OCT 25 2007

MEMORANDUM

To: Philip N. Hogen, Chairman

Through: Penny J. Coleman, Acting General Counsel

From: John R. Hay, Staff Attorney

Date: October 18, 2007

Re: Mooretown Rancheria Restored Lands

Introduction

On September 1, 2005, the Department of the Interior (DOI), Office of the Inspector General (OIG) issued a report detailing the land into trust process. The OIG report found that the National Indian Gaming Commission (NIGC) lacked a process for ensuring that all lands used by Indian tribes for gaming met the requirements of the Indian Gaming Regulatory Act (IGRA). The report specifically listed the Mooretown Rancheria of Maidu Indians of California ("Tribe") as an example of a tribe with a post-1988 trust acquisition that was being used for gaming without a determination, by the NIGC, that the site is exempt pursuant to IGRA, 25 U.S.C. § 2719. Office of the Inspector General, U.S. Dep't of the Interior, *Final Evaluation Rep. on the Process Used to Assess Applications to Take Land into Trust for Gaming Purposes,* Rep. No. E-EV-BIA-0063-2003 (2005). The Tribe requested an advisory legal opinion, from the NIGC, confirming that its 1994 trust acquisition of the parcel of land on which the Feather Falls Casino is sited ("Feather Falls Site or Site") qualifies as a "restoration of lands" within the meaning of IGRA. 25 U.S.C. § 2719(b)(1)(B)(iii). The Tribe provided us with a legal opinion as well as a comprehensive report prepared by an ethno-historian.

As detailed below, we believe that the Mooretown Rancheria of Maidu Indians of California is a restored tribe and the Feather Falls Site, on which it is conducting gaming, is restored land.

Background

The Mooretown Rancheria of Maidu Indians of California ("Tribe") is a federally recognized Indian tribe. The Tribe was terminated in 1961 and later restored by judicial stipulation in 1983.

The original Rancheria consists of two distinct 80-acre parcels of land in Butte County, California. The parcels are about one half mile away from each other. The United States set aside the first parcel from land within the public domain in 1894, and it purchased the second parcel in 1916.

The Tribe has been conducting gaming at its Feather Falls casino since July of 1996. The casino is located 15 miles from the original Rancheria on a parcel of land that also includes the tribal government offices as well as tribal housing. This land was acquired into trust by the United States in July 26, 1994.[1]

Applicable Law

For tribes to conduct gaming under IGRA, such gaming must be conducted on "Indian lands," defined as:

> (A) all lands within the limits of any Indian reservation; and
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> (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 State against alienation and over which an Indian tribe exercises governmental power.

25 U.S.C. § 2703(4).

Regulations have further clarified the Indian lands definition:

> 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.

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1 The land is described in the grant deed as "Parcel 4, as shown on that certain Parcel Map filed in the office of the Recorder of the County of Butte, State of California, on April 30, 1990 in Book 119 of Maps, at pages 28, 29 and 30, and a 60.00 foot right of way for road and public utility purposes over Alverda Drive and Lorene Court over Parcel two and three as shown on that certain Parcel Map filed in the office of the Recorder of the County of Butte, State of California, on April [sic] 30, 1990 in Book 119 of Maps at pages 28, 29 and 30."

25 C.F.R. § 502.12.

Jurisdiction and Exercise of Governmental Authority

Since the Feather Falls Site is off-reservation, the Tribe has the burden of establishing it has jurisdiction and exercises "governmental power" over the parcel in order for the land to qualify as "Indian lands." *See* 25 U.S.C. § 2703(4)(b) and 25 C.F.R. § 502.12(b). "Tribal jurisdiction" is a threshold requirement for the exercise of governmental power. *See, e.g., Rhode Island v. Narragansett Indian Tribe*, 19 F.3d 685, 701-703 (1st Cir. 1994), *cert. denied*, 513 U.S. 919 (1994), superseded by statute as stated in *Narragansett Indian Tribe v. National Indian Gaming Commission*, 158 F.3d 1335 (D.C.Cir.1998); *Miami Tribe of Oklahoma v. United States*, 5 F. Supp. 2d 1213, 1217-18 (D.Kan.1998); *State ex rel. Graves v. United States*, 86 F. Supp. 2d 1094 (D.Kan. 2000), *aff'd and remanded, Kansas v. United States,* 249 F.3d 1213 (10th Cir. 2001).

