

Assembly Joint Resolution No. 39

RESOLUTION CHAPTER 128

Assembly Joint Resolution No. 39—Relative to the Winnemem Wintu Tribe.

[Filed with Secretary of State September 5, 2008.]

LEGISLATIVE COUNSEL'S DIGEST

AJR 39, Huffman. Winnemem Wintu Tribe: federal reaffirmation.

This measure would memorialize the President and Congress of the United States, and the Assistant Secretary for Indian Affairs in the United States Department of the Interior, to reaffirm that the Winnemem Wintu Tribe possesses full federal recognition and all the rights and privileges that arise from that status, excluding Indian gaming.

WHEREAS, The Winnemem Wintu Tribe is a sovereign Indian Nation, located in Shasta and Siskiyou Counties in California, and consists of 122 enrolled and documented members, with its tribal headquarters located in Jones Valley, California, on the site of the Wintu Village named "Tuimayallii"; and

WHEREAS, The leaders of the Winnemem Wintu Tribe met with representatives of the United States for treaty negotiations, and a treaty was signed by both the tribal leaders and the United States at Reading's Ranch on August 15, 1851; and

WHEREAS, The Winnemem Wintu Tribe was thus recognized by the United States Government as early as 1851; and

WHEREAS, The Winnemem Wintu Tribe again conducted negotiations with the federal government in 1889 through the presentation of a letter known as the "Wintu/Yana Petition" to President Benjamin Harrison; and

WHEREAS, The result of that petition was the sending of special Indian agents from the Department of the Interior to California who were given the task of securing land for landless and homeless Indians, particularly the Winnemem Wintu; and

WHEREAS, Special Indian Agent John Terrell conducted a census of the Winnemem Wintu Tribe in 1915 for inclusion in the government land purchase efforts; and

WHEREAS, The federal government failed in its mission to secure land for the Winnemem Wintu Tribe as a whole, and instead granted individual land allotments to some tribal members (Allotment, non-Reservation Indians), in areas known at the time to be in danger of inundation by the rising waters of the planned Shasta Dam, as cited by Special Indian Agent John Terrell in his correspondence to the Department of the Interior; and

WHEREAS, During the years 1935 to 1943, inclusive, the federal government began removing tribal burials for reinterment in the United States Government Shasta Reservoir Indian Cemetery, held in trust status by the United States; and

WHEREAS, Up through 1985, the Winnemem Wintu Tribe received federal education, housing, and health services offered through the Bureau of Indian Affairs, the United States Forest Services, and the United States Fish and Wildlife Services, to federally recognized Indian tribes and bands; and

WHEREAS, Title to at least some of the allotments issued to Winnemem Wintu tribal members as recorded in the 1915 census created by United States Indian agents are still held in trust on those members' behalf by the United States, and the United States continues to forward trust income to some members in acknowledgment of those relationships, demonstrating that the special trust relationship between the United States and the Winnemem Wintu Tribe and its members has never been terminated, only misplaced; and

WHEREAS, Since 1985, the Winnemem Wintu Tribe has not been listed as an Indian tribe by the Bureau of Indian Affairs, even though it was never officially terminated as one and although it continues to have land held in trust by the United States on its behalf and have government-to-government relations with other agencies of the federal government; and

WHEREAS, Due to the tribe's omission from the list of federally recognized tribal entities, members of the Winnemem Wintu Tribe have been denied access to federal services such as education, housing, and health services under federal programs established for federally recognized Native American tribes, and the tribe does not receive the protections provided by Congress for members of federally recognized tribes; and

WHEREAS, Numerous state and federal agencies have recognized or currently recognize the Winnemem Wintu Tribe, including, but not limited to, all of the following:

(1) The California Native American Heritage Commission, which lists the Winnemem Wintu Tribe as a legitimate California tribe.

(2) The United States Bureau of Reclamation, which issued the Winnemem Wintu Tribe a permit to hold traditional ceremonies on the Shasta Dam.

(3) The United States Forest Service, which signed a memorandum of understanding committing to consult with the Winnemem Wintu Tribe when working in traditional tribal lands and managing sacred sites.

(4) The United States Forest Service, which has posted information about the Winnemem Wintu Tribe at interpretive facilities at Fowlers Campground, Middle Falls, and at the entrance to Panther Meadows on Mount Shasta.

(5) The Department of Transportation, which signed a memorandum of understanding with the Winnemem Wintu Tribe to consult with the tribe when transit projects encroach upon tribal land.

(6) The federal government, which signed the Cottonwood Treaty of 1851 that was not ratified, but has never been withdrawn.

(7) Until the mid-1980's, members of the Winnemem Wintu Tribe received United States Bureau of Indian Affairs housing, health care, and educational assistance available only to members of recognized tribes; and

WHEREAS, The Winnemem Wintu Tribe can document injustice at the hands of the federal government since the 1851 treaty to recognize the tribe was signed by the United States Representative but lost prior to registry in Washington D.C.; and

WHEREAS, The Winnemem Wintu Tribe is an historic and traditional band of California Indians whose people are the keepers of their religious places and practices and upon whose shoulders is placed the burden of carrying forward the religion, traditions, culture, and teachings of and for their people and who seek restoration of their federal recognition for cultural purposes, not for Indian gaming purposes; now, therefore, be it

Resolved by the Assembly and the Senate of the State of California, jointly, That the Legislature respectfully memorializes the President and Congress of the United States, and the Assistant Secretary for Indian Affairs in the United States Department of the Interior to reaffirm that the Winnemem Wintu Tribe possesses full federal recognition and all the rights and privileges that arise from that status, excluding Indian gaming, but including immediate inclusion of the tribe in the list published in the Federal Register under the relevant provisions of Title I of the Federally Recognized Indian Tribe List Act of 1994 (Public Law 103-454); and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, to each Senator and Representative from California in the Congress of the United States, and to the Assistant Secretary for Indian Affairs in the United States Department of the Interior.