

***Stand Up For California!***  
**“Citizens making a difference”**

[www.standupca.org](http://www.standupca.org)

**P.O. Box 355**  
Penryn, CA 95663

June 30, 2010

Honorable Dianne Feinstein  
United States Senator  
331 Hart Senate Office Building  
Washington, D.C. 20510  
FAX: 202-228-3954

**RE: DEAD LINE JULY 6, 2010:**

Request for Amendment to the Graton Rancheria Restoration Act of 2000

Dear Senator Feinstein:

On June 1, 2010, Stand Up For California sent to you a letter citing the proposed Guidiville Rancheria off reservation casino as an abuse of the restored lands exception found in section 20 of IGRA. The letter contained suggestions for federal legislation that would certainly empower local government and citizens to address these significant issues. Today, following up on the heels of the June 1, 2010, letter, is another egregious example of “restored lands” exception.

Considering the looming deadline of July 6, the voluntary stay requested by your office of the Department of the Interior regarding the fee to trust application of the Federated Indians of Graton Rancheria, our organization once again requests federal legislation. The Court has ruled that the citizens have no standing to go to court before the land is taken into trust. We know that there will be impacts to the community; we have witnessed the accelerated growth of a commercial development like a casino in a rural agricultural or unincorporated location time and again. But once the casino is established and the negative impacts occur, the cure, the remedy of no casino in that specific location is lost. Without doubt, this is an IGRA/IRA ‘catch-22’.

On May 21, 2008, Stand Up For California sent a letter requesting an amendment to the Graton Rancheria Restoration Act of 2000. (*See* - letter is attached) Since this time, both the County’s of Sonoma and Marin have negotiated Memorandum’s of Understanding with the Tribe addressing the issues raised in the May 2008 letter. However, since the May 2008 letter and the MOU’s, Station Casinos the Las Vegas gaming investor has declared bankruptcy. The final outcome of the bankruptcy proceedings is unknown. The uncertainty of the bankruptcy proceedings is cause for concern and potentially heightens the need for federal legislation to correct and cure the original language of the Graton Restoration Act related to “restored lands”.

**Egregious Example of an Abuse of “Restored Lands”**

Station Casinos and the Federated Indians of the Graton Rancheria appear to have employed “tribe shopping” and “reservation shopping”.

The "*Federated Coast Miwok of Novato, California*", listed as Petitioner number # 154, led by Mr. Greg Sarris, sent a letter of intent to petition the Office of Acknowledgement on February 8, 1995. The high standards (Part 83) imposed as they should be to achieve federal acknowledgement clearly could not be met by this tribal group from Novato. Apparently, the group sought federal acknowledgement when casino style gaming became a very real opportunity in California. Following a path to circumvent the Acknowledgment process this group joined with the descendants of two of the three allottees of the terminated Graton Rancheria. Group # 154, now via the status of the allottees of the terminated Rancheria became eligible for "restoration".

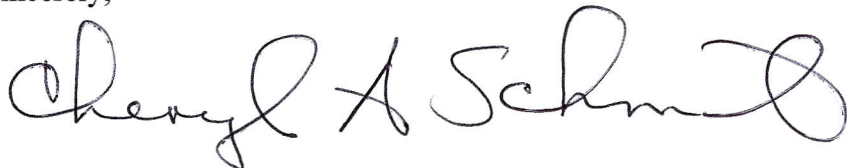
By lobbying Congress for federal restoration and including language for newly acquired lands, the tribe and the gaming investors were able to override the scrutiny in the Acknowledgement process in Part 83, the fee to trust process in the 25 CFR Part 151 and qualify for a "restored lands" exception in IGRA.

These actions circumvented the implementation of established federal regulations. Overall, the language of the Act deprived the Governor of his political power to protect the sovereignty of our state. Moreover, these actions evaded the concerns of local jurisdictions facing the establishment of gaming facilities beyond the jurisdictional reach of state and local governments.

Clearly, Congress has the power to correct and cure this action.

We sincerely appreciate your consideration and the opportunity to once again raise these significant issues vital to our State and all its citizens.

Sincerely,

A handwritten signature in cursive script that reads "Cheryl A. Schmit". The signature is written in black ink and is positioned above the typed name.

