



May 18, 2026

Via Email

Michelle C. Lee
The Circle Law Group, P.C.
General Counsel for Pit River Tribe
930 F Street
Sacramento, CA 95814

Re: Pit River Tribe Indian Land Opinion (XL Ranch)

Dear Ms. Lee:

This letter responds to your March 1, 2024 letter on behalf of the Pit River Tribe (Tribe) to the General Counsel of the National Indian Gaming Commission (NIGC) regarding land commonly known as the “XL Ranch”.¹ More specifically, you asked whether certain lands held in trust for the Tribe are eligible for gaming under the Indian Gaming Regulatory Act (IGRA).² To assist in our analysis, you provided us with Title Status Reports for Tracts 536 T 5115, 536 T 5116, 536 T 5117, and 536 T 5119, and Title Statement for the XL Ranch.³

As detailed below, it is my opinion that the XL Ranch constitutes Indian lands under IGRA and is eligible for gaming pursuant to IGRA. The XL Ranch was acquired into trust prior to October 17, 1988 and the Tribe exercises governmental power over the XL Ranch.

Background

The Pit River Tribe is a federally recognized Indian tribe made up of eleven autonomous bands, including the Ajumawi, Aporige, Astarawi, Atsugewi, Atwamsini, Hammawi, Hewisedawi, Illmawi, Itsatawi, Kosealekte, and Madesi.⁴ Although the Pit River Indians were historically separate bands, they are now recognized and operate under one tribal government.⁵

¹ Letter from Michelle Lee, Gen. Counsel, Pit River Tribe to Rea Cisneros, Acting Gen. Counsel, Nat’l Indian Gaming Comm’n (Mar. 1, 2024) [hereinafter ILO Request Letter].

² *Id.* at 1.

³ *Id.* The ILO Request Letter initially only included Title Status Report for Tract 536 T 5115. *Id.* The Tribe subsequently provided the Title Status Reports for Tracts 536 T 5116, 536 T 5117, and 536 T 5119 for an expanded Indian land opinion request. Email from Michelle Lee, Gen. Counsel, Pit River Tribe to Esther Dittler, Acting Assoc. Gen. Counsel, Nat’l Indian Gaming Comm’n (Sept 4, 2025, 15:15 EST).

⁴ ILO Request Letter at 2.

⁵ *Pit River Home & Agr. Co-op. Ass’n v. United States*, 30 F.3d 1088, 1092 (9th Cir. 1994); ILO Request Letter at 2.

In 1938, the United States purchased over 9,000 acres of land in Modoc County, which included the XL Ranch, pursuant to the Indian Reorganization Act of 1934.⁶ The property was taken “in trust for such Bands of the Pit River Indians of the State of California as shall be designated by the Secretary of the Interior.”⁷ The legal description of the XL Ranch is as listed in the Deed of Trust for the XL Ranch dated October 13, 1938.⁸ The XL Ranch includes, among others, the now Bureau of Indian Affairs (BIA) assigned Tracts 536 T 5115, 536 T 5116, 536 T 5117, and 536 T 5119.⁹

After the initial designation and in the early 1940s, the United States granted occupancy rights in the XL Ranch under a revocable assignment to the Pit River Home and Agricultural Cooperative Association (Association), a small group of Pit River Indians.¹⁰ The Association remained on the XL Ranch until 1977.¹¹ In 1977, the XL Ranch was turned over to the BIA to manage until the Secretary of the Interior (Secretary) determined the composition of the Pit River Indian Tribe and, therefore, the permanent beneficiary of the XL Ranch.¹² Then in 1987, the Secretary, after court and administrative proceedings, approved the Constitution of the Pit River Tribe and designated the Pit River Tribal Council (Council) as the governing body of the Pit River Tribe, the permanent beneficiary of the XL Ranch.¹³ The Council has been fully operational since the latter part of 1987.¹⁴

Applicable Law

IGRA permits an Indian tribe to “engage in, or license and regulate, gaming on Indian lands within such tribe’s jurisdiction.”¹⁵ IGRA defines “Indian lands” as:

- (A) all lands within the limits of any Indian reservation; and
- (B) any lands title to which is either held in trust by the United States for the benefit of any Indian tribe or individual or held by any Indian tribe or individual subject to restriction by the United States against alienation and over which an Indian

⁶ See Letter from Dr. Virgil Akins, Superintendent, N. Calif. Agency, Bureau Indian Affs. to Rachel Hill, Staff Att’y, Nat’l Indian Gaming Comm’n (Apr. 10, 2024) [hereinafter BIA Letter]; see also *Pit River Home & Agr. Co-op. Ass’n*, 30 F.3d at 1092.

