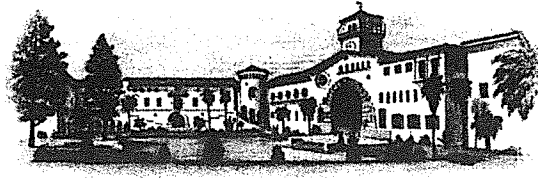


County Of Santa Barbara



Mona Miyasato
County Executive Officer

105 East Anapamu Street, Room 406
Santa Barbara, California 93101
805-568-3400 • Fax 805-568-3414
www.countyofsb.org

Executive Office

November 14, 2014

Sent Via Electronic and Overnight Mail

Ms. Amy Dutschke, Regional Director
Bureau of Indian Affairs, Pacific Regional Office
2800 Cottage Way
Sacramento, CA 95825

E-mail: amy.dutschke@bia.gov

Re: Finding of No Significant Impact for the Proposed Santa Ynez Band of Chumash Indians Camp 4 Fee-to-Trust Project

Dear Ms. Dutschke:


Thank you for the opportunity to review the *Finding of No Significant Impact for the Proposed Santa Ynez Band of Chumash Indians Camp 4 Fee-to-Trust Project* ("FONSI"). Attached are comments disputing the finding of no significant impact and addressing concerns related to the inadequacy of the FONSI and underlying Final Environmental Assessment ("EA").

As documented in the *County of Santa Barbara's Comments on the October 2014 Finding of No Significant Impact for the Proposed Santa Ynez Band of Chumash Indians Camp 4 Fee-to-Trust Project*, and in previous comments on the Final EA, the County of Santa Barbara ("County") requests the United States Department of the Interior, Bureau of Indian Affairs ("BIA") prepare a complete Environmental Impact Statement ("EIS") for the Camp 4 project due to the significance of the proposed action.

We believe the record in this matter clearly raises questions about Camp 4's significant effect on the environment. When such questions are raised, the National Environmental Policy Act requires the BIA to prepare an EIS. *Natural Res. Def. Council v. Duvall*, 777 F.Supp. 1533, 1537 (E.D. Cal. 1991). Accordingly, we request that the BIA rescind the October 17, 2014 FONSI and prepare an EIS for the proposed Camp 4 project at a time when relevant environmental impacts can be analyzed fully, at or near the end of the contractual restrictions on the land on December 31, 2022.

If you should have any questions or require additional information, please contact my office at (805) 568-3404.

Sincerely,


Mona Miyasato
County Executive Officer

Enclosures: (1) *County of Santa Barbara's Comments on the October 2014 Finding of No Significant Impact for the Proposed Santa Ynez Band of Chumash Indians Camp 4 Fee-to-Trust Project*
(2) *Exhibits to County's Comments on the October 2014 Finding of No Significant Impact*

cc: Santa Barbara County Board of Supervisors
Glenn Russell, Director, Planning and Development Department
Mike Ghizzoni, County Counsel
Sam Cohen, Government and Legal Specialist, Santa Ynez Band of Chumash Indians
Chad Broussard, Environmental Protection Specialist, BIA chad.broussard@bia.gov

**County of Santa Barbara's Comments
on the October 2014 Finding of No
Significant Impact for the Proposed
Santa Ynez Band of Chumash Indians
Camp 4 Fee-to-Trust Project**

TABLE OF CONTENTS

INTRODUCTION1

THE FINDING OF NO SIGNIFICANT IMPACT3

PUBLIC REVIEW PROCESS5

DISCUSSION6

I. THE FONSI USES AN INAPPROPRIATE PRESENT-DAY BASELINE FOR A DEVELOPMENT THAT WILL COMMENCE IN 2023.6

II. THE FONSI AND UNDERLYING FINAL EA CANNOT TAKE THE PLACE OF AN EIS, WHICH IS REQUIRED UNDER NEPA FOR A PROJECT OF THIS SIGNIFICANCE.8

 A. Camp 4 Is Significant in the Context of Its Setting.9

 B. Camp 4 Is Significant in Its Intensity.10

 1. The Project Still Threatens Unique Geographical Concerns.10

 2. The Project Still Threatens Violations of Local Law and Protective Regulations......12

 3. The Project Impacts Public Health and Safety Concerns......13

 a. Law Enforcement Services.14

 b. Fire and Emergency Services.15

 c. Schools, Parks and Recreation.18

 d. Water Impacts.19

 e. Solid Waste.20

 f. Traffic Impacts.....21

 4. The Project Still Threatens Endangered Species and Unique Habitats......22

5.	<u>The Environmental Impacts of the Project Are Controversial</u>	23
6.	<u>The Project Has Adverse Impacts</u>	24
III.	EVEN WITH THE ADDITIONAL MITIGATIONS IDENTIFIED IN THE FONSI, THE MITIGATION MEASURES ARE INADEQUATE AND DO NOT RENDER CAMP 4’S IMPACTS INSIGNIFICANT.....	25
IV.	THE FONSI DOES NOT ADEQUATELY ADDRESS THE CUMULATIVE IMPACTS OF CAMP 4.....	28
V.	THE FONSI DOES NOT STUDY VIABLE PROJECT ALTERNATIVES.....	29
VI.	THE FONSI STILL OMITTS KEY ANALYSES AND IMPROPERLY CONTAINS INACCURACIES AND CONCLUSORY STATEMENTS.....	31
	A. The Project Description, Agricultural Resources Analysis, and Land Use Compatibility Analysis Still Lack Adequate Detail.....	32
	B. The Analysis of Public Services Remains Inadequate and Flawed.....	34
	CONCLUSION	36
	BIBLIOGRAPHY	37

INTRODUCTION

On October 22, 2014, the Department of Interior, Bureau of Indian Affairs (“BIA”) released a Finding of No Significant Impact (“FONSI”) for the Proposed Trust Acquisition of Five Parcels Known as the Camp 4 Property for the Santa Ynez Band of Chumash Indians (“Tribe”). In the FONSI, the BIA incorrectly determines that the trust acquisition and foreseeable development of 1,433 nearly pristine acres in the Santa Ynez Valley (commonly known as “Camp 4”) “is not a federal action significantly affecting the quality of the human environment” and, “[t]herefore, an Environmental Impact Statement is not required.” (FONSI at p. 1.)

To reach its conclusions, the FONSI relies on significant, substantive information not previously made available to the public. The FONSI introduces new mitigation measures and additional analysis in certain resource areas. The Notice of Availability for the FONSI does not provide a period for submitting public comment; it only provides a 30-day period of “public review.” NEPA requires that the public be given as much information as possible and an opportunity to weigh in on that information before an agency makes a final decision. *Bering Strait Citizens for Responsible Res. Dev. v. U.S. Army Corps of Eng.*, 524 F.3d 938, 953 (9th Cir. 2008). The public should be given a period of time during which it can comment formally on the new information contained in the FONSI, before the FONSI is finalized.

In addition to the lack of clarity in the public review process, the Notice of Availability for the FONSI also introduces uncertainty in the appeal process by stating the FONSI cannot be appealed. The Interior Board of Indian Appeals (“IBIA”), however,

has found the decision by a BIA official to sign a FONSI is appealable and has recognized the ambiguity in the appeal process when a FONSI determination is made separate from a decision on the underlying trust acquisition. *Friends of the Wild Swan v. Portland Area Dir., BIA*, 27 IBIA 8 (1994); *Rosales et al. v. Pac. Reg'l Dir., BIA*, 37 IBIA 233 (2002); *Viejas Band of Mission Indians et al. v. Pac. Reg'l Dir., BIA*, 38 IBIA 73 (2002). The lack of clarity in the administrative appeals process has been exacerbated by the November 13, 2013 change to 25 C.F.R. § 151.12(c)(2)(iii), which permits the Assistant Secretary of Indian Affairs to immediately take title to land after approval of a trust acquisition. In light of the above, the County of Santa Barbara (“County”) also has filed an appeal of the FONSI with the IBIA.

As to the merits of the FONSI, the BIA primarily relied on the May 2014 Final Environmental Analysis (“Final EA”) in rendering its finding of no significant impact. In doing so, the FONSI improperly relies on the present-day baseline used in the Final EA for a development that will not proceed for almost a decade, likely underestimating environmental impacts. Any decision on the fee to trust acquisition should be delayed until pre-project conditions, including the appropriate baseline, and actual environmental impacts can be determined.

Further, as the County explained in its Comments on the Final Environmental Assessment for the Santa Ynez Band of Chumash Indians Camp 4 Fee-to-Trust (“Final EA Comments”), an EA is an insufficient environmental review for this project. Under the National Environmental Policy Act (“NEPA”), an Environmental Impact Statement (“EIS”) must be prepared when a proposed federal action raises substantial questions

about whether it will significantly affect the environment. *Natural Res. Def. Council v. Duvall*, 777 F.Supp. 1533, 1537 (E.D. Cal. 1991). The BIA's acquisition of Camp 4 at least raises such questions as the Tribe's foreseeable development implicates many of the context and intensity factors used to determine significance. 40 C.F.R. § 1508.27.

In addition, the analysis in the FONSI retains the inaccuracies and omissions contained in the Final EA. It still fails to adequately address mitigation measures, cumulative impacts and project alternatives; omits key analyses; and includes factual misstatements and unsupported assumptions. These deficiencies in the environmental review process must be addressed to comply with NEPA's "hard look" standard.

Based on the foregoing, the County respectfully requests that the BIA delay the environmental review until pre-project conditions are known or, if it proceeds, rescind the FONSI and prepare an EIS for Camp 4 that resolves the deficiencies in the environmental review process.

THE FINDING OF NO SIGNIFICANT IMPACT

On October 17, 2014, the BIA issued a Finding of No Significant Impact for the Proposed Santa Ynez Band of Chumash Indians Camp 4 Fee-to-Trust Project. The FONSI determines: "Based on the entire administrative record including the analysis in the Final Environmental Assessment (EA) and consideration of comments received during the public review period, the BIA makes a finding of no significant impact (FONSI) for the federal action to acquire approximately 1,411 acres plus rights of way into trust and subsequent implementation of Alternative A (Five-Acre Housing Plots) or Alternative B (One-Acre Housing Plots)." (FONSI at p. 1.) "This finding constitutes a

determination that the Proposed Action is not a federal action significantly affecting the quality of the human environment. . . .Therefore, an Environmental Impact Statement (EIS) is not required.” (*Id.*)

In reaching these conclusions, the BIA finds that project design, implementation of Best Management Practices (“BMPs”), and/or mitigation measures would ensure impacts to land resources, water resources, air quality, biological resources, cultural resources, transportation and circulation, public services, hazardous materials, visual resources, and cumulative impacts would be less than significant. (*Id.* at 6-7.) The BIA also finds that impacts to socioeconomic conditions and environmental justice, land use resources, and noise would be less than significant. (*Id.* at 7.)

In addition, the BIA proposes new mitigation measures in the FONSI that were not identified previously in the Final EA. These additional measures relate to public service and biological resource impacts. For instance, “[s]ince the release of the Final EA, the Tribe [] passed Resolution 948 which establishes the Santa Ynez Tribal Police Department” and “Resolution 949 which establishes a dedicated fund for local school districts that include the project site.” (*Id.* at 7.) These resolutions are identified as mitigation measures for public services. (*Id.*)

Likewise, the FONSI adds mitigation measures related to the Vernal Pool Fairy Shrimp (“VPFS”) and California red-legged frogs. As to VPFS, the FONSI requires the establishment of a 250-foot wetland habitat buffer zone around seasonal wetland habitat within the project site prior to site layout to avoid direct or indirect impacts to VPFS. (FONSI at p. 16.) For California red-legged frogs, the FONSI requires the halting of

construction activities when a certain rain event is predicted. (*Id.* at p. 17.) Finally, the FONSI provides additional exhibits, such as a Mitigation Monitoring and Enforcement Program and advisory letters from the California Office of Historic Preservation and U.S. Fish and Wildlife Service. (*Id.* at Exhibits C-E.)

