

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

SCOTTS VALLEY BAND OF POMO
INDIANS,

Plaintiff,

v.

UNITED STATES DEPARTMENT OF THE
INTERIOR, *et al.*,

Defendants.

Case No. 1:26-cv-02814-TNM
Judge Trevor N. McFadden

**BRIEF OF *AMICUS CURIAE* UNITED AUBURN INDIAN COMMUNITY OF THE
AUBURN RANCHERIA IN SUPPORT OF DEFENDANTS' OPPOSITION TO
PLAINTIFF'S MOTION FOR PRELIMINARY INJUNCTION**

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INTEREST OF *AMICUS CURIAE*

Amicus curiae United Auburn Indian Community of the Auburn Rancheria (“UAIC”) is a federally recognized Indian Tribe with a strong interest in the Court’s adjudication of this case and its disposition of the present motion. This case involves the proposed development of an urban gaming facility that poses significant economic threats to UAIC. Plaintiff Scotts Valley Band of Pomo Indians (“Scotts Valley” or “the Band”) seeks to enjoin the Department of the Interior’s (“Interior” or the “Department”) July 30, 2026 decision (the “2026 Decision”) that an off-reservation parcel of land in the City of Vallejo, California (“Vallejo Site”) did not qualify as “restored lands” eligible for gaming under the Indian Gaming Regulatory Act (“IGRA”). *See* ECF 2-1 (2026 Decision). UAIC and other tribes participated as *amici* in Scotts Valley’s earlier litigation challenging Interior’s decision to reconsider its January 10, 2025 Indian Lands Opinion (the “2025 Decision”). UAIC is also a plaintiff in pending litigation before this Court challenging aspects of the 2025 Decision.¹ As in the prior litigation, UAIC’s rights are implicated, and UAIC respectfully requests that its voice be heard in the present case in response to Scotts Valley’s preliminary injunction motion.

INTRODUCTION AND SUMMARY OF ARGUMENT

This *amicus* brief addresses several issues on which UAIC’s perspective is particularly relevant, both because UAIC contributed to the reconsideration process leading to the 2026 Decision and because UAIC is threatened with harm as a result of Scotts Valley’s plans to proceed with off-reservation casino development at the Vallejo Site. First, this *amicus* brief addresses whether Scotts Valley is likely to succeed on the merits of its claims that the 2026

¹ *See United Auburn Indian Cmty. of the Auburn Rancheria v. U.S. Dep’t of the Interior*, No. 1:25-cv-00873-TNM, ECF No. 1 (“UAIC Compl.”).

Decision either (a) changed Interior’s prior policy without explanation, or (b) violated due process. Second, this brief addresses whether the balance of equities and the public interest favor injunctive relief. As to both questions, the answer is “no.”

Scotts Valley’s preliminary injunction motion rests on a distortion of what Interior actually did in the course of reconsideration. In its 2026 Decision, Interior did not abandon any legal framework required by *Scotts Valley Band of Pomo Indians v. United States Department of the Interior*, 633 F. Supp. 3d 132 (D.D.C. 2022) (“*Scotts Valley I*”). On the contrary, the 2026 Decision applied that framework to an expanded record and concluded, after thorough analysis and explanation, that critical factual premises underlying the 2025 Decision were no longer tenable. This garden-variety agency factual evaluation more than satisfies the Administrative Procedure Act (“APA”).

As to Scotts Valley’s due process claim, Scotts Valley’s complaint that Interior inadequately explained *why* it reconsidered is an attack on Interior’s reconsideration *process*, in which Scotts Valley has no legally cognizable interest. Furthermore, there can be no serious dispute that Scotts Valley had more than ample notice of and opportunity to comment in connection with the reconsideration process and the 2026 Decision. Scotts Valley was given generous advance notice, received the complete adverse record, had months to respond, submitted extensive expert evidence, met with agency decisionmakers, and had the last word before Interior acted.

Finally, on the equities, Scotts Valley’s claimed injuries are entirely of its own making. The Band sank over \$10 million into a “Preview Casino” after both Interior and this Court warned against reliance on the 2025 determination, and then it opened that facility days before Interior’s long-announced deadline for completing reconsideration. The public interest would not

be served by the Court rewarding this kind of self-inflicted harm. Moreover, the injunction Scotts Valley seeks would improperly impose a heavily contested situation on the parties rather than preserving the pre-dispute status quo. It would inflict concrete economic harm on UAIC and other tribes whose on-reservation gaming operations fund essential tribal services. And it would authorize continued gaming at a facility that Interior has determined is ineligible under IGRA.

Scotts Valley’s motion seeks an extraordinary remedy for an ordinary and permissible exercise of agency decisionmaking. Scotts Valley’s motion should be denied.

