STATEMENT OF
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BEFORE THE
COMMITTEE ON INDIAN AFFAIRS
UNITED STATES SENATE

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INTRODUCTION

Chairman McCain, Vice Chairman Dorgan, and members of the Senate Committee on Indian Affairs. My name is Walter Gray and I am the Tribal Administrator for the Guidiville Band of Pomo Indians. I thank you for this opportunity to testify on behalf of the Guidiville Band of Pomo Indians. I hope our input will be valuable to your inquiry.

The Guidiville Band of Pomo Indians was illegally terminated pursuant to the California Rancheria Act. 72 Stat. 69 (1958), and restored pursuant to Scotts Valley v. United States, No. C-86 3660 VRW (N.D. Cal. Filed 1986). As a restored tribe, we are trying to acquire lands in trust to replace our reservation lands that were illegally terminated by the United States. A very small part (less than 1%) of the new reservation land we seek is for gaming purposes. We are using a gaming project as a tool to attract investment for our land restoration efforts, as it is presently the only way we can pay for the land and the extensive cost prohibitive process to restore our reservation.

We are concerned that any proposed amendments to the Indian Gaming Regulatory Act (IGRA) may create additional, significant barriers to the already high threshold tests of acquiring lands under the restored land exception of section 20 (b)(1)(B)(iii) of IGRA. Some proposed IGRA amendments would grant an inappropriate veto authority to States and political

subdivisions of the states as well as other neighboring Tribes that conflict with the status of tribal governments as described in the US Constitution. We do not believe that IGRA was only intended to "protect" the States and their political subdivisions but, that it was also meant to allow Tribes, the Federal Government and state and local governments a regulatory basis to promote self-determination and economic development for Tribes using gaming as a tool.

There is already an extremely high threshold for tribes to meet for new lands, especially for gaming purposes. For tribes who do not presently have reservations; or for those tribes still suffering from unlawful termination; or for those tribes still seeking federal acknowledgment, making it more difficult to use gaming as a tool would add yet another destructive federal statute to the long list of failed federal policies.

A look at any legislation affecting tribal governments, especially in California, should not proceed without a thorough understanding and a consideration of the history of the Tribal-Federal relationship.

To a large extent the federal government is responsible for the situation that has left tribes landless and seeking new reservation lands (*see* summary timeline of California History below). The "Termination Era" in California began with the passage of the Rancheria Act. This Act was the basis for the federal government to illegally terminate many California Tribes. Litigation against the federal government followed termination. A common result for many California Tribes was for the US Department of Justice to admit wrongdoing on the part of the United States for the termination and liquidation of land and then stipulate to a settlement that restored the tribal government to federal recognition. Unfortunately such settlements left the tribes entirely on their own to find a way to acquire a replacement trust land base on which to rebuild their tribal governments.

Some Tribes such as Paskanta, Auburn, Graton and Lytton were fortunate enough to secure legislation mandating the federal acquisition of a replacement land base in trust for the benefit of their respective tribal governments. Other tribal governments such as Guidiville, Scotts Valley, and Lower Lake to name but a few, are still trying to recover from the devastating effects of that termination and liquidation of their trust land base. Abandoned by the federal government, such tribal governments have had to do what they can to find ways, on their own, to acquire new lands and transfer those new lands to trust status. Tribal governments negatively effected by destructive federal Indian policy have turned to the prospect of tribal government gaming as a tool to attract investment dollars to purchase lands to restore their reservation land base.

Further amendments to IGRA that would make it even more difficult for tribal governments such as Guidiville to acquire lands for gaming purposes would eliminate an important source of financing and make the already difficult prospect of restoring a tribal trust land base even more out of reach than it is today.

Tribal government utilization of gaming to address a problem created by the United States is one of the reasons there are so many gaming land acquisition proposals today. The fundamental problem behind these many gaming proposals was created long ago by the United States. To date, the United States has failed to correct this fundamental problem. Fortunately, just as Congress created the problem it has the tools to correct this problem.