In the Notice of Availability for the FONSI, the BIA states “no decision will be made during a period of 30-days beyond the signing of the FONSI” to allow for “public review.” The BIA did not set a deadline for the public to provide comments, but the County is doing so as part of its review within this timeframe. The FONSI was reviewed by operational County Departments including Planning and Development (“P&D”), Santa Barbara County Fire District (“Fire” or “County Fire”), Santa Barbara County Sheriff (“Sheriff”), Public Works (“PW”), and the County Executive Office (“CEO”).¹

PUBLIC REVIEW PROCESS

NEPA requires the BIA to involve “the public, to the extent practicable” in the preparation of an EA. 40 C.F.R. § 1501.4(b). “[T]he public [should] be given as much environmental information as is practicable, prior to completion of the EA, so that the public has a sufficient basis to address those subject areas that the agency must consider in preparing the EA.” *Sierra Nev. Forest Protection Campaign v. Weingardt*, 376 F.Supp.2d 984, 991 (E.D. Cal. 2005); *see also* 40 C.F.R. § 1506.6(a). An agency should “permit members of the public to weigh in with their views and thus inform the agency decision-making process.” *Bering Strait*, 524 F.3d at 953.

¹ The Discussion section below incorporates all of the comments and expertise of those Departments and cites to a primary source department as appropriate.

The FONSI contains new information and analysis that has been provided to the public for the first time, without designating a comment period for weighing in on the new information. For example, the FONSI introduces new mitigations, such as the provision of a Chumash Tribal Police Department, school funding, and measures related to the VPFS and California red-legged frogs. In addition, the FONSI provides new information and analysis concerning certain resource areas such as water usage, solid waste, and biological resources, as well as letters from the U.S. Fish and Wildlife Service and State Historic Preservation Office regarding biological and cultural resources.

The public has not had the opportunity to comment on the new information, mitigations, and analysis presented in the FONSI. Introducing new bases for the BIA's finding of no significant impact without allowing the public to comment on that information prior to making a final decision violates NEPA. *Envtl. Protec. Info. Ctr. v. Blackwell*, 389 F.Supp.2d 1174, 1204-05 (N.D. Cal. 2004). Accordingly, a public comment period should be set for the FONSI and all public comments, including the County's comments, should be considered.

DISCUSSION²

I. THE FONSI USES AN INAPPROPRIATE PRESENT-DAY BASELINE FOR A DEVELOPMENT THAT WILL COMMENCE IN 2023.

In analyzing the effects of a proposed federal action, NEPA requires an agency to set forth the baseline conditions. *Half Moon Bay Fisherman's' Marketing Ass'n v.*

² This discussion section addresses new issues, analysis, and information contained in the FONSI. The County incorporates its Final EA Comments as though fully set forth herein in response to the portions of the Final EA restated or not addressed in the FONSI, and for their discussion of the procedural background and development proposals at issue.

Carlucci, 857 F.2d 505, 510 (9th Cir.1988). The NEPA baseline consists of the pre-project environmental conditions. *Id.* The FONSI improperly retains the use of a present-day baseline to assess the environmental impacts of the proposed developments, which will not commence until 2023.

By doing so, the FONSI makes it impossible to accurately analyze the environmental impacts of the proposed developments. The FONSI addresses this issue by stating that the trust acquisition is necessary at this time to allow the Tribe to “exercise its right of Tribal self-governance over its existing commercial enterprises on the project site. . . .” (FONSI at Exhibit B, p. 4.) Generally, trust acquisitions are for “self-determination, economic development, or Indian housing.” Dept. of the Interior, Bureau of Indian Affairs, *Acquisition of Title to Land Held in Fee or Restricted Fee*, at p. 18 (Issued May 20, 2008). The FONSI and underlying Final EA do not establish that the trust acquisition is necessary at this time for any of those purposes. The housing development will not commence until 2023 and the vineyard is already developed.

Further, as the FONSI admits, “there is inadequate information available to accurately determinate the environmental setting in 2022. . . .” (FONSI at Exhibit B, p. 5.) The impact analysis thus is speculative and inhibits the goal of NEPA which is to ensure that “environmental information is available to public officials and citizens before decisions are made and before actions are taken.” 40 C.F.R. § 1500.1(b). The proposed action should be delayed until the pre-project conditions and actual environmental impacts can be determined. Accordingly, the FONSI should be rescinded.

II. THE FONSI AND UNDERLYING FINAL EA CANNOT TAKE THE PLACE OF AN EIS, WHICH IS REQUIRED UNDER NEPA FOR A PROJECT OF THIS SIGNIFICANCE.

As the County and other parties have reiterated throughout this process, the BIA must prepare an EIS for Camp 4 as the proposed action is significant in its context and intensity. 40 C.F.R. § 1508.27. NEPA requires a federal agency to prepare an EIS for all “major Federal actions significantly affecting the . . . human environment.” 42 U.S.C. § 4332(2)(C); 40 C.F.R. § 1502.3; *see also* 43 C.F.R. § 46.400. To trigger this significance threshold, a party need only show that the proposed federal action raises substantial questions about whether it “may have a significant effect on the environment.” *Duvall*, 777 F.Supp. at 1537. When such questions are raised, an agency violates NEPA by failing to prepare an EIS. *Anderson v. Evans*, 371 F.3d 475, 494 (9th Cir. 2004).

The County detailed the significance of Camp 4 in the context of its setting in the State, region, and locality in its Final EA Comments. (Final EA Comments at pp. 8-35.) The County also established the significance of the project pursuant to the intensity factors outlined in NEPA’s implementing regulations. Specifically, the County showed the project would cause degradation of the environment based on the following factors: (1) the project has adverse impacts; (2) the project affects public health and safety; (3) the project implicates unique characteristics of the geographic area; (4) the effects on the quality of the human environment are controversial; (5) the project would adversely affect an endangered or threatened species or habitat; and (6) the project violates numerous local laws imposed for the protection of the environment. 40 C.F.R. §

1508.27(b). The FONSI does not negate the evidence raised by the County that shows Camp 4 is significant in both its context and intensity. An EIS should be prepared.

A. Camp 4 Is Significant in the Context of Its Setting.

The FONSI fails to adequately respond or negate the County's evidence of the significance of Camp 4 in the context of its statewide, regional, and local importance. As discussed in the County's Final EA Comments, Camp 4 proposes the conversion and development of over 1,400 acres of land zoned AG-II-100 by the County, which is applied to areas appropriate for agricultural land uses within a rural area. (Final EA Comments at p. 9.) Agriculture is of critical importance to the state, the region, and the locality, yet it has seen a deterioration due to the urbanization and division of agricultural lands. (*Id.* at pp. 9-14.) Camp 4 proposes such urbanization and division.

The FONSI summarily dismisses this evidence by arguing the percentage of agricultural land being removed is small and agricultural lands are independent of surrounding land uses. (FONSI at Exhibit B, pp. 15-16.) This argument is contrary to the evidence submitted by the County that shows agricultural lands are interconnected. The growth of urban development into agricultural areas leads to land use conflicts, increases costs to government agencies and farmers, and interferes with the productivity of agricultural operations. (Final EA Comments at p. 12.) Further, conversion and division puts pressure on surrounding agricultural properties to convert to other uses or divide parcels. (*Id.* at pp. 12-13.) Thus, conversion of Camp 4 to urban uses likely will result in the conversion of surrounding parcels of agricultural land and interfere with the productivity of agriculture in the area.

B. Camp 4 Is Significant in Its Intensity.

The FONSI also does not address many of the intensity factors raised by the County in its Final EA Comments. In those comments, the County explained in detail that the project: (1) threatens unique agricultural lands; (2) violates local law and protective regulations, including the County Comprehensive Plan, County Codes, and County Uniform Rules; (3) impacts public health and safety concerns, including law enforcement services, fire and emergency services, schools, parks and recreation, water, solid waste, and traffic; (4) threatens endangered species and unique habitats, such as habitat provided by oak trees; (5) is controversial with respect to its environmental impacts; and (6) will have adverse impacts. (Final EA Comments at pp. 15-35.) The FONSI either does not respond to the above points or inadequately addresses them. Thus, these issues remain.

1. The Project Still Threatens Unique Geographical Concerns.

As the County stated in its Final EA Comments, agriculture is a unique resource of the State, County, and Santa Ynez Valley, and its protection is critically important to the area. (Final EA Comments at pp. 9-14.) The 2012 Santa Barbara County Agricultural Production Report indicated gross farm production to be \$1.3 billion. (*Id.* at p. 16.) This number has increased to \$1.43 billion according to the 2013 Santa Barbara County Agricultural Production Report. (Santa Barbara County Agricultural Production Report at Cover page.) Agriculture is the leading contributor to the County's economy and has a positive local impact to the County through the multiplier effect in excess of \$2.8 billion. (*Id.*) Further, farmland and rangeland conserve important ecosystems, including the

delivery of fresh water and maintenance of habitats vital for native flora and fauna.

(Final EA Comments at p. 16.) Camp 4 proposes to convert a significant amount of such lands on the property and threatens other neighboring agricultural lands.

The FONSI downplays the conversion of Camp 4's agricultural land by citing to continued grazing and vineyard operations. (FONSI at Exhibit B, p. 15.) Vineyard operations, however, would be reduced by approximately 20 percent under Alternatives A or B. (*Id.* at p. 5.) Further, the FONSI provides no information upon which the County can analyze the viability of a future grazing operation and, thus, whether that land will remain in agricultural use. It states in a conclusory manner that: "grazing operations would continue under Alternatives A and B in the designated open space/recreational areas." (*Id.* at Exhibit B, p. 15.) It provides no information from which that statement can be analyzed, such as the type and size of the grazing operation. On the other hand, the limited information provided indicates both development alternatives would result in the conversion and urbanization of large amounts of agricultural land to residential subdivision (197 or 796 acres) and related open space/recreation areas (869 or 300 acres). (Final EA at p. 13.)

The FONSI likewise dismisses, without basis, the threat Camp 4 poses to neighboring agricultural uses. (FONSI at Exhibit B, p. 16.) As outlined in the County's Land Use & Development Code, this type of project in a rural, agricultural setting can cause trespassing, vandalism, nuisance complaints, and decreased farming potential or loss of crop productivity. (Santa Barbara County Land Use & Development Code § 35.30.025; P&D.) Further, based on the experience and expertise of the Department of

Planning and Development, open space/recreation zones provide a potential segue for the public to access adjacent agricultural areas, which may lead to trespassing, theft, littering, grass fires, and vandalism. (P&D.) In addition, the increases in traffic, noise, and proximity of attendees at special events at the Tribal Facility could necessitate changes to the surrounding agricultural operations. (P&D.)

2. The Project Still Threatens Violations of Local Law and Protective Regulations.

The FONSI ignores the threat to local law and protective regulations by stating that once the land is taken into trust, it will no longer be subject to the local laws and regulations. Therefore, the proposed action could not violate local law. (FONSI at Exhibit B, p. 16.) This response misses the point of the local, protective regulations and the impact on the area if such protective regulations are not in place. The County has enacted numerous land use and regulatory requirements for the protection of the environment and the community. These policies are set forth in the County Comprehensive Plan, including the Santa Ynez Valley Community Plan, the zoning ordinances, and land use regulations. They protect and promote “the public health, safety, comfort, convenience, prosperity, and general welfare of residents and businesses in the County.” (Santa Barbara County Land Use & Development Code § 35.10.010.) The numerous policies, regulations, and ordinances that would be circumvented if the land is taken into trust were detailed in the County’s Final EA Comments.

The inability of the County to enforce these local laws and protective regulations if Camp 4 is taken into trust is a significant impact on the environment and surrounding

community. As the Final EA states, “[a]dverse impacts to land use [] result if an incompatible land use within [the Alternatives] would result in the inability of the County to continue to implement existing land use policies.” (Final EA at p. 4-21.) That is the case with Camp 4. It would conflict with the goal of preserving agricultural land, the allowable uses and densities for the area, buffer zones that protect farming operations and control pests, and lighting restrictions. (Final EA Comments at pp. 18-22.)

The FONSI does address one component of these protective laws and regulations – the buffer zones between adjoining lands. (FONSI at Exhibit B, p. 17.) It states that “there is more than adequate area available on each residential lot to site structures while maintaining an appropriate buffer of 100 to 300 feet.” (*Id.*) No mechanism to ensure a buffer, such as an easement, is proposed though. In addition, the FONSI does not include a discussion of the uses that would be allowed in the buffer zone. If uses are proposed that result in sensitive receptors within the 100 to 300 feet, such as hikers or children playing, they will result in an impact on agriculture. (P&D.) Similarly, if the 100 to 300 feet buffer zone is not maintained properly, it could become a haven for invasive weeds and pests, which will also impact adjacent agriculture. (*Id.*)

The lack of County regulatory protections on a 1,400 acre parcel of land will affect the surrounding environment and community. Those impacts should be properly analyzed in an EIS prior to the BIA taking the proposed action.

