



# ***Stand Up For California!***

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Cheryl Schmit, Co-Director  
Patty Neifer, Co-Director

## **M e m o r a n d u m**

To: Greg Burgfeld, Chief Regulator, National Indian Gaming Commission

From: Cheryl Schmit, Co Director

Date: June 30, 2000

RE: Coarsegold/ Chuckchansi of the Picayune

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The Indian Gaming Regulatory Act of October 17, 1988, has set out some specific definitions that are required by any tribe wanting to promote gaming.

"Indian lands" belonging to the Chuckchansi of the Picayune tribe, that they wish to promote gaming on, must comply with the definitions of IGRA found in section 4, 2703 (4)

(A) states, all lands within the limits of any Indian reservation; and

(B) any lands title to which is either held in trust by the United States for the benefit of any Indian tribe or individual or held by any Indian tribe or individual subject to restriction by the United States against alienation and over which an Indian tribe exercises governmental power.

While the Tillie Hardwick decision meets the definition of (A) please note that (A) ends with **AND**. The tribe does not meet the terms and conditions of (B).

The tribe owns these lands in simple fee title; there are no restrictions by the United States.

This is further documented by a memorandum from the Regional Director of the Pacific Region, Bureau of Indian Affairs in Sacramento, dated July 1999. Director Jaeger clearly states that there is no record that the United States Government stipulated to the restoration of the Picayune boundaries. This memorandum was addressed to the Office of the Solicitor, Division of Indian Affairs, Washington D.C., Attention John Jasper.

This raises serious questions concerning the integrity of Mr. Jordan and his determination of land status, for the Chuckchansi of the Picayune. It raises serious questions concerning his past and current work at the Department of Indian Affairs.

Regional Director Jaeger states clearly that the tribe does not have any trust lands to date. The most recent publication of the 2000 Field Guide of the California Indian Community by the Department of Housing and Community Development State of California further states that there are no tribal lands for this tribe. The 1999 Tribal Directory, by the Bureau of Indian Affairs, states that there are no trust lands for this tribe.



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**There is land in trust for one individual Indian. But the tribe fails to meet the criteria of section (B) "the Indian tribe must exercise governmental power over the land", the tribe does not exercise governmental power over this land. The tribal government that exists at this time is an illegal government that violated the Constitution of the Tribe. The current tribal government dis-enrolled the original tribal members of this tribe and the owner of this land.**

The Rancheria Land is described in Exhibit A, page 3 of the Tillie Hardwick case.

- The Picayune Rancheria, 80 acres, is located three miles south of Coarsegold in Madera County, California.
- N1/2NE1/4 Section 29, T. 8 S., R. 21 E., Mount Diablo Meridian.

The Court also created a two year period in which individual or tribal distributes could restore their property into trust. In the case of the Picayune Rancheria, the tribe never reconvened any tribal property into trust. As documented by Pacific Regional Director Ronald Jaeger. The tribe has missed their window of opportunity.

The current tribal counsel may wish to promote a lawsuit with the United States Government to grant them approval of the restriction of "Indian Country". The State of California would also have to be a party as it is taking land out of the regulatory authority of the State of California. Or the current tribal counsel may wish to apply for trust status of this property, but must comply with the land to trust application process.

## **There can be no lien on the property that is taken into trust.**

Under federal law, land cannot be taken into trust, which has any encumbrances on the title. Once in trust no encumbrances can be incurred. If there is a mortgage on any land in trust, then something really BAD happened -- and it is sufficiently bad as to warrant an "official investigation".

Should this tribal government be found to be the legal governing body, and proceed with the land acquisition process in a lawful manner, citizens in the community will once again have the right to make comment during the fee to trust process.

**Remember, this is land that is acquired after the Indian Gaming Regulatory Act cut off date of October 17, 1988.** This tribe would then have to submit under section 20 of IGRA for an Off reservation acquisition of land. The tribe would be required to comply with Section 151.11 requiring the tribe to include all information under Part I, Section VIII of the Indian Gaming Checklist. (This document is produced by the Indian Gaming Management Staff, February 18.1997)

There must be a balance of the rights of citizens with the very special rights of this tribe to promote gaming in a residential community of over 600 families. The tribe must negotiate with the county for an appropriate location using California rules of land use and development. The tribe must enter into a local agreement, perhaps modeled after the United Auburn Indian Community in Placer County. The tribe after meeting the federal criteria would have the right to move forward with their proposed project with less opposition and the means of building positive community relations.



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