ARGUMENT

A preliminary injunction is “an extraordinary remedy that may only be awarded upon a clear showing that the plaintiff is entitled to such relief.” *Winter v. Nat. Res. Def. Council*, 555 U.S. 7, 22 (2008); *see also Sherley v. Sebelius*, 644 F.3d 388, 392 (D.C. Cir. 2011). This is a “heavy burden.” *Olu-Cole v. E.L. Haynes Pub. Charter Sch.*, 930 F.3d 519, 527 (D.C. Cir. 2019). To prevail, the plaintiff must demonstrate: (1) a substantial likelihood of success on the merits; (2) that it would suffer irreparable harm without injunctive relief; (3) that the balance of equities tips in its favor; and (4) that the requested injunction would be in the public interest. *Winter*, 555 U.S. at 20. Scotts Valley does not come close to meeting that burden here.²

I. Scotts Valley is not likely to succeed on the merits of its claims.

A. Interior adequately explained the 2026 Decision.

Scotts Valley is unlikely to prevail on its claim under the APA that Interior “reversed its

² UAIC is one of several affected tribes, including Yocha Dehe Wintun Nation, Kletsel Dehe Wintun Nation of the Cortina Rancheria, and Lytton Rancheria of California—submitting proposed *amicus* briefs to bring their perspectives to bear on Scotts Valley’s request for injunctive relief. To avoid duplication, UAIC generally does not address the issues covered in the *amicus* briefing of the other affected tribes.

prior decision without explanation.” Mot. at 31–32. When an agency reverses a policy, it must “display awareness that it is changing position” and “show that there are good reasons for the new policy.” *FCC v. Fox Television Stations, Inc.*, 556 U.S. 502, 515 (2009). According to Scotts Valley, Interior “silently abandon[ed]” the “legal framework required by *Scotts Valley I.*” Mot. at 31. But what Scotts Valley identifies as a “depart[ure]” from Interior’s prior *policy* is simply a change in *outcome* based on the new facts put before the agency. Specifically, Interior considered a properly completed administrative record—which included evidence submitted by UAIC and other tribes that was improperly excluded from the 2025 Decision—that demonstrated that critical factual assumptions underlying the 2025 Decision were wrong. *Id.* at 31. Interior then reached the conclusions that record compelled following a thorough and thoughtful analysis. Such an ordinary exercise of an agency’s inherent fact-finding function fully comports with the APA.

B. Interior encountered new facts in the 2026 Decision and thoroughly explained why they justified a different outcome.

According to Scotts Valley, Interior applied “a materially different interpretation of [Part 292] without acknowledging that any change occurred.” Mot. at 32. But contrary to Scotts Valley’s assertions, Interior’s application and interpretation of IGRA and Part 292 did not change in the 2026 Decision. What changed was the factual record.

The 2025 Decision was issued without soliciting or considering additional evidentiary submissions from UAIC and other interested parties after the 2022 remand. *See* 2026 Decision at 3–4. On reconsideration, the Department therefore requested and received that extensive historical evidence and legal analysis from UAIC, other federally recognized tribes, state and local governments, individual Band members, and other interested parties, “[n]early all” of whom opposed Scotts Valley’s request. *Id.* at 21–27.

Those new facts materially changed the record and undermined key assumptions supporting Interior’s finding of occupancy in particular. For example:

- The 2025 Decision assumed that the six-year-old “Agustín” recorded as having been baptized at Mission San Francisco Solano could have been Scotts Valley’s ancestor “Augustine.” *Id.* at 33. The expanded record, however, showed that the names of Agustín’s parents *and* village differed from those associated with the Band’s ancestor, and contained evidence that the names of the children in the baptismal cohort were distinctively Southern Pomo, rather than Eastern Pomo like Scotts Valley’s ancestors. *Id.* at 32–33. Accordingly, Interior concluded that “[b]ecause the evidence suggests that the Agustín listed in the relevant baptismal register and other members of the Baptismal Cohort were not Band ancestors, . . . that evidence does not support the Band’s claim to a significant historical connection to the Parcel.” *Id.* at 33.

