



Stand Up For California!

"Citizens making a difference"

standup.quiknet.com

Cheryl Schmit, Co-Director
Patty Neifer, Co-Director

June 19, 2001

Stand Up For California is the preeminent organization in California giving voice to citizens impacted by the proliferation of Indian gaming. We have testified before numerous government agencies, from the National Gambling Impact Study Commission to the California Gambling Control Commission. Our efforts have always focused on slowing the spread of gaming wherever possible. We are resigned to the fact, however, that the federal government has sanctioned the rights of Indian tribal governments to use gambling businesses as a means of achieving economic self-sufficiency. We therefore have committed ourselves to working with state, local, and tribal governments, and with local citizens, to minimize any adverse impacts tribal government gaming may have upon the people of California.

Tribal gaming unlike other gaming entities in the State of California create serious and critical multi jurisdictional issues due to the nature of tribal sovereignty. Issues such as an equitable use of water resources between tribes and non Indian citizens and the tragic loss of life which results from the lack of proper traffic access to tribal facilities, as well as other complex multi-jurisdictional issues regarding public health and safety, continue to be a focus of conflict and grievances. These and other issues raised by the presence of large commercial gambling operations, recognition of new tribal governments and the fee to trust land acquisition process in California's communities deserve immediate legislative, investigative and policy development attention.

Tribal gambling may be here to stay, but the President and the Congress owe the non Indian citizens in affected states the commitment to address the severe problems created by the introduction of gambling enterprises outside of the jurisdictional reach of state and local government.

Sincerely,

Cheryl A. Schmit

Co Director

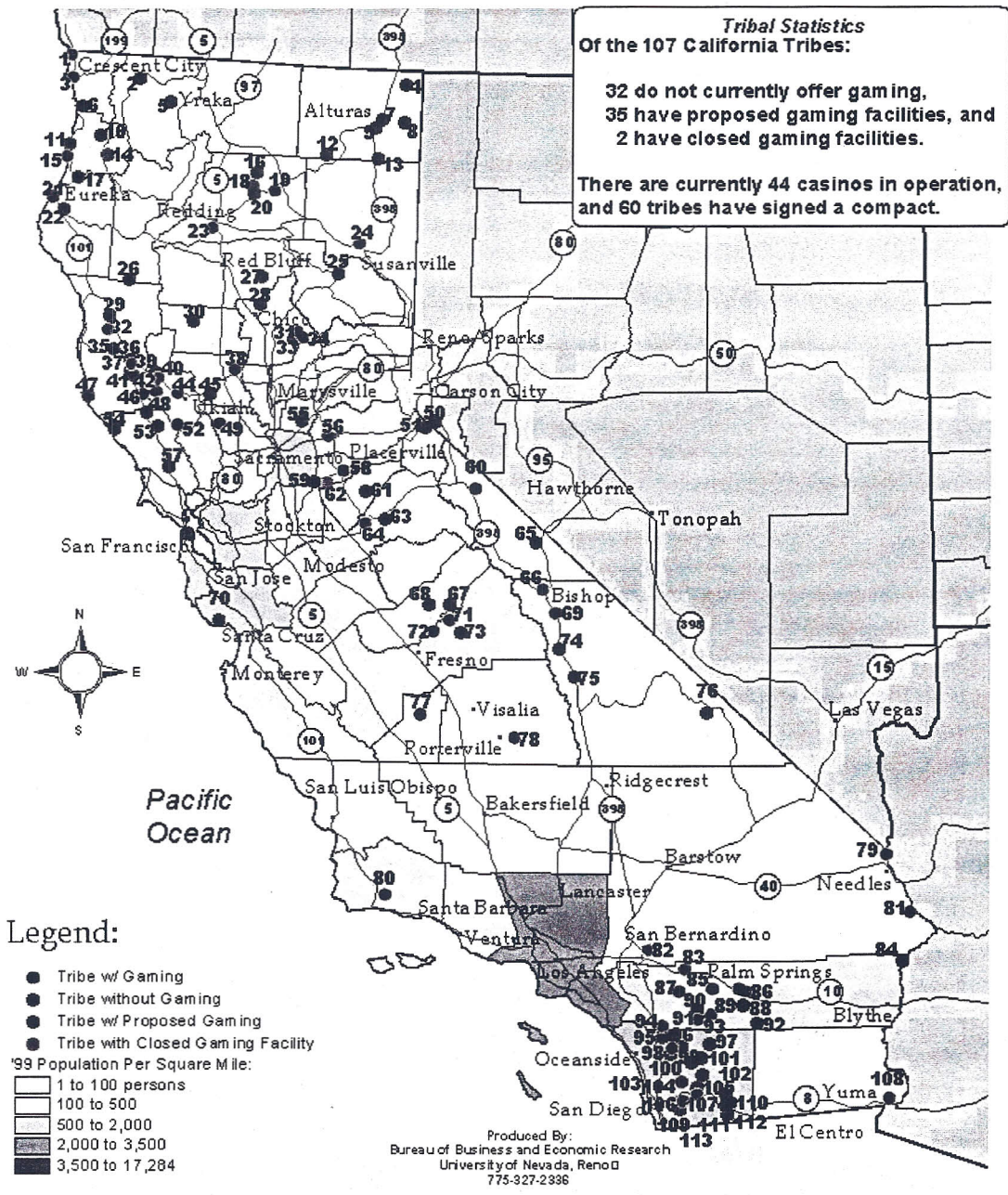
916-663-3207

Cell Phone: 916-847-2114

APPENDIX 1

Operating California Indian Casinos, by location

Indian Gaming Facilities in California



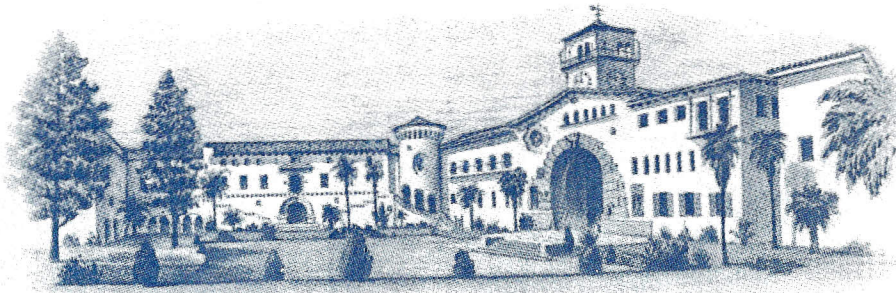
Source: Bureau of Business and Economic Research, University of Nevada, Reno

