



SCHOOL OF LAW

400 MRACK HALL DRIVE
DAVIS, CALIFORNIA 95616-5201
Cruz Reynoso
Boochever and Bird Professor of Law
PHONE: (530) 752-2897
FAX: (530) 752-4704
creynoso@ucdavis.edu

April 11, 2006

Ms. Diane Boyer-Vine
Legislative Counsel
925 L Street, Ste. 700
Sacramento, CA 95814-3702

Re: California Constitution Article IV, §19(f) and SB 175 Amendment

Dear Ms. Boyer-Vine:

I have been retained by the Gabrielino-Tongva Tribe, a state-recognized Indian tribe that does not have federal recognition, to perform an independent legal analysis of the Tribe's gaming rights under Cal.Const.Art. IV, §19(f). Section 19(f) reads:

Cal.Const.Art. IV, §19(f): "Notwithstanding subdivisions (a) and (e), and any other provision of state law, the Governor is authorized to negotiate and conclude compacts, subject to ratification by the Legislature, for the operation of slot machines and for the conduct of lottery games and banking and percentage card games by federally recognized Indian tribes on **Indian lands** in California in accordance with federal law. **Accordingly**, slot machines, lottery games, and banking and percentage card games are hereby permitted to be conducted and operated on **tribal lands** subject to **those compacts**." (emphasis added)

The Tribe's position, as expressed in a lengthy brief presented to you in 2004, has two parts. First, the Tribe argues that legislative intent in adopting SCA 11 and voter intent in adopting Proposition IA (the origins of section 19(f)) was to allow all California Indian tribes, including state-recognized tribes such as the Gabrielino-Tongva Tribe, to conduct gaming on a state or federal Indian reservation, pursuant to a state gaming compact. The Tribe concludes that it possesses the current right to conduct gaming, once it can secure a state Indian reservation and a state gaming compact. Second, in the alternative the Tribe argues that adoption of new legislation interpreting and applying section 19(f) to allow such gaming, would give the Tribe the future right to conduct gaming, after such legislation is passed into law and once it secures a state Indian reservation and a state gaming compact. The Tribe bases its alternative argument in part on section 19(f) and its legislative and ballot materials, and in part on inherent legislative authority to act as the people's representative, and to interpret and apply sections of the Constitution added by ballot measure. I have reviewed briefly a recent version of Senator Edward Vincent's proposed amendment to SB 175, which attempts this interpretation.

I have only begun my legal analysis and cannot yet comment on the Tribe's first argument, *viz.*, that the Tribe currently enjoys gaming rights and may conduct gaming once it secures a state Indian reservation and a state gaming compact.

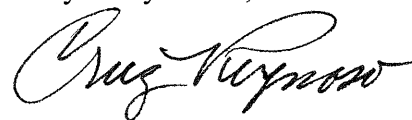
However, in addressing the Tribe's alternative argument, it is already apparent to me that the language of section 19(f) creates ambiguity in two ways: first, the use of the term of art "Indian Lands" in the first sentence and the different term "tribal lands" used in the second sentence; and second, the referential words "Accordingly" and "those" in the second sentence.

In cases of such ambiguity, legislative interpretation and application of section 19(f) would appear to be appropriate. In the ebb and flow of legislative powers, the Legislature's authority to enact legislation interpreting and applying section 19(f) to all California Indian tribes, including state-recognized tribes, would appear to be constitutionally proper.

Assuming *arguendo* that the SB 175 amendment is appropriately worded, makes clear legislative findings and credible legislative interpretations, and is passed into law in accordance with all legal procedure, it seems to me that a later reviewing court could uphold SB 175 as amended, and then find that the Gabrielino-Tongva Tribe may conduct gaming on a state Indian reservation, pursuant to a state gaming compact and without federal recognition.

As I mentioned, this letter is rendered only as a preliminary matter and is subject to more in-depth research on relevant case law, the use of terms "Indian lands" and "tribal lands" as found in federal and state law from California and other states, and legislative and ballot materials. As any former judge must admit, further review may in fact change my viewpoint and the points I have raised in this letter. Thus I will be happy to update you after my review is completed.

Very Truly Yours,

A handwritten signature in cursive script, appearing to read "Cruz Reynoso".

