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NOTICE OF DECISION

CERTIFIED MAIL-RETURN RECEIPT REQUESTED – 7013 2630 0001 5557 8848

Honorable Vincent P. Armenta  
Chairperson, Santa Ynez Band  
of Chumash Mission Indians  
P.O. Box 517  
Santa Ynez, CA 93460

Dear Chairman Armenta:

This is our Notice of Decision for the application of the Santa Ynez Band of Chumash Mission Indians to have the below described property accepted by the United States of America in trust for the Santa Ynez Band of Chumash Mission Indians of the Santa Ynez Reservation of California.

Real property in the unincorporated area of the County of Santa Barbara, State of California, described as follows:

PARCEL 1: (APN: 141-121-51 AND PORTION OF APN: 141-140-10)

LOTS 9 THROUGH 18, INCLUSIVE, OF TRACT 18, IN THE COUNTY OF SANTA BARBARA, STATE OF CALIFORNIA, AS SHOWN ON THE MAP SHOWING THE SUBDIVISIONS OF THE CANADA DE LOS PINOS OR COLLEGE RANCHO, FILED IN RACK 3, AS MAP 4 IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY.

THIS LEGAL IS MADE PURSUANT TO THAT CERTAIN CERTIFICATE OF COMPLIANCE RECORDED DECEMBER 5, 2001 AS INSTRUMENT NO. 01-105580 OF OFFICIAL RECORDS.

PARCEL 2: (PORTION OF APN: 141-140-10)

LOTS 1 THROUGH 12, INCLUSIVE, OF TRACT 24, IN THE COUNTY OF SANTA BARBARA, STATE OF CALIFORNIA, AS SHOWN ON THE MAP SHOWING THE SUBDIVISIONS OF THE CANADA DE LOS PINOS OR COLLEGE RANCHO, FILED IN



RACK 3, AS MAP 4 IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY.

THIS LEGAL IS MADE PURSUANT TO THAT CERTAIN CERTIFICATE OF COMPLIANCE RECORDED DECEMBER 5, 2001 AS INSTRUMENT NO. 01-105581 OF OFFICIAL RECORDS.

PARCEL 3: (PORTIONS OF APNS: 141-230-23 AND 141-140-10)

LOTS 19 AND 20 OF TRACT 18 AND THAT PORTION OF LOTS 1, 2, 7, 8, 9, 10, AND 15 THROUGH 20, INCLUSIVE, OF TRACT 16, IN THE COUNTY OF SANTA BARBARA, STATE OF CALIFORNIA, AS SHOWN ON THE MAP SHOWING THE SUBDIVISIONS OF THE CANADA DE LOS PINOS OR COLLEGE RANCHO, FILED IN RACK 3, AS MAP 4 IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY, THAT LIES NORTHEASTERLY OF THE NORTHEASTERLY LINE OF THE LAND GRANTED TO THE STATE OF CALIFORNIA BY AN EXECUTOR'S DEED RECORDED APRIL 2, 1968 IN BOOK 2227, PAGE 136 OF OFFICIAL RECORDS OF SAID COUNTY.

THIS LEGAL IS MADE PURSUANT TO THAT CERTAIN CERTIFICATE OF COMPLIANCE RECORDED DECEMBER 5, 2001 AS INSTRUMENT NO. 01-105582 OF OFFICIAL RECORDS.

PARCEL 4: (APN: 141-240-02 AND PORTION OF APN: 141-140-10)

LOTS 1 THROUGH 12, INCLUSIVE, OF TRACT 25, IN THE COUNTY OF SANTA BARBARA, STATE OF CALIFORNIA, AS SHOWN ON THE MAP SHOWING THE SUBDIVISIONS OF THE CANADA DE LOS PINOS OR COLLEGE RANCHO, FILED IN RACK 3, AS MAP 4 IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY.

THIS LEGAL IS MADE PURSUANT TO THAT CERTAIN CERTIFICATE OF COMPLIANCE RECORDED DECEMBER 5, 2001 AS INSTRUMENT NO. 01-105583 OF OFFICIAL RECORDS.

PARCEL 5: (PORTION OF APN: 141-230-23)

THAT PORTION OF LOTS 3 AND 6 OF TRACT 16, IN THE COUNTY OF SANTA BARBARA, STATE OF CALIFORNIA, AS SHOWN ON THE MAP SHOWING THE SUBDIVISIONS OF THE CANADA DE LOS PINOS OR COLLEGE RANCHO, FILED IN RACK 3, AS MAP 4 IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY, THAT LIES NORTHEASTERLY OF THE NORTHEASTERLY LINE OF THE LAND GRANTED TO THE STATE OF CALIFORNIA BY AN EXECUTOR'S DEED RECORDED APRIL 2, 1968 IN BOOK 2227, PAGE 136 OF OFFICIAL RECORDS OF SAID COUNTY.

THIS LEGAL IS MADE PURSUANT TO THAT CERTAIN CERTIFICATE OF COMPLIANCE RECORDED DECEMBER 5, 2001 AS INSTRUMENT NO. 01-105584 OF OFFICIAL RECORDS.



The subject property encompasses approximately 1427.78 acres, more or less, commonly referred to as Assessor's Parcel Numbers: 141-151-051, 141-140-010, 141-230-023, and 141-240-002.

**Note: The total acreage is consistent with the Bureau of Indian Affairs; GIS Cartographer's Legal Description Review dated September 3, 2013.**

The Tribe intends to provide tribal housing and supporting infrastructure on a portion of the property. The remainder will continue to be used for economic pursuits (vineyards and a horse boarding stable), as well as for future long range planning and land banking.

Federal Law authorizes the Secretary of the Interior, or his authorized representative, to acquire title on behalf of the United States of America for the benefit of tribes when such acquisition is authorized by an Act of Congress and (1) when such lands are within the consolidation area; or (2) when the tribe already owns an interest in the land; or (3) when the Secretary determines that the land is necessary to facilitate tribal self-determination, economic development, or tribal housing. In this particular instance, the authorizing Act of Congress is the Indian Land Consolidation Act of 1983 (25 U.S.C. § 2202). The applicable regulations are set forth in the Code of Federal Regulations (CFR), Title 25, INDIANS, Part 151, as amended. This land acquisition falls within the land acquisition policy as set forth by the Secretary of the Interior.

The Santa Ynez Reservation was originally established pursuant to Departmental Order under the authority of the Act of January 12, 1891 (26 Stat. 712).

Pursuant to 25 U.S.C. § 478, the Secretary held such an election for the Tribe on December 15, 1934, at which the majority of the Tribe's voters voted to accept the provisions of the Indian Reorganization Act of June 18, 1934<sup>1</sup>. The Secretary's act of calling and holding this election for the Tribe informs us that the Tribe was deemed to be "under Federal jurisdiction" in 1934. The Haas List tribes are considered to be under federal jurisdiction in 1934.<sup>2</sup>

On September 17, 2013, and again on November 19, 2013 we issued, by certified mail, return receipt requested, notice of and sought comments regarding the proposed fee-to-trust application from the California State Clearinghouse, Office of Planning and Research; Mr. Daniel Powell, Legal Affairs Secretary, Office of the Governor; Sara Drake, Deputy Attorney General, State of California; Office of the Honorable Senator Diane Feinstein; Santa Barbara County Assessor; Santa Barbara County Treasurer and Tax Collector; Santa Barbara County Sheriff's Department; Santa Barbara County Department of Public Works; Santa Barbara County Department of Planning and Development; Chair, Santa Barbara County Board of Supervisors; County Executive Officer, Santa Barbara County; Doreen Far, Third District Supervisor, Santa Barbara County; Kevin Ready, Senior Deputy County Counsel, Santa Barbara County; City of Santa Barbara; Buellton City Hall; City of Solvang; Lois Capps, U.S. House of Representatives; Stand

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<sup>1</sup> See "Ten Years of Tribal Government Under I.R.A.", United States Services, 1947, at Interior's website at <http://www.doi.gov/library/internet/subject/upload/Haas-TenYears.pdf>.