GAIL MARSHALL
County Supervisor
Third District

JOHN BUTTNY
Executive Staff Assistant

MARK CHACONAS
Executive Staff Assistant

ELIZABETH MARTINEZ
Administrative Assistant



105 East Anapamu Street
Santa Barbara, California 93101
Telephone (805) 568-2192
Fax (805) 568-2883
Santa Ynez Office
1745 Mission Drive
Solvang, California 93463
Telephone (805) 686-5095
Fax (805) 686-8133
Isla Vista Office
970 Embarcadero del Mar
Isla Vista, California 93117

SANTA BARBARA COUNTY

E-Mail: gmarsh@co.santa-barbara.ca.us

June 5, 2001

To Whom It May Concern:

Re: Indian Gaming Impacts

The Santa Ynez Valley is a community of about 22,000 residents located in the rural center of Santa Barbara County and contains 6 communities, including the Chumash Reservation. The Valley has managed to preserve its rural character through good planning over the past 30 years.

The Chumash are in the process of expanding their casino operation. They have recently increased their on-site gambling buildings by about 40% to accommodate the 2000 slot machines they were allocated by the State of California. They are also in the process of building a 5-story parking garage for 1100 cars, which will be one of the largest buildings in the county.

The county has determined that this expansion will create one time capital costs impacts of over 7 million dollars, and ongoing annual impact costs of approximately 1 million dollars. These include impacts to affordable housing, fire protection, schools and regional traffic and roads.

None of these impacts were adequately identified or analyzed by the Environmental Assessment the tribe was required to do prior to construction. Furthermore, the tribe has made it very clear that they will do what is in their best economic interest, and that they believe they do not have to mitigate impacts that would not serve this interest. The county has been told countless times that as a sovereign nation, the tribe is not required to meet either NEPA or CEQA requirements.

Although the county has met with the tribe a few times, nothing has been forthcoming regarding the mitigation of the impacts identified in the county's analysis of the tribe's expansion project. Nor do we have any guarantee that these problems will be addressed.

We need help. Requiring tribes to comply with NEPA would be a good start.

Gail Marshall,
3rd District Supervisor, Santa Barbara County, California

THE SANTA YNEZ VALLEY

P.O. BOX 244 SANTA YNEZ, CALIFORNIA 93460

CONCERNED CITIZENS

June 4, 2001

The Hon. Senator Dianne Feinstein
331 Hart Senate Office Building
Washington D.C. 20510

RE: Complaint before the Federal Indian Gaming Commission and Application for Fee to Trust
Annexation of the Santa Ynez Band of Mission Indians (The Chumash).

Dear Senator Feinstein,

I am grateful for this opportunity to communicate with you with regard to the above referenced matters currently before Federal Agencies. I am writing on behalf of the Santa Ynez Valley Concerned Citizens, a grassroots Citizen's effort to oppose a runaway expansion at The Chumash Indian Reservation in Santa Ynez, California.

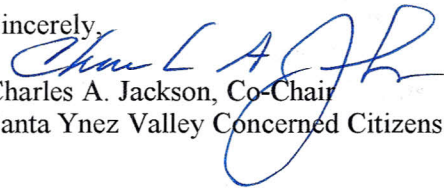
First, I am cognizant of your position not to interfere with Gaming issues within the purview of State Government as it pertains to the Compact entered into by and between the Governor and the Tribes. While I would like to enlist you in our cause on that front, the above referenced matters pertain strictly to issues before federal entities and it is here where we need to enlist your assistance.

In April, 2001, The Santa Ynez Valley Concerned Citizens filed a Complaint with the National Indian Gaming Commission concerning violations of federal statutes, regulations and procedures by The Santa Ynez Band of Mission Indians pertaining to the operation of Gaming on the reservation and to the disregard for significant environmental impacts posed by the enormous expansion plans in direct conflict with the aims of the National Environmental Protection Act (NEPA) and the California Environmental Quality Act (CEQA). We ask that you assist us by elevating our complaint to the appropriate parties so as to promote a timely response before development becomes irrevocably entrenched.

The second referenced issue pertains to the Tribe's request to take an additional six acres of land from fee title into trust as part of the reservation. The land in question is contiguous to the Gaming facilities and straddles the main artery through our community, which already suffers from significant traffic burdens. We ask that you oppose this annexation for two primary reasons. First, the annexation will allow the Tribe to circumvent any local regulations designed to protect the local communities from adverse impacts posed by significant development. Second, the annexation facilitates a piece-mealing of the Tribe's massive expansion plans across the street freeing space for an enormous gaming facility. We see this as specifically contrary to the spirit and direction of both CEQA and NEPA.

The issues I have raised are seemingly complex but turn on the basic principle of a community seeking to work with an unyielding tribe on a communal future and being thwarted by process. I thank you for your consideration and ask that should you need additional information to please not hesitate to contact me.

Sincerely,


Charles A. Jackson, Co-Chair
Santa Ynez Valley Concerned Citizens.



Immanuel Baptist Church

"An Oasis for the Family"

June 12, 2001

TO WHOM IT MAY CONCERN:

This letter is to voice opposition to a proposal by the Paragon Corporation of Las Vegas, Nevada for an Indian gambling casino in the Ridgecrest/Inyokern area.

Our community is located near the Naval Weapons Center, China Lake, California which is a strategic facility for our national defense. Ridgecrest is a 25,000 member community and many are opposed to a Nevada-style casino.

When Proposition 1A was proposed (later adopted), a promise was made in the Voter Information Guide that casinos would be permitted only on tribal land. There is no tribal land in our area. On the contrary, land must be acquired and an Indian tribe must be enlisted to support this proposal.

Please use your influence to oppose this casino.

A handwritten signature in black ink, appearing to read "E. Glen Paden". The signature is fluid and cursive.

E. Glen Paden
Citizens Against Organized Gambling

County of El Dorado

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Fax No. (530) 622-3645



June 11, 2001

Secretary of the Interior, Gale Norton
U.S. Department of the Interior
1849 C. Street N.W.
Washington, DC 20240

Dear Gale Norton,

Tribal interests have proposed a casino-hotel-convention center whose size and scope are unprecedented in rural El Dorado County. Though this project, which is extremely attractive to out of state financial backers, will adversely impact the residents in the area and the public at large, state and local regulators have no authority to protect the residents or the environment.

