

Stand Up For California!

"Citizens making a difference"

standupca.org

P.O. Box 355
Penryn, CA 95663

October 24, 2006

Honorable Dianne Jacob
San Diego County Supervisor
1600 Pacific Highway
San Diego, CA. 92101

RE: Protect Dehesa - Request Assistance to Amend and Modify New Sycuan Compact

Dear Supervisor Jacob:

Stand Up For California is a statewide organization with a focus on gambling issues affecting California, including tribal gaming, card clubs and the state lottery. We have been involved in the ongoing debate of issues raised by tribal gaming and its impacts for over a decade. Since 1996, we have assisted individuals, community groups, elected officials, and members of law enforcement, local public entities and the State of California as respects to gaming impacts. We are recognized and act as a resource of information to local, state and federal policy makers.

On behalf of *Dehesa Valley Community Council*, a community group of civic minded homeowners and citizens Stand Up For California is offering the following information and suggestions for a Tribal State Compact modification and amendment. The citizens of *Dehesa Valley Community Council* as elsewhere in the State have a heightened public interest to participate in amending and modifying the recently re-negotiated Tribal State Compacts. A letter to the Governor and the California Legislative leadership before the 2007 session begins requesting the amendment 4.3.5 below and modification of the local agreement terms would be sincerely appreciate and effective.

The 1999 Tribal State Compacts present a complicated process in amending the agreements due to the Favored Nation Clause found in section 15.4. Tribal State Negotiators must keep in mind that the newly amended components can be demanded by other tribes seeking re-negotiation of their 1999 agreements. The newly re-negotiated compact by the Sycuan Band presents serious consequences to the *Dehesa Valley Community Council* citizens. Moreover, it sets-up a new standard for "off reservation" gaming expansion in San Diego County.

The new Sycuan agreement **section 4.2** provides for the tribe to establish a casino on *newly acquired lands*, *if* the tribe is able to transfer new land into trust and *if* the land conforms to the standards of the Indian Gaming Regulatory Act (IGRA). The section reads as follows:

Authorized Gaming Facilities. The Tribe may establish and operate not more than two(2) Gaming Facilities on its Indian lands within the boundaries of its Reservation as it exists as of the execution date of this Amended Compact **or as those boundaries thereafter may be adjusted to include approximately sixteen hundred (1,600) acres that are contiguous to the existing Reservation boundaries.** A description of the contiguous 1,600 acres is set forth in **Exhibit B** hereto. The Tribe may combine and operate in each Gaming Facility any forms and kinds of gaming permitted by law, **but only to the extent allowed under IGRA, this Amended Compact and the Tribe's Gaming Ordinance.**

Exhibit B lists approximately 25 parcel APN's. It does not appear that all of these parcels are directly contiguous to the existing boundaries of the reservation as of October 17, 1988, the cut off date for gaming on newly acquired lands found in IGRA. While some of the parcels are contiguous to the existing boundary of the reservation and meet an exception under IGRA, several of the other listed parcels are not contiguous to the boundaries of the Reservation as of October 17, 1988. The non-contiguous parcels require a two-part determination for gaming and arguably must conform to the Governor's May 2005 Proclamation which set State policy for concurrence of off reservation gaming proposals.

Additionally, this area of land may qualify as ***urban lands*** as defined in Public Resources Code section 21071, subdivision (a), also cited in the Governor's Proclamation. While these lands are located less than 8 miles outside of the City of El Cajon, a city listed on the urban list, it is a growth area consisting of 199 new condos, numerous patio homes and a number of luxury homes are either currently under construction or recently completed. Singing Hills Country Club is not more than 5 minutes from the heart of El Cajon. This is an urban area. A proposed or casino proposal contingent at this location conflicts with the Governor's Proclamation language:

"I shall oppose proposals for the federal acquisition of lands within any urbanized area where the lands sought to be acquired in trust are to be used to conduct or facilitate gaming activities."

Clearly the development of a second casino operated by an established tribe ***on newly acquired lands*** heightens public opposition to the tribal gaming industry. This public outcry is currently evidenced in Riverside County over the Tribal State Compact authorization of a third casino for the Agua Caliente Band of Mission Indians. **This is just another aspect of "reservation shopping" or "land banking" by large gaming Tribes.** This is not what the voters approved in the passage of Proposition 1A.