Tribes are presumed to have jurisdiction over their members and lands. The Supreme Court has stated that Indian tribes are "invested with the right of self-government and jurisdiction over the persons and property within the limits of the territory they occupy, except so far as that jurisdiction has been restrained and abridged by treaty or act of Congress." *Merrion v. Jicarilla Apache Tribe*, 455 U.S. 130, 140 (1982); see *also, United States v. Wheeler*, 435 U.S. 313, 323 (1978). There are no treaties or statutes applicable here that would limit the tribe's jurisdiction.

When lands are held in trust for a tribe off-reservation, we analyze whether the tribe is exercising governmental authority over the land. The Feather Falls Site is already in trust and the Tribe is currently conducting gaming. Therefore, it is not necessary for the Department to speculate as to whether the tribe will exercise governmental authority over it. Gaming under the Indian Gaming Regulatory Act (IGRA) is a unique activity that only Indian tribal governments can sanction in their distinctly governmental capacity. *See* 25 U.S.C. § 2701(1)(generating tribal governmental revenue), § 2701(4)(tribal self-sufficiency and strong tribal governments), § 2702(1) (promote strong tribal governments), § 2703(3) (generate tribal revenue), § 2710(b)(1)(tribal power to license and regulate gaming), § 2710(b)(1)(B)(governing body to adopt ordinances), § 2710(b)(2)(B)(net revenues can only be used to fund governmental operations and programs, provide general welfare, promote tribal economic development donate to charities and help fund operations of local government agencies), and § 2710(d)(negotiate and compact with a state). Additionally, the site also houses the tribal offices as well as some tribal housing. Consequently, since the land presently is in trust, and the tribe conducts and regulates such gaming as well as other activities, it exercises governmental authority.

A determination of whether a tribe is conducting gaming on Indian lands, however, is not necessarily the end of the inquiry. IGRA generally prohibits gaming on lands acquired in trust after October 17, 1998 (IGRA's enactment date), unless one of the statute's exceptions apply. 25 U.S.C. § 2719. Accordingly, for lands taken into trust after

October 17, 1988, it is necessary to review the prohibition and its exceptions to determine whether a tribe can conduct gaming on such lands.

In this case, the Tribe has requested a legal opinion affirming that the parcel it has been conducting gaming on since July of 1996, (the Feather Falls Site), qualifies for IGRA's restored lands exception. The restored lands exception allows gaming on Indian lands acquired in trust after October 17, 1988, if the lands are taken into trust as part of the "restoration of lands for an Indian tribe that is restored to Federal recognition." 25 U.S.C. § 2719(b)(1)(B)(iii).

Analysis

Application of IGRA's restored lands exception requires a two-part analysis: 1) whether the tribe is an "Indian tribe that is restored to Federal recognition"; and 2) whether trust acquisition of the subject land is part of a "restoration of lands" for the tribe. These terms are not defined in IGRA or the NIGC's implementing regulations, but several judicial opinions and agency General Counsel's opinions provide guidance.

I. The Mooretown Rancheria Has Been Restored to Federal Recognition

To be considered an "Indian tribe that is restored to Federal Recognition," as that term is used in IGRA, a tribe must demonstrate: 1) a history of governmental recognition; 2) a termination of recognition; and 3) restoration of recognition. *See Grand Traverse Band of Ottawa and Chippewa Indians v. Office of the U.S. Attorney for the W. Dist. Of Mich.*, 369 F.3d 960, 967 (6th Cir. 2004).