- The 2025 Decision relied on the assumption that the Vallejo Site was ceded by Scotts Valley’s predecessors due to its location within “Royce Area 296,” which supposedly depicted the boundaries of the territory ceded by a group of tribal signatories that included the Band’s predecessors-in-interest in an 1851 Treaty. *Id.* at 34. Evidence submitted by UAIC, however, demonstrated that the 1851 Treaty did not describe the asserted ceded territory such that the Royce map could be considered reliable. *Id.* at 26. And even if the depiction of Area 296 was accurate, the record contained no evidence suggesting that *Scotts Valley* possessed the authority to cede the land around Vallejo. *Id.* at 34. Accordingly, Interior determined that “[f]avorable treatment of Royce’s map in this analysis would not only be ahistorical but also unfair to any successors-in-interest of the original inhabitants of those territories,” and concluded that “the Parcel is not located in territory ceded by the Band’s ancestors.” *Id.* The Band was thus

“not entitled to a favorable inference of occupancy based on the Parcel’s location within Area 296, and that fact does not lead to a natural inference of the Band’s historic use or occupancy of the Parcel.” *Id.* at 35.

A change in underlying findings and assumptions provided Interior with more than “good reason[.]” to depart from the 2025 Decision. *Fox Television*, 556 U.S. at 515; *see also Scotts Valley I*, 633 F. Supp. 3d at 168 (“[I]t is not [the court’s] role to scour through the ILO and substitute its judgment for that of the agency”); *SZ DJI Tech. Co., Ltd. v. U.S. Dep’t of Defense*, --- F.4th ---, 2026 WL 2357473, at *5 (D.C. Cir. Aug. 14, 2026) (courts “give substantial deference to inferences drawn by the agency from the factual record” (cleaned up)). Indeed, the agency’s task of explaining its departure from a prior position is “not [an] especially high bar” to clear. *Nasdaq Stock Mkt., LLC v. S.E.C.*, 38 F.4th 1126, 1141 (D.C. Cir. 2022) (quotation marks omitted). Even in the context of a change of policy, an agency “need not demonstrate to a court’s satisfaction that the reasons for the new policy are *better* than the reasons for the old one; it suffices that the new policy is permissible under the statute, that there are good reasons for it, and that the agency *believes* it to be better, which the conscious change of course adequately indicates.” *Fox Television*, 556 U.S. at 515.

As detailed above, Interior here recounted at length the impact of the newly completed record, and then explained, fact by fact, how additional detail in the record impacted the agency’s analysis and decision. That thorough explanation is more than adequately “reasoned” for purposes of the APA. *Id.*; *Am. Farm Bureau Fed’n v. EPA*, 559 F.3d 512, 521 (D.C. Cir. 2009) (“[I]f the relevant facts have changed . . . then [the agency] need only explain itself and we will defer.”); *see also Ctr. for Biological Diversity v. Nat’l Marine Fisheries Serv.*, 628 F. Supp. 3d 189, 211 (D.D.C. 2022) (upholding agency decision where the agency “listed reasons for the

change,” which included public comments calling into question the agency’s factual estimates); *Calixto v. Walsh*, 2022 WL 4446383, at *15 (D.D.C. Sept. 23, 2022) (same where the agency addressed the “facts and circumstances” underlying the prior decision and “offer[ed] a reasoned explanation as to why it now views its earlier conclusions as incorrect”).

C. Scotts Valley does not identify any other departure in position by Interior requiring explanation.

Scotts Valley’s other arguments about Interior’s failure to explain its decision are equally unavailing. Scotts Valley contends that Interior “applie[d] a materially narrower interpretation of ‘significant historical connection,’” and “effectively reinstate[d] the restrictive methodology this court rejected in *Scotts Valley I*.”³ Mot. at 31. But Scotts Valley does not substantiate these conclusory assertions with any references to the 2026 Decision in a way that would satisfy its burden. In reality, the 2026 Decision adhered to the same principles it applied in the 2025 Decision.

Besides correcting the factual assumptions undermined by the new record, Interior undertook an identical analysis and reached the vast majority of the same conclusions as it did in 2025.⁴ For example, the 2026 Decision expressly recognizes that IGRA’s restored-lands exception serves to ensure that tribes left landless when IGRA was enacted are not disadvantaged

³ Scotts Valley also faults Interior for not properly applying the Indian canon of construction, or for varying in its application of the canon without adequate explanation. Mot. at 31. But as the *Scotts Valley I* court made clear on reconsideration, the court “didn’t rule that the *Department of Interior* had to apply the canon. [The Court] said it was a tool and a principle of statutory construction that *the Court* was supposed to utilize when assessing whether the agency’s decision about the restored lands exception, which is a statutory provision, was reasonable and in accordance with the law.” Decl. of Sarah Salomon, Ex. 1 at 16–17 (emphases added). Further, as discussed, it is not Interior’s theoretical approach that varied from the 2025 Decision to the 2026 Decision; it is the evidence in the record, which Interior thoroughly addressed.

