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March 26, 2002

David Rosenberg  
Director of Intergovernmental Affairs  
State Capitol  
Office of the Governor  
Sacramento, CA 95814

Re: Legal Status of Land Title to Shingle Springs Rancheria, El Dorado County

Dear Mr. Rosenberg:

The purpose of this letter is to seek the assistance of the Governor's Office in determining the legal status of the title to Shingle Springs Rancheria in our county. As you are aware, the Rancheria proposes to develop a gaming facility on the Rancheria under the auspices of the federal Indian Gaming Regulatory Act (IGRA).

IGRA allows gambling only on "Indian lands," a term of art that IGRA defines. The portion of that definition relevant to our situation is at 25 U.S. Code section 2703(4)(B), which reads in pertinent part: "any lands title to which is held in trust by the United State for the benefit of any Indian tribe or individual. . . and over which an Indian tribe exercises governmental power."

I recently had occasion to research the deed for the Shingle Springs Rancheria. A copy is attached. The deed states that the land is in the name of the "United States of America, for the use and occupancy of the Sacramento Verona-Band of Homeless Indians."

I question whether this form of title meets IGRA requirements, for several reasons. First, the tribe proposing this gaming facility identifies itself as the "Shingle Springs Band of Miwok Indians," not as the "Sacramento Verona-Band of Homeless Indians." Second, nothing in the title expressly creates a trust arrangement. The language referring to "use and occupancy" is more appropriate to the creation of an easement or license favoring the named Indians, not to the establishment of a trust arrangement.

David Rosenberg  
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My third reason for questioning the adequacy of the title requires some discussion and historical background. In 1864, the "Four Reservations Act" came into law, limiting to four the number of Indian reservations that could be established in California. See *Mattz v. Arnett*, 412 U.S. 481, 489 (1973). Thus, specific Congressional authorization is required to establish additional reservations within California. Congress has done this on occasion, such as with the Mission Indians of Southern California and more recently for the United Auburn Band. See, e.g., 26 Stat. 712 ("Mission Indians Relief Act" of January 12, 1891, establishing numerous reservations in Southern California).

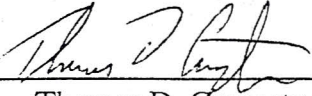
It is my understanding that the United States' 1920 acquisition of the Shingle Springs Rancheria lands was funded by appropriations from one or both of the Congressional Acts of 1906 (34 Stat. 383) and 1908 (35 Stat. 70-76). Unlike the examples cited above, neither of these Acts purported to create Indian reservations; they were simply funding vehicles. Therefore, they cannot be relied upon to qualify the Shingle Springs Rancheria as Indian Lands under IGRA. Rather, the determination of whether the Rancheria qualifies as "Indian lands" under IGRA must be made solely from the language of the United States' title. As stated above, the title shows a fee simple acquisition by the United States, not in trust but rather for the use and occupancy of the named Indians. Accordingly, the property's status as "Indian lands" for IGRA purposes is questionable.

It seems likely that the Governor's approval of a tribal-state compact with the Shingle Springs Band of Miwok Indians was premised on the assumption that the Shingle Springs Rancheria did indeed qualify as Indian land under IGRA. Therefore, it seems equally likely that the Governor would be interested in knowing if that assumption was, in reality, unsound. Certainly, the proposed casino at this site is a matter of great import, controversy, and concern within El Dorado County. For these reasons, on behalf of my client County, I seek the assistance of the Governor's Office in resolving this uncertainty.

Please do not hesitate to contact me with any questions or comments. I hope that this will be a matter of interest to the Governor's Office, and I look forward to your response.

Sincerely,

LOUIS B. GREEN  
County Counsel

By:   
Thomas D. Cumpston  
Principal Assistant County Counsel

TDC:dp  
s:\BOS\correspondence\casinotitleltr  
cc: Tal Finney (same address)  
Helen A. Baumann, Chair, and El Dorado County Board of Supervisors



in and that executed the within instrument, and also known to me to be the persons who executed the same on behalf of the corporation therein named, and they acknowledged to me that such corporation executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal, at my office in the City and County of San Francisco, the day and year in this Certificate first above written.

(SEAL) O.A. EGGERS...Notary Public

In and for the city and county of San Francisco, State of California.