⁷ *Id.*

⁸ BIA Letter, Deed of Trust for XL Ranch (Oct. 13, 1938).

⁹ See United States Department of the Interior, Bureau of Indian Affairs Title Status Reports for 536 T 5115 (Report Certified March 5, 2016, Requested Nov. 16, 2023). See also United States Department of the Interior, Bureau of Indian Affairs Title Status Reports for 536 T 5116 (Report Certified Nov. 13, 2000, Requested Nov. 16, 2023). See also United States Department of the Interior, Bureau of Indian Affairs Title Status Reports for 536 T 5117 (Report Certified Nov. 13, 2000, Requested Nov. 16, 2023). See also United States Department of the Interior, Bureau of Indian Affairs Title Status Reports for 536 T 5119 (Report Certified Nov. 14, 2000, Requested Nov. 16, 2023).

¹⁰ *Pit River Home & Agr. Co-op. Ass’n*, 30 F.3d at 1092.

¹¹ *Id.*

¹² *Id.*

¹³ *Id.*

¹⁴ ILO Request Letter at 2.

¹⁵ 25 U.S.C. §§ 2710(b)(1) and (d)(1)(A)(i).

tribe exercises governmental power.¹⁶

NIGC regulations, interpreting IGRA, provide that “Indian lands” means:

- (a) Land within the limits of an Indian reservation; or
- (b) Land over which an Indian tribe exercises governmental power and that is either -
 - (1) Held in trust by the United States for the benefit of any Indian tribe or individual; or
 - (2) Held by an Indian tribe or individual subject to restriction by the United States against alienation.¹⁷

Department of Interior (DOI) regulations, provide that “reservation” means:

- (1) Land set aside by the United States by final ratified treaty, agreement, Executive Order, Proclamation, Secretarial Order or Federal statute for the tribe, notwithstanding the issuance of any patent;
- (2) Land of Indian colonies and rancherias (including rancherias restored by judicial action) set aside by the United States for the permanent settlement of the Indians as its homeland;
- (3) Land acquired by the United States to reorganize adult Indians pursuant to statute; or
- (4) Land acquired by a tribe through a grant from a sovereign, including pueblo lands, which is subject to a Federal restriction against alienation.¹⁸

Analysis

To determine whether the XL Ranch is eligible for gaming under IGRA, it is necessary to examine whether it constitute Indian lands as defined by IGRA and NIGC regulations. As applicable here, to be considered Indian lands, the land must either be lands within a reservation or be land held in trust over which a tribe exercises governmental power.

I. Reservation:

IGRA’s definition of “Indian lands” includes lands within the limits of an Indian tribe’s reservation. Although the term “reservation” is not defined in IGRA, it is defined in the DOI regulations interpreting Section 2719 of IGRA. Part 292 of DOI regulations defines “reservation” to include “[l]and of Indian colonies and rancherias...set aside by the United States for the permanent settlement of the Indians as its homeland[.]”¹⁹

¹⁶ 25 U.S.C. § 2703(4).

¹⁷ 25 C.F.R. § 502.12.

¹⁸ 25 C.F.R. § 292.2.

¹⁹ *Id.*

The XL Ranch was purchased by the United States and set aside for the Tribe in 1938.²⁰ The XL Ranch was also recognized by the Indian Claims Commission as the Tribe's ancestral homelands.²¹ The BIA has confirmed that "[t]his property was brought into Trust status on October 13, 1938, under the authority of the Indian Reorganization Act of 1934, for the Pit River Tribe, and it is within the Tribe's aboriginal boundaries." However, the BIA has neither explicitly confirmed nor provided documentation indicating that the XL Ranch is a reservation.²² Absent of explicit confirmation of the XL Ranch's reservation status, we move on to the next step of the analysis.