A. The Mooretown Rancheria Was Recognized By The Federal Government

The history of government recognition of the Tribe by the United States is evidenced by the creation of the Rancheria by the United States when it set aside and purchased land to form the Rancheria in 1894 and again in 1916 and by other contacts with the Federal government, which are discussed below.

1. 1894 80-Acre Parcel

The creation of the Rancheria, by the withdrawal of the first 80-acre parcel from the public domain in 1894, was the result of an attempt by a non-Indian to homestead land that was the site of a Concow village. The homesteader, James T. Grubbs, tried to homestead 80 acres of land described as the N ½ of the NE ¼ of Section 22, Township 20 N, Range 6E, Mount Diablo Meridian. The Indians living on the land filed an affidavit in opposition to Grubbs' attempt to homestead the land and requested that the land be set aside for their use and benefit based upon their long term use and occupancy. Grubbs admitted that the Concow settlement predated his claim and relinquished the claim. Jonathan P. Leonard, the Justice of the Peace in Oroville, acknowledged the Indian village and told Grubbs that he could not patent the land over the Indian's objection.

Based upon the affidavit submitted by the Indians, the Acting Commissioner of the Office of Indian Affairs recommended to the Secretary of the Interior that the land "be set apart and reserved for the use and benefit" of the petitioning Indians "and their families now in occupation of the same." Letter from Frank C. Armstrong, Indian Commissioner, Department of the Interior, to the Honorable Secretary of the Interior, Department of the Interior (06/04/1894), *noted in* Grabowski & Associates, *History of the Mooretown Rancheria, Butte County, California,* [hereinafter *Grabowski Report*], *and cited as* Exhibit 39, at 25.

2. 1916 80-Acre Parcel

Bureau of Indian Affairs Special Agent C. E. Kelsey conducted an investigation to document the living conditions of the California Indians in the early 1900s. Kelsey identified a total of 45 Indians living near the towns of Mooretown and Lumpkin who needed land. In 1915 Special Agent John Terrell made a field visit to the area to assess the situation of the Mooretown Indians and make recommendations regarding their land needs. He found four occupied cabins on the 80 acres set aside in 1894, and, about a half mile away, he found Fred (Frank) Taylor and his wife Rosie, living on land owned by the Central Pacific Railroad, described as the N ½ of the NE ¼ of Section 23, Township 20N, Range 8E, Mount Diablo Meridian. The Taylors expressed an interest in having other landless Mooretown Indians live on the land with them if additional acreage could be acquired. Terrell recommended the purchase of the land from the Railroad as a "permanent home for the Mooretown Indians, Frank Taylor, Chief or leading Indian." The Railroad agreed to sell the land by the end of 1915, and the 80-acre parcel was acquired by the Federal government for the benefit of the Tribe in 1916. Letter from John Terrell, Indian Agent, Department of the Interior, to Commissioner of Indian Affairs, Department of the Interior (08/16/1915), *noted in Grabowski Report and cited as* Exhibit 40, at 25.

3. Other Contacts With the Federal Government

In 1934, Congress passed the Indian Reorganization Act ("IRA"), also known as the Wheeler-Howard Act. 25 U.S.C.A. § 461 et seq. The IRA sought to protect tribal land bases by permitting tribes to establish governmental structures. The Act authorized tribes to organize and adopt tribal constitutions subject to a vote by tribal members. In 1934, the Tribe voted 34 to 0 against reorganizing under the IRA. The results of the tribal election were reported to the Commissioner of Indian Affairs on June 17, 1935, by O. H. Lipps the Superintendent of the Sacramento Indian Agency. Letter from O. H. Lipps, Superintendent, to Commissioner of Indian Affairs, Department of the Interior (06/17/1935), *noted in Grabowski Report and cited as* Exhibit 118, at 68.

