street, NW
Washington, DC 20240

RE: Coquille Indian Tribe gaming application for lands in Medford,
Oregon

Dear Secretary Washburn:

I write to you on behalf of the Shingle Springs Band of Miwok Indians with regard to the Coquille Indian Tribe (“Coquille”) application to take lands near Medford, Oregon, into trust for gaming purposes as restored lands, pursuant to 25 C.F.R. § 292.11(a). The Shingle Springs Band of Miwok Indians urges you to interpret the Coquille Restoration Act (“CRA”) in a manner that precludes the Coquille from acquiring the land in Medford as restored lands. Instead, if the Coquille desires to operate a gaming facility in Medford, Oregon, it is our view that they should pursue the application as a two-part determination.

We believe that interpreting the Coquille Restoration Act otherwise would create a precedent that would cause other similarly situated tribes, including at least two tribes in California, to pursue off-reservation gaming projects outside of their historical territories, and in the aboriginal territory of other tribes in the state, including ours.

In the Coquille Restoration Act, Congress designated a specific area in which the Coquille could secure land in trust as mandatory matter, and separately authorized the Secretary to acquire additional land in trust as a discretionary matter in the tribe’s “service area”, pursuant to his/her authority under the Indian Reorganization Act.

We believe that if Congress wanted to direct the Secretary to accept land within the tribe’s service area in trust as a mandatory acquisition, it would have done so explicitly. It is also our position that any land acquisitions made within the service area for gaming would be more properly handled as two-part determinations.

The Department of Interior has also recognized, as a general matter, that service area has little to with a tribe’s historical territory when it adopted 25 C.F.R. Part 292. When adopting the regulation, the department explicitly

declined to recognize service area as establishing a tribe's modern connection to a particular parcel of land and stated,

"...service area is not necessarily defined by the DOI and would thus add complication to the analysis due to the added necessity of collaboration with other agencies. Furthermore, the tribe's **service area is often based on factors not connected with the DOI's section 2719 analysis** and is often ill-defined, overlapping and potentially inconsistent." (Emphasis added), *Gaming on Trust Lands Acquired After October 17, 1988*, 73 Fed. Reg. 29354, 29365 (May 20, 2008).

It is also our view that if the CRA is read to require the Secretary to take land within the service area into trust for the benefit of Coquille, then there is a threat that other similar restoration acts will be interpreted in this manner as well. This would mean that, for instance, a tribe with no historical or aboriginal connections to the subject land would be allowed to game in another tribe's aboriginal lands, next to an already operating casino. *See e.g. Kickapoo Tribe of Oklahoma v. Superintendent, Shawnee Agency*, 13 IBIA 339 (1985). It would also mean that surrounding communities would have no say in the matter. *Id.*

The Shingle Springs band of Miwok Indians have a vested interest in having the Coquille Restoration Act ("CRA"), and other similar restoration acts, be interpreted narrowly, such that the acquisition of those lands fall under the purview of the Secretary's authority to take land into trust under the Indian Reorganization Act ("IRA"), because there are other tribes in the state of California who have acts of restoration similar to the CRA. If the CRA is read broadly, these tribes would look to pursue the same course of action as Coquille and seek to go outside their aboriginal lands to locations that are not only in another tribes aboriginal territory, but also directly compete with legitimate operations of other tribes.

This would unsettle the current framework within the state of California, and could cause unnecessary strife between the tribes in the state.

Accordingly, we recommend that you interpret the Coquille Restoration Act in a manner that is consistent with the legislative intent and respects the other tribes.

Sincerely,



Nicholas Fonseca, Chairman
Shingle Springs Band of Miwok Indians