II. Held in trust over which Tribe exercises governmental power:

IGRA's definition of "Indian lands" also includes lands acquired into trust prior to October 17, 1988, on behalf of the Tribe over which the Tribe exercises governmental power.²³ To exercise governmental power over its trust lands, a tribe must first possess jurisdiction over those lands.²⁴

A. *Jurisdiction*

An Indian tribe possesses jurisdiction "over both [its] members and [its] territory."²⁵ "Generally speaking, primary jurisdiction over land that is Indian country rests with the Federal Government and the Indian tribe inhabiting it, and not with the State."²⁶ Reservation land is one type of Indian country.²⁷ Additionally, land owned by the federal government in trust for an Indian tribe is also considered Indian country.²⁸ Here, the Tribe possess jurisdiction over the XL Ranch because the land was taken into trust for the Tribe in 1938, as demonstrated by the Deed of Trust for the XL Ranch.²⁹

²⁰ BIA Letter, Deed of Trust for the XL Ranch (Oct. 13, 1938).

²¹ Pit River Docket No. 347, 7 ICC 815 at 845-847.

²² BIA Letter.

²³ See 25 U.S.C. §§ 2703(4) and 2719.

²⁴ *Rhode Island v. Narragansett Indian Tribe*, 19 F.3d 685 at 701-703 (1st Cir. 1994) (IGRA requires a threshold showing by tribe that it possesses jurisdiction over the lands to satisfy the Act's "having jurisdiction" prong).

²⁵ *California v. Cabazon Band of Mission Indians*, 480 U.S. 202, 207 (1987); see also *Merrion v. Jicarilla Apache Tribe*, 455 U.S. 130 (1982) (concluding a tribe's authority to tax non-Indians who conducted business on the tribe's reservation did not simply derive from the tribe's power to exclude, but was an inherent power necessary to tribal self-government and territorial management).

²⁶ *Alaska v. Native Village of Venetie Tribal Gov't*, 522 U.S. 520, 527 n.1 (1998) (citing *South Dakota v. Yankton Sioux Tribe*, 522 U.S. 329, 343 (1998)); see also *United Keetoowah Band of Cherokee Indians of Oklahoma v. U.S. Dep't of Hous. & Urban Dev.*, 567 F.3d 1235, 1240 n.5 (10th Cir. 2009) (stating, "While court jurisdiction is complex, as a general matter, Indian tribes exercise court jurisdiction over Indian country – reservations, dependent Indian communities, and Indian allotments." (citation omitted)).

²⁷ See 18 U.S.C. § 1151(a).

²⁸ See *U.S. v. Roberts*, 185 F.3d. 1125, 1131 (10th Cir. 1999).

²⁹ BIA Letter, Deed of Trust for the XL Ranch (Oct. 13, 1938).

B. Governmental Power

Having determined the Tribe has jurisdiction over the XL Ranch, there are many ways and circumstances in which a tribe might exercise governmental power over its land. For this reason, the NIGC has not formulated a uniform definition of “exercise of governmental power,” but instead decides whether it is present in each case based upon all the circumstances.³⁰ The First Circuit Court of Appeals found that satisfying the governmental power requirement depends “upon the presence of concrete manifestations of [governmental] authority.”³¹ It later reaffirmed it “is, not the achievement of full-fledged self-governance, but merely movement in that direction” that is necessary to demonstrate governmental power.³²

When evaluating other cases, the NIGC has considered: (1) tribal development of the land, including signage, fencing, roads, utilities, housing, offices, and retail spaces;³³ (2) tribal supervision of the land, including law enforcement, monitoring for trespassers, maintenance, environmental regulation, and historic preservation;³⁴ (3) governmental agreements pertaining to the land, including memoranda of understanding with local governments, utility agreements, and Housing and Urban Development funded housing services;³⁵ (4) tribal constitutions and ordinances extending jurisdiction to the lands and controlling the use of the land, including hunting, fishing, and gaming;³⁶ and (5) providing tribal governmental services or programs, including healthcare, residential, cultural, and educational services on the land.³⁷

Here, the Tribe has demonstrated several examples of its exercise of governmental power over the XL Ranch. The Secretary has approved a constitution that explicitly recognizes the Tribe’s authority over the XL Ranch.³⁸ The Tribe developed and operates a retail travel center, Chimney Rock Travel Center, located on the XL Ranch, which utilizes a public water system owned and operated by the Tribe.³⁹ The Tribe also offers a number of social services on the XL

³⁰ See *National Indian Gaming Commission: Definitions under the Indian Gaming Regulatory Act*, 57 Fed. Reg. 12,382, 12,388 (1992).