3. The Project Impacts Public Health and Safety Concerns.

Like the Final EA, the FONSI improperly minimizes impacts to public services and safety issues due to the increase of residents and visitors to the area. The Final EA

recognized that backfill of homes vacated by persons moving onto Camp 4 could result in at least 415 new residents to the area. (Final EA at Response to Comment L3-12.)

Additionally, under Alternative B, the Alternative chosen by the Tribe, visitors will frequent the area for up to 100 events a year with 400 attendees each at the Tribal Facilities. (*Id.* at 2-13.) Despite the increase in residents, visitors, and employees, the FONSI still fails to address sufficiently the impacts to public safety services, groundwater and waste resources, and traffic and circulation.

a. Law Enforcement Services.

As cited previously, the ratio of deputies to residents generally is .72 deputies for every thousand residents. (Sheriff.) Adding 415 residents and 800 visitors every weekend to the Valley could degrade law enforcement services in the area. An additional one-half to one deputy could be required in the area to respond to the population increase.

The FONSI recognizes Camp 4 will impact law enforcement services and proposes the creation of a tribal police department as a new mitigation measure. The FONSI finds that “[w]ith the establishment of the [Santa Ynez Tribal Police Department], a minimal increase in the needs for law enforcement services would result from the implementation of Alternative A or B.” (FONSI at Exhibit B, p. 17.) The information provided in the FONSI related to the tribal police department is insufficient to make this determination. Assuming the tribal police department would enforce tribal law on tribal members at Camp 4, there still would be a gap in enforcement of local law on non-tribal members and individuals that leave tribal land. Only the Sheriff would have authority to enforce in those circumstances.

In addition, the FONSI again improperly references negotiations between the Tribe and Sheriff for services on “Tribal lands” in addressing impacts to law enforcement services. (*Id.* at p. 17.) Those negotiations have concluded in an agreement for the Sheriff Department to provide services for the *existing* Reservation, not these additional, proposed trust lands. (Minutes of the Santa Barbara County Board of Supervisors November 4 Meeting at p. 34.) Thus, the agreement does not include Camp 4 and would not supplement law enforcement services on that property.

b. Fire and Emergency Services.

The Tribe’s chosen development under Alternative B includes 143 residences of 3,000 to 5,000 square feet and a much larger Tribal Facility structure. The response for a residential structure fire in the area is four type 1 engines (full size fire trucks with large diameter supply hoses and high capacity pumps) and a Battalion Chief. (Fire.) The proposed number and size of each dwelling certainly cannot be classified as having “no adverse impact.” A fire in such large structures would be an impact to County Fire.

Further, the Tribal Facility will be approximately 80,000 square feet of community facilities, including a 34,280 square foot Community Center. A Tribal Facility of this size could be multi-storied, which could cause further demands on responding fire protection and emergency equipment. (*Id.*) In addition, although the County cannot calculate water supply system demands without detailed plans, the water supply system to support fire suppression efforts in a building of that size would be significant. (*Id.*)

The special events at the Tribal Facility also would increase the number of cars in the area, traffic, and likely emergency calls, including for alcohol-related incidents in the

area. (*Id.*) An increased call load increases the possibility that emergency responders will be committed to an incident when other emergencies occur. (*Id.*) This would have a major impact on emergency responses to the project site and surrounding area. (*Id.*)

In addition, the significant safety concerns relating to fire protection services raised by the County in response to the Final EA have not been addressed in the FONSI. The FONSI still indicates that the Tribe will adopt the International Fire Code (“IFC”). The IFC is merely a model code and suggested, standard template for jurisdictions to use. (*Id.*) The California State Fire Marshall’s Office adopts certain applicable sections of the IFC along with many other state specific provisions to create the California Fire Code (“CFC”). (*Id.*) The Santa Barbara County Fire Code consists of the CFC as well as additional requirements designed to address specific local needs, including the prevalence of wildfires. (*Id.*) The Tribe should adopt at least the following more restrictive Santa Barbara County Fire Code requirements relating to: automatic sprinkler systems; fire protection water supplies; fire apparatus access roads; photovoltaic systems; prohibition of fireworks; and defensible space. (*Id.*) Likewise, the Tribe should use the new construction standards for a “High Fire Hazard” area. (*Id.*)

The mitigation measures adopted in the FONSI do not eliminate or sufficiently reduce these significant concerns and impacts. They do not adequately address safety concerns related to building codes, water supplies, or emergency access to the property. In addition, they focus on reducing the risk of fire during construction and other minor fire protections, such as fire extinguishers and evacuation plans, rather than ensuring

there is adequate staff and equipment necessary to address any fire at the property and/or surrounding area.

As to ensuring adequate staff and equipment, the FONSI provides the Tribe will: “Grant permission to the Santa Barbara County Fire Protection Department (SBCFD) to enter the project site after it has been taken into trust while maintaining the Tribe’s existing funding of the SBCFD via the Special Distribution Funding [“SDF”] and/or other grant programs.” (FONSI at pp. 20-21, Exhibit B, pp. 24-25.) Alternatively, the Tribe will: “Enter into a new agreement with the SBCFD to provide fire protection and emergency response services on the project site after it has been taken into trust.” (*Id.*)

As to the former option, the County supports the Tribe maintaining the current funding of the Firefighter/Paramedic post position at Fire Station 32. As to the reference to SDF funding, SDF distributions may only be released by the Indian Gaming Local Community Benefit Committee for grant applications that “mitigate impacts from casinos on local jurisdictions.” Cal. Gov. Code § 12715(h). Further, the Legislative Analyst Office plans on “[e]liminating expenditures for local mitigation grants from the SDF. . . . Instead the state should require tribes to fully address all local costs through memorandums of understanding negotiated with affected local governments.” Thus, the SDF cannot be used to mitigate Camp 4’s impacts and it likely will be eliminated in the future.

Further, the “existing funding” for fire services that would continue under the current contract – even if the SDF is eliminated – is for the *mitigation of impacts from the existing casino*, not the proposed Camp 4. Even as to that funding, however, the Tribe

has taken the position in documents relating to its casino expansion that it will reduce the current funding for fire protection impacts related to the casino. (Fire.) Thus, this mitigation does not eliminate the significant impacts of Camp 4 on fire protection and emergency services.

As to the latter option, any such agreement would need to encompass all aspects of the services provided by County Fire. In addition, Santa Barbara County contracts with CAL FIRE to provide wildland fire protection to state responsibility areas (SRAs) in Santa Barbara County. (Fire.) The California Master Cooperative Wildland Management and Stafford Act Response Agreement specifically prohibits County Fire from assuming CAL FIRE's role in assisting federal agencies such as the BIA. (*Id.*) Thus, the Tribe would need to establish a separate local agreement with County Fire to provide wildland fire protection to the proposed project site. No agreement for these services has been reached. Without an appropriate agreement in place, Camp 4 is a significant impact on emergency and fire protection services.

c. Schools, Parks and Recreation.

In recognition of the impacts to schools and parks as pointed out by the County in its Final EA Comments, the Tribe has passed a resolution related to school funding since the release of the Final EA. The resolution requires the Tribe to “set aside \$51,429 annually, which is the equivalent to the amount paid by the Tribe in property taxes to the County in 2013 through 2014, for grants to be paid to the school districts from the Chumash Foundation.” (FONSI at Exhibit B, p. 10.) This mitigation is inadequate.

The Tribe's property taxes for 2013 through 2014 were based on Camp 4 being subject to a Williamson Act Contract. In exchange for participating in that program, the Tribe received a reduced property tax rate. Alternatives A and B, however, propose the development of 143 homes, supporting infrastructure, and a Tribal Facility. The Tribe would pay more in taxes for a developed property than it paid for the 2013-2014 tax year. Thus, the proposed set aside does not address the proposed development or eliminate the significant impacts to schools, parks, and recreation.

d. Water Impacts.

As with the Final EA, the FONSI discounts groundwater impacts by minimizing the amount of water that will be used by the 143 homes and Tribal Facility and again pointing to an alleged surplus in the Uplands Basin. (FONSI at p. 6, Exhibit B, p. 7.) The building of 143 homes and a Tribal Facility will increase water usage on a property that currently has neither homes nor a community center. The FONSI avoids addressing this issue fully by improperly assuming low amounts of water usage for these new uses. Other commenters have indicated the actual water usage will be higher.

Further, a recent analysis on the Uplands Basin indicates that the basin is approximately 2,028 Acre-Fee-Per-Year in overdraft. (Santa Barbara County Water Agency, *Santa Barbara County 2011 Groundwater Report*, at 2, Appendix C1 (May 1, 2012); PW.) Recent data also suggests that the supplemental supplies obtained from the State Water Project and the Cachuma Project, that helped create a surplus in the past, will not constitute a long-term, stable additional water source. (PW.)

The mitigation measures proposed in the FONSI – that the Tribe will recycle water, emphasize drought-tolerant landscaping, and not water turf grass during drought conditions – do not address the overdraft or long-term water resource issues. (FONSI at pp. 8-9.) The mitigation measures also do not lessen the impacts on water resources to an insignificant level.

e. Solid Waste.

In the response to comments section, the FONSI states that Alternative B, the alternative chosen by the Tribe, would result in 223 tons of solid waste per year (a revision from the 173 tons of solid waste per year previously used in the Final EA). (FONSI at Exhibit B, p. 18.) This number is based on a maximum of 400 attendees per special event at the Tribal Facility. In other areas of the Final EA, the maximum of 1,000 attendees was used for worst-case-scenario impacts. Further, the calculation does not include construction waste or waste associated with the employees working at the Tribal Facility.

Even if 400 attendees is the accurate maximum and other sources of waste are modest, the estimated amount of solid waste is significant. Under County standards, 196 tons of solid waste per year is considered a significant project impact. (Santa Barbara County Thresholds Manual at pp. 139-40.) Alternative B is well-over this significance threshold.

Further, the FONSI fails to adequately account for the closure of the Tajiguas Landfill in 2026, the landfill cited for disposal of solid waste from Camp 4. (P&D.) Instead, the FONSI cites a *proposed* Tajiguas Resource Recovery Project and claims that

“informal conversations with Tajiguas Landfill staff” indicate another diversion or waste reduction program will extend the landfill’s life if the Tajiguas Resource Recovery Project is not approved. (FONSI at Exhibit B, p. 19.) First, the Tajiguas Resource Recovery Project has not yet been approved. Second, the referenced informal discussion is not evidence that the landfill life will be extended. Reference to this speculative comment should be deleted.

The FONSI also proposes transporting solid waste to landfill locations in other counties or expanding the solid waste services at the Chumash Casino Resort. (FONSI at Exhibit B, p. 19.) Neither alternative’s impacts on the environment, however, has been studied or analyzed.

f. Traffic Impacts.

The FONSI does not address adequately the County’s comments regarding increased traffic and congestion in the Santa Ynez Valley, and the attendant safety risks. As stated in the Final EA, for State Highways 154 and 246, many of the highway segments would operate at Level of Service (“LOS”) D with the estimated project traffic, and at LOS D, LOS E or LOS F when including cumulative impacts. (Final EA at pp. 4-44-4-46, 4-64-4-68.) Although the traffic study states that LOS D is within California Department of Transportation’s (“Caltrans”) acceptable range of service, the department submitted a response to the initial EA stating that its LOS standard is LOS C. (*Id.* at Comment Letter S1.) The FONSI improperly assumes Caltrans has changed its position because it did not reiterate its comment in response to the Final EA. (FONSI at Exhibit B, pp. 20-21.)

Further, the FONSI maintains the mitigation measures for the significant and cumulative impacts of funding contributions for roundabouts or signal improvements, which are to be implemented at the determination of Caltrans. (*Id.* at pp. 19-20.) It still is not clear whether any road improvements will be completed. Camp 4 clearly poses a threat to the degradation of traffic and safety on the roads.

4. The Project Still Threatens Endangered Species and Unique Habitats.

The FONSI continues to inadequately address the threats to protected oak trees. Alternatives A and B would remove 21% and 15% of the oak trees on the project site, respectively. Removing that many trees would create significant impacts through habitat fragmentation, removal of understory, alteration of drainage patterns, disruption of the canopy, and disruption in animal movement in and through the woodland. (Santa Barbara County Environmental Thresholds and Guidelines Manual at p. 32.) Further, it would harm the “diverse wildlife population, and [] abundant resources to wildlife including food sources, shade in summer, shelter in winter, perching, roosting, nesting, and food storage sites” provided by the oak trees. (*Id.*) The FONSI fails to address these impacts.

