

CONCISE HISTORY OF THE  
"BUENA VISTA RANCHERIA OF  
MEWUK INDIANS"

Prior to 1934 there was no record of any Indian entity, band, tribe, community or group of Indians in Amador County which used this name or was described by this name. There were some Indians living in the area, most notably the Ione band of Miwok Indians<sup>1</sup> who had 40 acres of land in Amador County where they resided. They were eventually extended official BIA acknowledgement or recognition by Aida Deer, however a controversy immediately developed when another group began enrolling "tribal members" many of whom were employees of the Pacific Regional Offices of the B.I.A.

This enrollment effort by a breakaway faction was evidently to create a rival faction, increase enrollment, take control of the recognized Ione Band of Miwok Indians with a view toward constructing and operating a class III gambling casino in the area of Ione or Plymouth, California.<sup>2</sup>

This membership dispute within the Ione Miwoks has not been resolved except to the extent the B.I.A. made it clear they did not intend to recognize or acknowledge the existence of two (2) Ione Bands of Miwok Indians when they extended official tribal acknowledgement.

The original occupants and resident assignees of the federal fee lands commonly called the Buena Vista Rancheria were Louie Oliver, his wife Annie Oliver, Johnnie Oliver, Louie's brother and Josie Rey, Johnnie's wife. They were all the informal assignees occupying the Rancheria lands in 1934 and those Indians who were authorized to vote under the Indian Reorganization Act of 1934. An I.R.A. vote was conducted and the I.R.A. was accepted by these assignees. Nothing more, however, was done to organize or obtain federal acknowledgement and recognition although there was communication between the Department of Interior and Louie Oliver between 1934 and 1959 during which time the B.I.A. proposed to deed the federally owned fee land at Buena Vista to Louie and Annie Oliver in fee pursuant to the Rancheria Act.

As set out in the History of the Buena Vista Rancheria Lands submitted with this appeal, the land was deeded to Louie and Annie Oliver, husband and wife, in fee simple as joint tenants in 1959 and free of any restricted status.<sup>3</sup>

Subsequently the Tillie-Hardwick case was filed in 1979 and settled in 1983. That settlement included a stipulated judgment which restored all the individual resident assignees to status as Indians<sup>4</sup> and restored any federal tribal status or acknowledgement (if any) that existed prior to the distribution of the Rancheria lands in 1959. The court indicated that any prior status was never-the-less subject to federal laws under the Indian

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<sup>1</sup> There is an ongoing dispute concerning who is **THE** Ione Band of Miwoks.

<sup>2</sup> There was an investigation into this enrollment dispute but it was inconclusive.

<sup>3</sup> Johnnie Oliver and his wife had agreed to the plan for distribution of the fee lands.

<sup>4</sup> A copy of that stipulated judgment is attached to both the History of the Buena Vista Rancheria Lands and the Memorandum of law submitted herein.

Reorganization Act 25 U.S.C. 465 and the procedure for acknowledgement under 25 C.F.R. 83 et.seq.

Assuming that the Tillie-Hardwick judgment restored the status of the former resident assignees occupying the Buena Vista Rancheria fee land, then the status of the assignees as an Indian, band, group or community would necessarily be that of an unorganized, non-historic community of Indians.

Therefore the surviving descendants of the other assignees Johnnie Oliver and his wife Josie, and his children and grandchildren, are descendants entitled to assert a right to complete any tribal organization by formulating a constitution, compiling a true base membership roll and making application for I.R.A. tribal acknowledgment.

Instead, as set out in the comprehensive History of the Buena Vista Rancheria Lands and Memorandum of Law, one DonnaMarie Potts acquired the fee title to the former Rancheria lands through various fee deeds and probate/inheritance proceedings in state court whereby she received deeds totaling the entire fee and effectively uniting the whole fee title in herself as of 1996.

Earlier in 1993 she had claimed to be a descendant of the original resident assignees occupying the Rancheria prior to 1959 and claimed to be entitled, by virtue of the Tillie-Hardwick judgment, to organize an Indian entity or community she called "The Buena Vista Rancheria of Mewuk Indians."