<sup>2</sup> See, *Shawano County, Wisconsin v. Acting Midwest Regional Director, BIA*, 53 IBIA 62 (February 28, 2011) and *Stand Up for California, et al, v. U.S. Department of Interior v. North Fork Rancheria of Mono Indians*, 919 F. Supp. 2d 51 (January 29, 2013), the District Court for District of Columbia.



Up for California; Santa Ynez Valley Concerned Citizens; Women's Environmental Watch; Santa Ynez Valley Alliance; Santa Ynez Community Service District; Andi Culbertson, Cathy Christian, Attorney at Law, Nielson Merksamer Parrinello Gross & Leoni LLP; Rob Walton; Kathy Cleary; and Superintendent, Southern California Agency.

**In response to our notice dated September 17, 2013, we received the following comments:**

1. One-thousand sixty-six (1,066) support letters.
2. Letter dated November 7, 2013 from Lois Capps, Member of Congress – received after comment period ended, stating the following:
  - Numerous local issues must be carefully considered and examined by the Bureau of Indian Affairs, including; impacts on future development, the environment, traffic, noise, and public safety; and the Band's historical connections to the Valley, need for housing, and its rights to self-determination and economic development.
3. Letter dated October 31, 2013 from the County of Santa Barbara stating the following:
  - Significant loss of tax revenue;
  - Compatibility with the County's General Plan, Santa Ynez Community Plan, and County land use Regulations;
  - The proposed trust acquisition is "off reservation";
  - There is no need for additional land to be taken into trust;
  - There is a need for an Environmental Impact Statement;
  - The county appealed the approval of the Tribal Consolidation Area (TCA);
4. Letter dated October 30, 2013 from the Ryan A. Smith, Brownstein Hyatt Farber and Schreck stating the following:
  - It is requested that the Bureau take three steps to clarify for all concerned the status of the Tribes pending request for land into trust in accordance with the approval of the Land Consolidation and Acquisition Plan (LCAP);
  - That it be confirmed in writing and announced publicly that, should the Tribe re-submit its TCA Application for approval, the public will be given notice of the submission, and will also be given an opportunity to comment before BIA takes any action on it;
  - Confirm in writing and announce publicly that BIA is ceasing its consideration of the Camp 4 fee-to-trust application and has returned the application to the Tribe; and
  - The EA states that it was prepared on the assumption that, because the Camp 4 lands were within an approved TCA, they were to be "given the same level of scrutiny as land acquisitions on or adjacent to the tribe's reservation," even though the Camp 4 land themselves are all off-reservation lands.



5. Letter received October 23, 2013 from Linda Kastner stating the following:
  - The property is under the Williamson Act which provides lesser property taxes on producing agricultural land;
  - The County should receive \$300,000 annually and, if developed, even more funds annually;
  - The Environmental Assessment provided shows a water treatment plant far exceeding the usage of 143 homes planned; and
  - A tribal hall of 80,000 square feet with parking for 400 cars can't even be imagined in a residential, agricultural area. The roads surrounding the area are two lane, narrow roads;
6. Letter dated October 22, 2013 from Susan Jordan, Director, California Coastal Protection Network stating the following:
  - That there were changes to the project since the FTT application was filed;
  - The FTT application is inadequate and the Tribe should present a plan of the anticipated economic benefits; and
  - The requirement of necessity has not been proven.
7. Letter dated October 22, 2013 from M. Andriette Culbertson stating the following:
  - That there were changes to the project since the FTT application was filed;
  - The FTT application is inadequate and the Tribe should present a plan of the anticipated economic benefits; and
  - The requirement of necessity has not been proven.
8. Letter received October 21, 2013 from L.C. Smith stating the following:
  - Concerned about the environmental impact issues;
  - Water issues, both contamination and overuse;
  - It could be a likely location for a bigger gaming operation;
  - Inadequacy of the current roads, impact on traffic and safety;
  - Concerned about the 800 privately owned parcels as well as businesses inside the proposed TCA of which the greater majority by far are non-tribal members; and
  - The lack of consideration for thousands of people who have invested their lives and livelihoods in this location, many for generations, and the thousands more surrounding the TCA seems extremely short sided.
9. Letter dated October 18, 2013 from W.E. Watch, Inc. stating the following:
  - The FTT application was predicated on the TCA. Any further action on the application would consequently require a level of scrutiny for an Off-Reservation FTT application. The application fails to meet the required standard;
  - The presented application fails to meet the "necessity" requirement.



- Property tax loss to Santa Barbara County;
- Impacts on traffic, public safety, noise, etc., were inadequately addressed; and
- The effects of ground water resources and wastewater issues need more in depth scrutiny.

10. Letter dated October 17, 2013 from Santa Ynez Valley Concerned Citizens stating the following:

- The BIA and the Tribe assert in the EA and FTT application that the Camp 4 parcels are to be processed as an on-reservation acquisition;
- The Camp 4 parcels may meet an exception under Section 20 of the Indian Gaming Regulatory Act (IGRA) (U.S.C. 2719 (a) (1). This transaction becomes a major federal action and requires an Environmental Impact Statement (EIS);
- The proposed FTT poses significant jurisdictional conflicts and off-reservation impacts not adequately identified, assessed, or mitigated;
- The loss of property taxes;
- The proposed CA does not address necessary mitigations or services paid for at the expense of all County taxpayers;
- The Tribe has not demonstrated a clearly identified economic need for the FTT. It is absent of showing "immediate need" or "necessity";
- The Tribe has not demonstrated that trust conveyance is necessary to facilitate tribal self-determination, nor that the need of the land meets the statutory standards of 25 U.S.C. 465;
- The proposed FTT creates a significant, negative and unnecessary precedent for FTT in California;
- Once in trust, Tribal Governments may change their development plans for the property negating the value of negotiated mitigations and posing new unmitigated burdens; and
- The Bureau of Indian Affairs must be equipped to discharge the additional responsibilities resulting from the acquisition of the land in trust status.

11. Letter dated October 17, 2013 from Stand Up for California stating the following:

- The FTT application does not fully address, or adhere to, all the factors in 25 C.F.R. Part 151;
- This application is inconsistent with the purposes of 25 U.S.C. 465.
- The Tribal Consolidation Plan (TCA) was approved without notice to affected private owners or affected local governments;
- The Chumash and the BIA are asserting this is an on-reservation acquisition;
- The Tribe has not provided a detailed comprehensive economic business plan;
- A heightened concern that the land use includes gaming;
- The BIA has ignored the statutory limitations of 25 USC 456 and 25 CFR 151.11;
- The BIA and the Chumash have ignored the statutory limitations of the California Land Commissions Act of 1851;



- The application is absent of showing "immediate need" or "necessity";
- The Tribe has not stated a clear economic benefit;
- The taking of this land into trust creates many negative impacts on the existing social-cultural, political, and economic systems of the regional area;
- The application, like the EA, fails to disclose the total purpose for which the land will be used;
- The reduction of tax revenue for the Santa Ynez community;
- The Bureau of Indian Affairs must be equipped to discharge the additional responsibilities resulting from the acquisition of the land in trust status; and
- Environmental concerns.

