

# STRAWBERRY VALLEY RANCHERIA

POST OFFICE BOX 667 MARYSVILLE, CA. 95901



August 16, 2005

Electronic transmittal

Mr. Steve Casey - City Manager  
Marysville City Hall  
526 "C" Street  
P.O. Box 150  
Marysville, CA 95901

Re: Proposed City Council Vote on Enterprise Rancheria Casino

Dear Mr. Casey:

Per our phone meeting earlier I have forwarded to you documentation relevant to your Marysville City Council Meeting tonight, August 16, 2005, at 7 PM. In the interest of saving your valuable time I have copied this information to other City Council member email addresses to which I have access. Please insure that Council members Benjamin Wirtschafter and Jerry Crippen also receive timely copies of this documentation.

Pursuant to today's Appeal-Democrat press on tonight's meeting we understand that, "Marysville city leaders tonight will consider whether to support a local tribe's proposed Yuba County hotel-casino in exchange for nearly \$5 million". We strongly urge your Council members to postpone this vote, regarding the Enterprise Rancheria tribe, for three significant reasons:

1. Possibility of damage to Marysville City Council's reputation with local future voters as said voters become aware of the illegality of actions being taken by Enterprise Rancheria, seemingly supported at this time by Marysville City Council;
2. Lack of independent policy making authority on the part of the Marysville City Council that will most certainly lead to costly litigation against the City in response to said illegal actions by Enterprise Rancheria, were the City Council to vote favorably on the Enterprise Rancheria matter without first performing further due diligence in gathering truthful information beyond what the City Council has received from Enterprise Rancheria and their investors;
3. Complete lack of acknowledgment or awareness of Strawberry Valley Rancheria's aboriginal territory in the heart of Yuba County, and as documented at the federal and state levels for the past 150 years. Under the 1851 Camp Union Treaty, Strawberry Valley Rancheria was promised land between the Bear River and the Yuba River in Southern Yuba County, and ultimately maintained a reservation in Yuba County. As shown above, our tribal address continues to remain in Marysville, and our monthly tribal council meetings remain in Yuba County. Enterprise Rancheria and their investors meanwhile continue to falsely assert that their over 100 year old Butte County tribal government and reservation land does not exist.

In the interest of time and urgency, we are offering the Marysville City Council the attached three page summary as one of volumes of documentation, *much of which has already been provided to other authorities and legal representatives, including the elected officials copied below*, in the interest of providing a truthful summary of Enterprise Rancheria's intended actions. In closing we strongly reiterate our request that the Marysville City Council postpone their vote tonight, *and prior to gathering all of the facts*, in the interest of taking appropriate action suitable to all future voters in Marysville and Yuba County.

Respectfully yours,



Calvin Rose  
Tribal Chairman  
Strawberry Valley Rancheria / Phone (530)635-2760

Cc: The Honorable Arnold Schwarzenegger, Office of the Governor  
The Honorable Wally Herger, United States House of Representatives, California-2<sup>nd</sup>  
The Honorable Richard Pombo, House Committee on Resources, Office of Native American  
& Insular Affairs  
The Honorable John McCain, Senate Committee on Indian Affairs

Attachment: Three page press release summary

## NEWS RELEASE

January 18, 2005

Over two years after voting to oppose an Indian casino in south Yuba County, the Marysville City Council would appear to be reconsidering their position in exchange for a cash deal.

Under the tutelage of new attorney Gary Montana, Enterprise Rancheria is now offering Marysville and its City Council \$3.5 million over a 15-year period if the city agrees to support their plan.

This incentive payment of only a little over \$200 thousand per year could turn out however to be a very shortsighted economic objective given the questionable tactics used by Enterprise Rancheria to obtain the city's approval.

At the center of Enterprise Rancheria's tactics is the 1988 federal law known as the Indian Gaming Regulatory Act, or IGRA. Section 20 of IGRA provides for specific situations in which land, acquired into trust by the Secretary of the U.S Department of Interior, may then be used for casino gaming.

Section 20(a)(1) of IGRA provides primarily and specifically that gaming shall not be conducted on lands acquired by the Secretary in trust for the benefit of an Indian tribe after October 17, 1988, unless such land are located within or contiguous to the boundaries of the reservation or rancheria of the Indian tribe on October 17, 1988, with contiguous being defined as directly adjacent to existing reservation or rancheria land. Two very narrow exceptions are also available avenues.

Enterprise Rancheria has never met the Section 20(a)(1) requirement of pursuing casino land contiguous to the boundaries of their existing reservation. For nearly 100 years the Bureau of Indian Affairs has considered "Enterprise Rancheria 1" as the primary reservation for the entire Enterprise Rancheria tribe.

The Bureau of Indian Affairs in their 2002 Field Directory of the California Indian Community clearly documents the existence of "Enterprise Rancheria 1", the physical Enterprise Rancheria, or reservation, in Butte County near Oroville since the early 1900's. Tribal office information and Tribal government information listed also shows the Oroville area in Butte County.

Enterprise Rancheria, likely knowing that they did not meet the primary criteria of IGRA Section 20(a)(1), that requires the tribe to build their casino in Butte County near Oroville, first attempted to use a Section 20 exception in late 2002. This exception per Section 20(b)(1)(A) considers the use of land away from existing reservation land only after the Secretary of the U.S. Department of Interior consults with Enterprise Rancheria, appropriate State and local officials, including officials of other nearby tribes.

After consulting with all key parties, the Secretary must then determine that a gaming establishment on newly acquired lands would be in the best interest of the Indian tribe and its members, and would not be detrimental to the surrounding community. The Governor of the State must then concur with the Secretary's determination. Only then would federal law under this exception to IGRA Section 20 allow for approved casino gaming.

