

Stand Up For California!
“Citizens making a difference”

www.standupca.org

P.O. Box 355
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November 16, 2009

Honorable Ken Salazar
Secretary of the Interior
1849 C. Street, NW
Washington D. C. 20240
Fax: 202-208-6956

Ms. Hilary Tompkins
Solicitor of the Interior
1849 C Street, NW
Washington, D.C. 20240
Fax. 202-208-5584

**Re: Request to Adopt and Incorporate by Reference the Restored Lands Determination
Comments Submitted by Contra Costa County. (PLN 08-089)**

Dear Secretary Salazar and Solicitor Tompkins:

The Guidiville Band of Pomo Indians has requested that the Bureau of Indian Affairs ("BIA") take lands comprising the former Naval Fuel Depot Richmond (generally referred to as "Point Molate") in Contra Costa County, into trust for the Band to use for casino gaming. The Guidiville Band asserts that the Restored Lands Exception under IGRA, 25 U.S.C. §2719(b)(1)(B)(iii), should apply to this property.

Stand Up for California! writes to join and incorporate by reference the comments submitted by Contra Costa County on February 27, 2008, as supplemented on October 30, 2008 and April 14, 2009. Under 25 CFR §292.7, restored lands requires a significant historical and current connection to the land. The Guidiville Pomo Band acquired 44 ac. of Indian lands in 1999 located within its aboriginal territory and last recognized Rancheria in Mendocino County. This is documented in *Guidiville Band of Pomo Indians v NGV Gaming Ltd CA.9 (Cal.)*, 2008 Case No. CV 052241.


Pt. Molate, Contra Costa County is not a commutable distance from its existing Rancheria. The current application is for land over 110 miles from the established Rancheria. All the tribal ancestral affidavits and other documentation available in BIA records show, as does the documents the Tribe itself has used in the past, a significant historical connection only to Mendocino County, the aboriginal territory of the Northern Pomo. The Guidiville Band cannot claim a connection to Pt Molate based generally on Pomo history.

Contrary to popular perception, tribes do not have the right to conduct gaming on randomly-selected land. IGRA limits site selection at 25 U.S.C. § 2701(5) where it states that tribes may only conduct gaming on "Indian lands," as defined at 25 U.S.C. § 2703(4).

Both IGRA and the Department of the Interior guidance policy for after acquired lands established in January 2008, make clear that a site must have been "Indian land" as of October 17, 1988, the date on which IGRA became law. Tribes like the Guidiville Pomo which has gained federal recognition since 1988 are seeking to acquire land for gaming in commercially-viable locations, even though it may not be in the immediate area of tribal occupancy.

Please accept this request by ***Stand Up For California!*** to adopt the comments submitted by Contra Costa County on February 27, 2008, as supplemented on October 30, 2008 and April 14, 2009. We object to any determination that the Pt. Molate site be considered restored lands, and object to the application of any other exception under IGRA §20.

Sincerely,

A handwritten signature in black ink, appearing to read "Cheryl A. Schmit". The signature is fluid and cursive, with a large loop at the end.

Cheryl A. Schmit – Director
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CC: Honorable Eric H. Holder, Jr. United States Attorney General
United States Senator Dianne Feinstein
United States Senator Barbara Boxer
Honorable Arnold Schwarzenegger, Governor of California
Honorable Jerry Brown, Attorney General of California