As an illegally terminated tribe under the 1958 Rancheria Act, we are still trying to recover from the many devastating effects of our terminated federal relationship that occurred over 40 years ago. Having reestablished the basic tribal government in recent years, we have turned our focus to restoring our federal trust land base by seeking to secure former federal lands

as our replacement lands. As recommended by the 1997 congressional Advisory Council California Indian Policy (ACCIP) report, we are seeking to acquire former federal lands to replace our illegally taken lands and are using the potential for tribal government gaming as a tool for the tribe to attract investment dollars. We are using the restored lands exception under IGRA as the federal authority to transfer the former federal land to trust and to conduct gaming on those lands. As such, we have a keen interest in and specific subject matter knowledge of this portion of IGRA. We thank you for the opportunity to provide the Committee our first hand perspective of the restored lands provisions.

CALIFORNIA SITUATION

No discussion about tribal land issues in California would be effective without first understanding the context of the very recent history of California and how that history has created the current situation for California Native Americans.

California Indians have endured the wrath of almost every destructive federal Indian policy or legislation enacted by the United States. As a result, roughly 2/3 of California's Indian population is still unrecognized by the federal government (roughly 80,000 individual Indians). Over 40 California tribal groups have pending petitions to the federal government for recognition. Of the 41 California tribes that were illegally terminated in the Termination Era (1944-1969) roughly 32 tribes have been restored to federal recognition and of the 32 restored tribes approximately 8 tribes still remain landless. Consequently, it is clear that unrecognized California tribes will continue (although slowly) to successfully be recognized by the federal government and the landless tribes will successfully continue their quest to restore their terminated land bases.

SUMMARY CALIFORNIA TIMELINE

The following is a summary timeline of some of the milestone events in California Native American History.

- 1776, prior to contact with non-Indians roughly 500 different bands of Indians occupied California lands with an estimated population of approximately 300,000.
- 1769 to 1848 tribes enjoyed limited protection of their lands during the Spanish-Mexican control of California.
- The 1848 treaty of Guadalupe Hidalgo ended the Mexican American War and resulted in the cessation of all of modern-day California to the United States.
- In 1849 California is entered into Statehood
- During this time indentured servitude, slavery and extermination of the California Indian was encouraged by the State of California to assist the rapid influx of miners and settlers from the California gold rush era and the State's drive for statehood. California was settled faster than any other state in the union.
- On September 30, 1850 Congress appropriated funds for three commissioners to negotiate treaties with California Indians. The commissioners met with 402 Indian chiefs and headmen. Eighteen treaties were signed by 139 of these representatives which ceded almost the entire State of California to the federal government in exchange for roughly 4.5 million acres of lands in various parts of California. At the demand of the California delegation, the United States Senate refused to ratify those treaties and the treaties were locked away hidden from public for roughly 50 years. The tribal treaty signers were never made aware of the fact the treaties were not ratified or valid.
- In 1851, the California Indian population was estimated at 150,000 to 200,000.
- In 1887, Congress passed the General Allotment Act, which divided any remaining tribal land bases and allotted them to individual Indians. Any unallotted parcels were then made available to non-Indian settlement. Nationwide the General Allotment Act had the effect of significantly reducing any remaining land that had been held by Native Americans.
- At the dawn of the 20th century, a short 39 years from California statehood and the discovery of gold, 96% of the California Indian population had been eliminated leaving 15,283 individuals who had survived the previous half-century of genocide and neglect. Most were landless and living in deplorable conditions, poverty stricken ill and isolated from the non-Indian population.
- In 1905, the injunction of secrecy that the Senate had placed on the 18 unratified treaties in 1852 was removed by the order of the Senate. For the first time in roughly 50 years, the public and tribes were made aware of the unratified treaties.

- In 1905, the Indian Appropriations Act appropriated funds for C.E. Kelsy to study the California Indian problem. As a result of his investigation, Congress passed a series of appropriations to purchase lands in central and northern California for landless Indians. These parcels resulted in what has been referred to today as the Rancheria System.