12. Letter received October 16, 2013 from Charlotte Lindsay stating that there is no objection to the tribe of Chumash building on their own land if they play by the same rules as the rest of the community.

13. Letter dated October 16, 2013 from A. Barry Cappello, Cappello & Noel, LLP stating the following:

- Consideration of the FTT application should be stayed pending final determination of the appeals of the Regional Director's TCA approval;
- There is no question that this property is outside of and not contiguous to the reservation, which requires both 151.10 and the additional factors in 151.11;
- The Bureau must give greater scrutiny to the purported justifications and potential regulatory conflicts and impacts in an off-reservation acquisition;
- Whether the TCA was properly approved is the subject of numerous appeals, if it is reversed, the application should be deemed inadequate;
- There is unexplained long range need;
- To the extent that the applicant claims a need for additional tribal housing, there is insufficient information on the actual extent or immediacy of that need;
- The FTT application cannot be considered before a preparation of a full environmental impact statement;

14. Letter dated October 15, 2013 from Kathy Cleary, Preservation of Los Olivos P.O.L.O. Board President stating the following:

- The Preservation of Los Olivos opposes the FTT application;
- Several documents are listed that include reasons for opposition, which include litigation on other Santa Ynez applications and the nine appeals on the TCA, comments that were provided on other applications and on the Environmental assessment, and the Santa Ynez Community Plan;
- The TCA states as its purpose the intent to facilitate future land into federal trust and provides framework for less stringent standards for FTT, and that the TCA could be expanded;
- The Santa Ynez Band is not entitled to additional land into federal trust;



- The Santa Ynez Band is claiming 1,300 lineal descendants for expansion of their land base; and
- Stated several comments that were made specifically on the Environmental Assessment.

15. Letter dated October 10, 2013 from Santa Ynez Rancho Estates Mutual Water Company, Inc. stating the following:

- The process used to consider annexation of Camp 4 is based upon a materially false premise: that the TCA has been lawfully approved which includes the subject property;
- The entire process in this case has been abusive to the public interest;
- Public records indicate that the BIA has taken three-quarters of a million dollars directly from the Chumash tribe to support their FTT applications;
- The application fails to demonstrate the required "necessity" for housing;
- The Chumash claim to "aboriginal lands" is not supported by history or law;
- The Assertion of need for "land banking" is not supported by law;
- Neither the County of Santa Barbara nor the State of California can afford the removal of this land from the tax rolls or the jurisdictional conflicts which will certainly arise. These impacts have not been adequately analyzed as required by law; and
- The cumulative impact on precedent on the State of California must be considered and denied by this reason.

16. Letter dated October 2, 2013 from Peter and Francine Feldmann expressing their grave concern regarding the TT application for property known as Camp 4.

17. Letter dated September 23, 2013 from John and Cynthia Sanger stating the following:

- Under the provisions of the TCA those who live within the designated 11,500 acres are given no assurance that our surrounding lands and water sources will not be deeply impacted by uncontrolled commercial and residential development; and
- Objection to the granting of annexation and the TCA plan for the Santa Ynez Valley.

On June 17, 2013, the Bureau of Indian Affairs approved a Land Consolidation Plan for the Santa Ynez Band of Chumash Indians in accordance with 25 CFR § 151.2(h) and § 151.3(a)(1). Although the Plan was in accordance with the Regulations the Tribe agreed to voluntarily withdraw the Plan as a result of concerns from the local community.

**In response to our notice dated November 19, 2013, we received the following comments:**

1. Letter dated December 28, 2013 from A. Barry Cappello, Cappello & Noel, LLP stating the following:



- The Tribe has not demonstrated that the BIA has the authority to approve the Tribe's application;
  - The Tribe was not a "recognized Indian tribe" when the IRA became law on June 18, 1934;
  - The Tribe was not "now under Federal jurisdiction" when the IRA became law;
  - The Tribe's alleged need and justification for the acquisition is insufficient under the standard of "greater scrutiny" required under 25 C.F.R. § 151.11;
  - The revised FTT application must be denied because it inaccurately describes the impacts on relevant political subdivisions, which must be given greater scrutiny and greater weight;
  - The revised application continues to rely on an inadequate Environmental Assessment; compliance with NEPA requires an Environmental Impact Statement;
  - The revised application does not contain a required business plan;
2. Email dated December 28, 2013 from Bill Krauch states the following:
    - The amended application does not remove the "TCA"/"TCLA" from the basis of the application. The Environmental Assessment relies on the TCA as a basis for the Assessment. If the "TCA" has been removed, then the EA must be completed again;
    - The application being considered an "On-Reservation" request when actually it is "Off-Reservation" and subject to other requirements.
  3. Letter dated December 20, 2013 from Rex and Patricia Murphy states the Chumash no longer have any need for more land.
  4. Letter dated December 19, 2013 from Santa Ynez Community Service District states that the four items listed in the notice do not affect their district as the Camp 4 property is outside of the Santa Ynez Community Services District's boundaries.
  5. Letter dated December 18, 2013 from M. Andriette Culbertson reiterates her comments listed above dated October 22, 2013 and comments on the Environmental Assessment dated September 27, 2013.:
  6. Letter dated December 18, 2013 from Santa Ynez Valley Concerned Citizens states that they want to include the following additions to their comments listed above in their letter dated October 17, 2013, along with comments submitted on the Environmental Assessment dated October 4, 2013:
    - Demand that a more rigorous Environmental Impact Survey (EIS) be undertaken before consideration of this application proceeds any further;
    - The Chumash FTT application does not fully address, or adhere to, all the factors in 25 C.F.R. Part 151;



- SYVCC asserts that the BIA has ignored the statutory limitations of 25 USC 465 and 25 CFR 151.11;
  - With the vacating of the Tribal Consolidation area, the current application must now be treated as an Off-Reservation acquisition. The re-submitted application and the Environmental Assessment fail to comport with (a) 25 CFR 151.11;
  - The current application for trust acquisition fails to provide sufficient scrutiny as to the purposes and needs of the acquisition demanded for an Off-Reservation acquisition; and
  - SYVCC is highly skeptical in terms of Land Banking as it appears to underestimate the impact of potential intensive commercial development;
  - The Santa Ynez Band has not made any compelling argument to justify the need for this trust acquisition.
7. Letter dated December 17, 2013 from Caryn Cantella requests that great weight be given to the following:
- The environmental impacts which have not been fully disclosed;
  - The likely traffic and related "event pollution";
  - The unfunded tax burdens that will fall to non-tribal members of the County if Camp 4 is transferred into trust; and
  - The financially sound status of the Chumash, presently and for generations to come.
8. Letter dated December 17, 2013 from Kelly Patricia Burke stating any opposition of any fee-to-trust approval given to the Chumash Band of Mission Indians.
9. Letter dated December 17, 2013 from Sean Wilczak stating any opposition of any fee-to-trust approval given to the Chumash Band of Mission Indians.
10. Letter dated December 17, 2013 from Ryan Williams stating any opposition of any fee-to-trust approval given to the Chumash Band of Mission Indians.
11. Letter dated December 17, 2013 from Erica Williams stating any opposition of any fee-to-trust approval given to the Chumash Band of Mission Indians.
12. Letter dated December 16, 2013 from Santa Ynez Rancho Mutual Water Company, Inc. states the following:
- The Santa Ynez Rancho Mutual Water Company, Inc. referenced several letters that they would adopt and incorporate and they include: comment letter dated October 4, 2013 on the EA and October 10, 2013 on the Fee-to-Trust application; comment letter dated October 7, 2013 from the County of Santa Barbara on the EA; and comment letter dated October 31, 2013 on the Fee-to-Trust application, legal arguments made in a letter from Governor Schwarzenegger's Legal Affairs Secretary Peter Siggins to Mr. James Fletcher of the BIA dated August 26, 2005;



