



INTERNATIONAL INDIAN TREATY COUNCIL

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RE: Standing of Sacred Site Protection and Rights of Indigenous Tribes (SSP&RIT) and Native American and Ohlone individuals to File an Administrative Complaint under California Government Code 11135 (discrimination)

I have been asked to look into the matter of the Administrative Complaint under California Government Code Section 11135 and the protection of the Glen Cove Shellmounds, a Sacred, 3,500 year old Ohlone burial site, and the standing of the SSP&RT, as well as several Ohlone individuals.

Were this an action under the Native American Graves Protection and Repatriation Act (NAGPRA) or other similar federal Indian legislation, federal recognition of the Ohlone Tribe might well be necessary for standing. However, this is a State of California Administrative Complaint alleging discrimination against Indians where no such requirement applies. Indeed, it has been long standing Constitutional law that States have no standing with regard to matters pertaining to Indian Tribes as such, a purely federal matter.¹

It should be noted that the Muwekma Ohlone Tribe of the San Francisco Bay Area have had an application for federal recognition for many years now. The Advisory Council on California Indian Policy recommended that they be so recognized, and in spite of an initially adverse ruling from the Federal Bureau of Indian Affairs (BIA) (overturned by the U.S. District Court for the D.C. Circuit). It would be tragic indeed if the State of California allowed the loss and desecration complained of, particularly while their petition for recognition is pending.

California Government Code Section 11135 (f) only requires that the complainants be "perceived as Indians (Native Americans).² There is no doubt that the City of Vallejo perceives complainants as Native Americans. Further, there is nothing in the complaint itself that would contradict the allegation that the individuals bringing and signing the complaint are themselves Ohlone and Native American, or that the SSP&RT is an organization with a legitimate interest in the protection of Sacred Areas or in the protection against discrimination on behalf of Native

¹ See, *Worcester v. Georgia*, 31 US 515 (1832).

² Government Code Section 11135 f): As used in this section, "race, national origin, ethnic group identification, religion, age, sex, sexual orientation, color, or disability" includes a perception that a person has any of those characteristics or that the person is associated with a person who has, or is perceived to have, any of those characteristics.

Americans, as well as the right to practice traditional spiritual (religious) ceremonies, and respect for traditional cultural customs of Native Americans.

Would anyone question standing in an Administrative Complaint under 11135 filed by the NAACP on behalf of Afro-Americans?

The question presented by the Complaint is whether or not the City of Vallejo is discriminating against Native Americans by desecrating a 3,500 year old burial site, a Sacred Area not only to the Ohlone Peoples of the Bay Area but to other Native American Tribes in Northern California. The State of California itself has a long and tragic history of invidious and deadly discrimination against California Indians. During the gold rush, for example, the Humboldt Times called for the extermination of Indians. Rewards were paid for the heads of Indian men (\$5.00) women (\$2.50) and children (50¢). The Great State of California, in 1851 and 1852 paid out one million dollars each year to those who hunted Indians. In 1857 California issued \$400,000 in bonds to the same end, the extermination of California Indians.

As noted by a federal Indian agent back in 1906:

“No amount of money can repay these Indians for the years of misery, despair, and death which the Governmental policy has inflicted upon them. No reason suggests itself to your special agent why these Indians should not be placed in the same situation as all other Indians in the United States....”³

It is time for this tragic history to end. For those whose lands were stolen and ancestors massacred, all that remains is the Sacred Place where they are buried.

Respectfully submitted,



Alberto Saldamando, General Counsel,
International Indian Treaty Council

cc: Sacred Site Protection and Rights of Indigenous Tribes (SSP&RIT)
Greenaction (Bradley Angel)

³ A Second Century of Dishonor : Federal Inequities and California Tribes, Ch. II. Studies that Document Funding Inequities Affecting California Tribes, A report prepared by the UCLA American Indian Studies Center for the Advisory Council on California Indian Policy, The Community Service / Governance / Census Task Force Report, March 27, 1996, <http://www.aisc.ucla.edu/ca/Tribes2.htm>, last visited 4/25/2011