



Stand Up For California!

“Citizens making a difference”

standup.quiknet.com

Cheryl Schmit, Co-Director
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Letters to the Editor
Boston Globe
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VIA: letter@globe.com

Dear Editor,

Indian gaming is a reality: it creates real benefits for tribes while also creating real problems for communities neighboring casinos. Your series on Indian Gaming depicted accurate accounts of conflicts faced by citizens, local governments, and state and federal lawmakers. In response, Deron Marquez, chair of the San Manuel Band of Mission Indians, submitted a letter with information on California Indian gaming that I feel compelled to clarify.

For 10 years, Indian gaming illegally operated in California, with only halfhearted attempts by the U.S. Attorney General and U.S. Attorneys to intervene. When federal authorities, which are obligated to enforce federal laws, finally readied to take action, newly elected Governor Gray Davis brokered a deal preventing the closure of illegal Indian casinos in our state. Moreover, Davis promoted a state constitutional amendment, Proposition 1A, to allow tribes a gaming monopoly.

Slot machines (a form of Class III gaming) on tribal lands became legal on March 7, 2000, when citizens voted in favor of Proposition 1A. Voters sympathized with Indians and their desire to provide housing, health services, and educational programs to their members; voters agreed tribes should use gaming as a means for achieving economic self-sufficiency. Once votes were cast, however, Californians discovered tribes were not forthright in acknowledging the multiple methods and ease of gaining recognition: Congressional Acts, the Bureau of Acknowledgement and Recognition, federal litigation, or affirmation by the Bureau of Indian Affairs.

Fifty-four California tribes, in addition to 109 tribes that are already recognized, are in the process of petitioning for federal recognition and permission to place land in trust for gaming under the Indian Gaming Regulatory Act (IGRA). Since many of these tribes are located in metropolitan and urban areas, land taken into trust will no longer be overseen by state authority and will adhere to the California Environmental Quality Act (CEQA). This dicey situation—involving new tribes and new casinos popping up throughout the state—has created inequity in the state’s gaming policy and encouraged California gaming interests (i.e., tribes, card clubs, horseracing) to race to protect their interests.

Worsening the imbalance in California gaming policy brought about by the passage of Proposition 1A, Davis and tribes hastily negotiated new Tribal-State Compacts in only 16 days, without public comment or discussion. The only input incorporated into the Compacts came from wealthy gaming tribes. As a result, complaints have arisen from citizens, local government, and state lawmakers that the Compacts are vague, lack enforcement methods, and fail to address critical multi-jurisdictional issues, including strict gaming regulation, patron and employee protections, public health and safety protections, and environmental concerns.



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Inevitably, non-Indian citizens are shouldered with the burden and cost of addressing problems created by casinos. In the County of San Diego, planning commissioners detailed that billions of dollars in under funded, unmitigated development costs will pass to local, state and federal taxpayers. The report documents situations of inequitable use of water resources between tribes and non-Indian citizens and the tragic loss of life resulting from improper traffic access to tribal facilities. Issues such as these continue to cause conflicts and grievances with Indian tribes.

In terms of oversight, the state Division of Gambling Control has little authority to regulate tribal gaming. The Compact allows tribes to hire felons. And each of the 62 compacted tribes oversees its casino with a tribal gaming commission—a situation likened to a fox guarding a hen house. The new California Gambling Control Commission also has limited authority to regulate tribal gaming since the Compacts only specify the commission’s role in disbursing trust fund money to non-gaming tribes.

Stand Up For California, a coalition of community-based citizens groups, is on a mission to amend and modify the Compacts. We have repeatedly asked Davis to initiate and implement the Compact’s arbitration provisions in order to resolve natural resource abuses. We have asked him to work with county and city governments affected by tribal gaming; in particular, Davis needs to amend the Compacts to empower local government to ensure smart development, share natural resources, and balance the rights of non-Indian citizens and Indian tribes. Finally, we have urged Davis and the state legislature to commit to addressing problems created by the rapid, unrestricted growth of gambling enterprises. Our goal is to foster cooperation between non-Indian and Indian tribal governments in California.

At the federal level, regulation occurs within three agencies:

- The Bureau of Indian Affairs in the U.S. Department of Interior addresses problems that occur within a reservation’s boundaries.
- The U.S. Department of Justice assists with background investigations and pursues lawsuits against illegal gambling equipment.
- The National Indian Gaming Commission (NIGC) enforces IGRA, only with respect to (class II gaming) BINGO but has set conflicting standards and lacks adequate resources and personnel.

All other Class III gaming, which includes all casino, lottery and horseracing is regulated, if at all, by the terms of a Tribal-State Compact. This is the case in spite of the fact that IGRA only allows Class III gaming on Indian lands if Class III gaming is permitted in the rest of the state. The Secretary of the Interior, however, has approved agreements permitting tribes to operate otherwise illegal Class III gaming in exchange for payments to the State Treasury. This is true in California, Connecticut, Wisconsin, and Arizona to name a few states.

Because tribal law is arcane, it needs reform at the federal level. NIGC seeks to amend IGRA to include minimum standards addressing environmental and health and safety policies on Indian reservations. Tribes object to this federal action, as they do not want federal oversight. Congressmen Frank R. Wolf (R-VA) and Christopher Shays (R-CO) have taken a pragmatic approach: suggesting an investigation before recommending reforms. This type of action can hardly be labeled as reactionary. Tribes should embrace this opportunity to cooperate with lawmakers in seeking a remedy to IGRA’s failings.



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In the new millennium, each of us must double our efforts to appreciate diversity and take steps towards living together as one people. Let us ensure the mistakes and injustices of the past do not harm tribes' long-term success or all citizens' quality of life.

Sincerely,

Cheryl Schmit
Co-Director¹

¹ Stand Up For California, a statewide coalition of community-based citizen groups and individual supporters, opposes the expansion of gambling and proliferation of illegal and unrestricted gambling in the State of California.