Further, the FONSI still proposes mitigating the loss of oak trees by requiring an Arborist Report that requires a no net loss of trees and monitoring of revegetation. (FONSI at p. 15.) The County requires a 15:1 replacement ratio as experts have determined that ratio is necessary to ensure replacement trees are successfully established. (Final EA Comments at pp. 31-32.) The proposed mitigation for oak trees

does not: (1) indicate the priority of avoidance of impacts to native trees; (2) direct future development to design around native trees; or (3) establish any criteria or setbacks for determining when trees are allowed to be removed. In addition, the oak tree replanting plan measure does not establish minimum replacement ratios and success criteria. The FONSI provides no basic criteria from which the County can evaluate mitigation effectiveness in reducing anticipated impacts to native trees and associated habitat.

5. The Environmental Impacts of the Project Are Controversial.

A federal action is controversial if a substantial dispute exists as to its size, nature or effect. *Sierra Club v. Babbitt*, 69 F.Supp.2d 1202, 1219 (E.D. Cal. 1999). The FONSI ignores or distinguishes on irrelevant grounds the law, thresholds and methodologies identified by the County in its Final EA Comments. For instance, the FONSI states the County has no support for its conclusions that the Proposed Action is controversial and simply argues that it uses “a different policy to evaluate impacts.” (FONSI at Exhibit B, p. 20.) The County, however, bases its significant impact thresholds on the expertise of its agencies and departments and the personnel within those agencies and departments.

Under NEPA, controversy exists when knowledgeable individuals are critical of an EA and dispute the conclusions made in the EA. As the Ninth Circuit has explained: “the Service received numerous responses from conservationists, biologists, and other knowledgeable individuals, all highly critical of the EA and all disputing the EA’s conclusion that reopening Road 2N06 would have no significant effect on the Bighorn sheep. Both the California State Department of Natural Resources and the California State Department of Fish and Game responded to the EA, expressing disagreement with

the EA’s conclusions regarding the likely effect of reopening Road 2N06. We believe that this is precisely the type of ‘controversial’ action for which an EIS must be prepared.” *Foundation for N. Am. Wild Sheep v. U.S. Dep’t of Agr.*, 681 F.2d 1172, 1182 (9th Cir. 1982). The same is true with respect to Camp 4.

Highly knowledgeable departments and personnel within the County dispute the methodology and conclusions made in the FONSI. For example, the County disputes the use of the Farmland Conversion Impact Rating System (“FCIRS”) and the finding of no significant impact to agricultural resources. The County’s evaluation of agricultural resources would find Camp 4 does significantly impact agricultural resources. (P&D.) Likewise, the County disputes the analysis of impacts related to waste, water, public services such as traffic, schools, fire, emergency and sheriff services, and parks and recreation. The County does so with reference to specific methodologies and calculations based on its expertise in those areas. Similarly, Caltrans and various water organizations dispute the analysis of impacts as to traffic and water impacts. (*See, e.g.*, Final EA at Response to Comments S1, L4.)

A proposed federal action generating such controversy is precisely the type of action for which an EIS must be prepared.

6. The Project Has Adverse Impacts.

As indicated above, the proposed project has numerous adverse impacts, including impacts to agricultural resources, water, waste, traffic, schools, fire, emergency and sheriff services, and parks and recreation. In addition, visual resources may be adversely impacted as was previously addressed by the County. The FONSI provides no additional

analysis on the visual impacts but references the Final EA in its conclusions. (FONSI at Exhibit B, p. 21.) Therefore, the County has the same comments on the inadequacy of the visual resources analysis. (Final EA Comments at pp. 34-35.)

Based on the regulatory standards for significance under NEPA, the County has raised substantial questions regarding the potential, significant environmental effects of Camp 4. Accordingly, the BIA should vacate the FONSI and prepare an EIS for Camp 4 as required by NEPA.

III. EVEN WITH THE ADDITIONAL MITIGATIONS IDENTIFIED IN THE FONSI, THE MITIGATION MEASURES ARE INADEQUATE AND DO NOT RENDER CAMP 4'S IMPACTS INSIGNIFICANT.

Mitigation measures must create “an adequate buffer against the negative impacts that result from the authorized activity to render such impacts so minor as to not warrant an EIS.” *Bark v. Northrop*, 2014 WL1414310, at *12 (D. Or. 2014) (citations omitted). They also must be “developed to a reasonable degree.” *National Parks & Conservation Ass’n v. Babbitt*, 241 F.3d 722, 734 (9th Cir. 2001), *abrogated on other grounds*. “A perfunctory description, or mere listing of mitigation measures, without supporting analytical data, is insufficient to support a finding of no significant impact.” *Id.* (quotations and internal citations omitted).

The Final EA failed to adequately support and analyze the proposed mitigation measures for land resources, water resources, air quality, biological resources, transportation and circulation, public services, and visual resources. It simply listed BMPs and other protective measures in those resource areas without detailing the particular impact the mitigation would reduce and how effective each mitigation would

be. *Wilderness Soc. v. Bosworth*, 118 F.Supp.2d 1082, 1107 (D.Mont. 2000); *Blue Mountains Biodiversity Project v. Blackwood*, 161 F.3d 1208, 1214 (9th Cir. 1998). The FONSI does not supplement that inadequate analysis.

The FONSI also fails to add mitigation measures that would reduce the significant impacts of Camp 4 to an insignificant level. The FONSI provides additional mitigations in the areas of public services (for schools and law enforcement services) and biological resources (for the VPFS and California red-legged frogs), but those measures still are insufficient to reduce impacts in those resource areas to an insignificant level. In other critical resource areas, the FONSI fails to supplement the deficient mitigations proposed in the Final EA.

First, for biological resources, the FONSI still does not show how the no-net loss approach to mitigating oak tree removal will compensate for habitat fragmentation, the removal of understory, alteration of drainage patterns, disruption of the canopy, or disruption of animal movement through the woodland. Biological resources remain significantly impacted.

For public services, the mitigation measures continue to lack analytical data. For example, the proposed set aside of funds for schools, parks, and recreational impacts is not based on the number of homes being constructed at Camp 4 or any methodology for determining the impact of the development on those resources. The proposed funding set aside is seemingly unrelated to the actual impacts and insufficient to address them.

The public service mitigation measures also fail to address adequately the probable increases in calls for emergency, fire protection, and law enforcement services,

and the significant impacts to traffic. There is no existing agreement between the Tribe and County for the provision of adequate emergency, fire protection, or law enforcement services at Camp 4. The potential for an agreement or additional funding for County Fire does not adequately address increases to emergency and fire protection services. Further, the creation of a tribal police department does not eliminate the impacts on law enforcement services in the area. The probable increased call load for emergency, fire protection, and law enforcement services remains a significant impact.

As to traffic impacts, the mitigation measures still are dependent on approval, construction, and funding by Caltrans. It is not certain when, if ever, the proposed traffic improvements would be built. In addition, the FONSI provides no further mitigations in the critical area of water resources. The mitigation measures still do not address the overdraft state of the Uplands Basin, long-term water concerns, or the need to decrease water usage below a significance threshold year round in normal weather conditions.³

The mitigation measures for water resources, biological resources, transportation and circulation, public services, and visual resources are inadequate and do not render the impacts associated with those resources insignificant. Accordingly, the FONSI should be rescinded and an EIS prepared for Camp 4.

³ Even if the mitigation measures had contained the appropriate level of detail, it is impossible to analyze if a particular mitigation measure will make a significant impact minor without knowing how significant the impact will be in 2023.

IV. THE FONSI DOES NOT ADEQUATELY ADDRESS THE CUMULATIVE IMPACTS OF CAMP 4.

An EA must fully assess the cumulative impacts of a project. *Te-Moak Tribe of Western Shoshone of Nev. v. U.S. Dept. of Interior*, 608 F.3d 592, 603 (9th Cir. 2010). A cumulative impact is “the impact on the environment which results from the incremental impact of the action when added to other past, present, and reasonably foreseeable future actions regardless of what agency (Federal or non-Federal) or person undertakes such other actions.” 40 C.F.R. § 1508.7. In assessing cumulative impacts, “some quantified or detailed information is required. Without such information, neither the courts nor the public ... can be assured that the [agency] provided the hard look that it is required to provide.” *Te-Moak Tribe*, 608 F.3d at 603 (citation omitted).

The FONSI for Camp 4 still: (1) fails to quantify cumulative impacts; (2) fails to provide enough detail from which the public can be assured the cumulative impacts were sufficiently studied; (3) improperly dismisses in summary fashion the cumulative impacts on several resources; and (4) fails to address all reasonably foreseeable future actions, including those foreseeable in 2023, the year in which the Tribe plans to develop Camp 4.

In response to comments, the FONSI mentions, for the first time, the 6.9 acres of land in the Valley approved by the BIA to be taken into trust for the Tribe and other proposed trust acquisitions in the area. (FONSI at Exhibit B, p. 11.) As to the 6.9 acres, the Tribe plans to develop a cultural center, museum, and park on the land, as well as a gift shop and support offices. These facilities would bring more visitors and workers to the area and more environmental impacts. The FONSI also discusses the casino and

hotel expansion project, the environmental review of which was completed after the Final EA for Camp 4 was released. Pursuant to that environmental review, the casino and hotel expansion project would bring approximately 1,200 additional visitors a day to the area and additional workers. (Environmental Evaluation – Santa Ynez Band of Chumash Indians Proposed Hotel Expansion Project, available at chumashee.com.)

It is clear that the multiple tribal projects, Santa Ynez Valley 20-year build-out, and other reasonably foreseeable projects in the area will increase significantly the number of visitors, residents, and workers in the area. The FONSI, however, does not analyze those impacts in any detailed or quantified manner. This violates NEPA.

The FONSI dismisses comments regarding the lack of a detailed quantification of impacts stating “the environmental review process for all reasonably foreseeable projects would reduce impacts to public services to less-than-significant levels.” (FONSI at Exhibit B, p. 28.) NEPA, however, requires an agency to study the cumulative impacts of a proposed federal action prior to taking action. Thus, relying on later environmental review to justify the issuance of a FONSI violates NEPA.

V. THE FONSI DOES NOT STUDY VIABLE PROJECT ALTERNATIVES.

NEPA requires agencies to study, develop and describe appropriate alternatives to the proposed federal action. 42 U.S.C. § 4332(2)(E); 40 C.F.R. § 1508.9(b); *see also* 43 C.F.R. § 46.310. An agency must “rigorously explore and objectively evaluate all reasonable alternatives.” 40 C.F.R. § 1502.14(a)(4). “The existence of a viable but unexamined alternative renders an [EA] inadequate.” *Friends of Yosemite Valley v. Kempthorne*, 520 F.3d 1024, 1038 (9th Cir. 2008) (citation omitted).

The FONSI does not adequately analyze the “No Action” Alternative and other reasonable project alternatives. As to the No-Action Alternative, the FONSI dismisses residential development under the No-Action Alternative because the Tribe would not seek to develop houses if the proposed action is not approved. Residential development is viable under the No-Action Alternative though and it should be analyzed.

Additionally, the purpose of the proposed federal action is to provide housing to accommodate the Tribe’s current members and anticipated growth, which could be accomplished by taking fewer parcels into trust, by less development, and/or through a rebuild on the existing Reservation. *See Friends of Yosemite Valley*, 520 F.3d at 1038-39. As to fewer parcels or less development, the FONSI states that “the proposed housing development also requires area for utilities and other supportive infrastructure as well as the fact that the proposed trust acquisition includes the Tribe’s existing economic operations on the project site (e.g., the vineyard).” (FONSI at Exhibit B, p. 29.) With one-acre sites as proposed under the chosen Alternative B, the needed acreage for housing and supporting infrastructure is 197 acres. Even with the vineyard acreage, the total acreage needed is far less than half of the 1,433 acres proposed to be taken into trust. Such an alternative should be studied.

As to a rebuild of the Reservation, the FONSI states that it would be difficult. Difficulty is not the touchstone of whether an alternative is studied, viability is the standard. A rebuild of the Reservation is a viable alternative that should be studied prior to its dismissal.