- In 1928, Congress passed the California Indian Jurisdictional Act, which permitted the California Attorney General to bring claims against the United States on behalf of California Indians for compensation due under the non ratified treaties. The case was litigated in 1944 resulting in two distributions to California Indians of roughly $600, dollars for the loss of 4.5 million acres of land promised in the 1851 treaties. The first distribution took place in the 1950's and the second payment took place in 1974.

- In 1934, Congress passed the Indian Reorganization Act (IRA) in an attempt to strengthen tribal governments, however that era was short lived in California.

- In 1944, not more than 10 years after the passage of IRA, Congress began the termination era.

- In 1946, Congress passed the U.S. Indian Claims Commission Act concerning compensation for land that had been ceded under non ratified 1851 treaties. The lawsuit that was brought as a result of this Act was, for the most part, settled in 1963, although some claims remain outstanding yet today.

- In 1953, a concurrent resolution by the House or Representatives sought to terminate, "*at the earliest possible time the rights of all Indian tribes and individuals in the states of California New York, Florida and Texas*" as part of an attempt to assimilate Indians to society. Later that year, Congress passed Public Law 280 transferring criminal and civil jurisdiction to the states included in the Act. California was one such state.

- In 1958, Congress passed the Rancheria Act which undertook to terminate the status of 40 California Rancherias. During the termination era, specific promises of land, assistance, infrastructure health care etc., were made to California Indians in exchange for agreeing to termination of the federal government's trust responsibility. As later court records would show, the federal government actively participated in a plot to make sure the funds appropriated by Congress to implement the promises and benefits were never received by tribes.

- In 1967, California Indian Legal Services led the charge to litigate against the United States for breach of the termination agreements. These lawsuits would continue until the mid 1990's.

- In 1988, Congress passed the Indian Gaming Regulatory Act.

- By the 1990's roughly 27 of 40 terminated Rancherias had been restored to federal recognition through litigation. Unfortunately, during the time it took to litigate the illegal termination, the federal government had liquidated the small

remaining land bases of the Rancherias leaving the majority of the California tribes essentially landless.

- In 1992, Congress passed PL. 102-416 (October 14, 1992), as amended by PL. 104-109 (February 12, 1996) to provide advice and recommendations to Congress on the special status problems of the California Indians. The Advisory Council submitted its report to Congress in September 1997 and has been made available to every California Tribe, every member of Congress and is available in all California public libraries.
- In 1993, two Tribes, The United Auburn Rancheria and Paskanta Bands were restored by acts of Congress. The legislation also granted them rights to acquire federal land base.
- In 1994, the Ione Band was recognized by administrative recognition but the administrative act did not designate a federal trust land base.
- In 2000, Congress restored the Graton Rancheria to federal recognition through legislation and ordered the Secretary of Interior to acquire a trust land base.
- In 2000, Lower Lake Pomo Tribe was recognized by administrative recognition but did not designate or order a federal trust land base.
- In 2000, the Congress ordered a federal trust land base for the Lytton Pomo Indians through federal legislation.

Presently the Indian land base in California consists of approximately 475,000 acres, including both tribal and individual Indian trust lands, distributed among California's 107 federally recognized tribes. This is far cry from the 4.5 million acres originally negotiated by Tribes in the 1851 treaties.

EFFORTS BY CONGRESS TO STUDY THE SPECIAL CALIFORNIA SITUATION

In 1992, Congress passed PL. 102-416 to provide advice and recommendations to Congress on the special status problems of the California Indians. The Advisory Council submitted its report to Congress in September 1997 and has been made available to every California Tribe, every member of Congress and is available in all California public libraries. The ACCIP Termination Report included recommendations to Congress about how to begin to rectify the BIA's illegal termination of the 41 rancherias. **One of those recommendations was that Congress should enact legislation to assist newly restored tribes in identifying and acquiring public and other federal lands for the purpose of meeting housing and economic**

development needs. It has been almost eight years following the issuance of the ACCIP report, and Congress has done little (with the exceptions of Lytton, Graton, Peskanta and Auburn) to act on the recommendations of the ACCIP to help restore a land base for the illegally terminated tribes and those tribes in California still seeking recognition.