⁴ UAIC does not concur with every finding in the 2025 Decision or the 2026 Decision. Both decisions include a number of findings in Scotts Valley’s favor that UAIC and other affected tribes have vigorously disputed.

relative to more established tribes. *See* 2026 Decision at 5 (*citing City of Roseville v. Norton*, 348 F.3d 1020, 1030 (D.C. Cir. 2003); *Scotts Valley I*, 633 F. Supp. 3d at 167). And the 2026 Decision “constru[es] key terms in Part 292 in a way that reflect[] greater consideration of the policy behind the exception,” including by adopting “broad understandings of the terms ‘occupancy’ and ‘vicinity’ within Part 292’s definition of ‘significant historical connection.’” *Id.* at 19.

Additionally, Interior concluded that the Napa, California residency of Augustine, Scotts Valley’s purported ancestor in the 1870s, constituted “occupancy,” and that such occupancy could be attributed to the Band as a whole. *Id.* at 32–34. Interior also construed Part 292’s “temporal connection” requirement broadly by treating a 2024 amendment to Scotts Valley’s trust application as relating back to the Band’s initial application. *Id.* at 9. In so doing, the Department rejected UAIC’s contention that added acreage could not qualify as restored land, noting that “a ***broad understanding of the provision*** containing the 25-year time limit furthers IGRA’s goal of placing the restored tribe ‘on an equal footing with other tribes.’” *Id.* at 9 (quoting *Scotts Valley I*, 633 F. Supp. 3d at 167) (emphasis added).

Finally, the 2026 Decision recounted at length the federal actions that displaced Scotts Valley’s ancestors and disrupted their historical connections. *Id.* at 15–17. In fact, the 2026 Decision described and considered new evidence put forward by the Band, including expert reports discussing the “intertwined ecological, economic, and social factors” that “disrupted the lives of North Bay Natives.” *Id.* at 28. Scotts Valley’s conclusory assertion that the 2026 Decision “applie[d] a materially different interpretation of the governing regulation” is baseless.

II. Interior’s 2026 Decision does not violate Scotts Valley’s due process rights.

Scotts Valley is also unlikely to succeed on its claim that the 2026 Decision violates Scott Valley’s due process rights. According to Scotts Valley, Interior “failed to provide the Band

adequate notice of the specific basis for its decision to reopen the 2025 Decision, and failed to give the Band a meaningful opportunity to present its objections to that course of action.” Mot. at 38. These are objections to the *process* by which Interior engaged in reconsideration. Scotts Valley has no cognizable interest in that process, and thus has no cognizable due process claim. Moreover, even assuming the existence of cognizable interest for due process purposes, there can be no doubt that due process was afforded here.

A. Scotts Valley has no cognizable property interest in the process of Interior’s reconsideration.

The touchstone of the due process inquiry is whether the plaintiff has a cognizable property interest. *Mathews v. Eldridge*, 424 U.S. 319, 332 (1976). “For a property interest to be constitutionally protected by procedural due process, a person must ‘have a legitimate claim of entitlement to it,’ beyond ‘an abstract need or desire.’” *Simmons v. Rubio*, 170 F.4th 905, 913 (D.C. Cir. 2026) (quoting *Bd. of Regents of State Colls. v. Roth*, 408 U.S. 564, 577 (1972)).

Scotts Valley’s claim fails because it lacks any such interest in or legitimate claim of entitlement to the *process* of Interior’s reconsideration—a position Scotts Valley essentially concedes in its motion. *See* Mot. at 38 (arguing only that Scotts Valley has a property interest “in the right to engage in gaming at the Vallejo Site”). As the D.C. Circuit has long held, a plaintiff “does not have a constitutionally protected interest in having [an agency] adhere to [the agency’s] procedural requirements.” *Brandon v. D.C. Bd. of Parole*, 823 F.2d 644, 649 (D.C. Cir. 1987).

This Court rejected a nearly identical due process challenge to agency reconsideration in *Antidote Health Plan of Arizona, Inc. v. Becerra*, 754 F. Supp. 3d 219 (D.D.C. 2024) (McFadden, J.). There, as here, the plaintiff contended that the agency “failed to provide sufficient procedural protections” during its reconsideration of the plaintiff’s request for

certification to participate in state health insurance exchanges. *Id.* at 230. This Court concluded, however, that the plaintiff could not “claim an entitlement to the [procedural] safeguards themselves.” *Id.* As the Court explained, “[t]o hold otherwise would ‘equate the process due with the substantive interest’ at stake.” *Id.* (quoting *Brandon*, 823 F.2d at 649). So too here.

