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Counsel for Real Party in Interest
the Santa Ynez Band of
Chumash Mission Indians

**UNITED STATES DEPARTMENT OF THE INTERIOR
OFFICE OF HEARINGS AND APPEALS
INTERIOR BOARD OF INDIAN APPEALS**

COUNTY OF SANTA BARBARA,
CALIFORNIA; CONCERNED CITIZENS OF
THE SANTA YNEZ VALLEY,
MEADOWLARK RANCHES
ASSOCIATION, and SANTA YNEZ VALLEY
ASSOCIATION OF REALTORS; NANCY
CRAWFORD-HALL; NEIGHBORHOOD
DEFENSE LEAGUE OF CALIFORNIA; NO
MORE SLOTS; and PRESERVATION OF
LOS OLIVOS and PRESERVATION OF
SANTA YNEZ,
Appellants,

v.

PACIFIC REGIONAL DIRECTOR, BUREAU
OF INDIAN AFFAIRS; and SANA YNEZ
BAND OF CHUMASH MISSION INDIANS,
Appellee and Real Party in Interest.

SUGGESTION OF MOOTNESS

Docket Nos.

SUGGESTION OF MOOTNESS BY THE SANTA YNEZ BAND OF CHUMASH MISSION INDIANS

The Santa Ynez Band of Chumash Mission Indians, the real party in interest in this matter, submit that these appeals, and all other appeals of the Pacific Regional Director's June 17, 2013 approval of the Tribe's Proposed Land Consolidation and Acquisition Plan, became moot on October 11, 2013, when the Tribe withdrew the proposed plan. Because there is no longer any definite or concrete controversy over the approval of the Tribe's Land Consolidation and Acquisition Plan, the Board should dismiss these appeals as moot.

The appeals from the Pacific Regional Director's decision

In March 2013, the Tribe submitted to the Pacific Regional Director a Proposed Land Consolidation and Acquisition Plan, which encompassed approximately 11,500 acres of the Tribe's ancestral and historic territory in Santa Barbara County. On June 17, 2013, the Pacific Regional Director issued a decision approving that plan.¹

On September 18, 2013, the Board received a notice of appeal from the County of Santa Barbara, California, challenging the Pacific Regional Director's decision. On September 23, 2013, The Board received additional notices of appeal by Concerned Citizens of the Santa Ynez Valley, Meadowlark Ranches Association, the Santa Ynez Valley Association of Realtors, Nancy Crawford-Hall, the Neighborhood Defense League of California, No More Slots, and Preservation of Los Olivos and Preservation of Santa Ynez.

Three days later, the Board issued a Pre-Docketing Order that consolidated the appeals.² Since then, counsel for the Tribe have also received notices of appeal or answers from the Santa

¹ Approval of Proposed Land Consolidation & Acquisition Plan Santa Ynez Band of Chumash Indians (June 17, 2013).

² Pre-Docketing Notice, Order Consolidating Appeals, order for Appellants to Complete Service, Order Concerning Service List, and Order for Administrative Record (Sept. 26, 2013).

Ynez Rancho Estates Mutual Water Company, Inc.,³ Mary Kiani, trustee for the Kiani Family Reminder Trust,⁴ Charles Grimm, Grimm Investments, LLC, Michael Sinclair, Lynn Sinclair, Paul Skinner, Robin Hunt, Jr., Vicki Schuman Hunt, Thomas J. Barrack, Donald Petroni, Ann Petroni, Lawrence Grassini, Kathleen S. Grassini, Grassini Vineyard, LLC, Tom Stull, Deborah Stull, Aspen Properties, Michael Focht, Sandra Focht, Gerald Thomas, Janet Thomas, Priscilla Tamkin, James Vogelzand, Mary Beth Vogelzang, Julie McGinley, Jack McGinley, Shawn Addison, Antoinette Addison, Kentucky West, Donald Shackelford, Kim Shackelford, Santa Barbara Vineyards, LLC, Roger K. Bower, Joe E. Kiani, Mary Kiani (a second time),⁵ and the Santa Ynez River Water Conservation District, Improvement District No. 1.⁶

All of these appeals are moot

But even as the more recent appeal documents acknowledge,⁷ the Tribe withdrew the Land Consolidation and Acquisition Plan that is the subject of each of these appeals on October 11, 2013.⁸ Because the application has been withdrawn, the Regional Director's June 17, 2013 decision is moot. Therefore, all pending appeals should be dismissed.