- Until and unless all references to the Land Consolidation and acquisition Plan have been removed from the application and the associated environmental documents, there should be no action taken on this Fee-to-Trust application;
  - An EA is inadequate – NEPA requires a full EIS;
  - There has not been any demonstration of any “immediate need” or “necessity” for Indian housing. Tribal members are making \$1 million dollars per year each, which is far more than is necessary to obtain housing;
  - Approval of this application would violate the purpose and intent of the 1934 Indian Reorganization Act, which sought to help tribes reach self-sufficiency;
  - The Tribe does not have a political entitlement to the requested territory;
  - Jurisdictional conflicts are massive, wide ranging, and unresolvable;
  - The economic impacts of the unfunded demand for government services are massive and unsupportable to the County of Santa Barbara and its residents; and
  - The cumulative impacts of this decision on the county and the state have not been analyzed or considered;
13. Letter dated December 16, 2013 from Kathy Cleary, Board President, P.O.L.O., submits supplements to original comments dated December 4, 2013:
- They bring attention to the Supreme Court Decision *Carcieri*, Governor of Rhode Island v. Salazar, Secretary of the Interior which stated, National Congress of American Indians (NCAI) argues that the “ILCA independently grants authority under Section 465 for the Secretary to execute the challenged trust acquisition.” P.O.L.O. does not agree; and
  - ILCA is the basis for the Santa Ynez Band’s Tribal Land Consolidation and Acquisition Plan claiming entitlement to 11,500 acres.
14. Letter received December 16, 2013 from Linda Kastner mentions some general questions in regards to the use, including: whether there is a business plan, what the building and parking spaces will be used for, how the land is supposed to provide housing for some 1,000 descendants, and the maintenance of the roads to be used outside of, but imperative to, this FTT land.
15. Letter dated December 16, 2013 from Gerry B. Shepherd stating their family holds an easement referred to in Schedule B of the title commitment and requests that all valid existing easement rights be retained by the affected party should any FTT application be approved.
16. Letter dated December 15, 2013 from Klaus M. Brown states the following:
- Oppose the amended/revised FTT application for the same reasons stated in the seven page comment letter on the Environmental Assessment;
  - Oppose this application being considered as “On-Reservation,” and states that it does not remove the “TCA/”TLCA” from the basis of the amended application;
  - The EA relies on the “TCA” as a basis of the amended application. The EA must be completed again if the “TCA” has been removed;



- A FTT application for Camp 4 must be submitted under Section 151.11, "Off-Reservation acquisitions," thus subject to the requirement to prepare and disclose a business plan for reasonable foreseeable development;
- Requirements per 25 CFR 151.11(d) call for the inclusion of comments and input from State and local governments regarding regulatory jurisdiction, real property taxes, and special assessments. State and local government comments are not included in the amended application and the local tax impacts are vastly understated; and
- The Indian Reorganization Act of 1934 was premised on a finding of economic necessity for impoverished tribes. Based on the success of the gaming casino and other development investments, the Chumash Tribe has become very wealthy in a short period of time.

17. Letter dated December 9, 2013 from Cheryl Schmit, Director, Stand Up for California states the following:

Please note that some comments were listed in a letter dated October 17, 2013, above, and are not restated.

- The EA is inconsistent with the re-submitted application and must be corrected and re-circulated, preferably as a full Environmental Impact Statement (EIS);
- The Chumash were not affected by the Dawes Act. The Chumash Reservation was not created until December of 1901, well after the impacts of the Dawes Act.
- An Off-Reservation acquisition requires the Secretary to evaluate additional criteria when the request for land is located outside the reservation or is non-contiguous, give greater scrutiny to the Tribe's justification of anticipated benefits, and greater weight to the concerns raised by local government;
- The Tribe shall provide a plan which specifies the anticipated economic benefits associated with the proposed use;
- The FTT application states and restates, the intent is to eliminate the jurisdictional authority of the County of Santa Barbara and the State of California, raises a red flag;
- The Tribe states that the majority of the land will be "banked" for future use, but the Tribe does not explain what the future use may consist of;
- There are stated concerns about jurisdictional issues and that these issues remain until there is a comprehensive mutually beneficial agreement that fully addresses the concerns of the County of Santa Barbara and the Santa Ynez Valley residents; and
- NEPA concerns.

18. Letter dated December 6, 2013 from Kelly B. Gray, Esq. states the following:

- Chumash must submit an Environmental Impact Statement (EIS);
- The Chumash must disclose specifics regarding intended use of Camp 4;



- The tax impacts of a “Fee-to-Trust” transfer of Camp 4 are grossly misrepresented; and
- The Indian Reorganization Act of 1934 was premised upon finding economic necessity. The Chumash tribal members each receive financial tribal distributions and benefits valued at \$1 million per year. Therefore, the Chumash cannot qualify for any finding of economic necessity.

19. Letter dated December 4, 2013 from Kathy Cleary, Board President, Preservation of Los Olivos (P.O.L.O).

- P.O.L.O. opposes the amended/revised application for the same reasons listed in their letter dated October 15, 2013, noted above;
- The amended application does not remove the “TCA”/“TLCA” from the basis of the application;
- The Environmental Assessment (EA) relies on the “TCA” as a basis of the Assessment. If the TCA has been removed, the EA must be completed again;
- P.O.L.O. objects to this application being considered as “On-Reservation”;
- There is no business plan;
- State and local government comments were not submitted with the initial applications and are not included in the amended application;
- P.O.L.O. also objects to the reference and reliance on the “Solicitor’s Opinion”;
- Questions regarding the housing description by the tribal government; and
- P.O.L.O. rejects the Santa Ynez Band’s claim that once the land is in trust, it will no longer be under state and local jurisdiction.

**By letter dated May 16, 2014, the Santa Ynez Band’s responses for each of the concerns listed above are:**

§151.10(a) – The existence of statutory authority for the acquisition and any limitations contained in such authority.

Some commenters insisted that the BIA does not have authority to take land into trust for the Tribe because of the *Carcieri v. Salazar*, 555 U.S. 379 (2009) ruling by the Supreme Court. The Tribe’s application, however, points out that the Department of Interior has already determined that the Tribe was “under Federal Jurisdiction in 1934.”<sup>3</sup> Further, the Tribe participated in IRA elections and voted to accept coming under the provisions of the IRA, which the IBIA has held to be dispositive of the fact, and thus the statutory authority for this acquisition is Section 5 of the IRA.<sup>4</sup>

§151.10(b) and (c) – The need of the individual Indian or tribe for additional land; the purposes for which the land will be used.

<sup>3</sup> See Solicitor’s Opinion dated May 23, 2012.

<sup>4</sup> *Village of Hobart v. Acting Midwest Regional Director* 57 IBIA 4 (2013).



Many commenters conflated these two criteria and thus the Tribe responds to the comments to these in one response. The policies set forth in §151.3 are subsumed in the criteria for need and purpose of the acquisition. Thus, it is permissible for the BIA to consider both whether the Tribe already owns an interest in the land and whether the acquisition is necessary to facilitate tribal self-determination, economic development, or Indian housing. As is clear throughout the application, the Tribe's primary goal for the acquisition is housing, but self-determination and economic development also support the need and purpose of the acquisition. Further, neither the statute nor any portion of the regulations talk about "imminent" need as some commenters claim is necessary. While that is not a criterion which the BIA need consider, the Tribe's need for additional lands for housing could certainly be considered "imminent" as 83% of its population is not currently residing on tribal lands.

Many commenters indicated that they felt that the Tribe either did not need all 1400 acres for housing, or were skeptical that the twenty-six acres suitable for residential development on the current Reservation were insufficient for the additional housing. As noted in the application and the Final EA, much of the Tribe's Reservation is highly constrained, which results in limitations in use of all acreage on the Reservation. Further, the majority of the 26 acres of residential capacity on the Reservation is already developed with housing and thus would not be available for development of additional housing for tribal members. The Tribe has a population of 136 members and approximately 1300 lineal descendants with only 17% of their numbers having housing on tribal lands (Final EA Section 1.3). This leaves a need for housing for over 80% of the Tribe's population. Thus there is a need for additional land to provide for continued population growth in the Tribe. Moreover, the Department has recently reaffirmed the need for tribal homelands:

The acquisition of land in trust is one of the most significant functions that this Department undertakes on behalf of Indian tribes. Placing land into trust secures tribal homelands, which in turn advances economic development, promotes the health and welfare of tribal communities, and helps to protect tribal culture and traditional ways of life.<sup>5</sup>

Some comments assert that the land could be developed in fee or that the Tribe does not need to have the land in trust for its objectives. It has long been held by the IBIA and courts that it is unreasonable to require the Secretary to specify why holding the land in trust is more beneficial for tribes<sup>6</sup>. Or, in other words, "the inquiry is whether the Tribe needs the land, not whether it needs the land to be in trust."<sup>7</sup>

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<sup>5</sup> 79 Fed. Reg. 24648.

<sup>6</sup> See, e.g., *Yreka v. Salazar* 2011 WL 2433660 (2011).

<sup>7</sup> *Thurston County v. Great Plains Regional Director* 56 IBIA 296 (2013).



Commenters also raised the issue of the Tribe's current economic status. Many commenters have equated economic need with need for additional lands in trust. However, the IBIA and courts have long held that a tribe need not be suffering financially to need more land in trust. *Id.* The status of a tribe's economic well-being is not determinative of being able to further the policies of self-determination, self-government and self-sufficiency. *Id.* Therefore, the Regional Director need not consider the Tribe's economic success in determining whether it has a need for additional land. "The Tribe's financial security or economic success simply is not a relevant consideration."<sup>8</sup>

There were also comments stating that the Tribe did not disclose its purposes for the acquisition; the acquisition would not meet the purposes of the IRA; and that the desire to take land for an unspecified purpose (or "land-banking") was either not recognized in the regulations or did not justify the Tribe's need for additional land. The Tribe's purpose for the acquisition has been specified both in its application and in the Final EA (Final EA Section 1.3). In addition, in a January 21, 2013 community meeting, the Tribe laid out multiple proposed housing plans for the project. These multiple plans were eventually reduced to two alternatives and a no action plan. As the Tribe has repeatedly noted over several years, the primary purpose is to develop housing for its tribal members and lineal descendants. Moreover, the Courts have held that the purposes of the IRA do not restrict the Secretary to acquiring lands only for landless tribes or tribes which have lost land through allotment to reacquire tribal lands<sup>9</sup>. While the regulations do not specifically identify or define "land-banking" the statute and regulations clearly contemplate taking land into trust for future uses. Furthering long-term stability of a tribe has been held to qualify as a sufficient need<sup>10</sup>.

Finally, there were comments that the Regional Director should consider that the land might be used for gaming or that the proposed use of the land might change once the land is placed into trust. The commenters, however, failed to cite any specific examples in which the Tribe has placed land into trust for one purpose and thereafter radically changed the use. This is because there were no such incidences to cite. The Tribe further addressed the gaming aspect in its Application and the Final EA,<sup>11</sup> stating that no gaming will occur on these lands. As most commenters now know, the Tribe would not be able to do any gaming on the property until it has completed the Section 20 approval process under IGRA. Since the Tribe does not intend to do gaming on the property, it has not submitted any such application. Therefore, Secretary relies on the Tribe's assurances

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<sup>8</sup> Benewah County v. Northwest Regional Director 55 IBIA 281 (2012).

<sup>9</sup> See, e.g., *City of Tacoma v. Andrus* 457 F.Supp. 342 (1978).

<sup>10</sup> See, e.g., *Sauk County v. Department of Interior* 2008 WL 2225680 (2008).

<sup>11</sup> Final EA Section 2.2.3.



regarding the proposed use and is not required to speculate about possible or potential uses<sup>12</sup>.

§151.10(e) – The impact on the State and its political subdivisions resulting from the removal of the land from the tax rolls.

The County speculated that it could lose as much as \$311 million in tax revenues over fifty years assuming the highest development of the property. Many other commenters cited the County comments to assert the same. It is clear, however, that the regulations do not require the BIA to consider a hypothetical “cumulative analysis” of removal of the land from the tax rolls<sup>13</sup>. Moreover, the County fails to note that even at \$311 million over fifty years, the amount is still less than 1% of the expected revenues of the County for that period. Instead, the tax loss must be considered in relation to the revenue baseline at the time of the acquisition<sup>14</sup>. Further, while many commenters, including the County, noted that they felt that the availability of services would be limited due to the reduction in tax revenues, not one commenter provided any specific services which would be cut or unavailable due to the loss of these tax revenues. Therefore, none of the commenters provided the BIA with any specific information regarding tax loss to consider, other than a speculative total loss over a period of years. This is not sufficient to show that the loss will have anything other than a minimal impact on the County<sup>15</sup>.

Some commenters did acknowledge that the Tribe made attempts to come to an agreement with the County to try to make up some of the shortfall; however the County rejected all such attempts. Moreover, some commenters actually asserted that the Tribe was the largest employer in the County, but failed to acknowledge the benefits to the community that such employment brings, including income taxes, sales tax and potentially property taxes from employees of the Tribe<sup>16</sup>. As is more thoroughly detailed in the Final EA<sup>17</sup> and its responses to comments,<sup>18</sup> the Tribe has provided funding for law enforcement and fire services through agreements, grants and SDF funds, and has been one of the largest donors to schools and other community organizations in the County. These grants, payments, and donations more than offset any loss of tax revenues which might occur with land being placed into trust. Finally, many tribal members continue to pay for off-reservation fee-based services such as water, sewer and medical assistance.

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<sup>12</sup> See, e.g., *Yreka v. Salazar*, *infra*.

<sup>13</sup> *County of Charles Mix v. USDO* 2011 WL 1303125 (2011).

<sup>14</sup> *Thurston County*, *infra*.

<sup>15</sup> *Benewah County*, *infra*.

<sup>16</sup> See, e.g., *Benewah County*, *infra*.

<sup>17</sup> Final EA Sections 3.9 and 4.1.9

<sup>18</sup> Final EA Appendix O



§151.10(f) – Jurisdictional problems and potential conflicts of land use which may arise.

Many commenters made blanket statements that the proposed development of 143 homes on the 1400 acres would be incompatible with the County General Plan, Santa Ynez Community Plan, and County land use regulations. These commenters failed to provide any specific details regarding how the proposed development would be incompatible and therefore failed to provide the BIA with information to further consider this potential conflict of land use. The County and many other commenters also promoted a seemingly contradictory idea to that of the incompatibility; i.e., that the Tribe could develop its project if the land remained in fee. The implication is that while there may be some potential conflicts between what the Tribe proposes to develop and the County land use rules, there is also a way to allow the development to continue under the County's jurisdiction. Therefore the alleged conflicts must not be that great or insurmountable. The mere fact that the lands would be trust lands, and therefore not under the County's jurisdiction, is not sufficient in itself to find any adverse impacts<sup>19</sup>. Many commenters also expressed a blanket opposition to any lands being placed into trust for the Tribe because it would then no longer be subject to State or local jurisdiction. Again, this is insufficient evidence to thwart the acquisition of the lands.

§151.11 – Where the land is outside of and noncontiguous to the tribe's reservation, the Secretary must consider additional requirements.

Much is made of the fact that many people understood the BIA to be considering the Tribe's application as "on-reservation" lands, however both NOAs issued by the BIA clearly identified that it would evaluate the application by the criteria in 151.10 and 151.11. Much of this confusion came from a clear misunderstanding of the TCA which had been approved for the Tribe. The TCA in no way obligated the BIA to automatically approve any requests from the Tribe for acquisition of lands within that area, despite the fervor it caused. Nevertheless, in an effort to alleviate the concern, the Tribe withdrew the Plan. Many initial comment letters raised the concern of the TCA, and some even appealed the approval to the IBIA. Because the Tribe withdrew the TCA and amended its application to exclude any reference, that issue is no longer valid. Moreover, the IBIA too found that the issue was moot and dismissed all appeals<sup>20</sup>. It did not, however, as some commenters mistakenly asserted, find that the TCA was improper or illegal. *Id.*

For an off-reservation acquisition, as the distance between the Tribe's reservation and the land to be acquired increases, the BIA shall give greater scrutiny to the Tribe's anticipated benefits and provide greater weight to state and local government concerns regarding the tax rolls and jurisdictional issues. The proposed acquisition is less than two miles from the reservation boundaries, hardly a distance that will require much scrutiny given that

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<sup>19</sup> Thurston County, *infra*.

<sup>20</sup> County of Santa Barbara v. Pacific Regional Director, 58 IBIA 57 (2013).



many commenters claim to have tens of thousands of acres of land in their ownership. The distance between the current reservation and the acquisition lands is far less in distance than a simple walk across the thousands of acres owned by the commenters. Moreover, acquisitions of land fifteen miles or less from reservation boundaries have been routinely accepted by the BIA and upheld by the IBIA and courts<sup>21</sup>. Therefore, so long as the BIA gives adequate weight to the County's concerns, it is not required to deny the application.

Some commenters argued that there was no business plan submitted as required by §151.11(c). The specific language of the regulations says "where land is being acquired for business purposes, the tribe shall provide a plan which specifies the anticipated economic benefits associated with the proposed use." There is no specific form in which the "plan" must be submitted. As discussed earlier, the Tribe presented a PowerPoint presentation to the community in January of 2013. That PowerPoint, which presented diagrams and descriptions of the proposed project, provides substantial information on the Tribe's plans. Further, as the application points out, the discussion of the on-going business operations (the already operational vineyards and the stables) on the property and any potential future development of the vineyards have been thoroughly discussed in both the EA and revised in the Final EA. For instance, the Final EA (Section 2.1.1) notes that for Alternatives A and B the size of the vineyard would be reduced by fifty acres. It should also be noted that the banquet/exhibition hall has also been removed from the proposal under Alternative B. The Final EA also contains detailed discussion of the current on-going operations and their effect or non-effect on the environment, which necessarily entails management of the vineyard and stables. Thus the information contained in the documents should suffice as a plan. The Tribe has noted that both operations are on-going operations on the fee lands and therefore there are no new economic benefits associated with the acquisition. In addition, as the Tribe has repeatedly stated, the primary purpose of acquiring the land is not for economic purposes, but for tribal housing.

While 25 C.F.R. §151.10(h) addresses "the extent to which the applicant has provided information that allows the Secretary to comply with ...NEPA," that is a separate process in which the Tribe has responded to comments on its EA (Final EA Appendix O). Whether an EIS is necessary, or any other specific environmental issues which have already been thoroughly addressed in the Tribe's Final EA and the responses to comments therein (Final EA Appendix O). Thus, the Final EA and its appendices are incorporated by reference herein as though fully set forth.

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<sup>21</sup> See, e.g. *Christine A. May v. Acting Phoenix Area Director* 33 IBIA 125 (1999) and *Yreka v. Salazar*, *infra*.



In addition, five (5) opposition letters were received prior to Notice of Application dated September 17, 2013.

Pursuant to 25 CFR 151.10 & 151.11, the following factors were considered in formulating our decision: (1) the need of the tribe for additional land; (2) the purposes for which the land will be used; (3) impact on the State and its political subdivisions resulting from the removal of the land from the tax rolls; (4) jurisdictional problems and potential conflicts of land use which may arise; (5) whether the Bureau of Indian Affairs is equipped to discharge the additional responsibilities resulting from the acquisition of land in trust status; (6) the extent to which the applicant has provided information that allows the Secretary to comply with 516 DM 6, appendix 4, National Environmental Policy Act Revised Implementing Procedures, and 602 DM 2, Land Acquisitions; Hazardous Substances Determinations; (7) The location of the land relative to state boundaries and its distance from the boundaries of the tribe's reservation; (8) where land is being acquired for business purposes, the tribe shall provide a plan which specifies the anticipated economic benefits associated with the proposed use. Accordingly, the following analysis of the application is provided.

#### Factor 1 - Need for Additional Land

Certain portions of the Tribe's land tenure history are of particular import to this acquisition and therefore bear repeating here. Specifically, the 1897 Quiet Title Action by the Catholic Church ultimately led to the establishment of the Tribe's reservation.

In 1891, Congress passed the Mission Indian Relief Act designed to help those Indians (neophytes/Christianized Indians) who had been associated with and enslaved by the missions. Many of these communities were destitute, since their land had been taken away from them. It was the intent of Congress to send out a commission to investigate the conditions of the Mission Indians and thereafter settle them onto reservations created by the United States, rather than the current lands held by the Catholic Church/Missions. Thus, the Smiley Commission was formed and investigated the plight of the Mission Indians in California.

The Smiley Commission found that the Santa Ynez Indians were primarily living in a village around the Zanja de Cota Creek area on lands they had moved to around 1835 after the secularization of the Mission. It further determined that, although there was abundant evidence of a long period of occupancy of the mission lands, title to the land for a federal reservation could not be obtained through adverse possession. It is clear from the petition by the Bishop of Monterey that the Church and its priests had long considered the mission lands to be "owned" by the Chumash Indians of that mission (Santa Ines). As such, the Indians could not be considered to have been in adverse possession of the land. The Smiley Commission determined that the United States would have to utilize a different mechanism for establishing a federal reservation for the Santa Ynez Chumash.

In order to accomplish this end, the Bishop of Monterey commenced a quiet title action, which was consented to by the United States Government through its local Indian agent. The action concerned about 11,500 acres of the Rancho Canada de los Pinos (College Rancho) grant.



Throughout the pendency of the litigation, the Santa Ynez Chumash continued to assert their right of occupancy and possession to a much greater area of land than was being discussed in negotiations. At various times parcels of land of five acres, fourteen acres, and two hundred acres were proposed as the property to be deeded to the United States for the Santa Ynez Indians. Each of these proposals represented areas which were significantly less than the original Mission lands (held for the local Chumash by the Catholic Church) and the Rancho Canada de los Pinos (the Mission lands as reconfigured by the United States). Ultimately, after settlement of the lawsuit and negotiations, what was transferred to the United States to be held in trust for the Tribe was a mere ninety-nine acres.

The Santa Ynez Band of Chumash Mission Indians is a strong functioning tribal government with many capabilities and a growing economy. These are some of the tools necessary to sustain future generations, increase the Tribal enrollment, and build an ever-stronger functioning Tribe in the future. Another critical element is land as a basic resource. The Santa Ynez Tribal Government, and the life of its members, relies on the highest and best use of its land resources to provide for government infrastructure, housing, service facilities and to generate income and opportunities that contribute to Tribal self-sufficiency. While the Tribe has managed to move ahead on its existing land base, it recognizes the need to acquire more useable land for the Reservation to both develop a portion for housing, as well as land-bank and hold for development by future generations. The proposed action of transferring the land into trust for the benefit of the Tribe will meet the following needs:

1. Provide ample land space to provide for tribal housing for all tribal members and their families.
2. Bring land within the jurisdictional control of the Tribe, meeting the need for consistent planning, regulatory, and development practices under the single jurisdiction of the Tribe.
3. Help meet the Tribal long range needs to establish a greater reservation land base to meet its needs by increasing the reservation by approximately 1400 acres.
4. Help meet the need for a land base for future generations, land-banking, etc.
5. Help to increase the Tribe's ability to exercise self-determination and to expand Tribal government.
6. Help meet the need to preserve cultural resources in the area by returning land to Tribal and DOI control in order to protect Tribal land from dumping, environmental hazards, unauthorized trespass, or jurisdictional conflict.

The current Reservation lands are highly constrained due to a variety of physical, social, and economic factors. A majority of the lands held in Trust for Santa Ynez are located in a flood plain. This land is not suitable for much, if any, development because of flooding and drainage problems. The irregular topography and flood hazards are associated with the multiple creek corridors which run throughout the property resulting in severe limitations of efficient land utilization. The current reservation has a residential capability of approximately 26 acres, or 18%, and an economic development capability of approximately 16 acres, or 11%. The remaining 99 acres, or 71%, of the reservation is creek corridor and sloped areas, which are difficult to impossible to develop. Therefore, the size of the usable portion of the Santa Ynez Reservation amounts to approximately 50 acres, much of which has already been developed.



The Tribe has a population of 136 tribal members and approximately 1300 lineal descendants which it must provide for. Currently, only about 17% of the tribal members and lineal descendants have housing on tribal lands. This trust land acquisition is an integral part of the Tribe's efforts to bring tribal members and lineal descendants back to the Tribe, accommodate future generations, and create a meaningful opportunity for those tribal members and lineal descendants to be a part of a tribal community revitalization effort that rebuilds tribal culture, customs and traditions. In order to meet these goals, the Tribe needs additional trust land to provide housing for tribal members and lineal descendants who currently are not afforded tribal housing.

Undeveloped property is at a minimum within the Santa Ynez Reservation. Lands that are undeveloped are of insufficient size for development. The northern portion of the reservation has the Tribal Health Clinic and Tribal Government facilities, and the remainder of the land utilization is specifically designed to provide residential opportunities for tribal members and lineal descendants. Any further development in the area would be appropriate only for small scale residential enhancements and does not provide sufficient acreage to build the necessary new housing for its members and lineal descendants.

The remaining acreage held in Trust for the Tribe constitutes the southern Reservation. This is a long, narrow parcel of land which at times narrows to only a couple of hundred feet in width. Such narrowness imposes severe constraints on development of the property. Given the limited usable land the Tribe has to work with, it is in need of additional lands for purposes of tribal housing, enhancing its self-determination, beautification of the Reservation and surrounding properties, and protection and preservation of invaluable cultural resources.

Further, placing the property into trust allows the Tribe to exercise its self-determination and sovereignty over the property. Land is often considered to be the single most important economic resource of an Indian tribe. Once the lands are placed under the jurisdiction of the Federal and tribal governments, the tribal right to govern the lands becomes predominant. This is important, as the inherent right to govern its own lands is one of the most essential powers of any tribal government. As with any government, the Tribe must be able to determine its own course in addressing the needs of its government and its members. Trust status for its lands is crucial to this ability.

Specifically, the Tribe must be able to manage and develop its property pursuant to its own interests and goals. If the land were to remain in fee status, tribal decisions concerning the use of the land would be subject to the authority of the State of California and the County of Santa Barbara, impairing the Tribe's ability to adopt and execute its own land use decisions and development goals. Thus, in order to ensure the effective exercise of tribal sovereignty and development prerogatives with respect to the land, trust status is essential.

It is our determination that the Santa Ynez Band has established a need for additional lands to protect the environment and preserve the reservation.

#### Factor 2 - Proposed Land Use



The Tribe intends to provide tribal housing and supporting infrastructure on a portion of the property. The remainder will continue to be used for economic pursuits (vineyards and a horse boarding stable), as well as for future long range planning and land banking. The property will serve to enhance the Tribe's land base and support tribal housing, infrastructure, and tribal self-determination. Tribal lands also comprise the heart of the non-economic resources of the tribe by serving cultural, spiritual, and educational purposes, among others.

#### Factor 3 – Impact on State and Local Government's Tax Base

Santa Barbara County would experience a de minimis decrease in the amount of assessable taxes in the County by placing the property into trust and removing it from the County tax rolls. Parcels accepted into federal trust status are exempt from taxation and would be removed from the County's taxing jurisdiction. In the 2012-2013 tax years, the total taxes assessed on the subject parcels were as follows:

141-121-051	\$40,401.06
141-140-010	\$41,753.30
141-230-023	\$595.96
144-240-002	\$504.88

The total collectable taxes on the property for 2012-2013 were \$83,255.20, which represents far less than 1% of the total which the County expects to generate from property taxes. Therefore, the percentage of tax revenue that will be lost by transferring the land into trust would be insignificant in comparison to the total amount.

It is our determination that no significant impact will result from the removal of this property from the county tax rolls given the relatively small amount of tax revenue assessed on the subject parcel and the financial contributions provided to the local community by the Tribe through employment and purchases of goods and services.

#### Factor 4 - Jurisdictional Problems and Potential Conflicts of Land Use Which May Arise

Santa Barbara County has current jurisdiction over the land use on the property subject to this application. The County's land use regulations are presently the applicable regulations when identifying potential future land use conflicts. The property is currently zoned AG – II for agricultural uses, with a minimum lot area of 100 acres on prime and non-prime agricultural lands located within the County.

The Tribe does not anticipate that any significant jurisdictional conflicts will occur as a result of transfer of the subject property into trust. The Tribe's intended purposes of tribal housing, land consolidation, and land banking are not inconsistent with the surrounding uses. As such, the County will not have any additional impacts of trying to coordinate incompatible uses. Further, the County would not have the burden of responsibility of maintaining jurisdiction over the Tribal property.



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The land presently is subject to the full civil/regulatory and criminal/prohibitory jurisdiction of the State of California and San Diego County. Once the land is accepted into trust and becomes part of the Reservation, the State of California will have the same territorial and adjudicatory jurisdiction over the land, persons, and transactions on the land as the State has over other Indian counties within the State. Under 18 U.S.C. § 1162 and 28 U.S.C. § 1360 (P.L. 83-280), except as otherwise expressly provided in those statutes, the State of California would retain jurisdiction to enforce its criminal/prohibitory law against all persons and conduct occurring on the land.

With respect to impacts to the State and County, the Tribe has consistently been cooperative with local government and service providers to assist in mitigating any adverse effects their activities may cause. For instance, in 2002 the Tribe established an agreement with the Santa Barbara County Fire Department which pays for fire protection; the Tribe also has its own Wild Lands Fire Department. The Tribe has also been able to make generous contributions to the surrounding communities. They have sponsored numerous organizations and events, including youth programs, sports programs, and local emergency service providers such as the Sheriff's Department and Fire Department. For instance, the Tribe also pays for County Sheriff and Fire through the Special Distribution Fund created by the Tribal-State Compact and has donated over \$4.5 million to the Sheriff's Department over a 10 year period. Moreover, the Tribe has nearly completed negotiations for a supplemental agreement to fund a full-time position on the Reservation through the Sheriff's Department. Thus the Tribe has made every effort to help mitigate any impacts to County service organizations and hopes to continue to support such community activities and services in the future.

Factor 5 - Whether the Bureau of Indian Affairs is equipped to discharge the additional responsibilities resulting from the acquisition of the land in trust status

Acceptance of the acquired land into Federal trust status should not impose any additional responsibilities or burdens on the BIA beyond those already inherent in the Federal trusteeship over the existing Santa Ynez Reservation. Most of the property is currently vacant and has no forestry or mineral resources which would require BIA management. Tribal housing may require BIA leases and the infrastructure will likely require additional easements to be processed through the BIA. The Tribe has and will continue to maintain the property through its Environmental Department and other appropriate departments. Emergency services to the property are provided by the City and County Fire and Police through agreements between those agencies and the Tribe.

Factor 6 – The extent to which the applicant has provided information that allows the Secretary to comply with 516 DM 1-7, National Environmental Policy Act Revised Implementing Procedures, and 602 DM 2, Land Acquisitions: Hazardous Substances Determination

In accordance with Interior Department Policy (602 DM 2), we are charged with the responsibility of conducting a site assessment for the purposes of determining the potential for and extent of liability from hazardous substances or other environmental remediation or injury. The record includes a negative Phase 1 "Contaminant Survey Checklist" dated March 4, 2014, reflecting that there were no hazardous materials or contaminants.



### National Environmental Policy Act Compliance

An additional requirement that has to be met when considering land acquisition proposals is the impact upon the human environment pursuant to the criteria of the National Environmental Policy Act of 1969 (NEPA). The BIA's guidelines for NEPA compliance are set forth in the Bureau of Indian Affairs Manual (59 IAM). An environmental assessment (EA) for the proposed action was distributed for public review and comment for the period beginning August 20, 2013 and noticed to end on September 19, 2013. In response to requests received, the public comment period was extended to October 7, 2013, providing an extension of 19 days. During the extended public comment period, the federal government was partially shut down (from October 1 to October 16, 2013). The Council on Environmental Quality (CEQ) issued guidance regarding NEPA documents under public review during the shutdown that recommended extending any comment period deadlines by a minimum of the period of time equal to the shutdown (16 days). The comment period was therefore extended a second time to November 18, 2013. The EA documents and analyzes potential impacts to land resources, water resources, air quality, biological resources, cultural resources, socioeconomic conditions, resources use patterns (transportation, land use, and agricultural), public services, public health/hazardous materials, and other values (noise and visual resources). A Final EA was prepared and released to the public for review on May 29, 2014. The review period was noticed to end on June 30, 2014. In response to requests received, the review period was extended to July 14, 2014, providing an extension of 15 days. A Finding of No Significant Impact was signed on October 17, 2014 and published on October 22, 2014.

Based on the analysis disclosed in the EA, review and consideration of the public comments received during the review period, responses to the comments, and mitigation measures imposed, the Bureau of Indian Affairs has determined that the proposed Federal action is not a major Federal action significantly affecting the quality of human environment, as defined by NEPA. Therefore, preparation of an Environmental Impact Statement (EIS) is not required.

### Factor 7 – The location of the land relative to state boundaries, and its distance from the boundaries of the tribe's reservation

The property is located within the County of Santa Barbara and is approximately 520 miles from the Oregon border, approximately 233 miles from the Nevada border, approximately 307 miles from the Arizona border and approximately 10 miles from the Pacific Ocean. Further, the property lies within the County of Santa Barbara, and lies approximately 23 miles from the City of Santa Barbara. Finally, the property is adjacent to Highway 154 and is a mere 1.6 miles from the Reservation.

### Factor 8 – Where land is being acquired for business purposes, the tribe shall provide a plan which specifies the anticipated economic benefits associated with the proposed use.

The Tribe intends to provide tribal housing and supporting infrastructure on a portion of the property. The remainder will be on-going business operations (the already operational vineyards and the stables), for future long range planning and land banking. Both are on-going operations on the fee lands; therefore there are no new economic benefits associated with the acquisition.



## Conclusion

Based on the foregoing, we at this time do hereby issue notice of our intent to accept the subject real property into trust. The subject acquisition will vest title in the United States of America in trust for the Santa Ynez Band of Chumash Mission Indians of the Santa Ynez Reservation of California in accordance with the Indian Reorganization Act of 1934 (25 U.S.C. § 465).

Should any of the below-listed known interested parties feel adversely affected by this decision, an appeal may be filed within thirty (30) days of receipt of this notice with the Interior Board of Indian Appeals, U.S. Department of the Interior, 801 N. Quincy St., Suite 300, Arlington, Virginia 22203, in accordance with the regulations in 43 CFR 4.310-4.340 (copy enclosed).

Any notice of appeal to the Board must be signed by the appellant or the appellant's legal counsel, and the notice of the appeal must be mailed within thirty (30) days of the date of receipt of this notice. The notice of appeal should clearly identify the decision being appealed.

If possible, a copy of this decision should be attached. Any appellant must send copies of the notice of appeal to: (1) the Assistant Secretary of Indian Affairs, U.S. Department of Interior 1849 C Street, N.W., MS-3071-MIB, Washington, D.C. 20240; (2) each interested party known to the appellant; and (3) this office. Any notice of appeal sent to the Board of Indian Appeals must certify that copies have been sent to interested parties. If a notice of appeal is filed, the Board of Indian Appeals will notify appellant of further appeal procedures. If no appeal is timely filed, further notice of a final agency action will be issued by the undersigned pursuant to 25 CFR 151.12(b). No extension of time may be granted for filing a notice of appeal.

If any party receiving this notice is aware of additional governmental entities that may be affected by the subject acquisition, please forward a copy of this notice to said party, or timely provide our office with the name and address of said party.

Sincerely,

/s/ Amy L. Dutschke

Regional Director

Enclosure:  
43 CFR 4.310, et seq.

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105 East Anapamu Street, Suite 204  
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- ✓ Santa Barbara County Treasurer & Tax Collector – 7013 2630 0001 5557 8906  
105 East Anapamu Street  
Santa Barbara, CA 93101

- ✓ Santa Barbara County Sheriff's Department – 7013 2630 0001 5557 8913  
4434 Calle Real  
Santa Barbara, CA 93110

- ✓ Santa Barbara County Department of Public Works – 7013 2630 0001 5557 8920  
123 East Anapamu Street  
Santa Barbara, CA 93101

- ✓ Santa Barbara County Department of Planning and Development – 7013 2630 0001 5557 8937  
123 East Anapamu Street  
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- ✓ Board of Supervisors – 7013 2630 0001 5557 8944  
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