Scotts Valley’s claim also fails even assuming it has some property interest in the reconsideration process itself. An agency’s notice must be “reasonably calculated” to inform an affected party of the contemplated adverse action and permit it to present objections. *Reeve Aleutian Airways, Inc. v. United States*, 982 F.2d 594, 599 (D.C. Cir. 1993). Scotts Valley received such notice here. It knew that Interior was reconsidering the Vallejo Site’s eligibility under the restored-lands exception, knew that Interior was concerned about evidence omitted from the 2025 process, received every submission “on which the official actor relied,” and responded to the precise historical and legal arguments later addressed in the final decision. *Ralls Corp. v. Comm. on Foreign Inv. in the U.S.*, 758 F.3d 296, 319 (D.C. Cir. 2014). No more was required.

B. Scotts Valley received more than adequate process.

Scotts Valley cannot seriously contend that it lacked adequate process in connection with the 2026 Decision. “Once its protections kick in, the Due Process Clause demands ‘notice and [an] opportunity for [a] hearing appropriate to the nature of the case.’” *Scotts Valley II*, 808 F. Supp. 3d at 25 (quoting *Cleveland Bd. of Educ. V. Loudermill*, 470 U.S. 532, 542 (1985)). Scotts Valley was afforded that, and then some.

In March 2025, Interior informed Scotts Valley that it was reconsidering whether the Vallejo Site qualified as restored lands under 25 U.S.C. § 2719(b)(1)(B)(iii) and 25 C.F.R. Part 292. 2026 Decision at 3–4. It explained that reconsideration was prompted by concern that the 2025 Decision had been issued without considering additional evidence submitted after the

remand in *Scotts Valley I. Id.* Specifically, Interior explained that it had “neither solicited nor considered any additional evidentiary materials from outside parties, including the Band and those opposed to the Band’s request” and invited Scotts Valley to submit evidence and legal analysis concerning the Vallejo Site’s eligibility through June 13, 2025. *Id.*

In *Scotts Valley II*, this Court determined that Interior’s March 2025 temporary rescission of the 2025 Decision violated due process because Interior informed Scotts Valley of the rescission “only once it was fait accompli” and offered “no formal hearing or opportunity to respond to adverse evidence.” 808 F. Supp. 3d at 27. In reaching its final reconsideration decision here, Interior took additional steps designed specifically to redress those shortcomings and ensure more than adequate process.

Specifically, on or around December 9, 2025, the Department furnished Scotts Valley with the June 2025 submissions so that the Band would have notice of the evidence and legal arguments under consideration. *Id.* at 4. Those materials disclosed the particular grounds on which interested tribes and other parties disputed the 2025 Decision, including the identification of the 1837 baptismal cohort, the reliability of Royce Area 296, the authority of the 1851 Treaty signatories to cede territory surrounding Vallejo, the historical use of Rancho Suscol, and the absence of evidence connecting Scotts Valley’s ancestors to the Vallejo Site. *Id.* at 21–27.

Interior then consulted twice with Scotts Valley about the schedule for reconsideration and gave the Band until May 1, 2026—nearly five months after it received the adverse submissions—to respond. *Id.* at 4. The Department also met with Scotts Valley on April 17, 2026, allowing the Band to present its position directly to the officials conducting the reconsideration and “rebut the arguments that the neighboring tribes had presented.” *Id.*; *Scotts Valley II*, 808 F. Supp. 3d at 28. Scotts Valley thereafter submitted a comprehensive

memorandum defending the 2025 Decision, accompanied by five expert reports addressing the opposing parties’ historical evidence. *Id.* at 27–32. After receiving that response, Interior accepted no further submissions, ensuring that Scotts Valley had the final opportunity to address the evidentiary record. *Id.* at 4. Only then did Interior issue the 2026 Decision.

The process extended to Scotts Valley went above and beyond. During the 17-month notice period, Scotts Valley had opportunity after opportunity to participate in Interior’s reconsideration decision—including through both in-person and written submissions to the agency. Every safeguard the Court had found absent from the March 2025 rescission (and more) was provided. The process was more than adequate. *See, e.g., City of Sault Ste. Marie v. Andrus*, 532 F. Supp. 157, 163 (D.D.C. 1980) (finding due process requirements met for the taking of land into trust where plaintiff “received a great deal of actual notice” of the acquisition and attended a single public hearing on the issue with Interior officials).⁵

III. The balance of the equities and public interest do not favor injunctive relief.

The balance-of-equities and public-interest factors—which merge where the United States is a defendant—likewise weigh against injunctive relief. *See Nken v. Holder*, 556 U.S. 418, 435 (2009). Scotts Valley portrays the equitable balance as between the Band suffering immediate injury and a federal agency with no particular interest in its decisionmaking. That framing overlooks the agency’s interest in properly applying the law. It also overlooks the interest of other federally recognized tribal governments, including UAIC, whose lawful, on-reservation gaming operations would be threatened and whose tribal operations would be undermined if the invalid January 10, 2025 Decision were effectively revived. *See Winter*, 555

⁵ Because Scotts Valley’s due process claim fails, its theory of *per se* irreparable injury stemming from that claim also fails. *See Mot.* at 46.