The following points demonstrate that legislative reform is urgently needed:

- The Environmental Assessment commissioned by the Bureau of Indian Affairs concluded that the 381,000 square-foot project, with 250-room hotel, 3000-car garage, 2000 slot machines, 100 gambling tables, and 1500 employees would have no environmental impact at all.
- State water quality regulators condemned the on-site wastewater disposal system as utterly inadequate, but have no regulatory authority.
- The proposed water supply is insufficient, particularly for fire suppression, but local government's hands are tied.
- The EA traffic and air pollution studies are inconsistent and flawed.
- It does not include site plans, elevations, or any other information that would disclose the project's likely aesthetic and neighborhood impacts
- Although access is needed to the reservation, the tribe plans to construct a highway interchange in a scenic area that is already heavily impacted by traffic. The interchange is inconsistent with local and regional road plans, and with state policies. To facilitate the project, the tribe has recruited a legislator from Southern California to carry legislation that the local legislators vehemently oppose.

We need reforms that would protect the environment, and public health and safety.

Sincerely,

Penny Humphreys
District IV Supervisor
El Dorado County

cc: Cheryl Schmit, Stand Up For California



CITIZENS FOR CAPAY VALLEY

P.O. Box 41
Brooks, CA 95606



June 5, 2001

Secretary Gale Norton
Department of the Interior
Washington, D.C.

Dear Secretary Norton:

Our community is located in the Capay Valley, an agricultural area along Cache Creek in western Yolo County, California, reachable only by Highway 16, a winding two-lane route connecting to Interstate 5. The valley's population (not counting transients at the Casino) is a bit over 1000. Except for one general store, a roadside tavern, a part-time beauty parlor, a handful of cottage industries, and a summer rafting concession, almost everyone here does small-scale farming.

A dramatic change has occurred in our valley in the last eighteen years, beginning with the construction of an Indian Bingo concession on land acquired by the "Rumsey" Wintun tribe in 1982 (supposedly for "new housing"). Since then, the bingo operation has grown into the Cache Creek Indian Casino, a 24/7/365 facility which now draws upwards of 20,000 people every week (a million a year). The consequences of this quantum increase in traffic have been tragic. The number of fatalities and injuries on Hwy 16 now makes it the bloodiest road in the county. One example: last year a local man, a single parent with two children, died on his way to work early in the morning when a patron of the casino ran into him. The driver told the investigating officer she was *counting money* while trying to navigate her vehicle in dense fog. Every valley resident can supply examples of near-misses or accidents, for the problem is chronic and will get worse. The Wintun tribe now plans to build a hotel and new parking facilities.

The casino has figured in another alarming trend: rising land prices and the consequent threat of subdivision. Our valley has now been identified as a possible resort and/or retirement area. A primary casualty of this shift is the valley's organic farming community, one of the most active in the state. Families trying to find tillable ground cannot compete with "investment" buyers looking for home sites.

Finally, our community has been deeply disturbed and fractured by the strong emotions surrounding the issue of "Indian Gaming." We like and respect the Wintun tribe. They run a clean operation and have contributed generously to local community projects. We do not blame them for seizing the only opportunity given them for achieving self-reliance. We *do* find ourselves angry about the basic injustice of forcing remote, rural communities to bear the whole burden of this policy, without any recourse to county or state zoning and environmental laws (which would *never* have allowed a huge casino here). Some of us are also angry that almost two-thirds of the Native Americans in the U.S. do not benefit at all from this gambling bonanza, while a very few—about one tribe in ten—become extremely wealthy overnight.

We hope you can help us to come up with a fairer plan.

Sincerely,

Will Baker
Pamela Weber

for CITIZENS FOR CAPAY VALLEY

Alexander Valley Association



P. O. Box 1195
Healdsburg, California 95448

June 6, 2001

To Whom it May Concern:

The Alexander Valley Association, representing over 300 property owners within the Alexander Valley area of northern Sonoma County, California, appeals to you to consider the detrimental effects a gambling casino would have on our agricultural valley.

The Environmental Assessment done by the tribe to discuss potential impacts from the casino was vastly inadequate. The tribe's assessment did not include an adequate environmental setting, project description or conceptual plan. It contained gross errors, contradictory statements and assertions unsupported by data. There was no biological resource assessment, no arborist's report, lighting plan or acoustical report. The document stated that the change from a few residences to a 50,000 square foot gaming facility and restaurant would not result in increased need for fire, police and emergency services nor would it affect existing local recreational facilities, create significant solid waste, etc!

The Dry Creek Rancheria is located on a two-lane, winding country road. This road is heavily used during the harvest season by large trucks hauling grapes to the wineries. It is also used throughout the year by slow-moving tractors. We are very concerned about the potential for disastrous accidents involving impatient casino patrons (estimated at approximately 2,000 vehicle trips per day) and agricultural vehicles. Additional traffic could also impede our 'volunteer' emergency service providers.

The site has moderately steep to very steep terrain. There is significant potential for erosion and runoff, which were not adequately addressed in the environmental assessment.

There is a potential for serious off-site impacts to water quality and public health due to the lack of adequate project information regarding treatment of wastewater.

The casino is proposed to be constructed over a stream; construction activities could negatively impact the fish habitat and, therefore, result in a taking under the Endangered Species Act since it could affect Steelhead, Chinook and Coho Salmon.

Our members have many other concerns related to the proposed gaming casino, including, but not limited to: adequate water supply, additional expense to our county and taxpayers for public safety and road improvements, the negative effect on our community character and lack of enforcement. At the very least, the gaming casinos should be subject to the regulations of CEQA which requires project proponents to adequately assess potential impacts, propose mitigation measures to avoid significant adverse impacts. We urge you to amend the Indian Gaming Regulatory Act to allow local communities more input on land use issues and gaming.

Thank you for your consideration of our concerns.

Sincerely,

John Pina, President
Alexander Valley Association

Dear Representative:

June 10, 2001

We live in the Alexander Valley, a rural agricultural community in Sonoma County, California. Our family has farmed in this valley since the early 1920's.