Congress has the tools to address many of the problems for California Indians created by the federal government, yet it has chosen not to.

It should be of little surprise to Congress therefore, that tribes are doing what they can today to reacquire their terminated land bases. Left to their own limited choices, tribes have successfully used Indian gaming as a mechanism to pay for the cost prohibitive process of land restoration and federal recognition. The reason there are so many Indian gaming proposals in California specifically, is because of the high number of terminations and pending federal recognition applications in California. If the federal government will not provide assistance to landless, or terminated, or terminated and restored tribes one can be assured that those tribal governments will do what they can however they can for the betterment of their citizens.

GUIDIVILLE PERSPECTIVE

Illegally terminated tribes like Guidiville did not willingly and knowingly choose to be terminated, nor did they choose to have their lands liquidated by the federal government. Our Tribe's long history with the federal government has taught us that we cannot count on the federal government to honor past promises, correct past wrongs, allocate appropriate funds or fix the problem the United States has created. However, just like our sister tribes, who were lucky enough to never be terminated or have been successful in getting the courts or Congress to assist with tribal land restoration, we must, as responsible tribal governments, do the best we can to exercise our sovereignty and right to self-determination for the benefit of our citizenry. Left to

find a solution for ourselves, the Guidiville Tribe has decided to use tribal government gaming as tool to acquire a land base. How ironic is it that we, as one of the illegally terminated and subsequently restored rancherias, find ourselves here pleading with Congress not to effectively shut the door or change the rules regarding our efforts to re-acquire a trust land base. What a cruel irony it would be if we were further punished by changes in IGRA that frustrated or prohibited our ability to exercise a federally recognized and protected right enjoyed by other federally recognized tribes.

IGRA COMMENTS

Those responsible for drafting language in IGRA in 1988, rightfully had the foresight that there were tribes that were terminated, tribes seeking restoration, tribes involved in land claims with the federal government, tribes that were landless at the time of the Act and tribes still yet to be recognized that needed to be accommodated. We believe the exceptions demonstrate Congress' commitment to fundamental fairness. As a restored tribe still struggling to re-establish a land base and achieve a level of economic self-sufficiency, we applaud Congress' concern about fairness and equity when enacting IGRA, and we urge this Committee not to lose site of those concerns in its current deliberations regarding off-reservation gaming. Federal courts in stating that "the exceptions in IGRA serve purposes of their own, ensuring that tribes lacking reservations when IGRA was enacted are not disadvantaged relative to more established ones" also appear to agree with the foresight of Congress to include exceptions for tribes with special circumstances such as ours. The Court further emphasized "the role that IGRA's exceptions play in the statutory scheme, is to confer a benefit onto tribes that were landless when IGRA was enacted."

While there are a lot of proposals for gaming under the general exceptions of IGRA we believe that of those proposals that strictly follow the process in place, very few will actually ever come to fruition. Given the nature of the process and the high thresholds to adhere to we are not entirely sure that our proposed land acquisitions will ever be approved either.

We wish to reiterate that theme here today, **and in fact cannot identify one actual project that has been built by a restored tribe that is causing significant public policy problems**. For restored tribes, the system works.

The process that is in place today allows for participation of all outside interests. Unfortunately there are parties that do not really wish to follow the existing process and indeed are acting to usurp it before it has a chance to work.

With the exception of Indian lands and other Federal lands held by the US tribal trust land acquisition today involves extracting lands under the jurisdiction of some existing government. Because of that fact tribes must locate and structure their land acquisitions in ways that fit into and benefit the local community in order to garner outside community support.