After submitting a tentative Constitution and an erroneous base membership roll the attempt to organize a "Buena Vista Rancheria of MeWuk Indians" was rejected and acknowledgement denied. Potts eventually submitted an acceptable base roll and constitution<sup>5</sup> and obtained official acknowledgement and recognition for this "Indian entity."

Then with the help of outside non-Indian financial backers, DonnaMarie Potts obtained a class III tribal state compact from then California Governor Gray Davis at the same time 58 other "Indian" bands or groups also obtained class III tribal-state compacts pursuant to Proposition 5, an initiative adopted by the public to amend the Government Code to allow casino gambling on Indian lands in California. Just prior to executing the 59 tribal-state compacts, Proposition 5 was declared unconstitutional by the California Supreme Court because it did not amend the State constitution Art. 4, sec. 19 prohibiting all casino gambling.

The Legislature placed another initiative, Proposition 1A on the ballot the next year to amend the Constitution. When the electorate approved that Legislative initiative, it in effect, ratified the 59 compacts previously executed under Proposition 5.

The N.I.G.C. then approved both a purported "tribal gaming ordinance" submitted by Potts and allegedly adopted by this "Buena Vista Rancheria of Mewuk Indians" which was site

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<sup>5</sup> The reason her first proposed Constitution was rejected among other things, was because her purported base roll was found to contain ineligible proposed tribal members.

specific to the Buena Vista fee lands. She then obtained N.I.G.C. approval for a site specific tribal-state class III compact to be situated on this fee land at Buena Vista.

One of the real descendants of the original assignee/occupants of the Buena Vista Rancheria, one Rhonda Pope, who is a great granddaughter of Jesse Pope complained first to the B.I.A. and ultimately filed a lawsuit in the U.S. District Court, Eastern District of California against the United States and DonnaMarie Potts contesting her claimed status and claimed right to be any part of the Indian group or community that Potts had obtained federal recognition and acknowledgement for under the name and style of "The Buena Vista Rancheria of Mewuk Indians." That federal District Court case no. is 01-CV-2255.

Pope then successfully obtained a temporary injunction barring Potts from pursuing the proposed class III casino at Buena Vista and acting any further, purportedly on behalf of, "the Buena Vista Rancheria of Mewuk Indians" and further that Potts had erroneously obtained federal acknowledgement and recognition for that entity.

During the pendency of that case the two contestants, Pope and Potts reached various undisclosed agreements outside of court for several million dollars funded by the non-Indian casino developers and applied to and obtained a lifting of the injunction for one (1) day to enable Pope to execute a revised tribal-state compact with Governor Schwarzenegger of California. This revised compact was to alter and re-negotiate the previous tribal-state compact executed by Potts and to include new or different provisions including an Environmental Impact study as required by the State of California under California's Tribal Environmental Impact Report [T.E.I.R.] requirements.

This recently amended compact was then executed, despite not only several defects in that TEIR, but also after the State and the Governor were informed that the proposed site for this class III casino on the Buena Vista fee owned lands were **NOT** eligible "Indian Lands" as required by the Indian Gaming and Regulatory Act, 25 U.S.C. 2703 and 25 U.S.C. 2719 and the state claimed to have done so in reliance upon the erroneous opinion of Penny Coleman a staff attorney at the N.I.G.C.

[See History of the Buena Vista Fee Lands submitted herewith.]

The tribal or Indian entity now recognized and acknowledged as the "Buena Vista Rancheria of Mewuk Indians" is not a properly acknowledged Indian entity entitled to engage in class II or class III gaming under the I.G.R.A. and most conspicuously excludes those descendants of Johnnie Oliver who are entitled to status as, (and membership in) any Indian entity if the Tillie-Hardwick stipulated judgment in fact restored any Indian entity that was existing on Buena Vista Rancheria Lands between 1934 and 1959. That entity would be comprised of those four informal assignees residing on the 67.5 acres of Rancheria land at Buena Vista between the I.R.A. vote they took in 1934 and the conveyance of the Rancheria fee lands to two of the assignees, Louie and Annie Oliver in 1959 and their descendants.