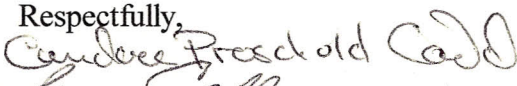
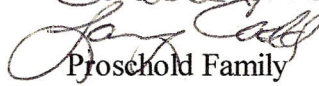
We are asking your assistance in preserving our property rights. The Dry Creek band of Pomo Indians in Alexander Valley plan to use an easement across our private property for casino traffic. We feel threatened and intimidated by the tribe and the casino developers, who are pursuing this massive project. The prospect of the huge volume of traffic through the family's private property is not only devastating to us but it poses a tremendous personal liability. There is also a possibility of condemnation for intersection improvement. We ask that you review with the Department of the Interior, Bureau of Indian Affairs, the policies regarding such use and what actions might be taken to protect private property owners from the sovereign powers of an Indian Tribe.

In 1965, Margaret Drake, my Grandmother, sold to the Bureau of Indian Affairs for the sum of \$1.00, an easement across her land so that the residents could reach their Rancheria. The original access to the Rancheria through the Wilson property was impassable and the "Indian neighbors" could not access their homes during the winter. Margaret offered to help them by allowing an improved road through her property, she adamantly refused to sell the property outright, but was willing to grant an easement. The language in the easement, which was drafted by the BIA, is vague and does not define the use, although for the last 36 years the only use has been the residents of the Dry Creek Pomo Rancheria and our farm. Certainly at the time this easement was granted, public use for casino traffic could not have been contemplated because IGRA was not even enacted until 1988.

This 75 acre Rancheria is located in a very steep pocket canyon which is also the headwaters of a blue line stream through our property, that is a habitat for the endangered steelhead trout. The developer along with the Dry Creek Pomo Tribe plans to bring in 2 - 3 thousand cars and busses a day, across our 'gifted' easement to the reservation. There is little room for parking as well as the additional space needed for sewage treatment. As I mentioned above, this is an agricultural area, this casino will choke our narrow 2 lane highway, endangering our farm workers and slow moving agricultural equipment threatening our already limited water supply and taxing our volunteer fire department.

We as property owners, and citizens, do not have a voice in this issue. Why should our property and our rights be sacrificed for this Indian casino? The Indians should have to follow the same laws as the tax paying citizens. These casinos should be placed in an area that has the infrastructure to handle these impacts. We ask you to help us find a way to defend our homes and livelihood as well as help the Pomo's economic development.

Respectfully,



Proschold Family
Candace Proschold Cadd
Larry Cadd

3650 Hwy 128
Geyserville, Calif. 95441
707-857-3232

JACKSON & KELLY PLLC

ATTORNEYS AT LAW

SUITE 400

2401 PENNSYLVANIA AVENUE N.W.

WASHINGTON, D.C. 20037

TELEPHONE 202-973-0200

TELECOPIER 202-973-0232

<http://www.jacksonkelly.com>

1600 LADLEY TOWER
CHARLESTON, WEST VIRGINIA 25322
TELEPHONE 304-540-1000

300 FOXGROVE AVENUE
MARTINSBURG, WEST VIRGINIA 25401
TELEPHONE 304-253-8800

256 RUSSELL AVENUE
NEW MARTINSVILLE, WEST VIRGINIA 26155
TELEPHONE 304-455-1701

6020 HAMPTON CENTER
MORGANTOWN, WEST VIRGINIA 26505
TELEPHONE 304-809-3000

412 MARKET STREET
PARKERSBURG, WEST VIRGINIA 26101
TELEPHONE 304-424-8450

1000 TECHNOLOGY DRIVE
FAIRMONT, WEST VIRGINIA 25554
TELEPHONE 304-368-2000

1144 MARKET STREET
WHEELING, WEST VIRGINIA 26003
TELEPHONE 304-253-4000

1650 LINCOLN STREET
DENVER, COLORADO 80204
TELEPHONE 303-860-0000

175 EAST MAIN STREET
LEXINGTON, KENTUCKY 40505
TELEPHONE 859-255-9500

MEMBER OF LEX MUNDI
THE WORLD'S LEADING ASSOCIATION
OF INDEPENDENT LAW FIRMS

February 22, 2001

VIA FACSIMILE

Mr. Ronald Jaeger
Regional Director
Bureau of Indian Affairs - Pacific Region
2800 Cottage Way
Sacramento, CA 95825

RE: *Dry Creek Rancheria - Sonoma County, California.*

Dear Mr. Jaeger:

This firm represents the Alexander Valley Association ("AVA"), a California not-for-profit corporation located in Sonoma County. In that capacity, we are working on issues of common interest with the Proschold family, the heirs of Margaret L. Drake, who owned agricultural land fronting on State Highway 128 approximately three (3) miles east of Geyserville, California. The Proschold family members continue to own the property and it continues to be used for agricultural purposes.

By Easement dated March 8, 1965, a copy of which is enclosed, Mrs. Drake granted to the United States an easement and right-of-way across her land for an access road to the Dry Creek Rancheria. The purpose of the easement was to provide the Bureau of Indian Affairs ("BIA"), for the benefit of the Dry Creek Rancheria Band of Pomo Indians ("Tribe"), residential access to the reservation for tribal members residing there. And, during the 36-year period since the easement was granted, that is exactly how the reservation's resident population (approximately 17 families) has used it.¹ During the same period, and consistent with their rights as owners of the servient estate, family members have also used the road to access agricultural lands and adjacent vineyards.

The Tribe is currently attempting to develop a casino within the Rancheria pursuant to the federal Indian Gaming Regulatory Act, 25 U.S.C. §§ 2701-21. In this context, the Proschold family has

The easement has never been used by the Tribe or Rancheria residents for commercial activity.

Mr. Ronald Jaeger
Page Two
February 22, 2001

been contacted by tribal officials and the casino developer seeking to secure authorization for the public to use the easement road for access to the casino.

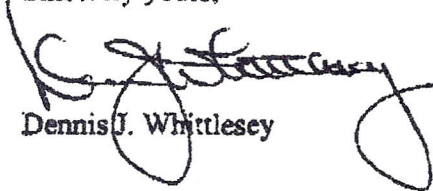
Although family members have reviewed the Tribe's and developer's proposal for expanded easement use as a courtesy, they have made it clear that they currently have no intention of granting any type of permanent access to the Rancheria for the public and casino patrons. Simply stated, the high level of commercial traffic anticipated in connection with casino operations (estimated to be at least 1,700 vehicles per day) would be detrimental to their property and vineyard operations as well as being incompatible with the agrarian nature of the area. The AVA's concerns about the impact on the Alexander Valley of the casino and new traffic are identical to those of the Proschold family.