In 1946, tribal member Katie Brooks Archuleta sought permission from the BIA Sacramento Area Office to allow her daughter to move into a vacant house on the property that was acquired for the Tribe in 1916. The BIA responded that the land belonged to Mooretown Rancheria and was held in trust by the United States. Therefore, the consent of the other members of the Tribe was necessary before her daughter could

move onto the property. Letter from John G. Rockwell, Superintendent, to Katie Archuleta (02/28/1946), *noted in Grabowski Report and cited as* Exhibit 113, at 65.

The contact and interaction between the agents for the Department of the Interior and the Mooretown Indians regarding the two 80-acre parcels, along with the report of the tribal election and Archuleta communication, demonstrate that the Federal government historically recognized the Tribe's existence.

B. The Mooretown Rancheria Was Terminated in July of 1961

In 1958, Congress enacted the California Rancheria Act, Pub. L. No. 85-671 (72 Stat. 619), later amended by Pub. L. No. 88-419 (78 Stat. 390)(1964), which authorized the termination of federal supervision of the rancherias and the distribution of the land to the residents. Under the Rancheria Act, once the majority of adult Indians of the Rancheria approved the distribution plan, the Secretary of the Interior revoked any constitution they had adopted. As a consequence, the residents of the Rancherias were no longer dealt with as tribes by the United States. Additionally, the United States government terminated the trust status of the Rancheria lands, including those of the Mooretown Rancheria, and distributed the lands in fee to the adult Indian residents. The actual distribution of assets was to be accomplished within three years of approval of the plan. On July 21, 1961, the Secretary of the Interior approved a plan for the distribution of assets of the Tribe.[2]

These facts demonstrate a termination of recognition by the Federal government.

C. The Mooretown Rancheria Was Restored in 1983

In 1979, Indian residents from the Rancheria joined Indians from other California Rancherias in a class action lawsuit to restore the reservation status of their land, asserting that their trust relationship had been illegally terminated under the Rancheria Act of 1958. See *Hardwick v. United States*, No. C-79-1710 SW (N.D. Cal. Filed 1979). The plaintiffs sought, among other things, judicial recognition that "[t]he Secretary of the Interior is under a duty to 'unterminate' each of the subject Rancherias, and . . . to hold the same in trust for the benefit of the Indians of the original Rancheria;" and further that "[t]he Secretary of the Interior is under a duty to treat all of the subject Rancherias as Indian reservations in all respects[.]" *Hardwick*, Complaint at 27.

The litigation was ultimately settled. Settlement was achieved through a stipulated judgment between the members of the class and the United States and then between the members of the class and the respective counties in which they lay.

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[2] Notice of Termination was published in the Federal Register on August 1, 1961 and corrected on September 11, 1974. Property of California Rancherias and of Individual Members Thereof – Termination of Federal Supervision, 26 Fed. Reg. 6875, 6876 (Aug. 1, 1961), *corrected by* Mooretown Rancheria in California and Individual Members Thereof – Notice of Termination of Federal Supervision Over Property; Correction, 39 Fed. Reg. 32766 (Sept. 11, 1974).

The first stipulation, which was between the members of the class and the United States and was approved by federal court order on December 22, 1983, provides, in relevant part, as follows:

> 3. The status of the named individual plaintiffs and other class members of the seventeen Rancherias named and described in paragraph 1 as Indians under the laws of the United States shall be restored and confirmed. In restoring and confirming their status as Indians, said class members shall be relieved of Sections 2(d) [subjecting any property so distributed to taxation] and 10(b) [terminating services provided to Indians] of the California Rancheria Act and shall be deemed entitled to any of the benefits or services provided or performed by the United States for Indians because of their status as Indians, if otherwise qualified under applicable laws and regulations.
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> 4. The Secretary of the Interior shall recognize the Indian Tribes, Bands, Communities or groups of the seventeen Rancherias listed in paragraph 1 as Indian entities with the same status as they possessed prior to distribution of the assets of these Rancherias under the California Rancheria Act, and said Tribes, Bands, Communities and groups shall be included on the Bureau of Indian Affairs' Federal Register list of recognized tribal entities pursuant to 25 CFR, Section 83.6(b). Said Tribes, Bands, Communities or groups of Indians shall be relieved from the application of section 11 [revoking constitutions under the Indian Reorganization Act[3]] of the California Rancheria Act and shall be deemed entitled to any of the benefits or services provided or performed by the United States for Indian Tribes, Bands, Communities or groups because of their status as Indian Tribes, Bands, Communities or groups.
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> 10. The Secretary of the Interior, named individual plaintiffs, and other class members agree that the distribution plans for these Rancherias shall be of no further force and effect and shall not be further implemented; however, this provision shall not affect any vested rights created thereunder (emphasis added).

