

Honorable Darrell Steinberg
AB 277 Side Deals

Stand Up For California! “Citizens making a difference”

www.standupca.org

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June 17, 2013

Honorable Darrell Steinberg
President Pro Tempore
State Capitol Room 205
Sacramento, CA. 95814
Fax: 916 323 2263
Senator.steinberg@senate.ca.gov

RE: AB 277 Alarming News of Side Deals

Dear President Pro Tem Steinberg,

Stand Up For California! is a non-profit benefit corporation that acts as a statewide community watchdog focusing on gambling issues affecting the State of California. As you know, our organization is opposed to both the off reservation compacts of North Fork and Enterprise Rancherias. Our organization just learned of the possibility of a side agreement supposedly being negotiated with you, Station Casinos and Chukchansi lobbyists. It appears the intention of the North Fork Casino proponents is to use the development of such an instrument or even the rumor of its development as a *political tool* to give the appearance of reduced opposition and expedite passage of AB 277.

Such agreements present significant legal issues and potential liability to the State of California and possibly to individual lawmakers who may assist in their development. Federal Indian law drastically affects and changes any contractual agreement. For instance, tribal governments must pass a resolution by its “*recognized tribal council*” to bind it to a contractual agreement. A tribal government contractual agreement in order to be judicially enforceable must waive its sovereign immunity. When a tribe waives its

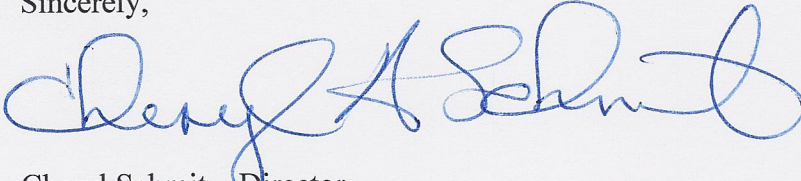
sovereignty certain criteria must appear in a tribal resolution to ensure that it will be judicially binding and enforceable. I am providing for your information the criteria which are necessary components in any contractual agreement with tribes:

1. The tribal government resolution must agree to address matters arising under the terms of the contract in order to judicially waive the Tribes immunity to civil liability
 2. The tribal government resolution must be adopted in a manner consistent with the Tribes Constitution. If the Tribal Constitution does not address waivers of immunity and some do not, then it will require a vote of the entire tribal membership, in order to waive the tribes immunity to civil liability. Tribal resolutions are necessary and must be included with Tribal State Gaming Compacts.
 3. The tribal government resolution must identify who is to sign the agreement or authorize the entire Council to sign the agreement. ***In the immediate situation, there is a significant dispute over who is the legitimate leadership of the Chukchansi Tribal Council. This must be resolved prior to any negotiated agreement.***
 4. If the contract exceeds seven years and limits a tribal government's authority over the use of the land or impairs the title to the land, it then requires a review under U.S.C. Section 81 by the Secretary of the Interior. This may require the signature of the Secretary of the Interior (25 CFR Part 81)
- In 1999, the Coyote Valley Chairwoman signed the Davis Compact. After ratification by the State Legislature, the Coyote Valley Tribal Council notified then Governor Davis that Pricilla Hunter had no authority to sign the tribal state compact on behalf of the Coyote Valley Tribal Council. The Tribe and the State became embroiled in litigation over "bad faith" negotiations.
 - In 2007, the Sycuan Tribe Council was unable to provide Governor Schwarzenegger with a Tribal Resolution agreeing to the terms of the Compact even though Chairman Tucker signed the Compact. The State Legislature ratified the compact; it was placed on referendum and passed in the statewide vote. The compact never became effective. However, this action created both social and financial turmoil at the local level for citizens, the County and the Tribe.
 - In 2005, ratification of the Buena Vista Compact without verification of land status continues to present a financial hardship on the Tribe, the citizens and County of Amador. The gaming investor is reported to have a loss of 92.5 million dollars.

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Until the leadership dispute at Chukchansi is resolved by a court or other binding authority, there can be no agreement negotiated that would be guaranteed as binding and valid. ***Resolution of the tribal leadership dispute at Chukchansi must be resolved prior to any Legislators' involvement in negotiated side deals.***

Sincerely,



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