

Stand Up For California!
“Citizens making a difference”

www.standupca.org

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December 16, 2009

George Skibine, Acting Chairman
& Office of General Counsel
National Indian Gaming Commission
1441 L Street NW, Suite 9100
Washington, DC 20005
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Hilary Tompkins
Department of the Interior
Office of the Solicitor
1849 C. Street, N.W.
Washington, D. C. 20240

Dear Chairman Skibine and Solicitor Tompkins:

Stand Up for California! Is writing to request documents pursuant to the Freedom of Information Act ("FOIA"), 5 U.S.C. § 552 et seq., and pursuant to the Department of the Interior FOIA regulations, 43 C.F.R. § 2.11-2.20. There is an urgent need to clarify the status of an Indian Lands Determination for the Guideville Indian Rancheria of Talmage, Mendocino County for the off reservation gaming acquisition at Pt. Molate (Richmond) California 110 miles from the Bands existing trust lands.

- On February 21, 2006, the Guideville submitted a request for and Indian Lands Determination to NIGC.
- On February 27, 2008, Contra Costa County submitted its first response to the Office of Solicitor, BIA, rather than to the NIGC. The response recites that Guideville had requested that the Secretary take the land into trust. The draft EIR Notice of Preparation similarly says the BIA will use the EIR/EIS in its decision process for taking the land into trust. (Vol. 1 of the DEIS, p. 2-14)

We write to clarify which agency is making an Indian Lands Determination under IGRA.

- I. Which agency is making the Indian Lands Determination for the Guidiville Band of Pomo from Talmage, Mendocino County for the proposed casino in the City of Richmond 110 miles from the established Rancheria outside of its aboriginal territory?
- II. In connection with what application or request is this determination being made?
 - I have been advised by Carmen Fazio of the Pacific Regional Office of the BIA that there is “**no fee to trust application on file or in process**”. There

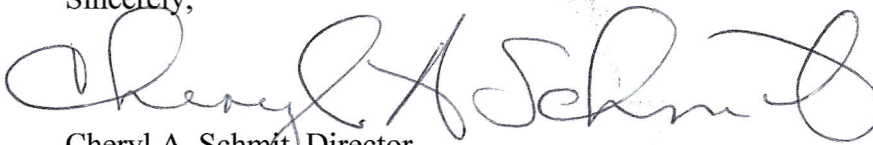
is only a tribal resolution which has initiated a NEPA process from 2004. The information in that resolution is wildly out-of-date.

- III. At Vol. 1 of the DEIS, p. 2-14: Section 2.2.1 Discretionary Actions, the Tribe list three federal discretionary approvals under the Proposed Action/Project:
1. Approval of the Tribe's application for the fee to trust acquisition and corresponding reservation proclamation.¹
 2. Approval of land leases by the BIA, and ²
 3. Approval of a gaming management contract by the NIGC.³
- IV. Will the current process of an Indian Lands Determination be a final agency action?
- V. Will the BIA or NIGC consult with the State of California over the determination of Indian lands?
- VI. Is there a legal opinion or other documents regarding the effect of the Carcieri decision on the Guideville application?

In the event any of the requested documents are not disclosable in their entirety, we request that you release any material that may be separated and released. For any documents or portions thereof that are determined to be exempt from disclosure, we request that you state with specificity the legal and factual grounds for withholding documents or portions of documents. We are willing to pay up to \$100.00. Should the cost exceed this amount contact from you office advising us of the total amount would be appreciated giving us the opportunity to revise our request.

We would greatly appreciate a prompt response to this request. Thank you for your assistance.

Sincerely,



Cheryl A. Schmit, Director
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¹ It should be noted that the Secretary of the Interior lacks authority to issue a Reservation Proclamation in the State of California due to the 1864 Four Reservations Act. And that there is no application in process- only a tribal resolution.

² It would appear approval of leases cannot be done until land is in trust.

³ Again, no Indian lands at this site that meet the definition in statute.