U.S. at 24–26 (courts must consider the impacts of the injunction on third parties). And Scotts Valley’s framing also ignores the source of Scotts Valley’s supposed hardship: Scotts Valley invested more than \$10 million in a “Preview Casino” *after* Interior already announced and began reconsideration, and *after* this Court expressly warned that the Band “would be ill-served by placing undue reliance” on a temporary reinstatement of the 2025 Decision. Equity does not require UAIC and other tribes to bear the consequences of risks Scotts Valley knowingly assumed. Scotts Valley cannot meet its burden here.

A. Scotts Valley’s purported injuries are self-inflicted and do not tip the equities in its favor.

Scotts Valley’s equitable case is severely undercut by the Band’s decision to invest in gaming operations while fully aware that Interior could reverse its gaming eligibility determination. And not only was Scotts Valley aware of this possibility, it was warned repeatedly to consider it.

First, on March 27, 2025, Interior announced that it was reconsidering its January 2025 gaming determination. In making that announcement, Interior expressly advised that, during the reconsideration, “neither the Tribe nor any other entity or person should rely on the Gaming Eligibility Determination.” ECF 10-8.

Second, on October 30, 2025, this Court advised the Band in its *Scotts Valley II* decision that, if Scotts Valley proceeded with casino development, it did so at its own risk. The Court upheld Interior’s authority to move forward with reconsidering the 2025 Decision. And at the same time, the Court expressly cautioned that the Band “would be ill-served by placing undue reliance” on maintaining gaming eligibility, as Interior would be within its authority to reach a conclusion against gaming eligibility. *Scotts Valley II*, 808 F. Supp. 3d at 28.

Having been warned repeatedly of the risk of relying on the 2025 Decision while it was

actively under reconsideration, Scotts Valley now requests an injunction on the basis of its supposed reliance interests. The Band contends that it incurred more than \$10 million in costs related to a “Preview Casino” developed *after* receiving the Court’s and Interior’s prior warnings. Mot. at 48–49. Scotts Valley openly admits this timing. *See id.* at 42 (contending that the Preview Casino, nominally open as of July 2026, was the result of “more than seven months of concrete actions”). The timing and manner by which Scotts Valley opened its Preview Casino—which Scotts Valley asserts “commenced gaming operations” just days before Interior’s previously announced deadline for completing the reconsideration process—appear calculated not to mitigate harm, but to manufacture it for purposes of the present preliminary injunction motion.

Scotts Valley’s conduct is the epitome of “self-inflicted” injury that “does not satisfy the irreparable harm criteria.” *Safari Club Int’l v. Salazar*, 852 F. Supp. 2d 102, 123 (D.D.C. 2012). Scotts Valley’s investments in gaming came well after the Band was repeatedly warned that gaming eligibility could soon be resolved against it. And Scotts Valley’s Preview Casino was rushed for an opening just days before the long-announced resolution of the reconsideration process. The equities do not weigh in favor of Scotts Valley’s machinations. *Pennsylvania v. New Jersey*, 426 U.S. 660, 664 (1976) (per curiam) (a litigant cannot “be heard to complain about damage inflicted by its own hand”); *Dist. Title v. Warren*, 181 F. Supp. 3d 16, 28 (D.D.C. 2014) (irreparable harm “cannot arise from the plaintiff’s own actions”); *Barton v. District of Columbia*, 131 F. Supp. 2d 236, 247–48 (D.D.C. 2001) (denying preliminary injunction where the plaintiffs “suffered the most from their own actions or inactions”); *Lee v. Christian Coal. of Am.*, 160 F. Supp. 2d 14, 33 (D.D.C. 2001) (preliminary injunction not warranted “when the alleged harm is self-inflicted”).

B. The requested injunction would alter the status quo, not preserve it.

Scotts Valley’s equities analysis also mischaracterizes the status quo. As Scotts Valley sees it, the correct status quo is the state of affairs during the brief window from January 10, 2025—when Interior issued its decision on remand finding the Vallejo Site eligible for gaming—until July 30, 2026—when Interior reversed that finding on reconsideration, during which time Scotts Valley was repeatedly cautioned against reliance. However, the touchstone of the status quo analysis is “the last *uncontested* status which preceded the present controversy.” *See Dist. 50 United Mine Workers v. Int’l Union, United Mine Workers*, 412 F.2d 165, 168 (D.C. Cir. 1969) (emphasis added); *see also* 11A Charles Alan Wright & Arthur R. Miller, Fed. Prac. & Procedure § 2947 (3d ed. 2008) (“The court issuing a preliminary injunction must define the last peaceable uncontested status in order to determine whether to issue the preliminary injunction based on the facts of the case before it.”).

