

Stand Up For California!
“Citizens making a difference”

www.standupca.org

P. O. Box 355
Penryn, CA. 95663

June 27, 2011

Honorable Jerry Brown
Governor of California
Attn: Jacob Applesmith
Office of the Governor
State Capitol
Sacramento, CA. 95814
FAX: 916-558-3173

**RE: Soboba Band of Luiseno Indians Fee-to-Trust - 600 Acres in
San Jacinto, Riverside County**

Dear Mr. Applesmith:

As you know, *Stand Up For California!* has been involved with issues associated with Indian gaming for many years in California. Over the last decade and a half our organization has spent a great deal of time assisting communities affected by tribal gaming fee-to-trust applications. Our organization has focused on after-acquired lands by tribes claiming to be an exception under Section 20 of the Indian Gaming Regulatory Act (IGRA). On behalf of *Save Our Communities* (SOC) a community group of civic minded homeowners and citizens, *Stand Up for California!* is offering the following information, and requesting consideration by the Governor’s Office for the development of policy vital to California.

The fee to trust application of the Soboba Band of Luiseno Indians (“Tribe”) raises significant public policy concerns; (1) the creation of islands of non-Indians isolated within tribal trust lands¹, and (2) a state policy question for gaming on contiguous lands². The Soboba’s 1999 Tribal State Compact does allow for it to establish 2 gaming facilities as permitted under law to the extent limited under IGRA, the Compact and the Tribe’s Gaming Ordinance. However, the Tribe’s resolution and application for trust lands asserting an exception for *contiguous lands* appears contrary to IGRA, the Compact and the Tribe’s Gaming Ordinance.

Discussion:

The Tribe’s application is seeking an additional 600 acres of “contiguous” lands to develop an expanded gaming complex and resort. This fee-to-trust acquisition will create 3 islands of homeowners within the newly acquired trust lands.³ This creates significant life-safety and

¹ *Soboba expansion plan heats up neighbors*, August 1, 2009, by Gail Wesson, The press Enterprise

² Map – Contiguous border to reservation – less than one quarter mile

³ Approximately 1200 people: owners/residents/families/guests (Plus the 300 kids the Pirelli’s host)

quality of life concerns for citizens living within the trust lands. The majority of these citizens are elderly and have nowhere to move.⁴ The concerns are grave as these residents, if the fee to trust acquisition is approved, will be isolated in the middle of trust land governed by a Tribe that has over the last several years according to Sheriff Stanley Sniff, Jr. had a “history of crime incidents”⁵ on the reservation^{6, 7}.

Placing aside the issue of public safety related to crime that have occurred on this particular reservation, what happens to these citizens in the event of a natural disaster such as an earthquake or flood? Access is one road across a two-lane bridge in a flood zone. This presents exigent circumstances over life-safety and emergency service issues that must be given consideration for continuous ingress and egress on trust lands.

As a community, citizens have the right to anticipate future expectations regarding the governance of the land currently under city/county and state authority. The citizens have the right to anticipate laws that protect their civil and property rights. Particularly when the land in question has been under the longstanding authority, jurisdiction and governance of state law since 1850. Transferring fee-land into trust has long-term social-cultural and particularly in this instance “personal financial implications” for these residents residing in the homeowner islands. This trust acquisition directly affects the ability of local government to manage shared resources for these residents. Further it will exacerbate the already existing confusion for law enforcement in providing safety to the public.

The Soboba’s fee to trust application raises a significant state policy question for gaming on contiguous lands. Without doubt, IGRA provides several “limited exceptions” for gaming on after acquired lands. One of which is contiguous lands:

25 U.S. C. 2719(a) (1) such lands are located within or contiguous to the boundaries of the reservation of the Indian tribe on October 17, 1988, or...

Only one parcel of the Tribe’s fee-to-trust application is and was contiguous to the boundaries of the reservation on October 17, 1988 and without doubt meets the above exception. (Less than one quarter mile is contiguous) all other parcels (34) are adjacent to the contiguous parcel. The adjacent parcels require a two-part determination for gaming and arguably must conform to a governor’s stated policy for two-part determinations. The law plainly states “*contiguous to the boundaries*”, nothing in the IGRA provides an exception for “*adjacent parcels*”. This is an important state policy question worthy of the Governor’s consideration.⁸

⁴ Seniors: est. 70% over 55; Breakdown: 10% over 80; 20% over 70; 20% over 60; 20% 55-60

⁵ July 28, 2008 letter by Stanly L. Sniff Jr., sheriff-Coroner, RE:” history of crime incidents”

⁶ *Clash with Tribe spurs effort to shut a casino*, September 2, 2008, by Rebecca Cathcart, The New York Times

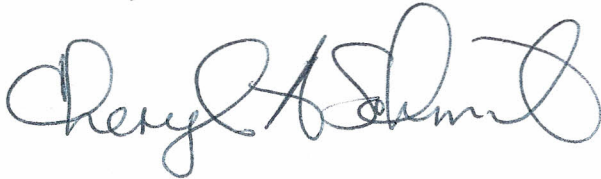
⁷ *Questions surround fatal Beaumont police chase*, March 18, 2011, by John Asbury, The Press-Enterprise

⁸ **If we follow this assertion of contiguous lands to its natural conclusion the abuse of this exception is evident. If a tribe is allowed to acquire a parcel of land 4 feet wide contiguous to the boundaries of the reservation and then acquire additional parcels adjacent to that over-time, stretching miles to a large expanse of land at the end, is all of that land contiguous? Tribes could move to the nearest freeway interchange or to urban areas. The exceptions in IGRA were intended to be *limited exceptions* for tribes so that they would not be prejudiced by the fact that they did not have any land in trust at the time IGRA was adopted. To apply this**

The State of California and its political sub-divisions have experienced significant consequences created by the transferring of after-acquired lands into trust for gaming. There is a disruptive mix of state and tribal jurisdictions which burdens the administration of state and local government. However, it is the neighboring landowners who are the most adversely affected.

Stand Up for California! and *Save Our Communities* request Governor Brown's consideration of these issues essential to California and the life-safety of affected communities.

Sincerely,



Cheryl Schmit – Director
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(Please see attached page with Patty Mayne's signature.)

Patty Mayne
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PH: 951-654-4234
406-682-7154 (alternate)

CC: San Jacinto City Council
Board of Supervisors Riverside County

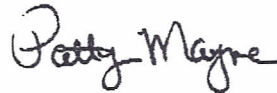
Attachments:
Letter, map and news stories cited in footnotes

exception without a geographic limitation grants a tribe complete governmental control over after-acquired lands which historically have been non-tribal land.

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