Hardwick, Stipulation and Order, Dec. 22, 1983.

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[3] 25 U.S.C. § 461 et seq.

The stipulation with the United States left "for further proceedings" the question of whether to restore the former boundaries of the Rancherias. *Id.*, Paragraph 5 at 4. ("The court shall not include in any judgment entered pursuant to this stipulation any determination of whether or to what extent the boundaries of the Rancherias listed and described in paragraph 1 shall be restored and shall retain jurisdiction to resolve this issue in further proceedings herein.").

In 1988, the members of the class from the Mooretown Rancheria entered into another *Hardwick* Stipulation for Entry of Judgment with Butte County. The 1988 Stipulation provides that:

> The original boundaries of the Mooretown Rancheria, as it existed immediately prior to it purported termination under the Rancheria Act are hereby restored, and all land within the restored boundaries of the Mooretown Rancheria are declared to be "Indian Country" (emphasis in original).

Hardwick, Stipulation and Order (Butte County) Para. 2.C., at 4, May 9, 1988. Although the United States was not among the parties that signed the 1988 Stipulation, which was primarily designed to resolve issues surrounding the payment of real property taxes to Butte County, the 1988 Stipulation was accepted by the federal court and was entered as a judgment.[4] *Hardwick*, Stipulation and Judgment, filed June 10, 1988. The effect of the judgments was that all lands within the Rancheria boundaries, as they existed immediately prior to the illegal termination, were declared to be "Indian Country" as defined by 18 U.S.C. § 1151. Amador County expressly agreed to treat the Rancheria like any other federally recognized Indian reservation.

Consequently, we can conclude that the Tribe qualifies as a "restored" tribe within the meaning of IGRA.

II. Trust Acquisition of the Gaming Property Was a Restoration of Lands

Having determined that the Mooretown Rancheria is "restored," the next issue is whether the gaming property (Feather Falls Site) was "land taken into trust as part of . . . the restoration of lands for an Indian tribe that is restored to Federal recognition." under 25 U.S.C. § 2719(b)(1)(B)(iii).

The language of the statute does not require that a "restoration of lands" be accomplished through congressional action or in the very same transaction that restored the tribe to

[4] While the United States, as co-defendant, did not sign the 1988 Stipulation, it did however sign the underlying stipulation that restored the Tribe in 1983. In that stipulation the United States agreed and the Court held that it would not determine the boundaries of the Rancheria yet, but, "shall retain jurisdiction to resolve this issue in further proceedings herein." The stipulated judgment that plaintiff and defendant Butte County finalized in 1988, was one of the "further proceedings" anticipated by the 1983 stipulation. For these reasons, the United States considers itself bound by both stipulations.