The FONSI also provides no justification for excluding a study of other off-Reservation alternatives. The FONSI states that development needs to be near the existing Reservation. (FONSI at Exhibit B, p. 29.) The purpose of the project could be accomplished in another location or locations, near the Reservation. *Ilio'ulaokalani Coalition v. Rumsfeld*, 464 F.3d 1083, 1098 (9th Cir. 2006). In fact, the proposed Camp 4 is non-contiguous to the Reservation. Further, the housing and vineyard operation could be in separate locations meaning less land would be needed for housing. Other off-Reservation locations could and should be considered and studied. By omitting a detailed analysis of feasible alternatives, the FONSI violates NEPA.

VI. THE FONSI STILL OMITTS KEY ANALYSES AND IMPROPERLY CONTAINS INACCURACIES AND CONCLUSORY STATEMENTS.

The FONSI does not correct the inaccuracies or omissions in the Final EA and, therefore, it is inadequate under NEPA. NEPA requires a federal agency to take a “hard look” at the impacts of its proposed federal action, whether it is preparing an EA or EIS. *Anderson*, 371 F.3d at 486. Failing to verify the factual accuracy of an EA violates NEPA as it shows the agency did not take a hard look at the actual proposed federal action. *Native Ecosystems Council v. U.S. Forest Service*, 418 F.3d 953, 964 (9th Cir. 2005); *see also* 40 C.F.R. § 1500.1(b). Further, conclusions in an EA must be supported by “some quantified or detailed information.” *Weingardt*, 376 F.Supp.2d at 991-92.

As with the Final EA, the project description in the FONSI lacks sufficient detail, as does the analysis on agricultural resources and land use compatibilities. Likewise, the analysis of public services remains deficient.

A. The Project Description, Agricultural Resources Analysis, and Land Use Compatibility Analysis Still Lack Adequate Detail.

As to the project description, it proposes 143 residential units but does not address accessory structures. The comments on this issue again sidestep it by stating an average household size of 2.61 persons was assumed regardless of accessory structures. (FONSI at Exhibit B, pp. 25-26.) Accessory structures could increase significantly the number of new residents that would be accessing the site and in need of public services as each lot could have four to five accessory structures. If residential second units are “typical,” there could be twice the number of residents at Camp 4 and twice the impacts on traffic, water, solid waste, public services, and other resources.

Further, the FONSI continues to omit information regarding the special events the Tribe will hold at the Tribal Facilities. It simply refers to the Final EA, which does not discuss the timing of the events, day or night, how often the events are open to the public, how large each event will be, and what types of events are anticipated. These details impact the evaluation of such things as increases in traffic, need for public services, night lighting, impacts to on-site agricultural uses, impacts to surrounding agricultural and rural residential uses, noise and compatibility with land use plans.

For agricultural resources, the FONSI cites the inadequate Final EA in support of its analysis. The FONSI only adds the notation that trespassing laws would be enforced and that open spaces are not “anticipated” to be a segue for public access. (*Id.* at p. 26.) The County previously pointed out the many impacts to neighboring agricultural production that were not sufficiently addressed such as trespassing, vandalism, nuisance

complaints, decreased farming potential, and pest risks. (Final EA Comments at pp. 12-14, 18-22.) Further, the open space and recreation areas should be studied to determine whether they will be a segue for public access, rather than relying on speculation that they will not.

Likewise, with the analysis of grazing operations, the FONSI comments reiterate statements made in the Final EA. The Final EA, however, failed to describe the current cattle grazing operation or analyze the impact of converting grazing land on a community and regional level. Many farming operations are dependent on neighboring land uses for sustainability, or networks of farming operations, and the loss of grazing land affects water resources and ecosystems. Further, the FONSI continues to improperly rely on the FCIRS (Form AD-1006) even though the Final EA's analysis recognizes that grazing land is a type of farmland under The Farmland Protection Policy Act and despite the comments made by the County on this point. The County maintains that an environmental review of Camp 4 should fully assess impacts to the onsite grazing operation as a result of the project through a rangeland study or other analysis that uses a threshold of significance such as the number of animal units that the land can support. (Final EA Comments at pp. 43-44.)

As to land use compatibilities, the FONSI does not address the conclusory and inaccurate nature of its analysis on Camp 4's compatibility with other land uses in the area. Instead, the FONSI dismisses comments on land use incompatibilities as repetitive of comments made on the initial EA. (FONSI at Exhibit B, p. 26.) The analysis should provide sufficient detail to determine similarity with other developments – such as the

number of lots with residential homes in each area and the size of those homes and lots. Further, it should recognize that the proposed one-acre lots in Alternative B, as well as the Tribal Facility are not compatible with the existing land uses. Adjacent rural residential lots in the area are 5, 10, 20, 40, and 100 acres in size. (Final EA at Fig. 3-8.) One-acre lots are: (a) between five and 100 times more dense than any other area development; (b) much different than larger lots from a planning and development perspective; (c) an urban division which requires water system and sewer connections, among other issues; and (d) a much greater visual impact than larger lots. (P&D.)

B. The Analysis of Public Services Remains Inadequate and Flawed.

The FONSI does not correct the inaccuracies or omissions in the Final EA as to public services. Rather, the FONSI either perpetuates the errors or fails to fully respond to them. An EIS is necessary to correct these failings and fully analyze the impacts of Camp 4 on important public service resources.

The FONSI continues to rely on the Final EA's statements regarding County Fire's jurisdictional or response authority to the project site and wildland fire protection services. (FONSI at Exhibit B, p. 27.) The FONSI also fails to provide further detail or clarification on other points raised by the County with respect to fire protection and emergency medical services and law enforcement impacts. (*Id.*) As to the issues not discussed in detail in the FONSI, the County's Final EA Comments address them. (Final EA Comments at pp. 45-49.) The County only addresses new issues raised by the FONSI below.

The FONSI discusses impacts to fire protection services by arguing that the proposed 3,000 to 5,000 square foot residences are consistent with existing community residence and, therefore, existing fire equipment and staff would be available to respond. Per the FONSI, with the proposed mitigation measures, the increase in demand would not result in an adverse impact. (FONSI at Exhibit B, p. 27.) These statements are inaccurate as discussed in Section II.B.3, *supra*. Further, they do not account for the increase in staff and equipment that could be necessary due to the increase in the number of people and structures in the area, and the larger Tribal Facility structure.

The FONSI also summarily discusses stored water, the water system, and interior roadways. It, however, does not address the fire protection capabilities of the water supply system or the details of the system, but only states that it will meet “current standards.” (FONSI at Exhibit B, p. 27.) Likewise, as to interior roadways, the FONSI concludes that interior roadways will be sufficient to accommodate fire suppression equipment. (*Id.*) Figure 2.1 in the Final EA though shows interior roadways with dead ends serving multiple residences. The following should be required in the FONSI: (1) interior roadways should follow Santa Barbara County Fire Department Development Standard #1- Private Roads and Driveways; and (2) addressing and road naming should comply with Article V of Chapter 35 of the Santa Barbara County Code.

An EIS should be prepared to correct the deficiencies in the analysis of public services and to fully analyze those impacts.

CONCLUSION

Based on the foregoing, an Environmental Impact Statement for Camp 4 must be prepared to fully analyze the potential environmental impacts of the project.

Accordingly, the FONSI should be rescinded and an EIS completed.

BIBLIOGRAPHY

Santa Barbara County, Oct. 2008, *Environmental Thresholds and Guideline Manual*. Available online at: <http://www.sbcountyplanning.org/pdf/manualsreports/manuals/environmental%20thresholds%20october%202008%20corrected%206-1-2009.pdf>. Accessed November 2014. (Cited pages attached hereto as Exhibit A.)

Santa Barbara County, Dec. 2011, *Santa Barbara County Land Use and Development Code*, Updated June 2014. Available online at: <http://sbcountyplanning.org/pdf/forms/LUDC/COUNTY%20LUDC%20JUNE%202014%20UPDATE.pdf>. Accessed November 2014. (Cited pages attached hereto as Exhibit B.)

Santa Barbara County Water Agency, May 2012, *Santa Barbara County 2011 Groundwater Report*. Available online at: <http://www.countyofsb.org/uploadedFiles/pwd/Water/WaterAgency/Report%20Document%20FINAL.pdf>. Accessed November 2014. (Cited pages attached hereto as Exhibit C.)

Santa Barbara County, 2014, *Agriculture Production Report 2013*. Available online at: <http://www.countyofsb.org/uploadedFiles/agcomm/crops/2013%20Crop%20Report.pdf>. Accessed November 2014. (Cited pages attached hereto as Exhibit D.)

Santa Barbara County, July 11, 2014, *Comments on the May 2014 Final Environmental Assessment for the Santa Ynez Band of Chumash Indians Camp 4 Fee-to-Trust*. Available online at: [https://www.countyofsb.org/uploadedFiles/ceo/camp4/CountyComments on 2014 Final EA for Camp 4 Fee to Trust.pdf](https://www.countyofsb.org/uploadedFiles/ceo/camp4/CountyComments%20on%202014%20Final%20EA%20for%20Camp%204%20Fee%20to%20Trust.pdf). Accessed November 2014.

Santa Barbara County, Nov. 4, 2014, *Minutes of County of Santa Barbara Board of Supervisors Meeting*. Available online at: <https://santabarbara.legistar.com/Calendar.aspx>. Accessed November 2014. (Cited minutes attached hereto as Exhibit E.)

EXHIBIT A



COUNTY OF SANTA BARBARA

Planning and Development

Environmental Thresholds and Guidelines Manual

Revised January 1995

Revised October 2001

Revised October 2002

Replacement Pages July 2003

Interim Revision to Air Quality Subsection October 2006

Revised January 2008

Revised September 2008

Published October 2008

123 East Anapamu Street
Santa Barbara, California 93101
805.568.2000

624 West Foster Road, Suite C
Santa Maria, California 93455
805.934.6250

NOTE:

This document is updated on a periodic basis in order to include amendments adopted by the Board of Supervisors. Recently adopted amendments may not yet be incorporated into this copy. Please check with the Planning and Development Department Zoning Information Counter located at either 123 East Anapamu Street, Santa Barbara, or 624 West Foster Road, Suite C, Santa Maria, for information on amendments approved subsequent to the date shown on the front of this publication.

4. Oak Woodlands and Forests.

- a. **Description.** There are three primary types of oak woodlands in Santa Barbara County: Valley Oak, Coast Live Oak, and Blue Oak woodlands. The number, type, and density of oak trees, and the relationship between trees and understory are principal characteristics which define the various types of woodlands. Oak habitats support a diverse wildlife population, and offer abundant resources to wildlife including food sources, shade in summer, shelter in winter, perching, roosting, nesting, and food storage sites.
- b. **Impact Assessment Guidelines for Woodlands and Forest Habitat Areas.**⁶ Project-created impacts may be considered significant due to changes in habitat value and species composition such as the following:
 - (1) Habitat fragmentation.
 - (2) Removal of understory.
 - (3) Alteration to drainage patterns.
 - (4) Disruption of the canopy
 - (5) Removal of a significant number of trees that would cause a break in the canopy or disruption in animal movement in and through the woodland

5. Impact Assessment for Individual Native Trees.⁶

- a. **Description.** Native specimen trees, regardless of size, are potentially significant, and rare native trees, which are very low in number or isolated in distribution (such as Island Oak) may be particularly significant. This significance evaluation is done on a case-by-case basis and considers tree size, numbers, location, relationship to habitat, etc.
- b. **Definition.** Specimen trees are defined, for biological assessment purposes, as mature trees that are healthy and structurally sound and have grown into the natural stature particular to the species.
- c. **Native Tree Impact Assessment.** In general, the loss of 10 percent or more of the trees of biological value on a project site is considered potentially significant.⁷

E. General Mitigation Guidelines for Biological Impacts.

- 1. **Mitigation Hierarchy.** The following general approaches to reducing biological impacts are presented in the order of their effectiveness.
 - a. **Avoidance.**

Avoid direct or indirect impacts to significant biological resources through project design.

⁶ The impact assessment guidelines for oak trees, woodlands and forest habitat do not apply to non-discretionary level oak tree removal of protected and unprotected size under the Grading Ordinance Guidelines for Native Oak Tree Removal that are incorporated as Appendix A in County Code, Chapter 14. Non-discretionary-level oak tree removal of protected and unprotected size that is subject to and in compliance with these Guidelines has been previously analyzed in the program EIR, 00-EIR-07 RV1.

⁷ The number of trees present onsite from which the 10 percent is measured may be calculated either by counting individual trees or by measuring the area of the tree canopy with a planimeter.

