CERF/CERA REPORT

MEMBER UPDATE

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Unbelievable American Corruption

From the Chairman, Darrel Smith - SD

America has been facing a series of challenges that could destroy a nation. Uncontrolled Illegal immigration, our debt/deficit spending, our foreign trade imbalances, and military threats from China and radical Islam. Any one of these eventually could destroy our country and we are facing all of them. Meanwhile, the Department of Government Efficiency team is discovering that our government is enmeshed in an unbelievable level of corruption and fraud. Every American should be aware of these threats.

The Bureau of Indian Affairs (BIA) has been tangled in fraud and corruption for decades. This fraud and corruption is damaging and destroying people's lives. When you favor some people, you diminish other people.

The next article is about a peaceable community in northern California that is being threatened by a casino. This casino is being built by a made-up tribe on land that was falsely removed from state to federal jurisdiction. CERA and local individuals are now filing a legal complaint against this process.

The second article is about a made-up reservation in Minnesota. This made-up reservation drastically diminished the allowed fishing on Mille Lacs Lake (207 sq/mi) and eventually drove the majority of fishing resorts around the Lake out of business. CERA and MERF have been involved challenging this issue for years.

Freedom and Equality are not free. Not only are a whole group of businesses broke because of these actions, many other people have spent a good part of their lives challenging these corrupt actions of our government. People that are into fraud and corruption are not interested in, and do not seek truth and honesty.

We think we are on the cusp of winning the battle for Equal Rights and we need your support now more than ever. Thank you.

Darrel Smith

An "Exceptional" Tribe

By DW Cranford - CA

In April 2003 a group of Indians came to my small hometown of Plymouth, California and informed the City they were breaking ground on a large Las Vegas style Casino/Hotel in 6 months and nothing could be done to stop their proposed casino. My wife and I grew up in Plymouth and we spent 10 years away in the Air Force and 10 more with Intel in Arizona but returned in 1989 with our 3 children. In the 20 years I was away Plymouth remained a quiet little town of 900, situated in the foothills of the Sierra Nevada. The gold mines had closed long ago, timber and logging was in serious decline but the world was becoming aware of the extraordinary wines produced in the Shenandoah Valley of Amador County. Plymouth, the gateway to the Valley, is a community where we enjoy our slower rural foothill lifestyle with easy access to cities like Sacramento and Folsom. Plymouth is simply not the kind of place suitable for a large Casino/Hotel as proposed by the Ione Band of Miwok Indians. Citizens organized **(NO CASINO IN PLYMOUTH)** in opposition to the Fee to Trust (FTT) casino and for the next 22 years we fought in federal court. However, not one of the issues and challenges we brought based on the facts and the law to the court has been decided.

Rural area near Plymouth, CA

I recently wrote a CERF/CERA REPORT article explaining how this happened. How **No Casino In Plymouth** had succeeded when the Ione Band announced in January 2024 they were moving

The people of Amador county see this as an attack on their community.

the casino out of Plymouth to the County and downsizing from a 2000 machine casino to a 349 machine casino with no hotel. With the County Board of Supervisors or Plymouth City Council unwilling to challenge this new illegal project two other citizens and myself decided to file a complaint in the D.C. District Federal Court challenging whether the land was acquired in trust in compliance with federal law as explained in a previous CERF/CERA REPORT. This is a comprehensive well documented complaint with important civil rights issues raised as well as the explaining of the many serious violations of federal laws, federal regulations, and Supreme Court decisions. This complaint with the many important Constitutional issues it raises will be explained in detail in a future CERF/CERA REPORT.

Now to the "EXCEPTIONAL" Tribe and the reasons for the complaint.

There is a an "EXCEPTIONAL" Indian Tribe in Northern California; **the Ione Band of Miwok.** Why and how this group of Indians, came from anonymity and mediocracy to be administratively transformed by the Bureau of Indian Affairs (BIA) into an Indian Reorganization Act (IRA) organized, recognized, and restored to recognition "tribe' eligible to build and operate a casino is an "EXCEPTIONAL" story. This transformation required many unethical, illegal, unconstitutional actions by the BIA/DOI (Department of Interior) over a period of more than 30 years as outlined below.