³¹ *Narragansett Indian Tribe*, 19 F.3d 701, 703 (First Circuit guidance on finding an exercise of governmental power).

³² *Massachusetts v. Wampanoag Tribe of Gay Head (Aquinnah)*, 853 F.3d 618, 626 (1st Cir. 2017).

³³ See Letter from Michael Hoenig, Gen. Counsel, Nat’l Indian Gaming Comm’n, to Michael Hunter, Chairman, Coyote Valley Band of Pomo Indians of Calif., p. 10 (Oct. 30, 2017) [hereinafter *Coyote Valley Band ILO*]; Memorandum from Acting Gen. Counsel, Nat’l Indian Gaming Comm’n, to Montie Deer, Chair, Nat’l Indian Gaming Comm’n, p.7 (Aug. 5, 2002) [hereinafter *Bear River Band ILO*]; and Memorandum from Jo-Ann Shyloski, Senior Att’y, Nat’l Indian Gaming Comm’n, to Philip Hogen, Chair, Nat’l Indian Gaming Comm’n, p. 6 (Nov. 15, 2005), [hereinafter *Kiowa ILO*].

³⁴ See Coyote Valley Band ILO at 10; Bear River Band ILO at 7; Kiowa ILO at p. 6; and Memorandum from John Hay, Staff Att’y, Nat’l Indian Gaming Comm’n, to Philip Hogen, Chair, Nat’l Indian Gaming Comm’n, p. 6 (Sept. 6, 2006) [hereinafter *Big Sandy Rancheria ILO*].

³⁵ See Coyote Valley Band ILO at 10; and Bear River Band at p.7.

³⁶ See Coyote Valley Band ILO at 10; Bear River Band ILO at 7; Kiowa ILO at 6; and Big Sandy Rancheria ILO at 5-6.

³⁷ See Coyote Valley Band ILO at 10; Bear River Band ILO at 7; and Big Sandy Rancheria ILO at 5-6.

³⁸ Pit River Constitution at 1.

³⁹ ILO Request Letter at 1; Email from Michelle Lee, Gen. Counsel, Pit River Tribe to Rachel Hill, Staff Att’y, Nat’l Indian Gaming Comm’n (Sept. 26, 2024, 20:33:15 EST) [hereinafter *Email from M. Lee*].

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Ranch, including a health clinic operated through the Pit River Health Service and a low-income housing program.⁴⁰ The Tribe also maintains roads and other development projects on the XL Ranch through the Pit River Roads Department.⁴¹

Based on the above examples, the Tribe clearly exerts governmental power over lands under its jurisdiction, including the XL Ranch. Accordingly, in our opinion, the XL Ranch qualifies as Indian lands within the meaning of 25 U.S.C. § 2703(4)(B).

Conclusion

Based upon the foregoing analysis, the statutory language of IGRA, and NIGC and DOI regulations, the XL Ranch, which was acquired into trust prior to October 17, 1988 and over which the Tribe exercised governmental power, as currently held in trust by the United States constitutes Indian lands eligible for gaming by the Tribe under IGRA. The DOI Office of the Solicitor has concurred in this opinion.⁴²

If you have any questions regarding this legal opinion, please contact NIGC Staff Attorney Danielle Wu at (202) 336-3596 or by email at danielle.wu@nigc.gov.

Sincerely,



Rea Cisneros
Acting General Counsel

⁴⁰ Email from M. Lee; PIT RIVER HEALTH SERV., <https://www.pitriverhealthservice.org/> (last visited Mar. 12, 2026); PIT RIVER TRIBAL HOUSING, <https://prthpro.site/> (last visited Mar. 12, 2026).

⁴¹ Email from M. Lee; *Roads*, PIT RIVER TRIBE, <https://pitrivertribe.gov/roads/> (last visited Mar. 12, 2026).

⁴² Letter from Eric Shepard, Assoc. Solicitor – Indian Affs., Dept. of Interior to Rea Cisneros, Acting Gen. Counsel, Nat'l Indian Gaming Comm'n (May 5, 2026).