Office	sq. ft. x 0.0013
Educational Institutions	sq. ft. x 0.0010
Transportation, Communications and Utilities	sq. ft. x 0.0026
Manufacturing	sq. ft. x 0.0026

(Figures are based on Industry & National Standards as discussed in the Ventura County Solid Waste Thresholds)

For project types that are indicated above, the estimated waste stream can be determined by surveying similar uses, ideally within Santa Barbara County. If possible, three such uses should be used in the survey.

Residual Impact Calculation: Waste Generation (tons per year) x 0.50 (% of waste reduction) = tons per year.

C. Thresholds of Significance.

1. **Construction and demolition.** Construction and demolition waste accounts for 31 percent of all waste generated by residents of Santa Barbara County. In order to comply with AB939 requiring a minimum of 50 percent of all waste to be diverted from landfills, the particular source of waste has been targeted.

Any construction, demolition or remodeling project of a commercial, industrial or residential development that is projected to create more than 350 tons of construction and demolition debris is considered to have a significant impact on public services.

Although amounts of waste generated vary project to project we have the following estimates of projects that will reach the threshold of significance:

- a. Remodeling projects over 7,000 square feet for residential projects and 17,500 square feet for commercial/industrial projects.
- b. Demolition projects over 11,600 square feet for residential buildings and 7,000 square feet for commercial/industrial buildings.
- c. New construction projects over 47,000 square feet for residential buildings and 28,000 square feet for commercial/industrial buildings.

These estimates are based on the US Environmental Protection Agency’s 1998 construction and demolition study (Document: EPA530-R-98-010; June 1998) and data gathered by the San Luis Obispo Integrated Waste Management Authority in 2005 and 2006.

2. **Operations/occupancy.**

- a. **Project specific.** The following thresholds are based on the projected average solid waste generation for Santa Barbara County from 1990 - 2005. The goals outlined in the Source Reduction and Recycling Element (SRRE) assume a 1.2 percent annual increase, which equates to approximately 4,000 tons per year increase in solid waste generation over the 15 year period. A project is considered to result in a significant impact to landfill capacity if it would generate five percent or more of the expected annual increase in waste generation thereby using a significant portion of the remaining landfill capacity. Based on the analysis conducted (as illustrated in Table 1), the numerical value associated with the five percent increase is 196 tons per year. As indicated above, source reduction, recycling and composting can reduce a project’s waste stream (generated during operations) by as much as 50 percent. If a proposed project generates 196 or more tons per year after reduction and recycling efforts, impacts would be considered significant and unavoidable (Class I). Project approval

would then require the adoption of overriding considerations. A typical single family residential project of 68 units or less would not trigger the threshold of significance.

- b. **Cumulative thresholds.** Projects with a specific impact as identified above (196 tons/year or more) would also be considered cumulatively significant, as the project specific threshold of significance is based on a cumulative growth scenario. However, as landfill space is already extremely limited, any increase of one percent or more of the estimated increase accounted for in the SRRE, mitigation would be considered an adverse contribution (Class III) to regional cumulative solid waste impacts. One percent of the SRRE projected increase in solid waste equates to 40 tons per year (in operational impacts). To reduce adverse cumulative impacts, and to be consistent with the SRRE, mitigation should be recommended for projects which generate between 40 and 196 tons of solid waste per year. Projects which generate less than 40 tons per year of solid waste would not be considered to have an adverse effect due to the small amount of solid waste generated by these projects and the existing waste reduction provisions in the SRRE. A typical single family residential project of 14 units or less would not trigger this adverse impact level.

D. Mitigation Measures.

The following mitigation measures are suggested for projects which would exceed County solid waste thresholds. This is a partial list of measures and does not preclude measures which may be applicable on a project specific basis.

The applicant shall develop and implement a solid waste management plan to be reviewed and approved by Public Works Department Resource Recovery and Waste Management Division and the Planning and Development Department and shall include one or more of the following measures:

- Provision of space and/or bins for storage of recyclable materials within the site.
- Establishment of a recyclable material pickup area.
- Implementation of a curbside recycling program to serve new development.
- Development of a plan for accessible collection of materials on a regular basis (may require establishment of private pick-up depending on availability of County sponsored programs).
- Implementation of a monitoring program (quarterly, bi-annually) to ensure a 35 - 50 percent minimum participation in recycling efforts, requiring businesses to show written documentation in the form of receipts.
- Development of Source Reduction Measures, indicating method and amount of expected reduction.
- Implementation of a program to purchase recycled materials used in association with the proposed project (paper, newsprint etc.). This could include requesting suppliers to show recycled material content.
- Implementation of a backyard composting yard waste reduction program.

One or more of the above measures may apply to a specific project. County waste characterization studies estimate that implementation of the measures described can reduce waste generation by 50 percent. The expected reduction in waste generation from mitigation measures for a specific project should be developed in consultation with the Public Works Department Resource Recovery and Waste Management Division.

EXHIBIT B



COUNTY OF SANTA BARBARA

Planning and Development

Santa Barbara County Land Use & Development Code



Published December 2011

Updated October 2014

123 East Anapamu Street
Santa Barbara, CA 93101
805.568.2000

624 West Foster Road, Suite C
Santa Maria, CA 93455
805.934.6250

CHAPTER 35.10 - PURPOSE AND APPLICABILITY OF DEVELOPMENT CODE

Sections:

- 35.10.010 - Purpose of Development Code
- 35.10.020 - Authority, Relationship to Comprehensive Plan and Local Coastal Program
- 35.10.030 - Responsibility for Administration
- 35.10.040 - Applicability of the Development Code
- 35.10.050 - Validity

35.10.010 - Purpose of Development Code

The Santa Barbara County Land Use and Development Code, hereafter referred to as the "Development Code," constitutes a portion of Chapter 35 of the Santa Barbara County Code. This Development Code carries out the policies of the Santa Barbara County Comprehensive Plan and Local Coastal Program by classifying and regulating the uses of land and structures within the County, consistent with the Comprehensive Plan and the Local Coastal Program. This Development Code is adopted to protect and to promote the public health, safety, comfort, convenience, prosperity, and general welfare of residents, and businesses in the County. More specifically, the purposes of this Development Code are to:

- A. Provide standards and guidelines for the continuing orderly growth and development of the County that will assist in protecting the character and stability (social and economic) of agricultural, residential, commercial and industrial uses, as well as the character and identity of communities within the County;
- B. Conserve and protect the County's natural beauty and setting, including waterways, hills and trees, scenic vistas, and historic and environmental resources;
- C. Create a comprehensive and stable pattern of land uses upon which to plan transportation, water supply, sewerage, energy, and other public facilities and utilities;
- D. Encourage the most appropriate uses of land in order to prevent overcrowding of land and avoid undue concentration of population, and maintain and protect the value of property; and
- E. Ensure compatibility between different types of development and land use.

35.10.020 - Authority, Relationship to Comprehensive Plan and Local Coastal Program

- A. **Authority.** The regulations within this Development Code are enacted based on the authority vested in the Santa Barbara County by the State of California, including: the California Constitution; the Planning and Zoning Law (Government Code Section 65000 et seq.); the California Coastal Act (Public Resources Code Section 30000 et seq.); the Subdivision Map Act (Government Code Section 66410 et seq.); and the California Environmental Quality Act (Public Resources Code Section 21000 et seq.)
- B. **Consistency with Comprehensive Plan, Community, Specific and Area Plans, and Local Coastal Program.** This Development Code is a primary tool used by the County to carry out the goals, objectives, and policies of the Santa Barbara County Comprehensive Plan, including any applicable community, specific or area plan and Local Coastal Program. The Santa Barbara County Board of Supervisors intends that all provisions of this Development Code be consistent with the Comprehensive Plan, including any applicable community, specific or area plan and Local Coastal Program, and that any land use, subdivision, or development approved in compliance with these regulations will also be consistent with the Comprehensive Plan, including any applicable community, specific or area plan and Local Coastal Program.
- C. **Local Coastal Program provisions.** The provisions of this Development Code identified as applicable within the Coastal Zone constitute, in conjunction with Chapter 9A (Brush Removal Southeasterly Coastal Area and Coastal Zone) and Chapter 14 (Grading), the County's ordinances for the implementation of the Local Coastal Program, in compliance with the California Coastal Act.

CHAPTER 35.30 - STANDARDS FOR ALL DEVELOPMENT AND LAND USES

Sections:

- 35.30.010 - Purpose
- 35.30.020 - Applicability
- 35.30.025 - Agricultural Buffers
- 35.30.030 - Bikeways
- 35.30.040 - Coastal Trails
- 35.30.050 - Density
- 35.30.060 - Design Compatibility Standards
- 35.30.070 - Fences and Walls
- 35.30.080 - Flood Hazard Development Standards
- 35.30.090 - Height Measurement, Exceptions and Limitations
- 35.30.100 - Infrastructure, Services, Utilities and Related Facilities
- 35.30.110 - Lot Line Adjustments
- 35.30.120 - Outdoor Lighting
- 35.30.130 - Performance Standards
- 35.30.140 - Recreation and Visitor Serving Uses
- 35.30.150 - Setback Requirements and Exceptions
- 35.30.160 - Solar Energy Systems
- 35.30.170 - Solid Waste and Recycling Storage Facilities
- 35.30.180 - Storm Water Runoff Requirements
- 35.30.190 - Subdivisions, Lot Size

35.30.010 - Purpose

This Article expands upon the standards of Article 35.2 (Zones and Allowable Land Uses) by addressing the details of site planning and project design. These standards are intended to ensure that all development:

- A. Produces an environment of stable and desirable character;
- B. Is compatible with existing and future development; and
- C. Protects the use and enjoyment of neighboring properties, consistent with the Comprehensive Plan.

35.30.020 - Applicability

The requirements of this Article shall apply to all proposed development and new land uses, except as specified in Chapter 35.101 (Nonconforming Uses, Structures, and Lots) and shall be considered in combination with the standards for the applicable zone in Article 35.2 (Zones and Allowable Land Uses) and those in Article 35.4 (Standards for Specific Land Uses). If there is a conflict, the standards in Article 35.4 (Standards for Specific Land Uses) shall control.

35.30.025 - Agricultural Buffers

- A. **Purpose and intent.** The purpose of agricultural buffers is to implement adopted Comprehensive Plan policies that assure and enhance the continuation of agriculture as a major viable production industry in Santa Barbara County through establishing development standards that provide for the creation of buffers between agricultural uses and new non-agricultural development and uses. The intent of agricultural buffers is to minimize potential conflicts between agricultural and adjacent land uses that result from noise, dust, light, and odor incidental to normal agricultural operations as well as potential conflicts originating from residential and other non-agricultural uses (e.g., domestic pets, insect pests and invasive weeds).

- B. Applicability.** This Section applies to all discretionary applications for non-agricultural development and uses (project) which satisfy all of the following criteria:
1. The project site is located within an Urban or Inner-Rural Area, or an Existing Developed Rural Neighborhood, as designated on the Comprehensive Plan maps; or located on property zoned industrial that is located in the Rural Areas as designated on the Comprehensive Plan maps.
 2. The project site is located immediately adjacent to land that is:
 - a. Located in a Rural Area as designated on the Comprehensive Plan maps, and
 - (1) Has an agricultural zone designation as identified in Section 35.014.020 (Zoning Map and Zones) or Section 35-52 (Zoning District Designations and Applicability) of Article II, the Santa Barbara Coastal Zoning Ordinance or Article V of Ordinance No. 661, excluding state or federally owned land, or
 - (2) Is subject to a contract executed in accordance with the County Uniform Rules for Agricultural Preserves and Farmland Security Zones.
- C. Exceptions.** This Section does not apply to the following:
1. Single-family dwelling, residential second units and residential accessory structures.
 2. Farm employee dwellings and farm labor camps.
 3. Non-agricultural, discretionary development approved prior to May 9, 2013.
 4. Changes to a non-agricultural, discretionary project approved prior to May 9, 2013, provided that prior to an action by the review authority to approve an application in compliance with Subsection 35.84.040 C or D the review authority shall first determine that the changes to the project proposed by the application do not result in any new or greater impacts to agriculture than those resulting from the already approved project.
 - a. If the review authority cannot make the determination required in compliance with Subsection C.4, above, then the project shall be subject to the provisions of this Section.
 5. **Non-commercial agricultural uses.** An agricultural buffer is not required adjacent to a common lot line between the project site and an adjacent agriculturally zoned lot if the adjacent lot is used for non-commercial agriculture.
 6. State and County roadway projects.
 7. Lot line adjustments and modifications to lot line adjustments that:
 - a. Do not exceed a 10 percent increase or decrease in the area of the smallest existing lot; and
 - b. Do not result in an increase in the number of developable lots in compliance with Subsection 35.30.110.B.3.c.
- D. Agricultural buffer requirements.** All applications subject to this Section shall designate and maintain an agricultural buffer on the project site in compliance with this Section.
1. **Agricultural buffer width.** The width of the agricultural buffer shall be in compliance with the range of agricultural buffer widths as shown in the following Table 3-1 (Range of Agricultural Buffer Widths). Ranges are provided because unique circumstances may require the buffer width to be adjusted; however, the agricultural buffer width as adjusted shall neither be less than the minimum buffer width nor greater than the maximum buffer width shown in the following Table 3-1 (Range of Agricultural Buffer Widths). If the proposed project is located adjacent to a lot that contains both Production Agriculture and Rangeland or Pastureland, then the most protective buffer:
 - a. Shall be applied adjacent to any portion of the common lot line between the project site and the adjacent agriculturally zoned lot where Production Agriculture is immediately adjacent; and

- b. May be applied to any portion of the common lot line between the project site and the adjacent agriculturally zoned lot where Production Agriculture is not immediately adjacent, if Production Agriculture is located on the adjacent lot within the distance, as measured from the common lot line, that is equal to the width of the required buffer that would otherwise be applicable to the project site.