An examination of the early documented history of the Ione Indians reveals nothing "exceptional" about a small group of unorganized Indians who lived around the city of Ione, California. There was an unsuccessful attempt by the BIA to purchase 40 acres for the Ione Indians in 1916. Then nothing for decades until the 1970's when California Indian Legal Services assisted 12 individual Ione Indians to obtain fee title to the 40 acres.

In 1972 some of those Ione Indians requested the BIA acquire the 40 acres in trust. No property was acquired in trust and in 1979 the Ione Indians were officially notified by the BIA they were not a recognized tribe. Officially not recognized but placed on a BIA list of groups eligible to petition for recognition using the new Federal Recognition Regulations. Some Ione Indians began preparing the petition for recognition required by the Federal Recognition Regulations after attending a workshop on the new Regulations.

Work on the petition continued until 1989 but instead of filing a petition for recognition the Ione Indians filed suit in Federal Court in 1990 demanding to be recognized. The United States defended and briefed the Court that the Ione Indians had never been recognized and the Federal Recognition Regulations were the sole administrative process for them to be recognized. The Court granted summary judgment to the United States in a 1992 order finding that Ione was not recognized and the Federal Recognition Regulations were the sole administrative process for their recognition. This order was and is binding on the Ione Band and the United States.

the BIA held tribal elections for the Ione Band and a temporary Ione Band tribal council was elected with no Ione Indians elected to their own tribal council.

However in 1994, some Ione Indians convinced then Asst. Secretary Indian Affairs, Ada Deer, to "recognize" them and she did so with a March 22, 1994 memo and the Ione Indians began their journey as an "EXCEPTIONAL" tribe. They were "EXCEPTED" administratively from the Federal Recognition Regulations as well as the 1992 Federal Court Order with a memo from a BIA Official with no authority to recognize tribes.

However, in 1996 the Federal Court issued a final decision in the 1990 litigation wherein the Court determined there was "no recognizable tribal government" at Ione and dismissed all the Ione Band's claims. The Ione Indians had managed to become not recognized administratively in only two years. A truly "EXCEPTIONAL" accomplishment but in a very different context.

Immediately following the Federal Court's 1996 final decision ***the BIA held tribal elections for the Ione Band and a temporary Ione Band tribal council was elected with no Ione Indians elected to their own tribal council.*** Two factions of Ione Indians filed complaints with the Interior Board of Indian Appeals (IBIA) challenging the 1996 election. The IBIA final report stated; "Moreover, it is abundantly clear that, had BIA not provided the strong support it did, the Band would not have succeeded in organizing at all." Wow, the BIA created a tribe out of thin air by organizing a group of Indians who would never have organized on their own. A truly "EXCEPTIONAL" administrative happening.

This now "EXCEPTIONAL" BIA organized group elected a permanent tribal council in 2002 with no Ione Indians elected, again!

In 2004 the newly BIA organized Ione Band

requested a restored lands opinion from the National Indian Gaming Commission (NIGC). The NIGC never provided the requested opinion. Instead, the opinion was provided in September 2006 by Assistant Solicitor Carl Artman who concluded the Ione Band had been recognized with a Commissioner of Indian Affair's 1972 memo. An "EXCEPTIONAL" conclusion as the Commissioner had no authority to recognize tribes in 1972. Then Artman concluded the Ione Band's recognition was terminated with the 1992 federal court order. Again, a truly "EXCEPTIONAL" conclusion as in 1990 the Ione Band was suing to be recognized. And finally, Artman concluded the 1994 Deer memo restored the Ione Band. Another "EXCEPTIONAL" conclusion as Deer had no authority to recognize or restore the Ione Band based on the Commissioner's no authority 1972 memo. ***An "EXCEPTIONAL" administrative opinion with no basis in truth,fact, regulation, or law.***

In 2005 the BIA issued proposed regulations for determining if a Tribe was Restored. The Ione Band commented on the proposed regulations and informed the BIA it could not meet the regulations as written. When the final Regulations were issued in 2008 there was an "EXCEPTION" for the Ione Band's opinion that administratively "EXCEPTED the Ione Band from the federal regulations for restored tribes.

