

Stand Up For California!

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Cheryl Schmit, Director
P. O. Box 355, Penryn

July 10, 2002

Honorable John Burton
President Prop Tempore
California State Senator
California State Capitol
Sacramento, CA. 95814
FAX: 445-4722

**RE: Opposition to SB 1828: Historical Resources: affected Native American sacred sites:
California Environmental Quality Act.**

Dear Senator Pro Tem Burton:

Stand Up For California respectfully opposes Senate Bill 1828 to amend the California Environmental Quality Act (CEQA), which expands tribal government authority to exercise the right to civil jurisdiction over non-Indian citizens and local governments of California. This is a blatant abuse of tribal *domestic dependent sovereignty* attempting to assert virtual veto power over any public or private construction project in the State of California.

- The measure would prohibit the issuance of a construction permit for any project if a tribe declares that it would have an adverse effect on the tribe's religion -- with the tribe being the sole judge of that impact.
- Adding the consideration of religious practices to (the California Environmental Quality Act) recognizes far more than just minority religious rights, and perhaps marks a revolution in the CEQA body of law. Will the Legislature add rights for all other religious groups in California?
- CEQA already requires all state and local agencies and governments to evaluate proposed activities, which may significantly affect the environment, including cultural resources. Compliance may include preparation of Negative Declarations of Environmental Impact Reports.
- Adherence to CEQA restores protection and sharing of our natural resources and maintains a sound social structure.
- This bill represents recognition of the sovereignty of Native American tribes that **does not exist**. The United States Supreme Court has recently clarified the inherent sovereignty of

tribal governments in *Nevada vs. Hicks*. Tribal governments have no authority over non-Indian citizens on or off of "Indian Lands".

Local elected officials are committed to protecting the delicate balance of our states environmental standards and smart development. Proper planning identifies community issues, projects future demands for services, avoids possible problems and establishes goals and polices for directing and managing growth.

With this letter of opposition is a copy of six Federal and six State laws, some in place since 1966, enacted to protect the religious artifacts and locations of tribes. A change such as this to CEQA is unnecessary and unprecedented. Although I am convinced your motives are admirable, this legislation appears to be special legislation for wealthy gaming tribes their developers and investors. Especially developers and investors seeking additional exemptions in state and federal law in an effort to expand their authority over non-Indian citizens, sub- divisions of state government and agencies.

Sincerely,

Cheryl A. Schmit, Director
916-663-3207

Attachments: Laws Protecting Native Cultural, Archaeological, Religious and Historic Sites.

CC: To all member of the Natural Resources Committee:
Member

Fax

Assembly Member Howard Wayne	916-319-2178
Assembly Member Dennis Hollingsworth	916-319-2166
Assembly Member Richard Dickerson	916-319-2102
Assembly Member Tom Harman	916-319-2167
Assembly Member Hannah-Beth Jackson	916-319-2135
Assembly Member Fred Keeley	916-319-2127
Assembly Member Alan Lowenthal	916-319-2154
Assembly Member Gloria Negrete McLeod	916-319-2161
Assembly Member Carole Migden	916-319-2113
Assembly Member Fran Pavley	916-319-2141
Assembly Member Phil Wyman	916-319-2134

Committee consultants:

William J. Craven	916-319-2192
Scott H. Valor	

**Laws Protecting Native Cultural, Archaeological, Religious and Historic Sites
Copied from the 2000 Field Directory of the California Indian Community
California Indian Assistance Program
Department of Housing and Community Development State of California**

State Laws

Public Resources Code Section 5097.9 – Native American Historical, Cultural, and Sacred Sites

Health and Safety Code Section 7050.5 – Removal of human remains from location other than a dedicated cemetery, offense; discovery of remains

Health and Safety Code Section 7054 – Deposit or disposal of human remains outside cemetery; misdemeanor, reburial of Native American remains.

Government Code Section 6254 – Confidentiality of records maintained by the Native American heritage Commission relating to Native American Graves, cemeteries and sacred places exemption from disclosure under the Public Records Act

California Environmental Quality Act (CEQA) – Requires all state and local agencies and governments to evaluate proposed actives, which may significantly affect the environment, including cultural resources. Compliance may include preparation of Negative Declarations or Environmental Impact Reports (EIR)

Federal Laws

American Indian Religious Freedom Act of 1978 – States that the policy of the United States to protect and preserve for American Indians their inherent rights of freedom to believe, express, and exercise the traditional religions of the American Indian, Eskimo, Aleut, and native Hawaiian. These rights include, but are not limited to access to sites, use and possession of sacred objects, and the freedom of worship through ceremony and traditional rites.

Native American Graves protection and Repatriation Act of 1990 (NAGPRA)- requires federal agencies and federally sponsored museums to establish procedures for identifying native American groups associated a with cultural items on federal lands, to inventory human remains and associated funerary objects in federal possession, and to repatriate (return) such items upon request to affiliated groups. Also requires that any discoveries of cultural items covered by the act shall be reported to the head of the federal entity that shall notify the appropriate Native American tribe or organization.

Archaeological Resources protection Act of 1979 (ARPA)- Prohibits the removal, sale, receipt and interstate transportation of archaeological resources obtained illegally (without permits) from public or Indian lands and authorizes agency permit procedures for investigations of archaeological resources on public lands under the agency's control. Amendments to ARPA state that the Secretaries of the Interior, Agriculture, and Defense shall develop plans for surveying the lands under their control to determine the nature and extent of archaeological resources, prepare a schedule for surveying those

lands that are likely to contain the most scientifically valuable archaeological resources, and develop documents for reporting suspected violations.

National Environmental Policy Act of 1969 (NEPA)- State the policy of the federal government is to preserve important historic, cultural, and natural aspects of our national heritage and requires consideration of environmental concerns during project planning and execution. Required federal agencies to prepare an Environmental Impact Statement for every major federal action that affects quality of the human environment, including both natural and cultural resources.

National Historic Preservation Act of 1966 (NHPA) – Establishes historic preservation as a national policy and defines it as the protection, rehabilitation, restoration, and reconstruction of districts, sites, building, structure, and objects significant in American history, architecture, archaeology engineering and culture. Significance in determined by specific criteria. National Register of Historic Places is maintained by the Nation Park Service for the Department of the Interior.

Antiquities Act of 1906 – Provided for the protection of historic and prehistoric ruins and objects of antiquity on federal lands and authorizes scientific investigation of antiquities on federal lands, subject to permits and other regulatory requirements. Paleontological resources are covered by the act.