If only a few of the San Diego gaming Tribes seek this type of contingency component in a re-negotiated compact, it will have an effect on the overall gaming market in San Diego. New competition will affect other Tribes and the success of established casinos. Second casino developments off reservation may close down some of the smaller casinos and clearly have a direct impact on competing businesses, traffic patterns, water, sewage and air quality.

Dehesa Valley is identified by the Dehesa School boundary lines which include 18 square miles or roughly 11,520 acres. Should the proposed 1600 additional acres of lands be transferred

into trust, the Sycuan Band of Mission Indians will own and exercise governmental authority over approximately 17% of the Dehesa Valley. This translates into approximately \$800,000.00+ annually that would be lost to local tax revenues. This amount of loss would significantly affect local services to the community and the coffers of the County. The exercise of tribal governmental control over newly acquired lands creates a disruptive and practical consequence to the surrounding areas which are populated by non Indians. Transferring additional lands into trust creates a mix of state and tribal jurisdictions which burden the administration of state and local government and adversely affect landowners neighboring the tribal lands.

Second casino development "off reservation" has the potential of upsetting tribal politics and established long-term stable relationships with the County of San Diego. The County is justified to request the following modifications to the newly negotiated tribal state compact. Modifications found in the 2004 Tribal State Compacts agreed upon by progressive Tribal Leaders in San Diego County (Pala, Pauma and Viejas) established acceptable standards for gaming expansion, protection of local government, patrons and employees. The five new re-negotiated compacts of which Sycuan Band of Mission Indians is one, fail to meet this acceptable standard.

In the 2004 compacts Section 4.3.5:

Except pursuant to the express concurrence of the Governor the tribe may operate the Gaming Devices ..."on its Indian lands existing as of July 1, 2004, at the location of the Tribe's existing gaming Operation located in San Diego County.

In essence, the Tribe can still have two casinos; however the additional slot machines can only be located at the existing facility. This is important language to both tribal and non tribal citizens of San Diego County. This language prevents unfair competition between the existing gaming Tribes in San Diego County maintaining a stable industry, secure employment and government-to-government relationships. Further this language eliminates unintended consequences to the limited natural resources of the region providing greater opportunity to the County to control the growth of gaming and its impacts on the greater region area.

The re-negotiated compact does require a judicially enforceable agreement with the County but only on new developments. This lucrative re-negotiated compact must require mitigation of current impacts on the County and the surrounding community of citizens. There must be fair compensation for local government and communities of citizens if the agreement is to be mutually beneficial. Why offer additional slots if citizens will continue to subsidize the current casino project through the payment of local taxes?

Stand Up For California applauds the Sycuan Band of Mission Indians for their many contributions to the local Arts and Culture and other charitable contributions. Nevertheless, County government and the services it provides cannot be made a charity of the Tribe bound by inadequate language promoting unintended consequences in the re-negotiated tribal state compact.

Dehesa Valley Community Council citizens are seeking a positive response from your Office. These citizens remain supportive of tribal gaming but are opposed to the establishment of additional trust lands, additional slots without mitigation of current impacts, or a second casino on *newly acquired lands* in Dehesa Valley. The County may wish to consider a ballot measure for an advisory vote asking: "Do you approve the establishment of any more casinos in San Diego County"?

Stand Up For California hopes that you will give consideration to addressing a letter to the Governor and the California Legislative leadership before the 2007 session begins requesting the amendment 4.3.5 and modification of the local agreement terms. If you need additional information please do not hesitate to contact me.

Sincerely,



Cheryl A. Schmit – Director
916-663-3207
schmit@hughes.net

CC: Andrea Hoch – Legal Affairs Secretary
Stephanie Shimazu – Deputy Legal Affairs Secretary
Robert Mukai – Sr. Asst. Attorney General – Indian and Gaming Law
Sara Drake — Supervising Deputy Attorney General Indian and Gaming Law
Honorable Don Perata – President Pro Tempore
Honorable Fabian Nunez – Speaker of the Assembly
California State Association of Counties
California Tribal Business Alliance