Federal recognition; and therefore, lands may be restored to a tribe through the administrative fee-to-trust process under 25 C.F.R. Part 151. *Grand Traverse Band of Ottawa and Chippewa Indians v. United States Attorney*, 198 F. Supp. 2d 920, 935-36 (W.D. Mich. 2002), *aff'd*, 369 F.3d 960 (6th Cir. 2004) ("*Grand Traverse II*"); *Confederated Tribes of Coos, Lower Umpqua & Siuslaw Indians v. Babbitt*, 116 F. Supp. 2d 155, 161-64 (D.D.C. 2000); *Grand Traverse Band of Ottawa and Chippewa Indians v. United States Attorney*, 46 F. Supp. 2d 689, 699-700 (W.D. Mich. 1999) ("*Grand Traverse I*"). The United States District Court for the Western District of Michigan stated:

> [A]ccepting the State's position that some limitation is required, nothing in the record supports the requirement of Congressional action. Neither the statute nor the statutory history suggests such a limitation. Given the plain meaning of the language, the term "restoration" may be read in numerous ways to place belatedly restored tribes in comparable position to earlier recognized tribes while simultaneously limiting after-acquired property in some fashion.

Grand Traverse II, at 935. The court then proposed that land acquired after restoration could be limited by one or more factors: "For example, land that could be considered part of such restoration might appropriately be limited by the factual circumstances of the acquisition, the location of the acquisition, or the temporal relationship of the acquisition to the tribal restoration." *Id.*

After examination of these factors, we conclude that the trust acquisition of the gaming parcel was a restoration of lands to a restored tribe under 25 U.S.C. § 2719(b)(1)(B)(iii).

A. Factual Circumstances of the Acquisition

One hundred forty-acres of the 160 acres that make up the Rancheria are currently owned in fee by tribal members. The Tribe itself owns no land within the Rancheria. Following its restoration under the Hardwick stipulation the tribe engaged in an effort to reorganize its government and acquire a tribal land base. In 1988, the Tribe organized its government and elected tribal officers. Originally, the tribe sought land near the original Rancheria; however, there was no suitable land available for the Tribes needs.[5] The few parcels that were suitable were not for sale at any price.

On December 5, 1991, the Tribe purchased a 34.76-acre parcel of land (Feather Falls Site) about three miles from the town of Oroville with HUD money.[6] On December 9, 1992, the Tribe requested the BIA accept the property in trust, and on July 26, 1994, the property was placed into trust. HUD funds were used to build fifty homes and the

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[5] The topography was steep; the soils were unsuitable for septic systems; utilities were unavailable; and there was limited access to the land.

[6] To qualify for HUD's Community Development Block Grant the land must meet several criteria including: a minimum of 20 acres of land with under 10% slopes; adequate soils for septic systems and construction of homes; availability of electricity, water and acceptable access.

requisite infrastructure on the parcel. Additionally, an office building was also constructed on the land. The office building houses tribal governmental offices, a community center, the Head Start program, as well as offices for other tribal services.

The Tribe began gaming on the land in a modular structure in July, 1996. A permanent structure was constructed on the property and opened in January of 1998.

The Tribe has since purchased four more parcels. All of the parcels are contiguous to the original parcel that was purchased in 1991 and placed in trust in 1994.

B. Location of the Acquisition

The location of a trust acquisition is an important factor in determining whether the parcel constitutes restored lands. *In re: Wyandotte Nation Amended Gaming Ordinance*, NIGC Final Decision and Order at 10 (Sept. 10, 2004)("NIGC Wyandotte Opinion"); NIGC Grand Traverse Opinion at 17-18. Consequently, we need to examine the Tribe's historical and modern connections to the land being acquired. *Id.*

1. Historical Connections to the Land

The ethno-historical evidence submitted by the Tribe supports the opinion that throughout the Tribe's history its members maintained connections to the area surrounding the Feather Falls casino sufficient to qualify the land as restored.

The native people for whom the Mooretown Rancheria was set aside were Concow, one of three Maiduan ethnographic/linguistic divisions. The Concow are also referred to as Northwestern Maidu. The Tribe's ethno-historian provides evidence that Concow aboriginal territory included most of Butte County and parts of surrounding counties, including Yuba, Glenn, Tehama, and Plumas. *See generally Grabowski Report.*

Concow people lived in villages of up to twenty households and thirty-five individuals. Villages were relatively self-sufficient and enjoyed considerable political autonomy, but several villages in close proximity to each other cooperated with each other and formed what anthropologists refer to as "village-communities." A band of Concow Indians, consisted of several villages working together as a village-community. The small size of these village-communities and the dearth of natural resources required that the Concow band utilize a twenty-mile radius to meet its subsistence needs. This twenty-mile radius constitutes the aboriginal territory of the village community. *Id.* The group later known as the Mooretown Indians was such a Band or village-community.