“The Board follows the doctrine of mootness and normally declines to consider moot issues.”⁹ Under the doctrine of mootness, “[t]he Board does not issue advisory opinions, and adheres to the principle that an active case or controversy must be present at all stages of an appeal before the Board.”¹⁰

³ Notice of Appeal and Statement of Basis for Appeal by Santa Ynez Rancho Estates Mutual Water Company, Inc. (Sept. 28, 2013).

⁴ Kiani's Notice of Appeal and Joinder in Notice of Appeal (Oct. 15, 2013).

⁵ Answer of Interested Parties (Oct. 16, 2013).

⁶ Santa Ynez River Water Conservation District's Notice of Appeal (Oct. 18, 2013); Santa Ynez River Water Conservation District's Answer of Interested Party (Oct. 18, 2013).

⁷ See Santa Ynez River Water Conservation District's Answer of Interested Party at page 2, n.3.

⁸ See *id.*, Ex. 1. A copy of the Tribal resolution withdrawing the plan and the cover letter sent with that resolution to the BIA are attached as Exhibit A.

⁹ *Nomee v. Acting Billings Area Dir.*, 18 IBIA 367, 367 (1990)

¹⁰ *Rampey v. Acting Eastern Okla. Reg'l Dir.*, 55 IBIA 50, 51 (2012); see, e.g., *Davis v. Great*

Conclusion

These appeals ask the Board to review a decision by the BIA that no longer has any effect, and by doing so, ask the Board to issue an advisory opinion on a matter where there is no active case or controversy. The Tribe has withdrawn the Land Consolidation and Acquisition Plan, mooting both the Regional Director's decision and these appeals. Because these appeals are now moot, the Board should dismiss all appeals of the Pacific Regional Director's June 17, 2013 decision approving the Tribe's Land Consolidation and Acquisition Plan. In the event that the Board concludes that these appeals are not moot, the Tribe respectfully requests an opportunity to respond to the merits of these appeals.

October 23, 2013

Respectfully submitted,

s/ Nancie G. Marzulla

Nancie G. Marzulla

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Band of Chumash Mission Indians

Plains RE'l Dir., 38 IBIA 89 (2002) (dismissing appeal as moot); *McKay v. Great Plains Reg'l Dir.*, 37 IBIA 157 (2002) (dismissing appeal as moot); *Kjerstad v. Aberdeen Area Dir.*, 36 IBIA 130 (2001) (dismissing appeal as moot); *Hall v. Billings Area Dir.*, 33 IBIA 290 (1999) (dismissing appeal as moot).

Exhibit A



Santa Ynez Band of Chumash Indians

P.O. Box 517 • Santa Ynez, CA 93460
805-688-7997 • Fax 805-686-9578
www.santaynezchumash.org



BUSINESS COMMITTEE
Vincent Armenta, *Chairman*
Richard Gomez, *Vice Chairman*
Kenneth Kahn, *Secretary/Treasurer*
David D. Dominguez, *Committee Member*
Gary Pace, *Committee Member*

October 11, 2013

Ms. Amy Dutschke, Director
BIA Pacific Region
2800 Cottage Way
Sacramento, CA 95825

~~IN RE: June 17, 2013 Decision by Pacific Regional Director to Approve Land~~
Consolidation and Acquisition Plan of the Santa Ynez Band of Chumash Indians;
REQUEST TO WITHDRAW PLAN WITHOUT PREJUDICE;
AND DISMISS IBIA APPEAL WITHOUT PREJUDICE.

Dear Pacific Regional Director Dutschke:

The Santa Ynez Band of Chumash Indians hereby withdraws without prejudice the following:

That Tribal Consolidation Area (TCA) application dated March 27, 2013 as approved on June 17, 2013.

In addition, Resolution #926 Santa Ynez Band of Chumash Indians—Tribal Land Consolidation Area is hereby superseded by Resolution #926A Santa Ynez Band of Chumash Indians—Withdrawal Without Prejudice of Tribal Land Consolidation Area, an original of which is attached hereto.