Refer to Section II.C. (Agricultural Buffer Width Adjustment) of the Agricultural Buffer Implementation Guidelines (Appendix I) for guidance.

Table 3-1 - Range of Agricultural Buffer Widths

Project Land Use or Zoning	Project Location	Minimum Buffer Width (feet)	Maximum Buffer Width (feet)
Commercial or Industrial	Adjacent to production agriculture	100	300
	Adjacent to rangeland or pastureland	100	150
Residential, not located on a Small Lot located within an Urban Area	Adjacent to production agriculture	200	300
	Adjacent to rangeland or pastureland	100	150
Residential, located on a Small Lot located within an Urban Area	Adjacent to production agriculture	100	200
	Adjacent to rangeland or pastureland	100	150
Sensitive Non-agricultural Uses	Adjacent to production agriculture	300	400
	Adjacent to rangeland or pastureland	100	150

2. **Agricultural buffer location.** The agricultural buffer shall be located:
- On the lot on which the non-agricultural project is proposed.
 - Adjacent to the common lot line between the project site and the adjacent agriculturally zoned lot.
3. **Agricultural buffer width measurement.** The agricultural buffer width shall be measured from the common lot line between the project site and the adjacent agriculturally zoned lot. The agricultural buffer shall be coterminous with the length of said common lot line.
4. **Agricultural buffer width adjustment.** The following factors shall be considered when determining the agricultural buffer width in compliance with Subsection D.1 (Agricultural buffer width), above. See the Agricultural Buffer Implementation Guidelines (Appendix I) for guidance in determining the appropriate agricultural buffer width.
- Site specific factors.** The following factors shall be considered when determining the agricultural buffer width:
 - Crop type/agricultural practices.
 - Elevation differences and topography.
 - Extent and location of existing non-agricultural development.
 - Location of existing roads or naturally occurring barriers.
 - Historical land use on the agricultural lot.
 - Future farming potential of the agricultural lot.
 - Site design of the non-agricultural proposal.
 - Non-agricultural lot size/configuration.
 - Prevailing wind direction.
 - Vegetative screening adjacent to production agriculture.** Vegetative screening may be used to offset an increase in the buffer width for projects adjacent to Production Agriculture, as it

- may be adjusted in compliance with Subsection D.4.a (Site-specific factors). See Subsection F.3 for vegetative screening criteria and the Agricultural Buffer Implementation Guidelines (Appendix I) for guidance.
- c. **Constrained agricultural areas.** If the adjacent lot is used for production agriculture and contains land areas that are constrained by physical features or easements such that those land areas cannot be used for agriculture, then the agricultural buffer width may be reduced on the project site by an amount equal to the width of the constrained land area located on the adjacent agricultural lot, provided:
 - (1) The physical feature is permanently part of the landscape (e.g., a protected riparian area, or rock out-cropping); and
 - (2) The physical feature or easement precludes any kind of agricultural use and be located adjacent to the non-agricultural project site.
5. **Comprehensive Plan consistency.** Where Comprehensive Plan policies and this Section both address agricultural buffer requirements, the most protective agricultural buffer requirement shall prevail.
 6. **Reasonable use.** This Section is not intended, and shall not be construed as authorizing the review authority acting in compliance with this Section to exercise their power to grant or deny a permit in a manner which will take or damage private property for public use, without the payment of just compensation therefore. This section is not intended to increase or decrease the rights of any owner of property under the Constitution of the State of California or the United States or under this Development Code.
 7. **Buffer recordation.**
 - a. **Notice to Property Owner required.** Prior to the approval of a Land Use Permit in compliance with Section 35.82.110 (Land Use Permits) or a Zoning Clearance in compliance with Section 35.82.210 (Zoning Clearance) following the approval of a discretionary planning permit, a Notice to Property Owner shall be required to be recorded by the property owner that will provide notification to all future owners and successors of the restrictions of this Section 35.30.025. Said Notice shall include:
 - (1) An exhibit showing the location of the agricultural buffer by metes and bounds description or surveyor's description.
 - (2) The uses that are allowed within the agricultural buffer in compliance with Section 35.30.025.E (Allowable uses within agricultural buffers).
 - (3) The Landscape, Lighting and Irrigation Plan in compliance with Section 35.30.025.F (Agricultural buffer Landscape, Lighting and Irrigation Plan requirements).
 - (4) The Maintenance Plan in compliance with Section 35.30.025.G (Agricultural buffer maintenance requirements).
 - b. The requirement to record said Notice in compliance with this Subsection D.7 shall be included as a condition of approval of an application for a discretionary planning permit subject to this Section.
- E. Allowable uses within agricultural buffers.** The property owner shall use his best efforts to consult with the adjacent agricultural land owner(s) to address food safety and agricultural production concerns with regard to landscape, lighting, and vegetative screening design and siting. See the Agricultural Buffer Implementation Guidelines (Appendix I) for information on the purpose and intent of restricting uses within agricultural buffers and how to incorporate site design and other features that are compatible with agriculture.
1. **Unrestricted uses within agricultural buffers.** Subject to other provisions of this Section, or other

- provisions of the County Code, the following uses may be allowed within a designated agricultural buffer:
- a. Drainage channels, irrigation canals, storm water retention basins and Low Impact Development (LID) drainage features.
 - b. Fences and walls.
 - c. Low-lying landscaping and vegetative screening that does not include trees or hedges exceeding three feet in height.
 - d. Oil and gas, wind energy and cogeneration facilities that are:
 - (1) Permitted in compliance with Article 35.5 (Oil and Gas, Wind Energy and Cogeneration Facilities), or
 - (2) Operated in compliance with Chapter 35.101 (Nonconforming Uses, Structures, and Lots).
 - e. Natural waterways including rivers, creeks, lakes, ponds, and flood plains.
 - f. Signs.
 - g. Solar energy systems permitted in compliance with Section 35.30.160 (Solar Energy Systems).
 - h. Telecommunication facilities permitted in compliance with Chapter 35.44 (Telecommunication Facilities).
 - i. Utility lines and facilities.
 - j. Any other use determined by the review authority to be consistent with the purpose and intent of the buffer requirement.
 - k. Modifications or additions to structures legally existing as of May 10, 2013 provided that any addition to a structure that is located within a buffer required by this Section shall not extend further towards the immediately adjacent agricultural lot.
2. **Restricted uses within agricultural buffers.** Subject to other provisions of this Section, or other provisions of the County Code, the following uses may be allowed within the agricultural buffer provided they are not located any closer to the common lot line between the project site and the adjacent agriculturally zoned lot than half the width of the buffer. This requirement may be modified by the review authority when it is determined that strict compliance with this section is not required to minimize conflicts with adjacent agriculture.
- a. Industrial or commercial loading docks and rear service areas.
 - b. Landscaping and vegetative screening.
 - c. Lighting.
 - d. Non-habitable structures such as those used for storage.
 - e. Parking areas including carports and garages.
 - f. Public and private open space areas with limited passive recreational uses such as trails, bike paths and walking paths.
 - g. Roads and transportation infrastructure.
3. **Prohibited uses within agricultural buffers.** Recreational uses such as parks, picnic areas, playgrounds and ball fields shall not be allowed in an agricultural buffer.
4. **Open space credit.** The agricultural buffer may be counted toward open space requirements as long as the limits on allowed uses are consistent with the requirements of this Section and the Development Code.

5. The unrestricted uses, restricted uses and prohibited uses within the designated agricultural buffer shall be included as a condition of approval of the approved project.

F. Agricultural buffer Landscape, Lighting and Irrigation Plan requirements.

1. A Landscape, Lighting and Irrigation Plan (Plan) shall be required for all agricultural buffers. The Plan shall:
 - a. Graphically depict and label the agricultural buffer.
 - b. Graphically depict and label the following elements within the agricultural buffer:
 - (1) Erosion control measures.
 - (2) Hardscape.
 - (3) Irrigation systems.
 - (4) Landscaping, vegetation, and materials.
 - (5) Lighting.
 - c. Incorporate Low Impact Development (LID) measures to maximize runoff retention and groundwater infiltration on-site.
 - d. Incorporate a fence or other barrier that complies with the Development Code, with a minimum height of six feet, that discourages trespassing and domestic animals from crossing the common lot boundary between the project site and the adjacent agricultural land.
 - e. Prohibit the planting or installation of turf within 50 feet of the adjacent agricultural land unless required by County, State or Federal regulations.
 - f. Be compatible with the surrounding land uses and rural character of the agricultural area.
2. Landscaping, lighting and irrigation are not required within the agricultural buffer. However, if vegetation is included within the buffer, the plant palette shall meet the following requirements:
 - a. The plants shall be compatible with agriculture.
 - b. Shading of adjacent agricultural crops shall be minimized.
 - c. To the maximum extent feasible, the plants shall be fire resistant and drought-tolerant or low water use.
 - d. The plants shall not be considered noxious according to Section 4500 of the California Code of Regulations or considered invasive by the California Invasive Plant Council (Cal-IPC).
3. If a vegetative screen is used to offset an agricultural buffer width increase for production agriculture as described in Subsection D.4.b (Vegetative screening adjacent to production agriculture), the vegetative screen shall be consistent with the requirements in this Subsection F (Agricultural buffer Landscape, Lighting and Irrigation Plan requirements) and shall be in compliance with the following additional criteria:
 - a. The vegetative screen shall consist of two staggered rows of vegetation consisting of a layered canopy with evergreen trees and shrubs with foliage extending from the base to the crown.
 - b. The plants shall thoroughly screen the agricultural use from the non-agricultural use within five years from time of installation.
 - c. The minimum height of trees at maturity shall be 15 feet.
 - d. The vegetative screen shall be at least 25 feet deep.
4. The Landscape, Lighting and Irrigation Plan shall be compatible with the requirements in Subsection E (Allowable uses within agricultural buffers).
5. The applicant shall provide a signed and notarized agreement and a performance security acceptable

to the Director that guarantees the installation of landscaping, lighting and irrigation and provides for the successful establishment of the agricultural buffer for a minimum of five years. The performance security shall be released upon approval by the Director.

G. Agricultural buffer maintenance requirements.

1. A Maintenance Plan shall be required that provides for the maintenance of the agricultural buffer for the life of the project. The Maintenance Plan shall:
 - a. Include provisions for managing agricultural pests such as vertebrate pests, invasive weeds, and crop threatening insects. Integrated Pest Management practices shall be used to the extent feasible.
 - b. Include provisions for removing weeds, trash and debris.
 - c. Provide for regular fuel management and removal of accumulated plant matter within the agricultural buffer so as to minimize fire risk.
 - d. Be consistent with the requirements in Subsection F (Agricultural buffer Landscape, Lighting and Irrigation Plan requirement).
 - e. Provide for the regular maintenance of the elements as described in Subsection F (Agricultural Buffer Landscape, Lighting and Irrigation Plan requirements).

