

OFFICE OF THE GOVERNOR

May 1, 2006

*Via Facsimile (202) 632-7066 and U.S. Mail*

Ms. Andrea Lord, Staff Attorney  
National Indian Gaming Commission  
1441 L Street NW, Suite 9100  
Washington, D.C. 20005

Re: Federated Indians of Graton Rancheria's Request for Restored Lands Determination

Dear Ms. Lord:

I am responding to your letter requesting the State's assistance in determining whether land near Rohnert Park in Sonoma County, California constitutes "restored lands" of the Federated Indians of Graton Rancheria (Tribe) pursuant to Title 25 United States Code section 2719(b)(1)(B)(iii) in the Indian Gaming Regulatory Act (IGRA). Thank you for extending the State's time to comment until May 1, 2006.<sup>1</sup>

We do not dispute that pursuant to the Graton Rancheria Restoration Act of 2000 (25 U.S.C. § 1300n et seq.; Restoration Act), Congress restored federal recognition for the Tribe, and all rights and privileges of its members that were diminished or lost under the California Rancheria Act of 1958 (Pub.L. No. 85-671, 72 Stat. 619). (25 U.S.C. § 1300n-2(a)-(b).) Also, the Restoration Act's mandatory land acquisition language (see 25 U.S.C. § 1300n-3(a)) supports a conclusion that establishing a reservation in Marin or Sonoma Counties is part of the Tribe's restoration process and, accordingly, such lands become the Tribe's "restored lands" within the meaning of IGRA. The Restoration Act, however, clearly limits the lands eligible for restoration.

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<sup>1</sup> The State is currently awaiting responses from various federal agencies to requests for records under the Freedom of Information Act (FOIA) (5 U.S.C. § 552 et seq.) that are relevant to this analysis. The State reserves the right to submit supplemental comments or supporting material as additional information becomes available.

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Specifically, the Restoration Act restricts eligible lands to unencumbered "Indian owned fee land" held by distributees or dependent members identified in the 1959 distribution plan, or those persons' heirs or successors in interest. (25 U.S.C. § 1300n-3(a)-(b).) County records indicate the land is currently owned in part by SC Sonoma Development LLC, a subsidiary of Station Casinos and the Tribe's gaming development investor, and Redwood Equities Investment LLC. Therefore, the subject land does not appear to be immediately eligible for mandatory trust acquisition under the Restoration Act.

Additionally, we note that large portions of the proposed trust acquisition are subject to land use restrictions set forth in the California Land Conservation Act (Govt. Code, § 51200 et seq.), otherwise known as the Williamson Act. It appears the portion of the property on which the Tribe proposes to build the gaming facility is not subject to a Williamson Act contract, but the remaining portion, which the Tribe indicates it will use for environmental mitigation purposes, is subject to the Act. The State has recently been provided a copy of the Tribe's fee-to-trust application, but has not had a chance to review it to determine whether the Williamson Act contract restrictions have been addressed. During the fee-to-trust application process, the State would appreciate the opportunity to comment on this matter to the Bureau of Indian Affairs.

Thank you for considering our comments on the matter.

Sincerely,

  
ANDREA LYNN HOCH  
Legal Affairs Secretary

cc: Penny Coleman, Acting General Counsel, NIGC  
Philip Hogen, Chairman, NIGC  
Clay Gregory, Regional Director, BIA  
Greg Sarris, Chairperson, Federated Indians of Graton Rancheria  
John Maier, Esq.