As of this date, the BIA has not initiated any discussions with the Proschold family concerning any change in the use of the easement. The purpose of this letter is to inform you of these developments and to put the BIA on notice should the Tribe request its assistance to expand the use of the easement for casino purposes without Proschold family consent.

Currently, the BIA does not have the right to authorize any use of the easement beyond that granted by Mrs. Drake 36 years ago. The easement does not run to third parties (e.g., non-residential contractors, public users, casino service contractors and casino patrons) and, in any event, it cannot be used to support a commercial venture -- such as a casino -- that could not have been anticipated at the time of the grant. In addition, any unauthorized easement use could expose the Proschold family to tremendous personal liability. Accordingly, please be advised that the AVA and the Proschold family are prepared to take all actions deemed appropriate to protect their interests should there be any attempt to increase the use and/or users of the easement.

Thank you for your attention in this matter. Should you have any questions, or need any additional information, please do not hesitate to let us know.

Sincerely yours, ~



Dennis J. Whittlesey

Enclosure

Mr. Ronald Jaeger
Page Three
February 22, 2001

cc: (via facsimile) (w/o encl.)
Proschild Family
Alexander Valley Association

cc: (via facsimile) (w/encl.)
Clementine Berger, Esquire
Acting Regional Solicitor
Pacific Region

S0302156

SOCIAL SECURITY NO. 101

EASEMENT

MARGARET A. DRAKE, widow for and in consideration of the sum of (\$1.00) One & no/100 dollars, in hand paid, the receipt of which is hereby acknowledged, do hereby grant to the United States, its successors and assigns, a permanent easement and right of way, for the following purposes, namely; the right to enter upon the hereinafter described land and grade, level, fill, drain, pave, build, maintain, repair and rebuild a road and or drainage way, together with such bridges, culverts, ramps, and cuts as may be necessary, on, over, under, and across the ground embraced within the right of way situated in the County of Sonoma, State of California.

Beginning at a point which is Sta. 0+28.85 on the centerline of Route 5-93 and which point is N. 66° 56' 25" W. a distance of 2,291.80 ft. from a stump, which is the stump of an oak tree designated as point No. 5 on the boundary survey of Rancho Caslamayomi,

- Thence from said point of beginning N. 37° 46' W. a distance of 37.90 ft.;
- Thence N. 74° 44' E. a distance of 122.74 ft.;
- Thence N. 51° 53' 30" E. a distance of 93.16 ft.;
- Thence N. 29° 03' E. a distance of 60.96 ft.;
- Thence N. 37° 22' E. a distance of 76.04 ft.;
- Thence N. 53° 03' E. a distance of 80.94 ft.;
- Thence N. 65° 33' E. a distance of 116.56 ft.;
- Thence N. 83° 18' E. a distance of 115.55 ft.;
- Thence S. 83° 37' E. a distance of 98.82 ft.;

RECORDED AT REQUEST OF
 AT 16 MIN. ONE 3 P. 11/11
 SONOMA COUNTY, CALIFORNIA
(Signature) RECORDER
 MAR 8 1965 *HS*
 OFFICIAL RECORDER
 FEE 2.50
 J 33470

Thence along a curve to the left having a radius of 275 ft., a distance of 239.98 ft.;

Thence N. 41° 23' E. a distance of 119.09 ft.;

Thence along a curve to the left having a radius of 275 ft., a distance of 140.79 ft.;

Thence N. 12° 03' E. a distance of 113.94 ft. to a point on the boundary of the Dry Creek Indian Reservation;

Thence S. 35° 30' E. along the said boundary a distance of 33.88 ft. to Sta. 14+08.04 of Route 5-93, which point is N. 35° 30' W. a distance of 1,900.05 ft. from Point No. 5 on the boundary survey of the Rancho Caslamayomi;

Thence S. 35° 30' E. a distance of 33.88 ft.;

Thence S. 12° 03' W. a distance of 68.20 ft.;

Thence along a curve to the right having a radius of 325 ft., a distance of 186.39 ft.;

Thence S. 41° 23' W. a distance of 119.09 ft.;

2112 707

COUNTY OF SONOMA
BOARD OF SUPERVISORS
575 ADMINISTRATION DRIVE, RM. 100A
SANTA ROSA, CALIFORNIA 95403

(707) 565-2241
FAX (707) 565-3778

EEVE T. LEWIS
COUNTY CLERK



MIKE KERNS
SUPERVISOR, SECOND DISTRICT

mkerns@sonoma-county.org

May 31, 2001

The Honorable Dianne Feinstein
United States Senate
Attention: Chris Norem
525 Market Street, Suite 3670
San Francisco, CA 94105

Re: BIA Proposed Decision to Take Sonoma County Land into Trust on Behalf of
Hopland Band of Pomo Indians

Dear Senator Feinstein:

This letter is to update you on the plan of the Hopland Band of Pomo Indians to take land into trust in southern Sonoma County on behalf of private developers. You previously expressed concern regarding the ability of private developers, using the shield of tribal sovereignty, to avoid county land use policy and develop environmentally sensitive agricultural land for residential purposes. I am again asking for your assistance.

As you may recall, the Hopland Tribe is joining with the El Rancho Land Corporation in a plan to construct 12 "trophy homes" in a scenic corridor that is designated for agricultural use near the intersection of State Route 37 and the Lakeville Highway. Once in trust, these homes would be leased back to the developers. On December 22, 2000, the Regional Office of the Bureau of Indian Affairs ("BIA") issued a Proposed Decision placing 321 acres of undeveloped land into trust on behalf of the Hopland Band of Pomo Indians. As outlined in the attached Notice of Appeal, the BIA's Proposed Decision is seriously flawed. The County of Sonoma, State of California, and other parties are now appealing that decision to the Interior Board of Indian Appeals.

Senator Dianne Feinstein
United States Senate
May 31, 2001
Page 2

The Proposed Decision appears to allow application of a set of standards intended to be used for acquisition of land contiguous to a reservation to property geographically remote from the Rancheria. The effect in this case is to allow a Mendocino County Tribe (on behalf of private developers) to take land into trust in Sonoma County, over 60 miles from its reservation, without the necessary consideration of local land use restrictions or environmental concerns. As the developer controls hundreds of additional acres surrounding the proposed acquisition, this appears to be the first step in a plan for a much larger development. Under the current set of regulations, once the initial land is placed into trust, local concerns would receive even less consideration for any subsequent acquisitions of bordering property. As discussed in the attached May 21, 2001, letter to Department of the Interior Secretary Gale Norton, the Proposed Decision not only applies existing regulations in a manner that insures minimal consideration of local input but demonstrates the need for this proposal to be part of a larger policy review of BIA acquisition standards.