While “[t]here is no mechanical test” for determining the status quo, *see* Fed. Prac. & Procedure § 2947, this Court is particularly well-aware that the reconsideration period was neither “peaceable” nor “uncontested.” In fact, UAIC and several other federally recognized tribes promptly filed lawsuits challenging the 2025 Decision soon after it was issued.⁶ Those lawsuits remain pending with active claims contesting the 2025 Decision. Under these circumstances, Scotts Valley can hardly claim that the 2025 Decision was an “uncontested” reflection of the status quo; the “present controversy” includes Interior’s 2025 Decision and the tribes’ challenges thereto. The relevant status quo prior to the present controversy is therefore the pre-January 10, 2025 period during which there was no active challenge to agency

⁶ *See Yocha Dehe Wintun Nation v. U.S. Dep’t of the Interior*, No. 25-867-TNM (D.D.C. filed Mar. 24, 2025); *UAIC*, No. 25-873-TNM (D.D.C. filed Mar. 24, 2025); *Lytton Rancheria of Cal. v. U.S. Dep’t of the Interior*, No. 25-1088-TNM (D.D.C. filed Apr. 10, 2025).

decisionmaking.

Viewed correctly, Scotts Valley seeks relief that would *alter* the status quo, not preserve it, because it would impose a state of affairs—under which the Vallejo Site was eligible for gaming—contrary to those that existed before the contested and now superseded 2025 Decision. Scotts Valley’s proposed relief would also impair the interests of UAIC and other federally recognized tribes even as they are actively challenging Scotts Valley’s gaming eligibility in related, earlier-filed litigation. This is not the proper role of a preliminary injunction. *Endo Par Innovation Co., LLC v. Becerra*, 2024 WL 2988904, at *9 (D.D.C. June 10, 2024) (“[T]he purpose of a preliminary injunction is to ‘preserve the object of the controversy in its then existing condition.’” (quoting *Aamer v. Obama*, 742 F.3d 1023, 1043 (D.C. Cir. 2014))).

C. The equities include the concrete interests of UAIC and other interested tribes.

Scotts Valley’s equitable analysis is focused on its own purported injury. But the Court must also consider the consequences of the requested injunction for third parties. *See Winter*, 555 U.S. at 24–26; *Chaplaincy of Full Gospel Churches v. England*, 454 F.3d 290, 297 (D.C. Cir. 2006) (framing the balance of the equities element as ensuring “that an injunction would not substantially injure other interested parties”). Those consequences include harm to UAIC and other tribal governments whose established gaming operations are critical to tribal sovereignty and self-sufficiency, as well as the tribes’ public services and cultural protection efforts.

The record already demonstrates that Scotts Valley’s proposed off-reservation project would compete directly with UAIC’s existing on-reservation tribal gaming operations. UAIC operates Thunder Valley Casino Resort on its reservation and relies on an overlapping Northern California and Bay Area customer market. *See UAIC Compl.* ¶¶ 96–97. Interior properly acknowledged this dynamic in its 2026 Decision, noting that Scotts Valley’s proposed operation

“threatens UAIC’s good-faith investments in legally compliant, on-reservation gaming.” 2026 Decision at 23. Interior also recounted evidence that Scotts Valley’s project would adversely affect other tribal gaming operations and, by extension, the services those tribes provide to their members. *Id.* at 22–23.

These are not merely the commercial interests of private casino operators. Tribal gaming revenues fund tribal governments, governmental services, employment, infrastructure, and programs for tribal members. *See UAIC Compl.* ¶¶ 96–97. A reduction in gaming revenue therefore impairs the affected tribes’ ability to promote the tribal welfare, self-sufficiency, and sovereignty. *Id.* ¶ 97; *see also United Auburn Indian Cmty. of the Auburn Rancheria v. U.S. Dep’t of the Interior*, No. 1:25-cv-00873-TNM, ECF No. 15-2 (Decl. of John Williams) ¶¶ 4-8.

