



## CITIZENS FOR A SUSTAINABLE POINT MOLATE

December 2, 2010

Honorable Senator Diane Feinstein  
United States Senate  
331 Hart Senate Office Building  
Washington, D.C. 20510

Re: Proposed Legislation – Off Reservation Gaming

Dear Senator Feinstein,

We would like to thank you for your endorsement and support of a “No” position on Richmond’s Measure U – the advisory measure asking if the City of Richmond should consider a tribal casino at Pt. Molate. Measure U, included in the November 2, 2010 ballot, was the first time that Richmond residents had an opportunity to voice their desires for the future of Pt. Molate after six years of Pt. Molate being targeted by the Guidiville Pomo tribe as a site for an off reservation tribal casino. Your recognition of the long term negative societal impact of casinos in socio-economically challenged urban communities, and requirement for those communities to pursue development strategies that provide social benefit, opportunity, and hope for our citizens is most appreciated.

We write to you today in support of your position on pending “Carrieri Fix” legislation. California voters in 2000 voted in Proposition 1A in order to allow tribes to pursue gaming as an economic development opportunity with the understanding that gaming was to take place on tribes’ lands. Allowing off reservation gaming penalizes those tribes who have abided by the spirit and letter of Prop1A, and will create an unfair economic advantage to those tribes who seek to skirt Prop1A. We support a review of the IRA, as times have changed dramatically since 1934, and we support Native American rights to economic opportunity and advancement. Advancement and development of all peoples must occur in tandem with positive outcomes for all.

**1.- California voters approved Proposition 1A authorizing gambling pacts that would make ‘banked’ casinos possible for federally recognized Indian tribes on Indian lands in California.**

In recognition of the need to support and promote Native American rights, and in recognition of the fact that gaming is a rapid path to economic betterment, California voters approved Proposition 1A allowing Native American tribes to pursue gaming on their lands. That approval and support included an understanding that gaming would be limited to existing Native American lands – with complete understanding that tribal lands were for the most part rural. The words “on Indian lands” are the key to Prop. 1A. The pact that California voters struck in approving Prop1A was that tribal gaming could occur in California, but not in areas outside of Indian lands, such as municipalities and urban areas.

**2.- Lack of defined and consistent standards, process, and transparency in the fee to trust process places an undue burden on communities and can lead to usurpment of municipal autonomous rights.**

The current federal fee to trust process as exercised under the Indian Reorganization Act and as used under the “restored lands” exception to the Indian Gaming Regulatory Act is contrary to the original legislative intent; is without clear and enforceable standards; does not take into account community interests; and, at times, interferes with a





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county or municipality's ability to provide essential services to the community and pursue land use under municipal and regional General Plans.

Lack of defined and consistent standards has resulted in a trust land process that fails to meaningfully include legitimate interests, to provide adequate transparency to the public, or to demonstrate fundamental balance in trust land decisions. The unsatisfactory process, the lack of transparency and the lack of balance in trust land decision-making have all combined to create significant controversy, serious conflicts between tribes and states, counties and local governments, and broad distrust of the fairness of the system. Beyond lack of standard for eligibility, one of the more vexing aspects that exists today is a lack of insistence to limit land use to a tribe's declared purpose, without which a municipality, county or region cannot dependably pursue land use and growth strategies. In Richmond, we in conjunction with neighboring cities, are pursuing a green corridor strategy for future growth which could be halted if Richmond were converted into a Casino Mecca either via approval to take Pt. Molate into trust for gaming purposes, or even if the land was taken into trust for other purposes and then converted to a casino installation.

### **3.- A 'clean' Carcieri "Fix" does not adequately address the inequities inherent to the current fee to trust process.**

A legislative resolution that hastily restores the trust land system to its status before *Carcieri* will be unsatisfactory to regions, counties, local governments, and communities. It will not address the situation where the non-tribal entities most affected by the fee to trust process are without a meaningful role, which undermines the respectful government to government relationships necessary for both tribes and neighboring governments to fully develop, thrive, and live together.

This situation is acute in California as many tribes are located on Rancherias which were originally federal property on which homeless Indians were placed. The U.S. Supreme Court's decision in *Carcieri* further complicates this picture. The Court held that the authority of the Secretary of the Interior to take land into trust for tribes extends only to those tribes under federal jurisdiction in 1934, when the Indian Reorganization Act (IRA) was passed. However the phrase "under federal jurisdiction" is not defined, and is open to a vast array of interpretations.

For all the above reasons, we support your efforts to amend existing legislation to encompass the current situation in California as it relates to fee to trust acquisitions and lands taken into trust for gaming. By thoughtfully amending current legislation to provide clear definitions and standards, and a dependable and transparent process, tribes who have abided by the principles of Prop1A will not be harmed, tribes seeking land into trust acquisitions will have a logical and equitable process to follow, address the needs of regional, county, and local governments to deliver dependable services to their constituents, and develop positive relationships with communities and their residents.

Very Respectfully,

Joan Garrett  
Principal, Citizens for a Sustainable Point Molate