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Filed for record at the request of Inter-County Title Co. November 7, 1925, at 51 minutes past 9 O'clock A.M.

NO. 1627.

CHAS. E. MARSH

Recorder of El Dorado County.

#####  
CLAUDE E. COOPER, as admr.  
to  
UNITED STATES OF AMERICA.  
#####

THIS INDENTURE, made this 11th day of March, 1920, between Claude E. Cooper, as Administrator of the estate of Walter J. Meldrum, also known as W.J. Meldrum, deceased, the party of the first part and UNITED STATES OF AMERICA, the party of the second part,

W I T N E S S E T H:

THAT WHEREAS, the Superior Court of the State of California, in and for the County of Sacramento, did on the 6th day of October, 1919, make an order decreeing that a conveyance be executed to the party of the second part of the property hereinafter described, a certified copy of said order having been recorded in the office of the County Recorder of the County of El Dorado, State of California, within which county the said lands are situated, on the 30th day of October, 1919, which said order is now on file and of record in the office of the County Recorder of the County of El Dorado, State of California, which said record thereof in said Recorder's office, is hereby referred to for greater

U. S. Certainty.

7150  
NOW, THEREFORE, said Claude E. Cooper, as administrator of the estate of Walter J. Meldrum, also known as W.J. Meldrum, deceased, party of the first part, pursuant to said order aforesaid, of said Superior Court for and in consideration of the sum of \$1400.00, lawful money of the United States of America, to him in hand paid by the said party of the second part, the receipt of which is hereby acknowledged, has granted, bargained, sold and conveyed, and by these presents, does grant, bargain, sell and convey unto the said party of the second part all right, title, interest and estate of the said Walter J. Meldrum, also known as W.J. Meldrum, at the time of his death, and all the right, title and interest that the said estate or said administrator, by operation of law or otherwise may have secured, in addition to that of said deceased, at the time of his death, in and to all that certain real property situated in the County of El Dorado, State of California, and bounded and particularly described as follows, to-wit:

The Northwest one-quarter(N.W.¼) of section twenty-nine(29) in township ten(10) North of Range Ten(10) East, M.D.B&M.

TOGETHER with all and singular the tenements, hereditaments and appurtenances whatsoever to the same belonging or in any way appertaining.

TO HAVE AND TO HOLD all and singular the above mentioned and described premises, together with the appurtenances, unto the said United States of America, for the use and occupancy of the Sacramento Verona-Band of Homeless Indians.

IN WITNESS WHEREOF, the said party of the first part, as administrator of the estate of said deceased, as aforesaid, has executed these presents, the day and year first above written.

CLAUDE E. COOPER..

Administrator of the estate of Walter J.Meldrum, also known as W.J.Meldrum, deceased.

State of California, }  
County of Sacramento. } ss.

ON THIS 11th day of March, 1920, before me, C.H.S.Bidwell, a Notary Public in and for the County of Sacramento, State of California, personally appeared Claude E. Cooper, known to me to be the person whose name is subscribed to the foregoing instrument as administrator of the estate of Walter J.Meldrum, also known as W.J.Meldrum, deceased, and he acknowledged to me that he, as said administrator, executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal, at the County of Sacramento, the day and year in this certificate first above written.

(SEAL) C.H. S. BIDWELL

Notary Public in and for the County of Sacramento, State of California.

Filed for record at the request of La F.A. Dorrington(Supt. Nov .9,1925 at 5 min past 9 O'clock A.M.

NO. 1630.

CHAS E. MARSH

Recorder of El Dorado County.

#####  
CAROLINE WARD  
to  
RUTH CAROLINE CORKER  
#####

THIS INDENTURE, made the twenty fourth day of October, A.D. one thousand nine hundred and twenty-five,  
BETWEEN Caroline Ward of Georgetown, El Dorado County, California, the party of the first part, and Ruth Caroline Corker of Georgetown, El Dorado County, California, the party of the second part,  
WITNESSETH: That the said party of the first part, in consideration of the sum of one dollar and other good and valuable consideration --dollars of the United States of America, to her in hand paid by the said party of the second part, the receipt whereof is hereby acknowledged, does by these presents, grant, bargain, and sell unto the said party of the