In 1995, the United States Navy closed the 300-acre Point Molate Naval Fuel Depot in Richmond, California. In 2003, the City of Richmond and the Navy commenced an RFP process to select a developer who could redevelop the Point Molate site in a manner that would create local jobs and business opportunities for Richmond residents, preserve open space and shoreline areas, and accelerate the site's environmental remediation. Through that public process, the Guidiville Band, along with its partners Harrah's and Upstream, negotiated an agreement with the City to allow the Tribe to redevelop the site. The Guidiville Band's redevelopment plan of the base calls for the construction of hotels, conference and entertainment facilities, retail, restaurants and a gaming facility, tribal administration facilities, cultural/educational/ceremonial

facilities, and extensive enhancement to public transportation facilities. It also provides for remediation of the environmental damage that resulted from decades of use as a Navy Fuel Depot, with 190 acres of shoreline parks and hillsides committed for permanent open space that is compatible with the Tribe's cultural and administrative requirements.

In the case of Guidiville, we structured a land acquisition partnership with the City of Richmond, California, that achieves numerous tribal, local, state and federal public policy objectives, including acceleration of cleanup at a former Navy base, restoration of a historic village on the property, establishment of reliable ferry service between Richmond and downtown San Francisco, preservation of 2/3 of the site as open space and parks accessible to the public, and a local job training and hiring program that will transform the economics of this impoverished city and simultaneously establish a sustainable economy and land base for the Guidiville tribal government. A very small portion (less than 1%) of the new reservation land we seek is for gaming purposes.

Finally, and most significant, we have structured our agreement with Richmond in a way that affords **the same legal rights for non-tribal agencies, governments and citizens as projects approved under the Laws of the State of California without infringing upon the sovereignty of the Tribe, or the City of Richmond.**

We think that Congress and other tribes may be interested in learning more about this mechanism for working with established communities.

CONGRESS MUST RECOGNIZE, ACKNOWLEDGE AND PROTECT TRIBAL GOVERNMENTS STANDING IN THE FAMILY OF GOVERNMENTS UNDER THE UNITED STATES CONSTITUTION AND MUST FURTHER RESPECT THE RIGHTS OF TRIBES, CITIES, COUNTIES AND STATES AND OTHER POLITICAL SUBDIVISIONS THEREOF TO ENTER INTO TO BINDING GOVERNMENT TO GOVERNMENT AGREEMENTS THAT BENEFIT THEIR RESPECTIVE CITIZENS.

Participating in this union requires that all governments must respect and accept those actions taken by the federal government.

It is clear that the public outcry being generated by individual non-Indians, anti-casino groups, local governments, county governments, state governments and a limited number of tribal governments against tribal proposals for trust land and corresponding gaming facilities is driving the politics for further clarifications/restrictions within IGRA. States and their political subdivisions and some Tribes are seeking jurisdictional authority over other tribal governments in a quest that conflicts with the fundamental notion that tribal governments are sovereigns. Considering that tribal governments enjoy a standing under the U.S. Constitution equal to that of states, this quest to secure authority over another sovereign is inappropriate and must be protected against. Governmental entities seeking to exercise jurisdiction over other tribal governments is no different than the State of Nevada asking Congress to grant veto authority over something the State of California may wish to do. Continuing the analogy, California has the full sovereign right to pursue an initiative it believes is right for its citizens even if it has a negative affect on the citizens of Nevada. As basic and simplistic as this analogy is, it is exactly what those seeking amendments to IGRA are looking for.

We believe the present Senate Indian Affairs Committee understands and supports the status of tribal governments and the United States responsibility to protect and honor that status. When considering any amendments to IGRA we encourage you first and foremost to continue to honor, preserve and protect, this unique relationship. Further, it is imperative that the other

members of Congress the general public, the State and its political subdivisions all have a through understanding of this relationship.

POLITICAL REALITIES REQUIRE LOCAL SUPPORT

Because all lands in the U.S. today are (if not under tribal or federal tribal jurisdiction) under some other jurisdiction and because the Bureau of Indian Affairs (BIA) all but requires tribes to garner community support for land acquisitions (and we think this attitude may come at the request of congressional representatives) it is inevitable that tribes without reservation land bases today will be forced to negotiate with host communities for gaming and non gaming land acquisitions.