A temporary roadblock to the "EXCEPTIONAL" Ione Band's fee to trust plans for a casino was provided by the Supreme Court with its 2009 Carcieri decision wherein the SCOTUS decided the Secretary had no authority to acquire land for Indian tribes not recognized in 1934. The DOI held three post Carcieri Conferences with Indian Tribes discussing how to "fix" Carcieri. An administrative fix was developed and introduced by the BIA in 2010 called the "Cowlitz Two Part Procedure". A procedure to determine if a tribe was under federal jurisdiction in 1934. That a Supreme Court decision could be "fixed administratively" by the BIA is an "EXCEPTIONAL" concept. This "fix" was then used to approve the Ione Indians 2006 FTT application in 2012.

In 2014 Solicitor Hilary Tompkins formalized the "Cowlitz Two Part Procedure" Carcieri fix in M-Opinion, M-37029. Solicitor Tompkins needed 26 pages to provide a "Meaning of Under Federal Jurisdiction for Purposes of the Indian Reorganization Act". It is truly "EXCEPTIONAL" that the DOI/BIA had administered the IRA for 80 years without knowing what under federal jurisdiction meant in 1934.

Without being recognized in 1934, the Ione Indians had their FTT application for a casino approved pursuant to the "EXCEPTIONAL" meaning of "under federal jurisdiction" as interpreted by the Secretary of Interior and Solicitor.

Inexplicably, after their FTT Application was approved in 2012, no land was acquired in trust for the Ione Band until March 20, 2020 when the Acting Regional Director of the BIA Sacramento Regional Office unexpectedly accepted 10 parcels in trust for the Ione Band citing Section 2202 of the Indian Land Consolidation Act (ILCA) as authority. This sudden action was taken only 11 days after the withdrawal of the "Cowlitz Two Part Procedure" and M-37029 by Solicitor Jorjani on March 9, 2020. The self described "landless" Ione Band never had any trust land and it is not clear how a no trust land tribe is eligible to use the ILCA. Just add this acceptance of 10 parcels by the Acting Regional Director using the ILCA to the list of "EXCEPTIONAL" administrative actions taken by the BIA for the Ione Band.

This ultra vires action by the Acting Regional Director was then used by the Ione Band to obtain a gaming compact with the State of California. Another "EXCEPTIONAL" action given that Acting Regional Directors have no authority to acquire trust land for Indian gaming.

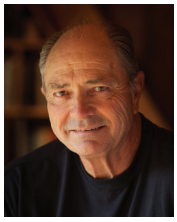
Lastly, in 2024 the BIA noticed in the Amador Ledger Dispatch newspaper that the Acting Regional Director BIA Sacramento Regional Office made a determination to acquire a parcel in trust for the Ione Band. The notice states the subject property is identified in Fresno County records as Assessor's Parcel Number 010-160-010-000. This acquisition is a truly "EXCEPTIONAL" as the parcel is not in Fresno County and was made without prior notice to the City of Plymouth or Amador County and without any FTT application.

The Ione Band is undoubtedly an administratively "EXCEPTIONAL" tribe. They were recognized with a memo in violation of a Federal Court Order and without having to comply with the Federal Recognition Regulations. An "EXCEPTIONAL" organization by the BIA of a group of Indians who would have never organized on their own. And then an "EXCEPTIONAL" Restored Lands Opinion wherein a group of Indians never recognized or never terminated were deemed to a be restored tribe. And then the "EXCEPTION" from the Restored Regulations. The "EXCEPTIONAL" Department interpretation of under federal jurisdiction allowing their FTT application to be approved without complying with the Carcieri decision wherein recognition in 1934 was

required. An "EXCEPTIONAL" sudden and unexpected use of the ILCA to allow the no trust land Ione Band to consolidate non existent trust land with 10 parcels on March 20, 2020 on which they plan to build a casino. Finally, the "EXCEPTIONAL" acquisition of a parcel in 2024 without a FTT application and without prior notice to local governments.

