April ____, 2006

Honorable Richard W. Pombo
Chairman
Committee on Resources
U.S. House of Representatives
1324 Longworth House Office Building
Washington, D.C. 20515

Re: HR 4893

Dear Chairman Pombo:

On behalf of the County Board of Supervisors, Del Norte County, California, I write to you regarding our views on the above-referenced bill and our support of the Elk Valley Rancheria, California, a federally recognized Indian tribe (hereinafter “EVR”). The Del Norte County Board of Supervisors works cooperatively with the four tribes located in the County. We enjoy a particularly good relationship with EVR. EVR proposes to construct and operate a tribal government gaming facility on land located in the County and one mile from the EVR’s reservation boundaries.

EVR proposes to acquire in trust status approximately 203 acres of land for the purpose of operating a resort and casino, including 150 hotel rooms and 400 slot machines. EVR filed its fcc to trust application on April 10, 2001, and has engaged in substantial environmental review under the National Environmental Policy Act. Notices of public hearings were published in the Federal Register and in the local newspaper soliciting public input regarding EVR’s project and the public has overwhelmingly supported it. The proposed project would be immensely beneficial to not only EVR, but to the entire Del Norte County community.

EVR has demonstrated time and again that it is community oriented and the County supports EVR’s efforts to acquire the Martin Ranch in trust for the purpose of gaming. In January 2002, at EVR’s request, EVR and the County finalized a comprehensive Memorandum of Understanding addressing the mitigation of potential impacts from the project. Likewise, EVR has worked cooperatively with the California Coastal Commission, local citizens, the State, and the federal government to secure the necessary approvals for the project. EVR, in conjunction with the federal government, and upon citizen and local government request, has conducted public hearings and made Tribal representatives available to hear and address the public’s concerns about the project. To date, there have been few concerns raised by the community and EVR has made a good faith effort to address any concerns that the community has raised.

Further, EVR’s proposed project is consistent with federal, state and local policy. EVR’s project would be an economic “shot in the arm” that is much needed by the community. It will trigger other economic development that is sorely needed in an area economy that has been
historically propelled by the timber and fishing industries. However, those industries are but 
shells of their former selves and the community has suffered as a result.

The federal government in legislation establishing the Redwood National Park 
emphasized that tourism should be the future economic catalyst for the County. EVR’s project 
furthers that policy and will enable the County to expand its small, outdated airport and to attract 
much needed businesses. EVR’s project will not only benefit the County, but will positively 
benefit the region and the County’s joint efforts with Curry County, Oregon to promote the 
region as a tourism destination and an ideal location for families.

However, without a “grandfather” clause in HR 4893 for long-pending applications such 
as EVR’s, and the removal of state legislative approval of fee to trust acquisitions for gaming 
purposes, EVR’s, the County’s and community’s efforts to reverse the desperate economic state 
of Del Norte County will all be for nothing.

We urge you to amend HR 4893 to remove the provision for state legislative approval of 
gaming-related fee to trust applications for restored tribes such as EVR as issues of local concern 
are better addressed in cooperative relationships at the local level rather than in the legislative 
halls of Sacramento where politics and influence of others may render decisions adverse to the 
County’s interests.

Further, we urge you to add a provision to the proposed legislation that ensures that 
beneficial, community-based projects, such as the Elk Valley Rancheria’s proposed resort and 
casino, are allowed to proceed under the current rules and do not face detrimental changes in 
those same rules that derail the hopes and needs of not only EVR, but of the entire Del Norte 
County community.

Thank you for your consideration.

Sincerely,

Sara Sampels
Chairperson

cc: Representative Mike Thompson
James Cason, Acting Assistant Secretary – Indian Affairs
Phil Hogen, Chairman, National Indian Gaming Commission
George Skibine, Office of Indian Gaming Management
Elk Valley Rancheria, California
To amend section 20 of the Indian Gaming Regulatory Act to restrict off-reservation gaming. (Introduced in House)

HR 4893 IH

109th CONGRESS

2d Session

H. R. 4893

To amend section 20 of the Indian Gaming Regulatory Act to restrict off-reservation gaming.

IN THE HOUSE OF REPRESENTATIVES

March 7, 2006

Mr. POMBO introduced the following bill; which was referred to the Committee on Resources

A BILL

To amend section 20 of the Indian Gaming Regulatory Act to restrict off-reservation gaming.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. RESTRICTION ON OFF-RESERVATION GAMING.