Cheryl A. Schmit

916-663-3207

[cherylschmit@att.net](mailto:cherylschmit@att.net)

Attachment: May 21, 2008 Letter

# **Stand Up For California!**

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May 21, 2008

Honorable Barbara Boxer  
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Fax: 415-956-6701

Honorable Dianne Feinstein  
750 B. St. Ste. 1030  
San Diego, CA. 92101  
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Honorable Lynn Woolsey  
1101 College Ave. Ste. 200  
Santa Rosa, CA. 95404  
Fax: 707-542-2745

Honorable Mike Thompson  
1040 Main Street Ste. 101  
Napa, CA. 94559  
Fax: 707-251-9800

## **RE: Request for Amendment to the Graton Rancheria Restoration Act of 2000**

Dear Senators Boxer and Feinstein and Representatives Woolsey and Thompson:

Stand Up For California writes today seeking an exercise of your mutual political power to amend the Graton Rancheria Restoration Act of 2000. While no doubt unintentional, the language of the bill presents serious future concerns to the Counties of Marin, Sonoma and the State of California. Even the most ardent supporters of the Federated Indians of the Graton Rancheria must recognize that the section on lands to be taken into trust on a mandatory basis is not only detrimental to the Counties of Marin and Sonoma but also bordering Counties and the State of California. We ask that you communicate with all members of the California Congressional Delegation, and work toward amending this statute.

The problematic language is as follows:

### **H.R. 5528 Omnibus Indian Advancement Act Title XIV Graton Rancheria Restoration - Section 1405**

- (a) **LANDS TO BE TAKEN IN TRUST - Upon application** by the Tribe, the **Secretary shall accept into trust for the benefit of the Tribe any real property located in Marin or Sonoma County, California, for the benefit of the Tribe after the property is conveyed or otherwise transferred to the Secretary and if, at the time of such conveyance or transfer, there are no adverse legal claims to such property including outstanding liens, mortgages, or taxes.**

**And,**

**(c)LANDS TO BE PART OF RESERVATION – Any real property taken into trust for the benefit of the Tribe pursuant to this title shall be part of the Tribe’s reservation**

**DISCUSSION:**

Whatever the merits may have been at the time for conferring authority and direction for mandatory trust land status, it is clear that the statutory provision is overbroad in the extreme. As you can see, there is no time limitation as to when the purchases of land may occur, simply “**pursuant to this title**”. Further, there is no limit on location or purpose other than “**any real property located in Marin or Sonoma County**”. As a matter of indisputable law, any and all land acquisitions from now and until the end of time must be processed as “mandatory acquisitions”. Furthermore, this language obligates the Secretary of the Interior to accept into trust without the exercise of discernment or for that matter any regulatory process that considers purpose and needs of the acquisition, environmental concerns or off reservation impacts, shared natural resources such as water, night sky, open space or transportation systems, loss of taxation, and loss of community character or administration of justice. No justification or statement of purpose for this extraordinary grant by Congress is made and no other limitations appear to apply from other laws.


Of significant concern the language does not limit the Tribe to just the one casino in Rohnert Park. The Tribe has the potential to open up other gaming facilities anywhere at anytime it purchases real property in Marin or Sonoma County, because the land “**shall be part of the Tribe’s reservation**”. While the Tribe may state it has no intention of doing so today, the plain language of the act as a matter of indisputable law permits this action at *any unknown time or location* in the future. If this act were about anything other than Indians, the State or the Counties would have recourse through the court system. But Tribes enjoy sovereign immunity from suits which potentially raise Just Compensation, Due Process or other complex issues.

- The Graton Restoration Act in essence created a Reservation for the Restored Tribe as all of Marin and Sonoma Counties without regard to the approximate 1 million non tribal citizens in these counties and without regard to the 1.5 billion combined annual budgets for essential public health and safety services supported by the property taxes of taxpayers in these two counties.
- The Graton Restoration Act directed the Secretary of the Interior to take land into trust without discernment over the impact on the State and its political subdivisions resulting from the removal of the land from the tax rolls.
- The Graton Restoration Act directed the Secretary of the Interior to take land irregardless of the significant jurisdictional and administration of justice problems and potential conflicts of land use which will arise.

**CONCLUSION**

Congress possesses comprehensive plenary power with respect to Indian affairs and has an obligation to enact an amendment to the Graton act that strictly limits the power to purchase land anywhere anytime in these two counties and obtain mandatory trust status for any such land. The *only solution* to protect the future interests of all affected citizens, tribes, local governments or the interests of the State requires a Congressional amendment to the original Act. I look forward to your reply and a commitment to work towards a mutually beneficial and amicable solution.

Sincerely,

A handwritten signature in black ink, appearing to read "Cheryl Schmit". The signature is fluid and cursive, with a large loop at the end.

Cheryl Schmit – Director  
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916-663-3207  
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CC: County of Sonoma Board of Supervisors  
County of Marin Board of Supervisors  
City of Rohnert Park  
CSAC - Attn: Mike McGowan  
League of Cities – Attn: Lisa Stark  
Assembly Member Huffman  
Honorable Arnold Schwarzenegger – Governor of the State of California  
Honorable Jerry Brown – Attorney General of the State of California  
Honorable Bill Lockyer – State Treasurer of the State of California  
The Lytton Band of Pomo Indians  
The Dry Creek Pomo Indians