The Feather Falls Site lies just outside Oroville, approximately 15 miles from the original Rancheria. The parcel is also within fifteen to twenty miles of ten villages that were identified to archaeologist Francis Riddell in 1961 as sites that were used by members of the same village-community as the Indians for whom the Rancheria was set aside. Riddell interviewed several members of the Mooretown band including Fred Taylor and Robert Jackson, two of the distributes when the Tribe was terminated in 1961. They

provided to him the names and locations of village sites, prominent physical features of the environment, and the locations of important natural resources used by the Concow band that later became known at the Mooretown Indians. They included the villages of C'ic I, Lum lumi, Yolok (or Yoloko), Kalkalyani, Polom koiyo, Mum mum pani, Dolwoli, Wononkoyo, Kilkildi, and Pokubeh.[7] Id. at 41-46.

The sites identified by the individuals Riddell interviewed are within a twenty-mile radius of the original Rancheria and are generally within what would have been the aboriginal territory of the village-community from which the Tribe descends.

2. Modern Connection to the Land

The Tribe has modern and present day connections to the Feather Falls Site. Presently, in addition to the Casino, the Site contains the Tribal government building, a community center and tribal housing. On lands adjacent to the Feather Falls Site, the Tribe has a number of businesses and recreational facilities.

C. Temporal Relationship of the Acquisition to Tribal Restoration

Whether there is a reasonable temporal connection between the restoration and the trust acquisition at issue is another factor in determining whether the land is restored land within the meaning of IGRA. *Grand Traverse Band II*, 198 F. Supp. 2d at 936 ("the land may be considered part of a restoration of lands on the basis of timing alone.").

The Tribe's federal recognition was restored in 1983 as a result of the Stipulation in the *Hardwick* litigation already discussed. Following restoration the Feather Falls Site was purchased on December 5, 1991, and taken into trust on July 26, 1994. This site was the first parcel of land held in trust for the benefit of the Tribe. The 11 year temporal period between restoration and trust acquisition is reasonable under the circumstances of the *Hardwick* Stipulation and consistent with prior agency decisions. *See* Memorandum from Penny Coleman, NIGC Acting General Counsel, to NIGC Chairman Deer at 13-14 (Aug. 5, 2002) ("NIGC Rohnerville Opinion") (accepting 10 years between tribal recognition and trust acquisition as reasonable under particular circumstances); Memorandum from Phil Hogen, Associate Solicitor, Dep't of the Interior Division of Indian Affairs, to Assistant Secretary – Indian Affairs at 13-14 (Dec. 5, 2001) ("Interior Coos Opinion") (accepting 14 years between tribal recognition and trust acquisition as reasonable under particular circumstances).

The reasonable period between tribal recognition and trust acquisition coupled with the fact that the Feather Falls Site was the first land acquisition by the Tribe after their restoration, establishes a reasonable temporal relationship between these two events.

Conclusion

[7] The villages of C'ic I, and Yolok were located on the lands set aside for the Tribe in 1894 and 1916 as discussed in Section I.A.

Based upon the foregoing, we conclude: 1) the Tribe exercises jurisdiction and governmental authority over the Site; and 2) the Tribe was "restored to Federal recognition" and that the trust acquisition of the Feather Falls Site was the "restoration of lands" for a Tribe as those terms are used in 25 U.S.C. § 2719(b)(1)(B)(iii). Thus, the Site qualifies as Indian lands within the meaning of IGRA. The Department of the Interior, Office of the Solicitor, concurs with this opinion.