Section 20 of the Indian Gaming Regulatory Act (25 U.S.C. 2719) is amended--
(1) by amending subsection (b)(1) to read as follows:

' (b)(1) Subsection (a) will not apply when lands are taken in trust for the benefit of an Indian tribe that is newly recognized, restored, or landless after the date of the enactment of subsection (f), including those newly recognized under the Federal Acknowledgment Process at the Bureau of Indian Affairs, and the following criteria are met:

` (A) The Secretary determines that such lands are within the State of such tribe and are within the primary geographic, social, historical, and temporal nexus of the Indian tribe.

` (B) The Secretary determines that the proposed gaming activity would not be detrimental to the surrounding community and nearby Indian tribes.

` (C) The Governor and State legislature of the State in which the gaming activities will be conducted concur.

` (D) The Indian tribes within 75 miles of the proposed tribal trust land acquisition concur.

` (E) The regional Bureau office shall not recommend a tribal application for trust land acquisition for the purposes of gaming, in accordance with this section, until after the county or parish government with authority over the land that is contiguous to the lands applied to be taken into trust has held an advisory referendum, paid for by the tribal applicant, to determine whether the residents of that county or parish support or oppose the Indian tribe's application to conduct gaming regulated by this Act. Regardless of the result of the referendum, for the purposes of the Indian tribe mitigating the direct impact on the county or parish infrastructure, and to include a direct payment to mitigate county or parish infrastructure costs, the Indian tribe shall negotiate and sign a memorandum of understanding with the county or parish government. Such mitigation payments shall be limited to the direct effects of the tribal gaming activities on the affected county or parish infrastructure and services. If a memorandum of understanding is not signed within one year after the advisory referendum, both parties shall submit to mandatory binding arbitration to agree upon such a memorandum of understanding.'; and

(2) by adding at the end the following new subsections:

` (e)(1) In order to consolidate class II gaming and class III gaming development, an Indian tribe may host one or more other Indian tribes to participate in or benefit from gaming conducted under this Act and in conformance with a Tribal-State compact entered into by each invited Indian tribe and the State under this Act upon any portion of Indian land that was, as of October 17, 1988, located within the boundaries of the reservation of the host Indian tribe, so long as each invited Indian tribe has no ownership interest in any other gaming facility on any other Indian lands and has its primary geographic, social, historical, and temporal nexus to land in the State in which the Indian land of the host Indian tribe is located.

` (2) An Indian tribe invited to conduct class II gaming or class III gaming under
paragraph (1) may do so under authority of a lease with the host Indian tribe. Such a lease shall be lawful without the review or approval of the Secretary and shall be deemed by the Secretary to be sufficient evidence of the existence of Indian land of the invited Indian tribe for purposes of Secretarial approval of a Tribal-State compact under this Act.

'(3) Notwithstanding any other provision of law, the Indian tribes identified in paragraph (1) may establish the terms and conditions of their lease and other agreements between them in their sole discretion, except that in no case may the total payments to the host Indian tribe under the lease and other agreements exceed 40 percent of the net revenues (defined for such purposes as the revenue available to the 2 Indian tribes after deduction of costs of operating and financing the gaming facility developed on the leased land and of fees due to be paid under the Tribal-State compact) of the gaming activity conducted by the invited Indian tribe.

'(4) An invited Indian tribe under this subsection shall be deemed by the Secretary and the Commission to have the sole proprietary interest and responsibility for the conduct of any gaming on lands leased from a host Indian tribe.

'(5) Conduct of gaming by an invited Indian tribe on lands leased from a host Indian tribe under this subsection shall be deemed by the Secretary and the Commission to be conducted under the Act upon Indian lands--

'(A) of the invited Indian tribe;

'(B) within the jurisdiction of the invited Indian tribe; and

'(C) over which the invited Indian tribe has and exercises governmental power.

'(6) Any lease agreement authorized by this section shall not be valid unless it is--

'(A) consistent with the Tribal-State compacting laws of the State in which the gaming activities will be conducted;

'(B) approved by an Act of the State legislature; and

'(C) approved by the Governor of the State.

'(f) An Indian tribe shall not conduct gaming regulated by this Act on Indian lands outside of a State in which the Indian tribe has a reservation on the date of the enactment of this subsection, unless such Indian lands are contiguous to such a reservation of that Indian tribe in that State.'.

SEC. 2. STATUTORY CONSTRUCTION.

The amendment made by paragraph (1) of section 1 shall be applied prospectively. Compacts or other agreements that govern gaming regulated by the Indian Gaming Regulatory Act of 1988 (25 U.S.C. 2701 et seq.) on Indian lands that were in effect
on the date of the enactment of this Act shall not be affected by the amendments made by paragraph (1) of section 1 of this Act.