



# **Stand Up For California!**

**"Citizens making a difference"**

standup.quiknet.com

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

May 31, 2000

Penny Coleman  
Deputy General Counsel  
National Indian Gaming Commission  
1441 L Street NW  
Washington D.C. 2005

RE: Legal Determination of Land Status, Chuckchansi of the Picayune

Dear Penny,

Thank you for faxing to me the determination of legal land status for the Chuckchansi of the Picayune. I have read the document and shared it with several attorneys that deal with Indian law and tribal gaming. Discrepancies were discovered.

The determination by Mr. Jordan, **assumes that the land is held in a restrictive status**. A gaming company, First Astri Corp. acquired the land. The land is simple fee status. There are no restrictions on this land. The court case that is sighted did not make the United States, or the Bureau of Indian Affairs a party to a land settlement. The Tribe nor the County or the Federal Court, have legal jurisdiction to set a precedent of taking land as "Indian Country". This is the authority that has been given to Congress.

**This determination has every appearance of a "political decision"** that flies in the face of the rule of law established in the Indian Gaming Regulatory Act and abusing the authority of the Secretary of Interior. Is this an effort to assist former National Indian Gaming Commissioner Harold Monteau who now represents the Chuckchansi of the Picayune?

Section 4 [2703] 4 (B) any lands title to which is either held in trust by the United States for the benefit of any Indian tribe or individual or held by any Indian tribe or individual subject to restriction by the United States against alienation and over which an Indian tribe exercises governmental power.

Associate Solicitor Derrill B. Jordan states on the second page in the footnote a remark that is inconsistent with the provisions laid out in the above section of IGRA.

"...even if its purchase was financed and perhaps secured by a mortgage we do not believe that the method of financing or purchasing of the land is material to our determination."

This is not only inconsistent with the notion of restricted fee land but is stating that a valid mortgage does not matter. This flies in the face of the definition of "Indian Lands" found in IGRA, Section 4 [2703] 4 (B). What would any mortgage company or their stock holders, have to say to the Bureau of Indian Affairs, when they

discover they have no recourse to 'Indian Lands' because of a bold new precedent setting decision by Mr. Jordan?

Currently the Department of Interior is attempting to rewrite the definition of the word "restored". This is an effort to block land acquisitions of lands in so called "restrictive status". The Department of Interior is presently trying to prevent expansion on restricted fee land in the states of Michigan and Oregon.

- Stand Up For California asks that, a second opinion on the Chuckchansi of the Picayune's legal land status determination is acquired from parties that clearly do not have a conflict of interest.

A recent letter from the United States Department of Justice, Jim Rubin, Attorney, has informed me that it is the Administrative Staff that addresses the concerns of legal land status determination. Mr. Rubin has directed me to submit my concerns specifically to you.

I look forward to hearing from you concerning this serious and conflicting legal issue of land in a mostly residential community, on a narrow winding highway in California's heartland. As I have repeatedly stated, the "rights of citizens" should not be circumvented by the lack of oversight, by your commission, or California's tribal state compact. There must be a balance of the rights of citizens with the very special rights that have been afforded to Indian tribes.

Sincerely,

Cheryl Schmit  
Co Director

CC: Greg Burgfeld, Chief Deputy, national Indian gaming Commission  
United States Senator Dianne Feinstein  
Governor Gray Davis  
Attorney General of California, Bill Lockyer  
Jeff Kuhn, County Counsel, Madera County