It is our experience that the greater the veto power of cities, or counties, or other tribes and/or states, the greater the bargaining power they have to extract revenue sharing from tribes who can least afford it. Therefore any future amendments to IGRA should also cap revenue sharing payments, and they should continue be permissible only in exchange for substantial economic benefit, such as the exclusive right to offer certain gaming activities or state concurrence for a land acquisition. Likewise, Congress should make clear that payments to local governments must be based on some reasonable estimate of the actual costs of impacts and mitigation measures.

Any proposed amendments to IGRA should not increase the power of any community to veto land acquisitions because it will be used against tribes to extract additional concessions that would not otherwise be possible were there no veto power. However, Congressional concerns over sovereignty should not affect the rights of tribes to exercise their fundamental governmental authority to enter into agreements with other sovereigns (meaning other tribes, states, counties, cities, or other political subdivisions of states) for the benefit of their respective citizenry.

ECONOMICS ARE DRIVING INDIAN GAMING

As a responsible tribal government, it is our charter to provide our elders with homes and healthcare, we must assure our families live in decent and affordable housing, we must promote job creation for our members and their children, we must protect and preserve our culture and we have a responsibility to create the opportunity for members to obtain a decent education. Regardless of whether the federal government will provide assistance or not, tribes must find ways to accomplish these objectives.

Congress has never appropriated significant funds for the acquisition of land by Indian tribes, landless or otherwise. As a result, in our land restoration process not only do we have to pay for the land that was illegally liquidated, we must also subsidize the federal government by funding the environmental studies needed for National Environmental Protection Act ("NEPA") compliance on trust transfers because the BIA does not have enough appropriated funds to pay for them even though such studies are a federal, and not a tribal, responsibility. We further supplement the federal government by using our very limited federal dollars to pool with other tribes to augment the number of federal employees at the BIA to conduct work for the Tribe. These are examples of the extent tribes have gone to in order to secure new lands.

We are disappointed to have to report, but non-Indian gaming developers have done more than the United States to help landless tribes acquire land, start the engine of economic development for tribal communities, and finally begin to bring about an end to centuries of poverty and despair. In essence, the private sector is helping to fulfill the trust responsibility that the United States has ignored, and it should not be vilified because it expects a return on its investment, just like other American businesses.

Simple risk reward economics are driving casino development not tribal or developer greed. In California, land is expensive. The land and process is just as expensive and just as risky no matter where a proposed gaming facility is located. Rural areas have their own problems with lack of infrastructure, roads that can cause safety issues, utilities, pollution, and other problems that are just as expensive to mitigate as in urban areas. In fact, urban areas with the appropriate infrastructure to handle large volumes of people are often better locations than remote rural areas that can be negatively affected by large volumes of visitors.

If there were a way for a tribe not have to purchase replacement land that was illegally terminated land in a more rural setting with (appropriate infrastructure) without having to go through an enormously expensive process, it is likely they could create just as much benefit for tribal members than in an urban location. However, because there is such a costly and high regulatory threshold, combined with a high cost of land, mitigation, state revenue sharing, local revenue sharing, and an uncertain outcome the risk drives the economics to higher revenue markets.

CURRENT FEDERAL REGULATIONS SAFEGUARD AGAINST ABUSE AND ALLOW FOR APPROVAL OF EXCEPTIONAL PROJECTS

The process for the acquisition of land for gaming purposes for restored and newly-recognized tribes contains safeguards to prevent abuse. Amendment of Section 20 is not required. Though recently, newspapers have been full of reports of ill-conceived, misguided gaming projects, these proposals will not receive federal approval. The bulwark of regulations and federal requirements will serve their purposes and these projects will be rejected. The federal land into trust process is lengthy and arduous. As designed, only exceptional projects will be approved.

In order for a restored tribe to acquire lands for gaming, it must comply with 25 CFR Part 151. Part 151 requires the Department of Interior:

a. To evaluate the proposed acquisition by looking at the tribe's need for the land; and

b. To analyze the impact on state and local government removing the land from the tax rolls, potential jurisdiction problems, and possible land use conflicts.

