
BARONA NOISE & POLLUTION ACTION COMMITTEE

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MARSHALL KELSAY, CHAIRMAN

www.sdcefamilies.com

July 11, 2009

The Honorable Duncan Hunter
1870 Cordell Court, Suite 206
El Cajon, CA 92020-0916

Attn: Michael R. Harrison
Deputy Chief of Staff

Dear Mr. Harrison:

I am in receipt of and thank you for your correspondence of July 10, 2009 and the attachment containing a letter dated July 8, 2009, from Enrique Manzanilla, Director of Communities and Ecosystems Divisions of the EPA. Therein, the EPA has represented that their agency does not have any regulatory or enforcement authority governing noise in local communities or federally recognized Indian Reservations. Mr. Manzanilla recommends that “the community residents who are impacted by noise being emitted from the reservation consult with and/or meet with tribal authorities to discuss their concerns.”

On many separate occasions we who are impacted by the motocross and drag strip tracks have tried unsuccessfully to open a dialog with the Tribe to discuss an equitable solution for all involved. County Supervisor Dianne Jacob and Congressman Duncan Hunter, Sr. both have been unsuccessful in their attempts to discuss this noise issue with the Tribal leaders and like us, have simply been ignored. Since 1979, when at that time there was only a mini-motocross facility, the Tribe declined offers of \$100,000 and thereafter an additional \$50,000 to stop introducing noise and pollution venues from their land adjacent to the San Diego Country Estates.

Additionally, the Tribe declined an offer from the County of San Diego through Dianne Jacob to provide them with engineering expertise; earth moving equipment; preparing and grading a new track that would be relocated to an area where it's noise and pollution would impact no one. We homeowners have also been advised by Art Bunce, attorney for the Tribe that they will only recognize a government to government relationship and not individuals. We were admonished by Mr. Bunce that we have no right “treating the

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Tribe as a neighbor when, in fact, the Tribe is a sovereign nation”.

In regard to Mr. Manzanilla’s second recommendation, I have as you know sent certified letters outlining these issues to Superintendent James Fletcher of the BIA and U.S. Attorney Karen Hewitt of the Southern District, along with copies of said letters to Representative Darrell Issa; Assemblyman Joel Anderson; Assemblyman Dennis Hollingsworth and District Attorney Bonnie Dumanis, all of which have gone without a response. Are we to conclude that there is simply no accountability for these officials to be responsive to the needs of their constituents?

Let’s cut to the chase here and identify this problem for what it truly is. These venues are not monetarily profitable for the Tribe. They are simply the playground for two of the Tribal members, Walter and Dayton Benegas. They enjoy riding their motorcycles and entertaining dragsters and have no regard whatsoever for the noise and pollution they provide to the surrounding environment. It would be at minimal expense for the Tribe to relocate these venues to another location upon their 6000 acres of land out of earshot of not only our residences but their casino, hotel, golf course and personal residences.

Has the United States government, in granting sovereign nation status to Indian land, also granted them immunity from criminal prosecution and civil liability? If so, these provided rights then supersedes those rights which are afforded all other American citizens. The fact that those of us impacted and by the intolerable actions of the Tribe can no longer enjoy and/or sell are homes and are basically being terrorized and held hostage by the conditions brought about by Barona Band of Mission Indians, in my opinion makes their actions nothing less than domestic terrorism.

I would be happy to meet with you so you can explain to me in depth exactly what our rights are regarding the abatement and prevention thereafter of noise and pollution produced by the Barona Band of Mission Indians.

Very truly yours,

Marshall Kelsay, Chairman

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Cc: 233 Homeowners of the San Diego Country Estates

Senator Dianne Feinstein
750 B Street, Suite 1030
San Diego, CA 92101-8126

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U.S. Attorney's Office
Southern District
880 Front Street, Room 6293
San Diego, California 92101-8893

James Fletcher, Superintendent
Bureau of Indian Affairs
1451 Research Park Drive, Suite 101
Riverside, CA 92507-2154

Representative Darrell Issa
1800 Thibodo Road, Suite 310
Vista, CA 92081-7515

Assemblyman Joel Anderson
500 Fesler Street, Suite 201
El Cajon, CA 92020-1946

Assemblyman Dennis Hollingsworth
1870 Cordell Court, Suite 107
El Cajon, CA 92020-0915

Supervisor Dianne Jacob
County Administration Center
1600 Pacific Highway
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Mr. Olin Jones
Office of Native American Affairs
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P.O. Box 944255
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Ms. Bonnie Dumanis
San Diego County District Attorney's Office
Hall of Justice
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