



IN REPLY REFER TO:
Executive Direction

United States Department of the Interior

BUREAU OF INDIAN AFFAIRS
Central California Agency
650 Capital Mall, Suite 8-500
Sacramento, California 95814

JUN 09 2014

CERTIFIED MAIL – RETURN RECEIPT REQUESTED

Paskenta Tribal Council

Paskenta Band of Nomlaki Indians
PO Box 709
Corning, CA 96021

Paskenta Band of Nomlaki Indians
PO Box 785
Orland, CA 95936

ADMINISTRATIVE CEASE AND DESIST ORDER

To Whom It May Concern:

This letter is in regard to information received from the State Attorney General's Office and the Tehama County Sheriff's Office regarding property held in trust by the Bureau of Indian Affairs for the benefit of the Paskenta Band of Nomlaki Indians. The information provided describes an unauthorized use of the trust land for the purposes of preventing any access to businesses located on the Reservation located at 2655 Everett Freeman Way, Corning, California 96021.

In a report by the Tehama County Sheriff Lt. Dave Greer, who is on site at the Rolling Hills Casino, Lt. Greer states that approximately 15 uniformed Sheriff's deputies arrived at the Casino at 6 am this morning. At that point, the Casino security force, including Zak's Security, had barricaded the entrance roads to the Casino. Approximately 15 minutes later, the "Tribal Police" arrived. This consisted of approximately 15 vehicles, most of them marked "police" and many marked "tribal police." There were a total of approximately 30 members of this "tribal police" force – all are uniformed (with markings "Police" or "tribal police"), and all appear to be armed. At this point, the "tribal police" force has covered the entire perimeter of the Casino property. The primary confrontation at the moment is at the main entrance, where there are approximately 10 members from each security force. In addition, growing numbers of tribal members are now

showing up on site, which is increasing the tension.

In addition, Lt. Greer reports that there have been several instances of security members with AR-15's. According to Lt. Greer, the situation is "very volatile", "tensions are high", and there is no indication that the stand-off will conclude at any time soon.

Congress has promulgated legislation codified at 25 U.S.C. § 415(a), which provides that any Indian lands held in trust may be leased with the approval of the BIA. The law is well established that "Indian trust property cannot be permitted, leased, or otherwise encumbered without the written approval of BIA." *Larsen v. Acting Pacific Regional Director*, 39 IBIA 202, 209 (2003). The trust obligation of the BIA is to issue a lease or approve a permit in accordance with 25 U.S.C. § 415 and corresponding regulations found at 25 C.F.R. Part 162. See *United States v. Jicarilla Apache Nation* 131 S. Ct. 2313 (U.S. 2011); *Brown v. United States*, 86 F.3d 1554 (Fed. Cir. 1996).

Based on my review, it is the conclusion of the Bureau of Indian Affairs that you are violating the National Environmental Policy Act of 1969 (NEPA) 42 U.S.C.A. §4321 et seq., and operating a business on Federal Trust land without obtaining authorization to do so pursuant to 25 U.S.C. §415 and 25 C.F.R. 162. Until all regulations are conformed to and a permit or lease is approved, such use and operation is a direct violation of authorized use.

Furthermore, you and your contractors are in violation of 25 C.F.R § 170.813. Indian Reservation Road (IRR) transportation facilities must be open and available for public use. Only the Secretary in consultation with the Tribe may temporally restrict access.

Therefore, based on the facts contained herein, it is my determination that your operations are illegal, and unlawfully located on real property held in trust by the United States of America. I have determined that there is a need to protect against a threat to the public health and safety, and protect a trust resource. Further, it is my decision as delegated, to order you within **24 hours of receipt** of this letter, to **cease and desist** your operation, remove all structures, vehicles and to restore the land to its original state prior to the unauthorized use. Your contractors, as the operator and owner, will be legally responsible for all damages to the land and all consequential damages resulting from unauthorized activity on the land.

Due to the notifications from law enforcement and business entities of potentially serious threats to the health and welfare of the Paskenta Band of Nomlaki Indians ("Tribe"), we are issuing this **cease and desist**.

In addition, as a past practice, when internal tribal disputes arise, the BIA has recognized the last uncontested tribally elected Council. (*Alturas Indian Rancheria v. Acting Pacific Regional Director*, 54 IBIA 1, 8 (2011);) (quoting *Wasson v. Western Regional Director*, 42 IBIA 141, 158 (2006); *Walter Rosales v. Sacramento Area Director*, 32 IBIA 158 (1998), etc. The last uncontested Tribal Council of the Paskenta Band of Nomlaki Indians is as follows:

- (1) Andrew Freeman, Chairman

- (2) David Swearinger, Vice Chairman
- (3) Leslie Lohse, Treasurer
- (4) Geraldine Freeman, Secretary
- (5) Allen Swearinger, Member at large

The BIA will continue to recognize these individuals as the tribe's elected leadership and Tribal Council until this internal dispute can be resolved by the Tribe, pursuant to the Tribe's own governing documents and processes.

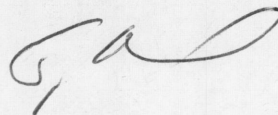
The decision contained in this letter may be appealed to the Regional Director, Bureau of Indian Affairs, Pacific Region, 2800 Cottage Way, Sacramento, California, 95825, in accordance with the regulations in 25 CFR Part 2, a copy of which is enclosed. Your notice of appeal must be filed in *this* office within *30 days of the date you receive the decision*. The date of filing your appeal is the date it is postmarked or the date it is personally delivered to this office. Your notice of appeal must include your name, address, and telephone number. It should clearly identify the decision being appealed. If possible, attach a copy of the decision. The notice and the envelope in which it is mailed should be clearly labeled "Notice of Appeal." Your notice of appeal must list the names and addresses of the interested parties known to you and certify that you have sent them copies of the notice. You must also send a copy of your notice of appeal to the Regional Director, Pacific Region, at the address given above.

If you are not represented by an attorney, you may request assistance from this office in preparation of your appeal.

If no appeal is timely filed, this decision will become final for the Department of the Interior at the expiration of the appeal period. No extension of time may be granted for filing notice of appeal.

If there are any questions with regards to this matter please contact Javin Moore, Acting Realty Officer, at 916-930-3672.

Sincerely,



Troy Burdick

Superintendent

cc: Joe Dhillon, Office of the Governor, California
Olin Jones, Office of the Attorney General, California
Philip Ferrari, United States Attorney's Office

Tehama County Sheriff
Gabriel Galanda, Galanda Law
Rob Rosette, Rosette LLP
Eric Schalansky, National Indian Gaming Commission
George Skibine, Dentons