On behalf of the County of Sonoma, I am asking that you join us in insuring an adequate review of this proposal by writing to Secretary Norton and requesting that 1) the Department of the Interior conduct a review of its land trust acquisition policies to ensure that community input and local environmental concerns are adequately considered and 2) the Hopland land acquisition Proposed Decision be remanded to the BIA regional office for further consideration and input.

Thank you for your continued concern regarding this critical land use issue. Please do not hesitate to contact me at 707-565-2241 or Deputy County Counsel David Hurst at 707-565-2421 if you would like any additional information.

Sincerely,



Mike Kerns
Second District Supervisor

MHK:jl
Enclosures

COUNTY OF SONOMA
BOARD OF SUPERVISORS
575 ADMINISTRATION DRIVE, RM. 100A
SANTA ROSA, CALIFORNIA 95403

(707) 565-2241
FAX (707) 565-3778

EVE T. LEWIS
COUNTY CLERK



MIKE KERNS
SUPERVISOR, SECOND DISTRICT

mkerns@sonoma-county.org

May 21, 2001

The Honorable Gale Norton
Secretary of the Interior
Department of the Interior
1849 C Street, N.W.
Washington, DC 20240

Re: Hopland Band of Pomo Indians/Trust Land Request

Dear Secretary Norton:

I am writing to you regarding a request by the Hopland Band of Pomo Indians to take land into trust in Sonoma County, California. A December 22, 2000, proposed decision by the BIA Pacific Region Director to take this land into trust, is now on appeal by multiple parties before the Interior Board of Indian Appeals (IBIA).

We are calling this matter to your attention because of the County's serious concern about this decision, the policy implications it presents for future trust land actions, and (as a result of recent actions by BIA in another trust land matter) ignored precedent that should control the Hopland decision. As discussed more fully below, we believe that all of these issues call for policy level review. We are therefore writing to you to request that this issue be remanded to the Region for reconsideration, subject to any agreement that might be reached as a result of negotiations we have initiated with the Tribe.

By way of summary, the Hopland Band requested that land be taken into trust for purposes of commercial housing development. The 321 acres of land involved is currently zoned agricultural and is undeveloped. It is very scenic, rural countryside, located near the Sears Point Raceway, an existing motor raceway that has operated at its current location for many years. The raceway generates large crowds, traffic, and considerable noise, making residential development an unacceptable and conflicting land use. Our County, through a series of zoning and land use decisions over many years, has fully recognized and protected both the rural nature of the area and the need to avoid conflict over the use of the raceway.

The land at issue has long been the subject of various plans for commercial and residential development by parties other than the Tribe. That development has been

Secretary Gale Norton

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denied by local land use authorities because of zoning conflicts and the inappropriateness of such proposals in this area. Having been denied such use, the developers entered into an agreement with the Hopland Band. The developer will be granted a long-term tribal lease of the land for the purpose of building a high-end residential community. Once the land is in trust, such use would be permissible because local land use restrictions would no longer apply. The proposed housing is not intended for tribal members. Instead, residential units would be leased-back to the developers who would offer the units for rent. This land is over sixty (60) miles from the Band's existing reservation. As a result, the trust request is a blatant effort to circumvent local land use controls for the benefit of a non-tribal developer, although the Tribe will no doubt receive some financial gain.

The Tribe's request is very controversial. It is opposed by the State, as well as our County. The Sears Point Raceway has joined us in filing an IBIA appeal. Other parties in our community also have opposed the request and are seeking an appeal. As a result, this matter has the makings of a major controversy. It will pose a situation where the federal government takes title to land and removes it, over state, local and public objections, from State and local jurisdiction. In addition, it represents a significant abuse of the trust land process by making it possible for non-tribal parties to evade land use controls through the mechanism of section 5 of the Indian Reorganization Act. As you know, this law was enacted to make it possible for the federal government to assist tribes in achieving self-sufficiency rather than opening the door for private developers to undertake an otherwise prohibited project.

On March 26, 2001, BIA Deputy Commissioner Blackwell issued a letter in another trust land request involving the Shakopee Mdewakanton Sioux Community. A copy of that letter is attached. In that letter, Ms. Blackwell posed a series of questions that must be answered by a tribe that seeks to take land into trust. Those issues include the basic question of why trust status is necessary for the purposes to be made of the land, what has been done to address the needs and concerns of local governments, and whether the intended uses conflict with local land use restrictions. The Blackwell letter serves as a new and important BIA standard in the effort to ensure that trust land decision making is conducted properly.

The Regional Director's trust decision related to property in our County now needs to be reconsidered in light of these new principles. Here it appears clear that trust status is sought largely to allow land development, by a non-Indian business entity, that otherwise would have been precluded due to its environmental detriment and incompatibility with County planning guidelines. Similarly, the repeated objections and concerns of local government have not been adequately addressed by the Tribe.

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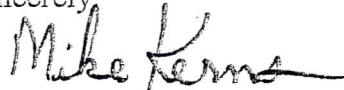
The BIA trust decision furthered minimized local concerns by utilizing the standards for acquisition of land contiguous to a reservation rather than the regulations for off-reservation acquisitions, despite the over sixty mile distance between the reservation and the proposed trust property. (*Compare* 25 C.F.R. 151.10 *with* 25 C.F.R. 151.11; *See* BIA Notice of Proposed Decision, at p.8 (Dec. 22, 2000).) The effect of this choice of regulatory analysis is to fail to give sufficient weight to local concerns. If these regulations applying to on-reservation properties are now being applied to land more than 60 miles away, it represents a serious departure from prior policy and requires the highest level of review.

Finally, we are at the preliminary stage of negotiations with the Tribe. While IBIA has granted a limited extension for this purpose, it is clear that a matter that poses so many fundamental policy questions, in addition to the identified legal deficiencies, should not be at the IBIA forum. This is a matter that requires further consideration by BIA, as well as the Department's policy level.