Please dismiss any appeals to such TCA without prejudice also.

Sincerely,

Vincent P. Armenta
Tribal Chairman

CC:

Interior Board of Indian Appeals
Office of Hearings and Appeals
U.S. Department of the Interior
801 N. Quincy Street, Suite 300
Arlington, VA 22203
703-235-3816 (phone)
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2013 OCT 15 PM 12:03
COUNTY OF SANTA BARBARA
CLERK OF THE
BOARD OF SUPERVISORS



Santa Ynez Band of Chumash Indians

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David D. Dominguez, *Committee Member*
Gary Pace, *Committee Member*

RESOLUTION #926A

Re: **Santa Ynez Band of Chumash Mission Indians--
Tribal Land Consolidation Area;
WITHDRAWAL WITHOUT PREJUDICE**

- Whereas:** The Santa Ynez Band of Chumash Indians (the "Tribe") is a federally recognized Indian Tribe under the United States Department of the Interior, Bureau of Indian Affairs; and
- Whereas:** The Tribal Business Committee of the Santa Ynez Band of Chumash Indians is the duly authorized body of the Tribe to exercise full governmental responsibilities, and is empowered to make tribal policy and carry out tribal business; and
- Whereas:** The Santa Ynez Chumash have an approximately 137 acre Reservation much of it is undevelopable wetlands and riverbanks of the Zanja De Cota Creek. Housing and government buildings cover the remainder of the Reservation.
- Whereas:** Such 137 acre Santa Ynez Reservation is part of a larger approximately 11,500 acre parcel that was the basis for a quiet title action by the Bishop of Monterey in 1897. Such quiet title action was against the individual members of the Santa Ynez Band of Chumash Indians and the Indian Agent at that time to cut off any legal rights they had as to such parcel.
- Whereas:** By Resolution #926, the Tribe requested the designation of such approximately 11,500 acre parcel as a Tribal Consolidation Area (TCA). The Tribe would now like to withdraw without prejudice such request to designate such TCA.

Now Therefore Be It Resolved that the Santa Ynez Band of Chumash Indians hereby requests that the application to the Secretary or his designee dated March 27, 2013 for a Tribal Consolidation Area pursuant to 25 CFR 151.2(h) and 25 CFR 151.3(a)(1) be **WITHDRAWN WITHOUT PREJUDICE**, and authorizes the Chairman of the Tribe (or the Vice Chairman if the Chairman is unavailable) to negotiate, sign, and execute any and all documents required or necessary to implement such **WITHDRAWAL WITHOUT PREJUDICE**.

This resolution supersedes any previous Tribal resolutions.

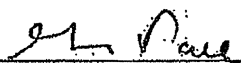
CERTIFICATION

This is to certify that the foregoing resolution was adopted by the Santa Ynez Business Committee at a duly called meeting of the Tribal Business Committee on Oct. 9, 2013 by a vote of 4 in FAVOR, 0 OPPOSED, and 0 ABSTAINING.

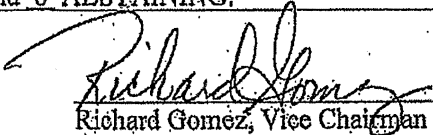
Vincent Armenta, Chairman




Kenneth Kahn, Secretary-Treasurer



Gary Pace, Committee Member



Richard Gomez, Vice Chairman



David Dominguez, Committee Member

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DEFENSE LEAGUE OF CALIFORNIA; NO
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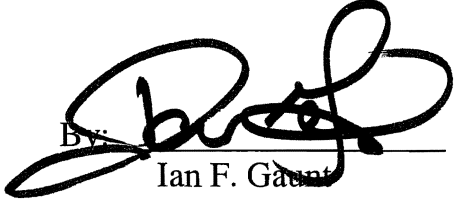
CERTIFICATE OF SERVICE

Docket Nos.

PROOF OF SERVICE

This certifies that on October 22, 2013, I filed the attached Suggestion of Mootness, and served the individuals and entities listed in the attached service list, by UPS, postage prepaid.

October 22, 2013

By: 
Ian F. Gaunt

Service List:

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