Additionally, Section 151.11 requires the Secretary to give greater scrutiny to the tribe's justification of anticipated benefits from the acquisition and greater weight to the concerns of the state and local governments as the tribe's distance from the reservation increases.

State and local governments with jurisdiction over land proposed for trust acquisition receive notice of the proposed acquisition from the BIA and they are afforded an opportunity to provide comments to the BIA. Compliance with the NEPA is also required and allows for additional community input.

Judicial review of the Secretary's decision is available under the Administrative Procedures Act; and the Secretary's decision can be overruled by a court, if it is found to be arbitrary and capricious, or not in accordance with law.

The fee to trust process triggers both NEPA and the Endangered Species Act (ESA). To comply with these statutes, any significant impact on the environment and any adverse impact on endangered species must be fully vetted and addressed with adequate mitigation, or the project simply does not move forward. Additionally, CEQA, California's strict environmental protection law also applies to the City of Richmond's actions required for the land acquisition to move forward.

Interior has in place now, a comprehensive checklist that looks to every aspect of any proposed gaming project in any fee-to-trust application. The current checklist is a refinement of a formal rule Interior proposed in 2001. The practical effect of these regulations is that tribes seeking to acquire land for gaming purposes must negotiate with state and local governments to address their reasonable and legitimate concerns. The development of a constructive relationship must occur before any project ever gets off the ground. If the project is wrong for the tribe and wrong for the surrounding community, it simply cannot overcome the high hurdles already in place. Both the comprehensive checklist and CEQA assess and address social and economic impacts in addition to environmental concerns.

Additionally, based in large part on federal court decisions, Interior and the NIGC have established a comprehensive test that a Tribe must meet to qualify as restored lands. The strict criteria regarding the Tribe's historic connection to the land and the relevance of the acquisition to the establishment of a governmental land base are in place to ensure that only legitimate projects are approved.

Together, all these high hurdles, Part 151, Interior's comprehensive checklist, NEPA, ESA, CEQA and NIGC's restored lands review, set the current rules. Not only has Guidiville complied with these rules, it has embraced them and has structured the project to manifest the intended objectives of each of the laws. The rules should not be changed in the middle of the game. The concerns raised in the recent debate are addressed by making sure that the current rules are properly applied.

THE GUIDIVILLE BAND OF POMO INDIANS HAS STRUCTURED A PROJECT WITH LONG TERM PUBLIC AND TRIBAL BENEFITS.

The Tribe recognizes concerns being raised about the environmental impacts of Indian gaming projects; however, the Tribe's proposal to remediate a closed U.S. Naval fuel depot, acquiring several hundred acres upon which to build its reservation, will provide significant environmental benefits. The site was significantly damaged by the Navy's use for over 50 years. Under the Tribe's stewardship, the environmental clean-up will be significantly accelerated. Open-space shoreline parks and an important completion of 1.5 miles of the San Francisco Bay Area Trail system will be implemented. Also, an extraordinary collection of buildings on the National Historic Register will be renovated and preserved.

Through an innovative contractual relationship with the City of Richmond, the Tribe and the City have required that the City of Richmond must amend its general plan to be consistent with the tribal development. In doing so the California Environmental Quality Act must be followed and will provide legal and binding assurance to the local communities that current and future adverse environmental impacts will be mitigated, without compromising the sovereignty of either the City or the Tribe. Of course, the federal fee-to-trust process and the process for approval of the management contract will also require a full Environmental Impact Statement ("EIS") pursuant to the National Environmental Protection Act. Moreover, the BIA and the City have entered into an MOU to conduct a joint Environmental Impact Statement/Environmental Impact Report (EIS/EIR) for the transfer of the property into trust for the Tribe and for the discretionary approval as necessary by the City and a number of other local and state agencies. A Joint Scoping Hearing was held on March 31, 2005. A Joint Scoping Report was issued on July 8, 2005.