For these reasons, we ask that the matter be remanded to the BIA regional office for further consideration and input. We also ask that the Office of the Secretary maintain a role in the future deliberations on this trust land decision to ensure that the precedent-setting policy questions that are involved receive proper attention and review, and reflect standards that emerge from any overall review of trust land policy.

Thank you for considering this request. If you have any questions, please contact me or our Washington D.C. counsel, Guy R. Martin or Don Baur of Perkins Coie LLP (202 434-1650).

Sincerely



Mike Kerns
Sonoma County Supervisor

Attachment

cc: M. Sharon Blackwell
BIA Pacific Region Director

COUNTY ADMINISTRATION CENTER
575 ADMINISTRATION DRIVE,
ROOM 105A
SANTA ROSA, CALIFORNIA 95403

TELEPHONE: (707) 565-2421
FACSIMILE: (707) 565-2624

CHIEF DEPUTIES
NEIL C. BAKER
ROSEMARY H. MORGAN



OFFICE OF THE COUNTY COUNSEL
STEVEN M. WOODSIDE
County Counsel

DEPUTIES

PRENTICE A. FISH	JEFFREY L. BERK
KATHLEEN M. FARRELLY	JAMES R. ROSS
JILL D. GOLIS	SALLY B. MCGOUGH
C. DAVID HURST	BRUCE D. GOLDSTEIN
RICHARD M. FLORES	DAVID R. MCFADDEN
KATHLEEN A. LAROCQUE	PHYLLIS GALLAGHER
SUZANNE M. DEKOZAN	GREGORY T. DION
SUE GALLAGHER	STEVEN S. SHUPE
TARA HARVEY	VEENA A. MITCHELL
SHERYL L. BRATTON	ANNE L. KECK

January 22, 2000

The Board of Indian Appeals
Office of Hearings and Appeals
U.S. Department of the Interior
4015 Wilson Boulevard
Arlington, VI 22203

**Re: Notice of Appeal by Sonoma County, California
Proposed Trust Acquisition Decision For Hopland Band of Pomo Indians**

Dear Members of the Board of Indian Appeals:

I. IDENTIFICATION OF APPEAL

The County of Sonoma, State of California, ("County") hereby files this Notice of Appeal ("Notice"), pursuant to 43 CFR 4.332, indicating its challenge to the Proposed Decision of the Bureau of Indian Affairs ("BIA") to take land into trust status on behalf of the Hopland Band of Pomo Indians. Sonoma County is an "interested party" as the Proposed Decision authorizes real property to be taken into trust by the United States that is within the political subdivision (and under the regulatory and taxation authority) of the County. The Notice pertains to the Proposed Decision of the United States Department of the Interior, Bureau of Indian Affairs issued by Ronald Jaeger, Director for the Sacramento Area Office and dated December 22, 2000 ("Proposed Decision"). The Proposed Decision grants the application of the Hopland Band of Pomo Indians to take into trust approximately 321 acres of real property located in the County of Sonoma, State of California. The proposed trust land is neither contiguous nor within the existing boundaries of the Hopland Rancheria and is located as more particularly described in the Proposed Decision which is attached hereto as Exhibit A and incorporated by this reference.

In response to the Tribe's application and development proposal the Sonoma County Board of Supervisors passed (and transmitted to the BIA) two separate resolutions (98-0485 and 96-0331) strongly opposing the trust application. The objections identified that the proposed project was incompatible with the County's General Plan and existing land use designations for the area. The BIA was notified that the plan: placed residential housing in an agricultural area far in excess of the permitted density; ignored the visual impacts of the new homes in this designated Scenic Landscape area; and failed to adequately address traffic impacts and related safety issues. The 1998 Board Resolution stated that a Finding of No Significant Impacts (FONSI) was also inappropriate due, in part, to the potential for increased development on the land in excess of what was identified in the Tribe's application.

The County's opposition to the trust acquisition was joined by, among others, the State Attorney General, United States Senator Diane Feinstein as well as Congresswoman Lynn Woolsey and State Senator Wes Chesbro. Among the concerns stated by these governmental representatives was that the project represented a precedent setting effort by a non-Indian developer to use the BIA process to acquire certain tribal exemptions to avoid state and local land use laws. The above concerns were not given any weight, much less "greater weight," as required under the regulatory scheme.

2. BIA Abused Its Discretion by Not Applying Greater Scrutiny to The Tribe's Justification of Anticipated Benefits

In its Proposed Decision the BIA ignored its mandate to *give greater scrutiny to the justification of anticipated benefits from the acquisition* when the land is removed from the tribe's reservation borders. (25 CFR 151.11 (b).) Here, where the proposed acquisition is in a different county and over 60 miles away from the reservation, the project should receive the highest level of review. This did not occur. The Proposed Decision indicates a lack of any serious scrutiny to the economic plan as the financial benefits from the project offer a minimal benefit to the tribe: only \$252,000 over a five-year period with an insignificant increase of one percent (1%) (or \$2,052) *once every five years*. (Proposed Decision at p.11.) The Proposed Decision failed to rigorously scrutinize the project's economics, its relative benefit to the tribe, or the significance of the expected income on the tribe's overall financial situation. The BIA therefore abused its discretion by failing to apply the proper level of review or making the required factual finding of significant economic benefit to the tribe. (See 25 CFR 151.11(b); 25 CFR 151.3.)

bcc:

Mr. Paul Slessinger
Alcalde & Fay
2111 Wilson Boulevard, 8th Floor
Arlington, VA 22201

Mr. Guy R. Martin
Perkins Coie, LLP
607 Fourteenth Street, N.W.
Washington, DC 20005

Ms. Cheryl Schmit
Stand Up for California
P.O. Box 355
Penryn, CA 95663

Pete Parkinson
County of Sonoma
Permit and Resource Management Department

Bruce Goldstein
County of Sonoma
Office of County Counsel

Attached letter regarding BIA Proposed Decision to Take Sonoma County Land into Trust on Behalf of Hopland Band of Pomo Indians was sent to the following government officials:

U. S. Senator Dianne Feinstein, Attention Chris Norem
California State Senator Wes Chesbro
U. S. Representative Mike Thompson
U. S. Representative Lynn Woolsey
California State Governor Gray Davis
California State Assemblyman Joe Nation
California State Assemblywoman Virginia Strom-Martin
U. S. Senator Barbara Boxer
California State Senator John Burton, Attention Margie Goodman

January 16, 2001

Environmental Evaluation Comments
Barona Band of Mission Indians
Barona Tribal Office
Sue Thomas, Tribal Office Manager
1095 Barona Road
Lakeside, CA. 92040

Dear Ms. Thomas:

Stand Up For California is writing in response to your notice of the second revised tribal expansion on environmental impacts. I wish to express my appreciation for continuing to keep our coalition informed of the Barona Band's ongoing developments and efforts to work in compliance with the new tribal state compact. Our coalition is deeply concerned over environmental issues that are created off reservation by tribal casino developments. These developments often create serious multi jurisdictional issues that require varying levels of government to resolve. Working through these levels of government often creates frustration to citizens, tribes and local government.

