

Chairman David Couch and
Honorable Members of the Board of Supervisors
Of Kern County

Stand Up For California!

“Citizens making a difference”

www.standupca.org

P. O. Box 355
Penryn, CA. 95663

May 5, 2015

Chairman David Couch
Honorable Members of the Kern County
Board of Supervisor
1115 Truxtun Ave.
Bakersfield, CA. 92201-4636

RE: Historic Tejon Tribe of Kern County

Dear Chairman Couch and Honorable Members of the Board,

On behalf of *Stand Up For California!* (“Stand Up”)¹, I want to raise a number of issues with Kern County regarding the Tejon Indian Tribe’s proposed casino development near Mettler, California. In late October 2014, Stand Up sent a letter to the Board of Supervisors which I have attached for your convenience.² Since that time, we have learned more about the Tribe’s proposal and thought it appropriate to provide the County with an update.

The Bureau of Indian Affairs (“BIA”) released a number of documents under the Freedom of Information Act (“FOIA”), including a request from the Tejon Tribe seeking an Indian Lands Opinion from the Office of Indian Gaming Management.³ The Tribe’s request is accompanied by a 219-page narrative explaining why the Tribe believes the Mettler property is located within the Tribe’s “last recognized reservation.” Such a determination would be highly significant to the County and the surrounding community, as it would mean that the land

¹ Stand Up is a nonprofit public corporation that focuses on gambling issues affecting California including tribal gaming. Our organization has been involved in the ongoing debate of issues raised by gaming and its impacts since 1996 and is recognized as an important informational resource for local, state and federal policy makers on gaming issues.

² See **TAB # 3** - Letter to Kern County Board of Supervisors, dated October 2014

³ See **TAB # 1** - Tejon Tribe Request for Indian Lands Opinion and Map of Mettler Property, May 5, 2014

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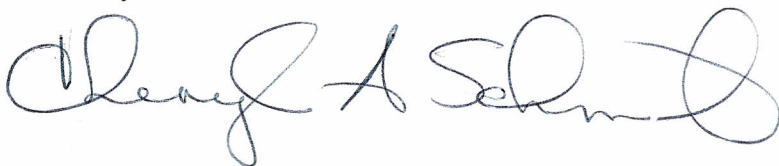
qualifies for gaming under the Indian Gaming Regulatory Act (25 U.S.C. § 2719 (a)(2)(B) (“IGRA”)) without additional process being required. Such a decision would severely limit the options of the Kern County Board of Supervisors.

While Stand Up is not opposed to gaming on eligible Indian lands, we are opposed to any effort to circumvent applicable regulatory processes, especially when such efforts are— by design— intended to reduce or eliminate the power of elected officials to protect the very people that elected them to office. Accordingly, Stand Up has sent a letter to the Honorable Kevin Washburn, Assistant Secretary of Indian Affairs and to the Office of Indian Gaming addressing various legal errors with the Tribe’s arguments.⁴ The key problem with the Tribe’s arguments is that the Mettler property is not within the Tribe’s “last recognized reservation” which means that BIA must process the Tribe’s application pursuant to IGRA’s two-part determination process (25 U.S.C. § 2719 (b)(1)(A)). This process gives greater weight to the comments and actions of the County Supervisors by requiring the Secretary to determine that the casino project will not be detrimental to the surrounding community.

The County should also consider other unusual aspects of this request and the changing landscape in the County. The Tribe was “reaffirmed” in 2012. “Reaffirmation” is not a process provided for by federal statute or regulation, and as a consequence, BIA’s reaffirmation of the Tribe is legally questionable and creates other problems. For example, IGRA’s exceptions to the prohibition against gaming on newly acquired lands do not apply to “reaffirmed” tribes—only newly acknowledged or restored tribes. *See* 25 C.F.R. Part 292. Because “reaffirmation” is an extra-legal process, at best, the Tejon do not qualify for the normal exceptions to the gaming prohibition.

Stand Up will continue to provide additional information regarding the Tejon Tribe’s request and subsequent fee-to-trust application as it becomes available. If you have any additional questions please do not hesitate to call on us.

Sincerely,



Cheryl Schmit, Director
Stand Up For California
916 663 3207
cherylschmit@att.net

⁴ See-TAB #2 letter dated April 7, 2015 to Honorable Kevin Washburn Assistant Secretary of Indian Affairs and the Office of Indian Gaming

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CC:

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Jim Fitch, Tax Assessor	assessor@co.kern.ca.us

Attachments:

TAB #1:

Letter dated May 5, 2014 addressed to Paul Hart, Office of Indian Gaming Management and Map providing location of proposed property for initial reservation.

TAB # 2:

Letter dated April 7, 2015 addressed to Honorable Kevin Washburn, Assistant Secretary Indian Affairs and Paul Hart, Director Office of Indian Gaming commenting on the Tejon Tribe's request for and Indian Lands Opinion

TAB #3:

Letter dated October 28, 2014 addressed to Chairwoman Perez and Kern County Board of Supervisors