Cruz Reynoso

RESUME

CRUZ REYNOSO

Address:

UC Davis School of Law
400 Mrak Hall Drive
Davis, CA 95616
PH. (530) 752-2897
FAX (530) 752-4704

Personal:

Born May 2, 1931 in Brea, California
Married; Four Children

- Education: Fullerton Junior College, Fullerton, California; A.A., 1951
Pomona College, Claremont, California; A.B., 1953
George Washington University, Washington, D.C.; 1954-1955
Part-time: Courses in Economics and U.S. History
University of California School of Law (Boalt Hall), Berkeley; LL.B., 1958
National University of Mexico, Mexico City; 1958-1959
Six months of special study in Constitutional Law on a Ford Foundation Fellowship
- Military Service: U.S. Army; 1953-55
Graduated from Counter Intelligence School, Ft. Holabird, Maryland
Special Agent, Counter Intelligence Corps, Washington, D.C.
- Professional: Boocherer and Bird Chair for the Study & Teaching of Freedom & Equality - Professor of Law, UC Davis School of Law, July 2001-Present
Special Counsel, Law Office of Len Reid Reynoso, 2003-
Professor of Law, UCLA School of Law, 1991-2001
Special Counsel, Kaye, Scholer, Fierman, Hays & Handler; 1988-2002
Of Counsel, O'Donnell & Gordon,
Los Angeles and Sacramento; 1987-1988
Associate Justice, California Supreme Court,
San Francisco, California; 1982-1987
Associate Justice, Third District Court of Appeal,
Sacramento, California; 1976-1982
Professor of Law, University of New Mexico,
School of Law, Albuquerque, New Mexico; 1972-1976

Director, California Rural Legal Assistance,
Deputy Director; 1968-1969
San Francisco, California; 1969-1972

Associate General Counsel, Equal Employment Opportunity
Commission, Washington, D.C.; 1967-1968

Staff Secretary to Governor Edmund G. Brown,
Sacramento, California; October-December 1966

Assistant Chief, Division of Fair Employment Practices,
Department of Industrial Relations, San Francisco, California; 1965-1966

Private Law Practice
(Leave of absence to serve State of California and U.S. Government in
above three positions)
El Centro, California; 1959-1968
Last Association: Reynoso & Duddy

Legislative Assistant to J. William Beard, State Senator from Imperial
County, California; 1959-1960

Loren Miller Legal Services Award,
State Bar of California; 1978

Honors:

Honorary Doctor of Law or Humanities
from the following: University of Santa Clara, 1981; Lincoln University, 1984;
DePaul University, 1986; Pomona College, 1987; and the University of San
Diego, 1991; Thomas Jefferson Law School, 1997.

Hispanic Heritage Foundation Award in Education, 2000

Presidential Medal of Freedom, 2000

California Judges' Association: 1976-Present

Affiliations:

American Bar Association: 1973-Present
(1) Legal Education and Admissions to the Bar; Council Member, 1977-
1980, (2) Individual Rights and Responsibilities, Officer and Council
Member, 1973-1983; Chair, 1981-1982, (3) Standing Committee, Committee
on Lawyer
Referral and Information Service, 1989-1991.

American Judicature Society
Board of Directors, 1992-1996

Rosenberg Foundation:
Board of Directors, 1977-1993, President, 1989

The Community Board Program:
Board of Directors, 1977-1990

Los Angeles Bar Association: 1987-Present

CHILDREN NOW:
Board of Directors, 1990-Present

Council on Foundations:
Board of Directors, 1991-1992

La Raza Lawyers Association;
Mexican American Bar Association;
National Hispanic Bar Association; 1987-Present

Latino Issues Forum:
Board of Directors, 1987-Present
Chair, 1987-1993

Natural Resources Defense Council:
Board of Directors, 1987-Present

Presidential Committee to Recommend Potential Appointees as Director of
Federal Bureau of Investigations; 1978-1979

Public
Service:

State Commission on Government Reform (Post Commission) Gubernatorial
Appointee; 1978-1979

Ethics Advisory Board (Department of Health, Education and Welfare)
Advisory Board Member; 1978-1979

United Nations Commission on Human Rights - U.S. Delegate Presidential
Appointee; 1980 Session - Geneva, Switzerland

Select Commission on Immigration and Refugee Policy:
(established by Congress) Presidential Appointee; 1979-1981

Commission on the Teaching Profession, Member Appointed by
Superintendent of Education; 1984-1987

California Post-Secondary Education Commission;
1987-1990; Vice-Chair; 1988-1989; Chair, 1989-1990

Commission on the Delivery of Legal Services to the Indigent Accused,
State Bar of California; 1988-1990

United States Commission on Civil Rights, 1993-present; Vice-Chair,
1994-Present.

Community and past affiliations, publications, other public service and
honors provided upon request.