How are all these administrative "EXCEPTIONS" to federal law, federal regulations and Federal Court orders and decisions possible? All are possible through Federal Officials use of the unconstitutional "Indian Trust". An unconstitutional "trust' which allows federal departments, federal agencies and federal courts to "EXCEPT" decisions made by the DOI/BIA for Indian tribes from federal law, regulations and the U.S. Constitution using the Federal Canons of Construction of Indian law. These "canons of construction" are interpretive rules used by Courts when interpreting treaties and laws related to Indian affairs to provide liberal interpretation in favor of Indian tribes and resolving ambiguities in their favor. Liberal interpretations in favor of Indian tribes by BIA/DOI Officials and federal courts which are not in compliance with federal law, federal regulations, and Federal Court Orders and Decision including the Supreme Court's Carcieri decision.

A comprehensive complaint challenging the Indian trust using all the above ultra-vires, unconstitutional, favorable, preferential actions by the DOI/BIA for the Ione Band is now being prepared to demonstrate to the D.C. District Court the extent of the abuse of local communities, private citizens by the DOI/BIA with their "EXCEPTIONAL" Indian trust" based preferences for the benefit of Indian tribes to the detriment of citizens such as myself and the other citizen plaintiffs in the soon to be filed complaint.



DW Cranford

The CERF/CERA Board of Directors has joined with myself and two other private citizens as plaintiffs in the complaint. I cordially and humbly invite you to support our combined effort to provide equal treatment under the law for all U.S. citizens, with a tax deductible donation to CERF, P.O. Box 0379, Gresham, WI 54128 with a notation it is for the 2025 Complaint. I, my fellow citizen plaintiffs and the CERF/CERA Boards Thank You in advance for your support.

See the full complaint and press release on the citizensequalrightsalliance.org web site.

The Mille Lacs Reservation Fact or Fiction? By Clare Fitz - MN

Eight years ago the Mille Lacs Band of Ojibwe filed suit against Mille Lacs County, Minnesota and two of its elected officials concerning disagreements over law enforcement. They contended that in order to decide their lawsuit it would be necessary to determine whether or not the 1855 Mille Lacs Reservation still existed.

Judge Sue Nelson of the 8th District Circuit Court agreed with the band, ruling that subsequent treaties and federal statutes did not disestablish the reservation and that the band had inherent sovereign law enforcement authority within the original 1855 reservation.

While the case was going on, the State of Minnesota legislature passed a law giving the Mille Lacs Band the law enforcement authority they wanted. So when Mille Lacs County appealed the decision of the 8th circuit, the Band filed a motion to moot the case, since the State had already given them the authority they wanted. While the County wanted the appeal to proceed, they argued that if the court were to moot the case they must reverse the ruling of Judge Sue Nelson as well.

The Court of Appeals seemed to agree that while the existence or non-existence of the 1855 reservation was important to deciding the law enforcement issue when the case first started, it was no longer important to the law enforcement issue because the State legislature had given the Band the law enforcement authority they wanted.

But the existence or non-existence of the 1855 reservation is important for other reasons than law enforcement, and the appeals court apparently thought that as well, because they spent the majority of their opinion examining the historical data and applying current law to it.

After examining each of the relevant treaties, statutes and lawsuits, two of the three judges on the court made the following observations.

Taking from Solem, 465 U.S. at 470-71: "Explicit reference to cession [in a statute or ratified treaty] … strongly suggests that Congress meant to divest from the reservation all unallotted opened lands. … When such language of cession is buttressed by an unconditional commitment from Congress to compensate the

Indian tribe for its opened land, there is an almost insurmountable presumption that Congress meant for the tribe's reservation to be diminished [or disestablished]."