IGRA itself recognizes this connection: Congress authorized tribal gaming as a means of “promoting tribal economic development, self-sufficiency, and strong tribal governments.” 25 U.S.C. § 2702(1). Scotts Valley cannot invoke those interests for itself while asking the Court to disregard the same interests when asserted by UAIC and other tribes. At the bare minimum, these cross-cutting economic harms weigh against injunctive relief. *See ConverDyn v. Moniz*, 68 F. Supp. 3d 34, 53 (D.D.C. 2014) (“When the issuance of a preliminary injunction, while preventing harm to one party, causes injury to the other, this factor does not weigh in favor of granting preliminary injunctive relief.”); *Allina Health Servs. v. Sebelius*, 756 F. Supp. 2d 61, 69 (D.D.C. 2010) (finding that the balance of the equities weighs against issuing an injunction because the alleged economic injury to the movant would be offset by economic injury to the Department of Health and Human Services).

Scotts Valley responds only that the regional effects of its “modestly-sized” Preview

Casino will be “negligible.” Mot. at 51. In addition to being internally inconsistent,⁷ that assertion is unsupported. Scotts Valley’s expansive plans for the Vallejo Site are well-documented. Even before Interior issued the 2026 Decision, Scotts Valley planned to expand the Preview Casino’s gaming devices, workforce, and hours of operation. Compl. ¶¶ 115–16. Scotts Valley opened the Preview Casino as a precursor to its planned Class III facility; and it alleges that even the temporary operation would generate customer goodwill, operational experience, and momentum toward that larger project. Compl. ¶ 117; Mot. at 48–49. The Preview Casino is, quite literally, a “preview” of development to come. The equities must account for what the injunction would authorize and what Scotts Valley has given every indication of pursuing.

The circumstances have also changed materially since earlier decisions regarding the Vallejo Site concluded that competitive injury to neighboring tribes was not yet imminent. Those decisions reasoned that multiple contingencies separated Scotts Valley from an operating casino. *See Yocha Dehe Wintun Nation v. U.S. Dep’t of the Interior*, 3 F.4th 427, 431 (D.C. Cir. 2021); *Scotts Valley Band of Pomo Indians v. Burgum*, 2025 WL 1178598, at *4–8 (D.D.C. Apr. 23, 2025). Those contingencies are now gone. Scotts Valley has constructed and licensed a facility, hired and trained employees, obtained approval of its gaming ordinance, and, according to Scotts Valley, commenced Class II gaming. Compl. ¶¶ 111–16. Indeed, Scotts Valley’s premise in seeking an injunction is that reinstating the defunct and superseded 2025 Decision would allow the facility to reopen immediately. *See* Mot. at 51. The harms UAIC and other tribes now face from a Scotts Valley casino are no longer speculative.

⁷ Scotts Valley downplays the size and economic effect of its planned gaming activities despite describing the irreparable harm it faces from the loss of its ability to conduct gaming on the Vallejo Site as a threat to “the very existence of [Scotts Valley’s] business.” Mot. at 48. Scotts Valley cannot have it both ways.

D. The requested injunction is contrary to the public interest.

Finally, Scotts Valley’s requested relief would be contrary to the public interest. Scotts Valley scarcely argues this point. Scotts Valley contends that Interior’s 2025 Decision “indicat[ed] that gaming eligibility on the Vallejo Site is *not manifestly contrary* to the public interest.” Mot. at 51. But this is circular reasoning; Scotts Valley does not affirmatively explain why its proposed injunction is in the public interest. Nor does it explain why Interior’s invalid 2025 Decision—now superseded by the 2026 Decision rejecting gaming eligibility—should be taken as a definitive statement of the public interest.

On the other side of the ledger, there is a “general public interest in attaining the correct result in administrative cases.” *Dun & Bradstreet Corp. Found. v. U.S. Postal Service*, 946 F.2d 189, 194 (2d Cir. 1991). The public interest in preventing the reopening of a casino that Interior has determined is ineligible for gaming is particularly strong in light of IGRA’s general prohibition on gaming on lands acquired in trust after October 17, 1988, unless a statutory exception applies. 25 U.S.C. § 2719(a)–(b). Scotts Valley’s proposed injunction would prevent Interior from correcting the admitted errors that contributed to the incorrect 2025 Decision. The public interest favors adherence to Congress’s limits on gaming.

Moreover, an injunction would undermine the orderly administration of IGRA by rewarding a regulated party for knowingly assuming risk contrary to express judicial and agency guidance. As noted above, Scotts Valley rushed to open the Preview Casino only six days before Interior completed a reconsideration that had been pending for more than a year—and it did so after both Interior and this Court expressly warned that Scotts Valley “would be ill-served by placing undue reliance” on the 2025 Decision. *Scotts Valley II*, 808 F. Supp. 3d at 28. The public interest does not favor rewarding such a gambit—and encouraging others in the future—with extraordinary equitable relief.

CONCLUSION

For the foregoing reasons, the Court should deny Scotts Valley's motion for a preliminary injunction.

Respectfully submitted,

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/s/ Nicholas D. Marais

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