THE GUIDIVILLE BAND OF POMO INDIANS HAS DEVELOPED A STRONG RELATIONSHIP WITH THE CITY OF RICHMOND.

The Tribe's acquisition and placement into trust of the Point Molate site has the strong support of the surrounding City of Richmond (please refer to the letter from the Mayor of Richmond to Governor Schwarzenegger and the local editorial prepared by the Mayor of Richmond attached as exhibits to this testimony). After a lengthy, transparent Request for Proposals process, including five public hearings, Richmond entered into a Land Disposition Agreement, contemplating the transfer of the property into trust for the Guidiville Band of Pomo Indians upon the satisfaction of a number of closing conditions. The terms of the Agreement were arrived by discussion and negotiation between the City and the Tribe and are the product of each entity protecting its sovereignty and promoting its interests, most of which are mutual and complementary, rather than exclusive and competing. The terms are rigorous and address each of the parties' concerns, including such matters as finance, protection of open space and development of the project, the tribal building codes, the Tribe's policies relating to wages and the substantive requirements of the federal Davis-Bacon Act, fire protection and emergency response services, roads and traffic circulation, utilities, sewer and storm drainage, and a number of other factors.

The Point Molate land acquisition will be a significant opportunity to achieve multiple economic, environmental and social goals of the Tribe, the federal government, the State and the City on a unique and historic site. The proposed acquisition will reclaim and transform this abandoned and polluted U.S. Navy base into a world class destination resort village that will bring career opportunities back to tribal members and the City of Richmond, provide needed revenues for police, fire, schools and libraries, and provide for a range of hospitality, entertainment, shopping and recreational facilities for the Tribe and the local community.

The Guidiville Band of Pomo Indians, the City of Richmond and the project stakeholders all recognize that a project of this type would require a fresh approach to intergovernmental relationships. Rather than limiting ourselves to existing models, we incorporated numerous innovative checks and balances into the agreements to sell the Point Molate property. These innovations provide for a comprehensive environmental review of the project and the project alternatives. The City and the Tribe will also cooperatively participate in the site design, implementation of construction, the protection of existing shoreline and open space resources on the site, and the provisions for local participation in jobs and job training.

If the Point Molate acquisition becomes a reality, the benefits to the Tribe, the region, the state and the federal government are not just significant, they are enormous. The acquisition will result in the creation of an economically sustainable restored land base for the Guidiville Rancheria that will create more than 6,600 local jobs at the resort and in the community. These are jobs that not only represent a paycheck, but long-term community benefits, like professional development and skill training for career growth and advancement. The $800 million private investment into the Tribe's economy will reverberate, not only throughout Richmond, but the entire regional economy.

The Tribe has accomplished all of this while maintaining tribal sovereignty.

CONCLUSION

The Guidiville Band of Pomo Indians believes strongly that it is possible for tribes to restore their lands, mitigate any adverse impacts from gaming, and solid, lasting relationships with local communities under the current laws. We are happy today to have the opportunity to highlight areas of the law that are currently working.

Our proposed federal land into trust action would serve three critical objectives:

(1) Restore the Guidiville Tribe's land base that was illegally terminated by the federal government over 40 years ago and approve the Tribe's request for a reservation proclamation pursuant to the federal court's order in Scotts Valley vs. United States (September 6, 1991);

(2) Bring economic development opportunities to the region consistent with economic development objectives of the base closure process that provide for the transfer of the property from the Navy to the City of Richmond; and

(3) Establish a sustainable, economic base for the Guidiville Band of Pomo Indians to fund the land purchase, development costs, community building and government programs; and at the same time, generate revenues which will mitigate any adverse impacts to the local community.

We are not here today to ask that the law be changed to benefit the Guidiville Band of Pomo Indians. We are here to let you know that the current law can and does work, and that the Guidiville Band should in fairness be allowed to complete the restoration of its lands and its government. It would be simply unfair to change the rules of the game when the Tribe is this close to correcting the wrong that was perpetrated on the Tribe 40 years ago when the Tribe was illegally terminated. We ask you to help us complete our restoration.

Thank you.