By contrast, a surplus lands act that 'merely opened reservation land to settlement and provided that the uncertain future proceeds of settler purchases should be applied to the Indians' benefit' does not bear 'these hallmarks of diminishment.'" Parker, 577 U.S. 489.

"Here, in the treaties of 1863, 1864, and 1865, and in the agreements in which the Band agreed or consented to the Nelson Act and the 1902 Act, the Band expressly 'ceded' the Reservation to the United States in consideration for specific payments of money, goods, and governmental services. '[T]here is only one place we may look: the Acts of Congress' to determine whether a tribe's reservation continues. McGirt, 591 U.S. at 903. Thus, the 'almost insurmountable presumption,' Solem 465 U.S. at 470, appears to apply. The district court acknowledged the presumption but then paid it lip service. 'In the past,' the court dubiously asserted, 'when Congress has intended to disestablish a reservation, it generally has forthrightly stated this intention.' And here, the district court noted, to the extent that fee title was ceded, the treaties do not specify that the public land laws govern their disposal. This reasoning is inconsistent with the Supreme Court's holding that '[d]isestablishment has never required any particular form of words,'" McGirt, 591 U.S. at 904..

"While acknowledging that the Nelson Act contemplated 'complete cession and relinquishment in writing of all their title and interest in and to all the Reservation[]' and that the Band expressly consented to the Act, the district court further reasoned, 'the Nelson Act merely provided for the allotment and sale of reservation land, the proceeds to be held in trust for Minnesota Chippewa.' But this ignores the fact that the language of the Nelson Act and Agreement are 'precisely suited' to disestablishment. Rosebud Sioux Tribe v. Kneip, 430 U.S. 584, 597 (1977), quoting DeCoteau, 420 U.S. at 445, 'While the provision for definite payment can certainly provide additional evidence of diminishment, the lack of such does not lead to the contrary conclusion.' Hagen v. Utah, 510 U.S. 399, 412 (1994), citing Rosebud Sioux,430 U.S. at 596; see United States v. Choctaw Nation & Chickasaw Nation, 179 U.S. 494, 536 (1900)."

"In the two above-summarized opinions, the Supreme Court repeatedly used language 'precisely suited' to disestablishment in describing the effects of the 1863 and 1864 treaties and the Nelson Act on the Reservation established in the 1855 Treaty. True enough, as the district court emphasized, the decisions in MLB and U.S. v. Minnesota did not hold that the Reservation was disestablished by the 1863 and 1864 Treaties or by the Nelson Act. That issue was not presented. But the holdings in these cases – that the Band was entitled to be paid the consideration it was promised, and that the State had retained its rights under land patents – were consistent with disestablishment."

"Viewing the seemingly clear disestablishment language in those treaties and the Nelson Act, we think the inference that the Supreme Court gave that language its plain meaning, in accordance with the Court's disestablishment decisions prior to 1913 and 1926, is powerful, to say the least."

In absorbing these statements by the Court of Appeals, it seems quite likely to me, that had the court been able to do so, they would have ruled that the 1855 Mille Lacs Reservation was disestablished and no longer exists. But that was not the question before them. They could only erase the decision of Sue Nelsons's 8th District Court and let the issue live for another day.

On this basis the Appeals Court sent the case back to Sue Nelson's District Court with instructions to vacate or erase its decision of March 4, 2022 that was that the 1855 Reservation still exists., while they at the same time mooted the case as it regards law enforcement.

Upon receiving the decision of the Court of Appeals, the Mille Lacs Band filed a petition for an en blanc rehearing and asked the court to revise the argument they presented in vacating the district court's decision. That request was denied.

Clare Fitz

UNLESS, either the Mille Lacs Band or Mille Lacs County were to petition the United States Supreme Court for a writ of certiorari on the case, the case is concluded. If the case were accepted by the Supreme Court, and there is always but a slim chance of acceptance, perhaps the boundary issue could finally be settled.

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