H. Future conversion of adjacent agricultural land. If the underlying purpose for the agricultural buffer no longer exists, the review authority, upon application for permit revision in compliance with Division 35.8, (Planning Permit Procedures), may remove agricultural buffer requirements originally required in compliance with this Section.

I. Findings. In addition to other findings that may be required, the review authority shall not approve or conditionally approve any application subject to the requirements of this Section for which an agricultural buffer is required unless it first makes all of the following findings:

1. The design and configuration of the agricultural buffer minimizes, to the maximum extent feasible, conflicts between the adjacent agricultural and non-agricultural uses which are the subject of the permit application.
2. The Landscape, Lighting, Irrigation and Maintenance Plans are compatible with the character of the adjacent agricultural land and the rural setting.

35.30.030 - Bikeways

Within the Inland area, bikeways shall be provided where determined by the review authority to be appropriate and feasible for recreational and commuting use.

35.30.040 - Coastal Trails

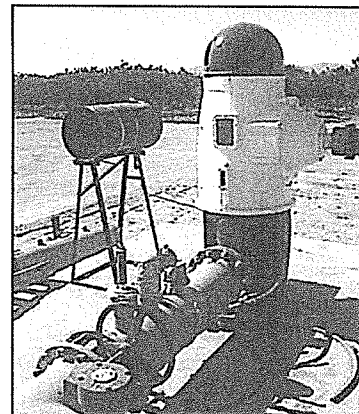
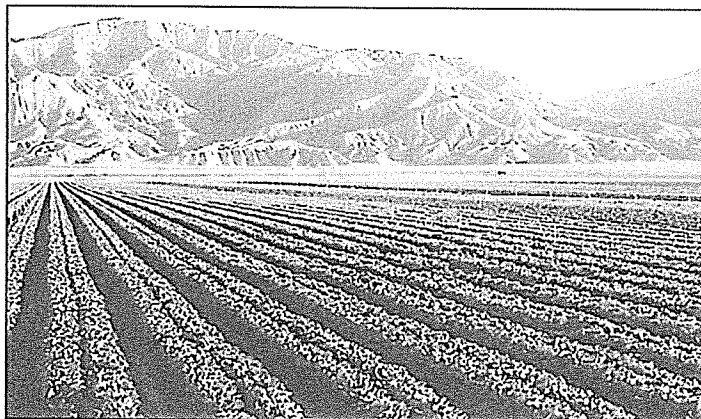
Within the Coastal Zone, easements for trails shown on the Comprehensive Plan maps shall be required as a condition of project approval for the portion of the trail crossing the lot upon which a project is proposed.

35.30.050 - Density

- A. The densities specified in the Comprehensive Plan are maximums and may be reduced through discretionary project review if the review authority determines that a reduction is warranted by conditions specifically applicable to a site, including topography, geologic or flood hazards, habitat areas, or steep slopes.
- B. Density may be increased for an affordable housing project in compliance with Housing Element policies, provided that any project in the Coastal Zone is found consistent with all applicable provisions of the Local Coastal Program.

EXHIBIT C

Santa Barbara County 2011 Groundwater Report



**Public Works Department
Water Resources Division
*Water Agency***

123 East Anapamu Street
Santa Barbara, CA 93101
(805) 568-3440

May 1, 2012

A report on the conditions of groundwater and the status of groundwater basins throughout Santa Barbara County during the calendar years 2009-2011

5. The Lompoc Uplands Groundwater Basin has apparently reached equilibrium. Over time, water levels have been lowered to approach the elevation of the Lompoc Plain and Santa Ynez River, which now regulate the water levels in the Uplands Basin. For more information on this basin please see page 63.
6. The Santa Rita Sub-area of the Lompoc Uplands Groundwater Basin is in a state of overdraft of 799 Acre-Feet per Year based on a 2001 study. This overdraft pertains to safe yield and not perennial yield. However, water levels in some parts of this area have declined significantly in recent years and thus in the future some adverse economic effects may be realized as the balance between energy costs and commodity prices fluctuate. For more information on this basin please see pages 63.
7. The Buellton Uplands Groundwater Basin is in a state of surplus of 800 Acre-Feet per Year based on a 1995 study. For more information on this basin please see page 60.
8. The Santa Ynez Uplands Groundwater Basin is in a state of overdraft of 2,028 Acre-Feet per Year based on a 2001 study. This overdraft pertains to safe yield and not perennial yield, thus water levels have declined in many areas but no regional economic or water quality problem has yet materialized. For more information on this basin please see page 51.
9. The South Coast Basins are in equilibrium or surplus through management by local water districts and the Wright Settlement. For more information on these basins please see pages 28-48.

Considerations

1. Santa Barbara County is situated at latitude 34°-35° north in a *semi-arid* climate belt and as such is susceptible to prolonged wet and dry periods such as the wet period 1991-2001 and the droughts of 1945-1951 and 1987-1990. Thus, analysis of groundwater basins must consider long-term climate and cannot be made year by year. For more information please see the Climate and General Hydrologic Trends section on pages 15-23.
2. Recharge from precipitation and stream seepage is the dominant parameter in the calculation of the status of a groundwater basin (surplus, equilibrium, or overdraft). Selection of "base period" of climate (recharge) can substantially alter the outcome of such a calculation. The SBCWA uses the longest period of record available which covers both wet and dry periods when evaluating the status of a groundwater basin.

Appendix C - Santa Barbara County Groundwater Basins Summary

Basin	Size	Estimated basin SAFE YIELD		Estimated Net Demand on Groundwater (AFY)	Surplus (Overdraft) (AFY)	Available Water in Storage (AF)	Land Use Summary
		For Gross Pumpage (Perennial Yield) (AFY)	For Net Pumpage (Net Yield) (AFY)				
Carpinteria	6,700 acres	5,000	3,865	3,750 (Pumpage level assumes all available surface supplies are utilized)	126	16,000*	One city; orchards, irrigated crops and greenhouses.
Montecito	4,300 acres	1,650	1,215	Pumpage not required due to surplus surface supplies	0	16,110*	Primarily low-density residential use; unincorporated.
Santa Barbara	4,500 acres	1,400	1,120	Pumpage not required due to surplus surface supplies. Managed by City of SB	2,838 (Basin on overall City supply)	10,000*	Primarily residential, industrial and commercial.
Foothill	3,000 acres	953	905	898 (Max. long-term pumpage. Managed by City of SB)	Not subject to overdraft per SB / LCMWC agreement	5,000	Primarily residential.
Goleta North / Central	5,700 acres	3,700	3,420	3,420	Not subject to overdraft per court decision	60,000*	Primarily residential, industrial and commercial. Basin has been adjudicated and is not subject to overdraft.
Goleta West	3,500 acres	500	475	220	255	7,000*	Primarily residential, industrial and commercial.
Buellton Uplands	16,400 acres	3,740	2,768	1,932	800	154,000	Extensive agriculture; one city.
Santa Ynez Uplands	83,200 acres	11,500	8,970	10,998	(2,028)	900,000	Three towns, one city and other low density residential; varied high-value agriculture.
Lompoc	48,600 acres	28,537	21,468	22,459	(913)	170,000	One city, unincorporated urban development, Vandenberg AFB; varied agriculture; petroleum.

*Useable Storage

EXHIBIT D

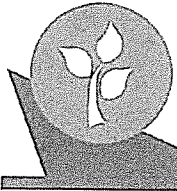


AGRICULTURAL PRODUCTION REPORT



2013





Agricultural Commissioner's Office
Weights & Measures ■ County of Santa Barbara

Cathleen M. Fisher
Commissioner / Director

Karen Ross Secretary
California Department of Food & Agriculture and

The Honorable Board of Supervisors of Santa Barbara County

Steve Lavagnino	District 5, Chair
Janet Wolf	District 2, Vice Chair
Supervisor Carbajal	District 1
Supervisor Farr	District 3
Supervisor Adam	District 4

It is a pleasure to present the 2013 Santa Barbara County Crop Report that is prepared pursuant to the provisions of Section 2279 of the California Food & Agriculture Code. This report reflects a production value of **\$1,436,651,418** for Santa Barbara County, which is an increase of 10% or \$145 million over the previous year. 2013 is the eighth year in a row that agriculture surpassed the one billion dollar benchmark. Agriculture is the number one contributor to the county's economy. Through the multiplier effect, agriculture contributes a total of \$2.8 billion to the local economy and provides 25,370 jobs.

Crop values vary from year to year based on production, market, and weather conditions. In nearly all cases, the increase can be attributed to strong market prices and increased production. Caneberry (blackberry and raspberry) saw a 54% increase in production acreage. Also, 2013 was a big year for wine grapes which experienced a 44% increase in value. However, there were several challenges faced by agriculture this past year. The avocado harvest was impacted by lower than average temperatures in January and lack of rain throughout the growing season. The continued drought conditions were also deleterious to the cattle and apiary industries.

It is always important to note that the figures provided in the annual crop report are gross values and do not represent or reflect net profit or loss experienced by individual growers or by the industry as a whole. Growers do not have control over most input costs, such as fuel, fertilizers, and packaging, nor can they significantly affect market prices. The fact that the gross value of agriculture is holding steady reflects positively on the importance of our agricultural industry.

Every year, this report is our opportunity to recognize the growers, shippers, ranchers, and other businesses ancillary to and supportive of agriculture. We would like to extend our thanks to the industry for their continued effort to provide vital information that enables the compilation of the Santa Barbara County Crop Report; without their assistance, this report would not be possible.

Special recognition for the production of this report goes to Bree Belyea, Robbie Towne and to all of the staff who assisted in compiling this information and improving the quality of the report.

Respectfully submitted,

Cathleen M. Fisher

Cathleen M. Fisher
Agricultural Commissioner/Director
of Weights & Measures

263 Camino del Remedio • Santa Barbara, California 93110
Phone (805) 681-5600 • Fax (805) 681-5603
www.countyofsb.org/agcomm/

EXHIBIT E

County of Santa Barbara
BOARD OF SUPERVISORS



First District - Salud Carbajal
Second District - Janet Wolf, Vice Chair
Third District - Doreen Farr
Fourth District - Peter Adam
Fifth District - Steve Lavagnino, Chair

Mona Miyasato, County Executive Officer

Action Summary

Tuesday, November 4, 2014

9:00 AM

**COUNTY ADMINISTRATION BUILDING
BOARD HEARING ROOM, FOURTH FLOOR
105 EAST ANAPAMU STREET, SANTA BARBARA**

The Board of Supervisors meets concurrently as the Board of Directors of the Flood Control & Water Conservation District, Water Agency, the Santa Barbara Fund for Public and Educational Access and other Special Districts.

Live Web Streaming of the Board of Supervisors Meetings, Agendas, Supplemental Materials and Minutes of the Board of Supervisors are available on the internet at: www.countyofsb.org.

4) SHERIFF 14-00848

HEARING - Consider recommendations regarding a Contract for law enforcement services on the Chumash Reservation, as follows: (EST. TIME: 30 MIN.)

a) Authorize and direct the Chair to execute a Contract for law enforcement services with the Santa Ynez Band of Chumash Indians effective January 1, 2015; and

b) Determine the action is exempt from the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines section 15061 (b) (3).

COUNTY EXECUTIVE OFFICER'S RECOMMENDATION: POLICY

HEARING TIME: 10:15 AM - 11:00 AM (45 MIN.)

Received and filed staff presentation and conducted public hearing.

A motion was made by Supervisor Farr, seconded by Supervisor Adam, that this matter be Acted on as follows:

a) Authorized; Chair to execute. The Board further determined that approval of this contract is not a step towards a Cooperative Agreement for Camp 4 and does not indicate the County's support of the Tribe's Fee-to-Trust application for Camp 4.

b) Approved.

The motion carried by the following vote:

Ayes: 5 - Supervisor Carbajal, Supervisor Wolf, Supervisor Farr, Supervisor Adam, and Supervisor Lavagnino

5) COMMUNITY SERVICES 14-00832

HEARING - Consider recommendations regarding discussion of County Percent for Art Program (Ordinance No. 3068), as follows: (EST. TIME: 30 MIN.)

a) Receive and file an update from the County Arts Commission regarding the Percent for Art Program (Ordinance No. 3068);

b) Direct Staff to either:

i) Continue to apply the Percent for Arts Policy according to Ordinance No. 3068 as it currently exists, leaving Chapter 7A unchanged; or

ii) Return to the Board with a proposed Ordinance amending Chapter 7A of the Santa Barbara County Code to affect one or more of the following: