

County of Santa Barbara, California Comments of Hearing:

Request for Inclusion in Official Record

**United States House of Representatives Committee on Natural Resources Subcommittee of
Indian and Alaska Native Affairs**

**August 2, 2012 Oversight Hearing on Indian Lands: Exploring Resolution to Disputes
Concerning Indian Tribes, State and Local Governments, Private Land Owners over Land Use
and Development**

Submitted By: Chandra L. Wallar, County Executive Officer, Santa Barbara County

Chairman Young and Ranking Member Lujan, on behalf of the County of Santa Barbara, I want to thank you for the opportunity to submit written testimony for the Subcommittee's oversight hearing regarding *Exploring Resolution to Disputes Concerning Indian Tribes, State and Local Governments, Private Land Owners over Land Use and Development*.

The County of Santa Barbara Board of Supervisors has adopted a legislative policy which formally supports government-to-government relations and recognizes the role and unique interests of tribes, states, counties, and other local governments to protect all members of their communities and to provide governmental services and infrastructure beneficial to all. In addition, the County recognizes and respects the tribal right of self-governance, to provide for tribal members and to preserve traditional tribal culture and heritage. In similar fashion, the County recognizes and promotes its own self-governance to provide for the health, safety, and general welfare of all members of our communities. The County supports the full involvement of local jurisdictions and all community members on issues and activities which may generate public health, safety or the environmental impacts.

Involvement of the local government, general public and technical consultants in matters pertaining to future land use and potential development is critical to the overall review of any project. This broad involvement provides thoughtful compliance with Community Plans and the County's General Plan. Failure to fully engage a diverse group of stakeholders in project development, and review, impairs the ability of a local government to seek appropriate mitigation and/or provide critical public services in an orderly fashion which may have long term deleterious impacts on a region as a whole.

The County of Santa Barbara continuously works with the California State Association of Counties (CSAC) as well as the National Association of Counties (NACo) to collectively improve upon processes to develop and continue government-to-government relationships between federal, tribal, state, and local governments. It should be recognized that the County of Santa

Barbara's position on the need for stakeholder and local government involvement is by no means unique. Both CSAC and NACo adopted policies consistent with that of the County of Santa Barbara in public engagement and stakeholder involvement as well as the following areas:

- Projects that impact off reservation land require review and approvals by the local jurisdiction to construct improvements consistent with state law and local ordinances including the California Environmental Quality Act.
- Tribal government mitigation of all off reservation impacts caused by projects for services including but not limited to traffic, law enforcement, fire, parks and recreation, roads, flood control, transit and other public infrastructure
- Projects will be subject to a local jurisdiction's health and safety laws and guidelines including but not limited to water, sewer, fire inspection, fire protection, ambulance service, food inspection, and law enforcement.

The County has continuously supported the CSAC and NACo policy positions stating that judicially enforceable agreements between counties and tribal governments be required to ensure that potential impacts resulting from projects are fully analyzed and mitigated to the satisfaction of the surrounding local governments in the long term. Such agreements ensure that tribal and local governments can fulfill their primary mandate; ensuring the health and safety of those we serve. Without such agreements, and the ability to fully mitigate local impacts of a tribal government's business and development activities, local government's ability to in fact ensure the health and safety of residents is severely compromised.

In addition it is important to note that, as a result of the severe economic issues facing the State of California, a critical mechanism providing local government with funding to mitigate the impacts of tribal development and business activities, the State Special Distribution Fund (SDF), has diminished by over 50%. This places both the health and safety of all in jeopardy. Santa Barbara County has lost over \$760,000 used annually to sustain fire and law enforcements services as well as maintenance of transportation infrastructure to mitigate the impacts of tribal businesses including gaming. County policy is that private and public projects must mitigate the impacts of their development on public infrastructure and services. Mitigation is achieved through conditioning of the project to complete infrastructure improvements and/or payment of impact fees.

During the hearing, your committee respectfully posed multiple questions to the testifying witnesses to gain a thorough understanding of the Santa Barbara County land use process and the ability of the Santa Ynez Band of the Chumash Indians to access the land use process.

Additional questions were proffered on the nature and disposition of the cooperative agreement mentioned by the Tribe. I would like to provide you with the County's perspective on these key issue areas.

Land Use

Regarding the land use issues and the 6.9 acre parcel recently taken into trust by the Bureau of Indian Affairs (BIA) on behalf of the Tribe, the County of Santa Barbara did not appeal the BIA's decision. The County Board of Supervisors considered this item in open session on July 10, 2012, receiving testimony from 46 individuals both for and against an appeal, and voted not to appeal.

The 6.9 acres includes a 2.13 acre western portion of the property which is zoned for recreational uses. The remaining 6 parcels totaling 4.77 acres are zoned C-2/MU allowing commercial and commercial/residential mixed uses under the local Santa Ynez Community Plan. Therefore, a museum/cultural center and retail commercial uses are allowed in the C-2/MU zone district with approval of a Development Plan by the local Planning Commission. The steps in the process for all County residents begin with submittal of a complete application. After staff review of project scope and determination of environmental impacts and consistency with Community and County General Plan the project moves to the County Planning Commission for a public hearing and decision on approval of the project, including appropriate conditions for mitigating impacts. The Planning Commission's action can be appealed to the Board of Supervisors within 10 days of their action. If appealed, a public hearing would be scheduled at the Board of Supervisors. The County of Santa Barbara Planning Development has not received a project application for a project in question on the 6.9 acres owned by the Santa Ynez Band of the Chumash Indians.

The 1,400 acres that the Tribe desires to take into trust and referenced during the Subcommittee hearing is currently zoned AG-II-100 (Agriculture, with a minimum parcel size of 100 acres). This land is also in a multi-year Agricultural Preserve contract which limits the uses on the property to agricultural uses. Agricultural preserve contracts require the application and renewal of the property owner over a ten or twenty year period in exchange for reduced property taxes.

Under current zoning, the property can be developed with agricultural uses, including grazing and cultivated agriculture, without any planning permits. There are a number of conditionally permitted uses on agriculturally zoned land, including country clubs, golf courses, and schools. A permit for these land uses would be processed as described above for Development Plans.

In order to change the land use from agriculture to another use, such as the development of housing on the 500 acres, referenced in the Subcommittee hearing, the owner of the property

would request that the County initiate a General Plan Amendment. The Planning Commission would consider an application and determine whether or not it should be processed. The Commission would consider factors such as public benefit of the proposed use, consistency with County Plans and policies, and compliance with the site's agricultural preserve contract. The Commission's recommendation is forwarded to the Board of Supervisors for the final decision. It is important to note that, as of this date, the County has not received a project submission for the 1,400 acres in question.

This process allows local government to review potential impacts of a development which may need to be thoroughly analyzed and mitigated. The impacts may include sheriff and fire services, traffic and circulation as well as the continued viability of agriculture on a given property or surrounding properties. Ensuring that impacts are addressed in a manner which preserves the health and safety of any community, as well as the present and future quality of life, is at the foundation of local government.

The Cooperative Agreement

The County Executive Office received a draft cooperative agreement from the Santa Ynez Band of the Chumash Indians on June 1, 2011. For your reference, the draft agreement is attached to this correspondence. During the Subcommittee hearing, it was stated that this agreement was delivered to the County "over 370 days ago with no response." Given the parameters of the federal fee to trust process, it is premature to initiate an agreement prior to submittal of a formal application from the Santa Ynez Band of the Chumash Indians. This was stated to the tribal representative following receipt of the agreement. Furthermore, it is my belief, this proposal is lacking specific details on development plans for the 1,400 acres and the resulting impacts upon which both parties could thoughtfully consider or discuss appropriate mitigation.

As noted above, the County of Santa Barbara supports government-to-government relations and recognizes the role and unique interests of tribes, states, counties, and other local governments to protect all members of their communities and to provide governmental services and infrastructure beneficial to all. In addition, the County recognizes and respects the tribal right of self-governance to provide for tribal members and to preserve traditional tribal culture and heritage. In similar fashion, the County recognizes and promotes self-governance by counties to provide for the health, safety, and general welfare of all members of our communities. As a local government we welcome the opportunity to work collaboratively with the Tribe and engage those potentially impacted by future development in order to facilitate sound land use decisions that benefit all. Any process that does not provide for involvement of all stakeholders, including that of the representative local government does not provide sound long term land use decisions nor transparency in government decision-making.

Thank you again for the opportunity to submit written testimony for the Subcommittee's oversight hearing regarding *Exploring Resolution to Disputes Concerning Indian Tribes, State and Local Governments, Private Land Owners over Land Use and Development*.

Attachments

- Draft Cooperative Agreement
- County of Santa Barbara adopted Legislative Platform