In exchange for financial incentives offered to Yuba County by the tribe, the Yuba County Board of Supervisors forwarded a letter of support to the Secretary of the U.S. Department of Interior. This letter dated December 17, 2002, while stating that Enterprise Rancheria's offer would "be in the best interest of, and not detrimental to, the surrounding community", apparently did not provide for consultation with all appropriate local officials nor the nearby tribes.

Lacking support from the City of Marysville, the Governor's office was subsequently unable to provide support. The U.S. Department of Interior thus did not act favorably on Enterprise Rancheria's request in 2002.

Enterprise and their investors next turned to the second exception available under IGRA Section 20(b)(1)(B). For any tribe acquiring their initial reservation land, after being recognized by the federal government as a tribe, the second exception states that Section 20(a)(1) does not apply. This exception also clearly does not apply to Enterprise Rancheria because of their nearly 100 year old reservation land holdings in trust in Butte County.

Enterprise Rancheria's investors however had already acquired in 1999 the land targeted for the casino development. A July, 2004 Enterprise Rancheria Fee-To-Trust Acquisition Environmental Assessment describes the site of the gaming facility, including casino and hotel, as the "transfer of a 40-acre site into federal trust status for the Enterprise Rancheria" and as a "project site located approximately four miles southeast of the Community of Olivehurst, near the intersection of Forty Mile Road and State Route 65, Yuba County, California."

In 1965, the tribe sold a second parcel of property, known as "Enterprise Rancheria 2", consisting of 40 acres. This Environmental Assessment, which was begun in early 2003, ultimately asserted in print that, since the 1965 sale, Enterprise Rancheria had no reservation land in trust with the government. The Environmental Assessment specifically stated that Enterprise Rancheria "has been an effectively, if not technically, landless tribe since the sale of Enterprise Rancheria 2".

The Environmental Assessment Background Section specifically claims that Enterprise Rancheria 1 land in Oroville has, since before 1915, served only as the private domain of the Walters family and their descendants. The tribe stated they have always considered the parcel to constitute a private trust allotment.

However a December 7, 1983 letter, from the Sacramento Area Office of the Bureau of Indian Affairs, reaches the opposite conclusion. The Bureau letter shows that the Walters family agreed to make the Enterprise Rancheria 1 land available to the entire tribe as reservation land. The Enterprise Rancheria tribal member roll is made up of the 1915 census, as mentioned in the Sacramento Area Office letter.

Concurrent with claims made in the July, 2004, Environmental Assessment, Enterprise Rancheria next sought U.S. Congressional legislation approval of their land acquisition for purposes of gaming. In October, 2004 Senate Bill 2936, Enterprise Rancheria Land Restoration Act of 2004 was introduced by retiring Senator Ben Nighthorse Campbell of the state of Colorado, despite a lack of apparent support by local congressional representatives.

The Campbell Senate Bill referenced land "not to exceed 41 acres acquired by Enterprise Rancheria within the 40-mile radius of Enterprise Rancheria 2 land should be treated for all legal purposes as the restoration of land for an Indian tribe that is restored to Federal recognition". The language of the Senate Bill was written specifically to capture the legal description of land referenced in the Environmental Assessment.

Stating that Enterprise Rancheria was being restored as a tribe to Federal Recognition, the Campbell Senate Bill also implied that Enterprise Rancheria had no reservation land. No mention was made of the Enterprise Rancheria 1 land in Butte County.

This statement of course was far from the truth, made in hopes that such a technicality would go unnoticed. Senator Campbell, who retires January 20, 2005, had several Bills under consideration as his last session with the U.S Senate came to an end in December, 2004. When opposition prevented this questionable Enterprise Bill from passing in late 2004, the Campbell Senate Bill expired at the end of the 108<sup>th</sup> Session of Congress.

Enterprise Rancheria has now come full circle back to their original IGRA Section 20(b)(1)(A) exception that they attempted back in 2002. Armed with a new lawyer and more money to offer to local officials and communities, Enterprise Rancheria is again attempting to build a majority vote with the Yuba County Board of supervisors and the Marysville City Council. The majority of other local tribes meanwhile adamantly oppose Enterprise Rancheria's plans both for probable violation of federal IGRA law and for violation of ethical principal.

Despite a failed attempt in 2002 to obtain a favorable determination from the Secretary of the U.S. Department of Interior, Enterprise Rancheria's attorney Gary Montana will again have to garner the support of appropriate State and local officials, including officials of other nearby tribes.

The path to attempt a favorable determination with the U.S. Department of Interior also still travels through the Office of the Governor. Without local and tribal support and the Governor's support, a favorable ruling from the U.S. Department of Interior is still unlikely.

And then there is still the issue of allowing a tribe to arbitrarily ignore IGRA Section 20, in order to shop in any county or state they wish to build a casino.

A source within the California state government requesting anonymity said, "The Enterprise tribe should not be allowed to jump to another county outside of their original reservation or rancheria county. Former Governor Davis has already set the correct precedent when he stopped the Upper Lake Pomo tribe from doing the same thing a couple of years ago. No tribe should be allowed to skirt federal law and jump to another county to open a casino simply because they have received 'local community support' through promises of monetary payments. A precedent such as this would allow any tribe in the country theoretically to use this tactic to expand into other counties and even states. There is no amount of promised state gaming tax revenues that should compel Governor Schwarzenegger to ever open this dangerous door."

As Marysville City Council's ad hoc committee reviews the latest Memorandum of Understanding from Enterprise Rancheria, the question remaining to be answered by the City of Marysville and Yuba County is a simple one. For a promise of a few dollars received each year from the Enterprise tribe, is it worth it being forever known as the city and county in California who first opened this door?

Distribution: Appeal-Democrat  
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