It had been our hope that these contentious issues would be addressed in a binding and enforceable local agreements standardized in the tribal state compact. Without these agreements the needed mitigations to protect the natural resources of the state are left in limbo and the quality of life of all citizens, Indian and non-Indian is threatened. Moreover, battle lines continue to be drawn in the media and public opinion on tribal gaming is negatively affected. A few tribes in the State have now entered into agreements with local government offering a limited waiver of sovereignty on land use and development issues. These tribes have gained the support of local governments and Stand Up For California.

- We respectfully ask that you consider voluntarily addressing some of the following problematic issues in a mutually cooperative binding and enforceable local agreement with the County of San Diego. Your efforts would become a model to all tribes promoting casinos in San Diego County and demonstrate a true sense of environmental concern and smart development that not only ensures the tribes long term success but demonstrates the tribes concern for the civil and property rights of their neighbors and a desire to protect the natural resources of the State of California.

Stand Up For California will comment on three elements of the expansion:

- Water
- Access
- Fire Safety

Water

Water outages continue to be a wellspring of contention. The Barona are to be applauded for recognizing the need to improve on the past groundwater impact report and the need to establish additional groundwater observation wells (OWs). However, scientific study requires a sharing of data to determine indisputable conclusions. While your report has developed the additional OWs and a seven-day a week, twenty four hour a day collection with data logging pressure transducers, it still falls short of incorporating the California Environmental Quality Act, by failing to provide information for comparison with the County of San Diego on the surrounding area to determine off reservation impacts.

- Stand Up For California, recognizing the Barona Band as an independent political body urges the Barona Tribal Counsel to consider enhancing your environmental ordinance to include a process for sharing the collected data on the OWs with the County of San Diego which cooperatively and collaboratively will develop indisputable data concerning off reservation impacts over water issues and jointly develop a course of action for remedies.

We believe that this effort on the part of the Barona Band will help to eliminate the controversy that continues over water outages an usage in the local area.

Access

Discussions and mitigations over improvements to Wildcat Canyon Road appear to have reached their own roadblock. Stand Up For California stands firm on the need for tribes to pay for the full cost of road improvements to their facilities. California taxpayers should not be unnecessarily and unfairly burdened by tribal casino developments that were established illegally without compacts years ago in locations that were environmentally sensitive from the very beginning. Moreover, state funds should not be used to encourage their expansion.

- Stand Up For California therefore urges the Barona Band to limit hours, restrict development of unreasonable expansion that further burdens traffic congestion on Wildcat Canyon Rd. **until the tribe can afford to fund** further improvements to eliminate traffic congestion.

California taxpayer's money is needed for a system of transportation but not to accommodate patrons of tribal casinos. The State of Connecticut has introduced legislation that requires tribes to pay to ease traffic congestion within 25 miles of tribal casino projects. Stand Up For California would rather see tribes voluntarily address this issue in the spirit of the compact by incorporating California Environmental Quality Act (CEQA), instead of our coalition requesting and promoting similar legislation.

Fire Safety

Lastly, but far from least, fire hazards have long heated the concern of Stand Up For California, particularly over “sprung structures”. The recent fire and evacuation of the Viejas tribal casino demonstrates the need to protect the patrons and employees as well as the tribal members of Barona. Sprung structures are advertised as being fire retardant and passing numerous related fire tests including the California State Fire Marshall codes. However, in order to comply with California State Fire Marshall codes, sprung structures are restricted in square footage and in the number of occupants.

The **temporary** sprung structure you have listed falls well within the acceptable square footage of California State Fire Marshall codes, however there are still questions and concerns over the number of persons this sprung structure houses and its relationship although temporary, to the overall project. The following are questions that the “Second Environmental Evaluation of Off Reservation Effects of Barona Casino Resort Expansion Project, Dec. 2000,” did not address, to assure compliance with California State Fire Marshall codes and the safety of the public:

- Is the new “sprung structure” connected to the old “sprung structure”, if so is there a two-hour firewall built between them?
- If the two structures are not connected are there ten feet or forty feet separating them?
- Do both structures have sprinklers and one-hour walls?
- Do the number of persons on the casino floor comply with the fifteen square foot per person limitation or maximum 299 persons without sprinklers, in compliance with the California State Fire Marshall codes?
- Stand Up For California urges the Barona Band to research California State Fire Marshall codes concerning Sprung Structures and to develop or enhance the Barona Bands current fire ordinance and immediately address any short falls in this serious public health and safety standard.

These questions must be answered in order to determine if the “sprung structures” ensures the protection of the public. Clearly, protecting the very patrons and employees that support your gaming facility is in the best interests of the long-term success and public opinion of the Barona Band. Because fire creates serious liability issues, Stand Up For California has one last recommendation.

- We urge the Barona Band Tribal Counsel to revise their current tort ordinance that addresses patron and employee claims that arise from injuries occurring and limited to only the casino floor. Patrons or employees injured in the parking lot area or on walkways entering into the casino and auxiliary

structures must be addressed. Tribal sovereignty carries responsibilities as well as rights. It should not be an excuse for breaching the "human rights" of any of our citizens.

Stand Up For California would like to thank you for this opportunity to make comment on the tribes environmental report detailing the ongoing developments affecting the off reservation community. We hope that you will give our concerns and recommendations your valuable time and serious consideration.

Sincerely,

Cheryl A. Schmit
Co Director

Cc: Attorney Art Bunce
John Peterson, County of San Diego
Robert Coffin, Wildcat Canyon Conservancy
Clifford M. LaChappa, Chairman, Barona Band of Mission Indians
Attorney General Bill Lockyer
Governor Gray Davis
Chairman Hensley, State of California Gambling Control Commission
Christine Nagel, National Indian Gaming Commission
County Supervisor Diane Jacob