

Concerned Citizens Against the Casino

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Vivian Houser, President

Hesperia, California

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January 12, 2004

Honorable Dianne Feinstein
United States Senator
331 Hart Senate Office Building
Washington, D.C. 20510
Attention: James Peterson
Fax: 610-231-1108

Honorable Gale Norton
Secretary of the Interior
1849 C Street, NW
Washington, D. C. 20240
Attn: Michael Rossetti
Fax: 202-219-1220

RE: Off Reservation Casino in Hesperia- "Reservation Shopping"

Dear Madams:

I am writing on behalf of the *Concerned Citizens against the Casino*, a grass-roots organization representing thousands of citizens in the City of Hesperia. We are opposing the decision by the Hesperia City Council to approve a Municipal Service Agreement (MSA) with the Timbisha Shoshone for an off reservation casino in Hesperia. We are asking for your assistance in clarifying the following three controversial issues as Senator Feinstein is the co-author of the Timbisha Shoshone Homeland Act legislation and Gale Norton, Secretary of the Interior, will be obligated to concur with the Governor of California for an approval of an off-reservation casino.

- (1) We ask that Governor Arnold Schwarzenegger and Secretary Gale Norton advise the City of Hesperia of the concurrence process for the establishment of an off reservation casino. Moreover, state their policy position on "**reservation shopping**" which is not the intention of IGRA nor Prop 1A passed by the California voters;
- (2) Will the MSA approved by a 3-2 split council be used to demonstrate widespread support for an off reservation casino in Hesperia?
- (3) Clarify that the Timbisha Homeland Act does not identify Hesperia as restored lands for the tribe or permit **reservation shopping** to establish a casino over 100 miles from their established land base.

Unknown to Hesperia's Tri Agency Committee and without public input, the City Council of Hesperia formulated an agreement with the Timbisha Shoshone Tribe to buy land within City limits for the development of a casino. Even though the City and citizens had previously rejected a card parlor in a 1996 election on the basis they did not want gambling.

The Council made public in August 2003 the MSA with the Timbisha Shoshone and announced that there would be three public comment meetings before the council voted on the MSA with the Timbisha Shoshone. The project was presented as a done deal, that the tribe was an exception when indeed the Timbisha Shoshone are not an exception under section 20 of the Indian Gaming Regulatory Act.

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After the first meeting, instead of educating the public on the legal and environmental impacts of an Indian casino, the Council took a misleading and biased public poll. A push poll designed to gain public support for an off reservation casino based on revenue sharing with the tribe to pay for roads, law enforcement and fire services.

At the two remaining meetings large groups of citizens came out to oppose the casino. Many expressed their dismay and rejection of the proposal, including the Hesperia School Board, the High Desert Evangelical Pastor's Fellowship, and a petition signed by over 1000 citizens. All documented in local and San Bernardino press stories.

Despite public outcry, the Council in a split vote of 3 to 2 approved the MSA. The vote and the misleading survey prepared by the Council majority was sent to Secretary of the Interior Gale Norton in an attempt to drown out the opposition of the public which continues to grow in our community.

Citizens and community leaders formed a referendum against the Council's resolution and collected 4386 signatures, 2064 more (before verification) than the 2332 needed. The City stalled a month before allowing the Registrar of Voters to certify the petitions. In the end, the Registrar reported over 3400 valid signatures. The Council required by California Election law had to either repeal the MSA or allow the citizens of Hesperia to vote on the MSA in a March 2nd election.

In addition to the successful referendum, two lawsuits were initiated against the City of Hesperia: (1) for failing to perform California Environmental Quality Act review (CEQA) before approving a "project" (a project which has a significant change to the environment) (case #VCVVS031829), and (2) for violating Health and Safety Code 33426.5 by designating the casino for Redevelopment Agency land and using the resources of that agency, Project 1 (case #VCVVS032290).

Moreover land title is and has been in dispute on the proposed casino site (**parcel #5: APN 3064-601-03**). The land is in litigation over unpaid taxes by its owner Salman Sesi (**case #VCVVS018343**). Apparently the City regards casino revenue as money to pay back bad bond investments. Finally, the Mojave Water Agency noted that the MSA did not address all the water rights issues. How will the Tribe's sovereign status and drilling rights balance with the people's need to protect water, a limited precious natural resource in the High Desert which must be shared equally and equitably.

The City based both the resolution to pass the MSA and the MSA itself on documentation presented by the Timbisha Shoshone Tribe verifying 'historical' ties in and surrounding Hesperia. Our research found that the Timbisha Shoshone have no ties to Hesperia. We repeatedly asked for documentation from the Tribe and from the City to support their claims. When the City admitted it was just a business deal to them and documentation was not of any grave concern, we presented a Public Acts Request to the Council, December 17, 2003. Councilwoman Rita Vogler said the Council was only given a slide presentation with no hard copies. The remaining Council members admitted they never sought to verify the Tribe's claim. Suddenly a few days later Larry T.B. Sunderland, a self-styled anthropologist offering

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no credentials but a website, gave the City a breezy document to verify Timbisha territorial claims.

Nevertheless, former Mayor Nowicki and Council member Pack, continue to use misleading information seeking the voters' approval of the MSA. These men give interviews conjuring up emotions of "historical guilt" over the treatment of the Timbisha Shoshone and state that the casino is inevitable. In a recent press story former Mayor Nowicki used Governor Arnold Schwarzenegger's popularity to bolster his claim that it is only a matter of time before the Tribe will have their compact with or without Hesperia's MSA.

"The Timbisha Shoshone Tribe has reached an understanding with California Governor Arnold Schwarzenegger to make tax payments to the state from the casino's considerable proceeds". (Resorter Dec.16, 2003, a quote by former Mayor Nowicki)

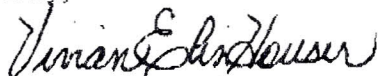
We requested clarification of Governor Schwarzenegger's agreement with the Timbisha Shoshone. In a phone call on Dec. 23, 2003, Genielle Jenkins from the Legal Office of the Governor advised us that Governor Schwarzenegger had not met with 'any tribe' let alone made an agreement. Ms. Jenkins verified our mailing address in order to send a reply from the Governor.

It is well known and reported the Timbisha Shoshone were divided on this project. The testimonies of Tribal Chairwoman Pauline Esteves, Tribal member and Tribe Administrator, Barbara Durnam before the Senate Indian Affairs Committee regarding the Homeland Act S.2102 in June 2000, acknowledged the specified tribal lands that gave opportunity to preserve their culture. The Act provided opportunity for economic development for their future, giving specified land to purchase—land which does not include Hesperia—should they want to establish businesses, such as a casino.

Out-of-state developers Gary Fears and his partner Kevin Flynn of Illinois have initiated the Casino project. These men were denied a casino license in the State of Illinois. The casino is not about tribal self-sufficiency but about wealth for the investors who hope to stop Californians en route to Las Vegas.

We appreciate your time and serious consideration of our request and patiently await your reply.

Sincerely,



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