

Santa Ynez Valley Concerned Citizens

October 17, 2013

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

**RE: Santa Ynez Band of Mission Indians of the Santa Ynez Reservation Fee to Trust Land
Acquisition Application for 1,427.78¹ Acres**

Dear Regional Director Dutschke,

The following comments are submitted on behalf of *The Santa Ynez Valley Concerned Citizens (SYVCC)*. The Santa Ynez Band of Chumash Indians (**Chumash**) has requested the Bureau of Indian Affairs (BIA) take approximately 1,427.78 acres into trust. In addition to the comments SYVCC has already submitted, we wish to adopt and incorporate, by this reference, the comments submitted by the County of Santa Barbara on October 7, 2013, with respect to the Environmental Assessment (EA) for the proposed acquisition. These comments are important and should be fully addressed when evaluating the Fee-To-Trust (FTT) application.

The BIA and the Chumash assert in the EA and Fee-to-Trust Application that the Camp 4 parcels are to be processed as an On Reservation acquisition. An On-reservation acquisition gives very little consideration to the comments of affected local government and little if any to affected citizens. The only consideration that affected community members may receive is through a judicial review of the fee to trust transaction. SYVCC asserts that due to the size and scope of the proposed action concurrent with the cumulative impacts of the recent land acquisitions, the pending applications for FTT of additional parcels, and the un-analyzed burdens posed by a Tribal Consolidation Area (TCA) recently approved by BIA, a more rigorous and thorough evaluation of this is required before any consideration be given the Request.

The BIA has approved the first ever TCA in California. The BIA is using the On Reservation regulation 151.10 for the Chumash acquisition of lands within the TCA. SYVCC asserts that the TCA destabilizes the social-cultural, political and economic systems of the entire region. Arguably, the Camp 4 parcels may meet an exception under Section 20 of the Indian Gaming Regulatory Act (IGRA) (U.S. C. 2719 (a) (1)). This transaction becomes a major federal action and requires an Environmental Impact Statement (EIS). The Chumash must comply with the IGRA and its 1999 Tribal State Compact. This application cannot move forward until a complete EIS is prepared and re-circulated. With reference to this critical element we wish to adopt and incorporate, by this reference, the comments submitted by *Stand Up For California*, dated October 17, 2013.

¹ **The Chumash EA states 1,433 acres, and the Application recites 1,427.78 acres –this inconsistency must be rectified.**

The proposed FTT poses significant jurisdictional conflicts and Off-reservation impacts not adequately identified, assessed or mitigated:

The residents of the Santa Ynez Valley and indeed of Santa Barbara County as a whole expect and demand rigorous, objective, unbiased, transparent and above all else thorough analysis and evaluation of significant land use decisions irrespective of jurisdiction. In addition, any contemplated Fee-to-Trust analysis must have a thorough evaluation of the cost shifting that occurs when fee land is taken into trust. The loss of property taxes can and does have a significant impact on the ability of local government to provide social and emergency services to the surrounding community. The loss of property tax affects local school district budgets further affecting the quality of education. The loss of jurisdictional authority affects a local government's ability to control the equitable sharing of the regions natural resources which include water, waste water disposal, traffic circulation, law enforcement and emergency services, management of urban sprawl, night sky conservation, pollution, mosquito abatement, conservation of agricultural resources as well as compatible land uses.

The Chumash have proffered a Cooperative Agreement (CA) to the County of Santa Barbara for 10 years. The proposed CA will pay one million dollars per year limited to 10 years in exchange for the County to support their fee to trust project. However, the 1,433 acres if and when transferred into trust will be taken off of the tax rolls into perpetuity. The CA does not include any additional impacts to the County after year 10.

The proposed CA does not address necessary mitigations or services paid for at the expense of all County taxpayers. The CA does not offer mitigation funds for increased needs of services for law enforcement, fire or emergency services, nor does it offer in lieu of taxes for the property or for improvements to the property. Rather, the CA submitted to the County promises "***NO NEW REVENUES***".

The payment in lieu of taxes in section III that is left blank comes to the tribe from federal and state sources, including the current Indian Gaming Special Distribution Fund (SDF). The California Court has ruled that SDF funds may ***only be used for gaming related impacts***. Is this term in the CA *evidence* that the Tribe intends to use the 1,433 ac. of land for gaming in the future after it is safely in trust? The current SDF funds are inadequate to reimburse county tax payers for the costs of law enforcement, fire and emergency services generated by the Chumash casino development. How could these funds even be considered to offset future impacts? Clearly, approval of the FTT application will result in loss of local taxes and increased County service costs. SYVCC asserts that the application should be declined as structured.

The Chumash have not demonstrated a clearly identified economic need for this FTT:

The Chumash application is absent a showing of "*immediate need*" or "*necessity*". The Chumash are confusing its desire to ***bank land*** with the actual need for the protections afforded tribes by trust status. The Chumash have not stated a clear economic benefit for acquiring ***all*** 1427.78 acres of land in trust. Nor have the Chumash clearly defined any economic benefit of the ambiguous event center. The Chumash purchased this land on the open market and have exercised successful economic control over this land and many other fee land purchases in Santa Ynez for a number of years. The Chumash have achieved sustained economic self-determination

The Chumash have not adequately explored achieving their objectives independent of the FTT as a fair and reasonable alternative:

The proposed use of open space and 143 homes has the potential of being worked out with the County of Santa Barbara and its Planning Department. The Tribe by holding the land in fee and developing it contributes to the strength of the local community as well as to the Tribe. The Tribe has not demonstrated that trust conveyance is necessary to facilitate tribal self-determination nor that the need of the land meets the statutory standards of 25 U.S.C. 465.

The proposed FTT creates a significant, negative and unnecessary Precedent for FTT in California

The State of California has 110 Indian tribal governments and 78 additional tribal groups seeking federal recognition. If the Chumash are permitted to acquire land in trust when it has no immediate need for the land, other tribes throughout the state will claim entitlement to the same treatment by the Department of the Interior pursuant to the provisions of 25 USC section 476 subdivisions (f) and (g) which provide that no agency of the United States shall make a determination under the Indian Reorganization Act (IRA) that "*classifies, enhances, or diminishes the privileges and immunities available to an Indian tribe relative to other federally recognized tribes by virtues of their status as Indian tribes*"

Once in Trust, Tribal Governments may change their development plans for the property negating the value of negotiated Mitigations and posing new unmitigated burdens:

The Chumash have proposed two (2) distinctly different development scenarios for the subject property within the last 10 years. The preceding proposal consisted of a 300 unit Resort Hotel Complex, 2 Golf Courses, 250 market rate homes and an equestrian center. Were the Chumash to re-assert this proposal after FTT, all mitigations in place would be insufficient to address the massive potential burdens associated with a significantly more intensive development.

The land to be acquired is in fee status, The Bureau of Indian Affairs must be equipped to discharge the additional responsibilities resulting from the acquisition of the land in trust status.

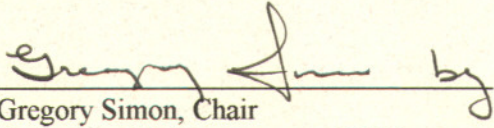
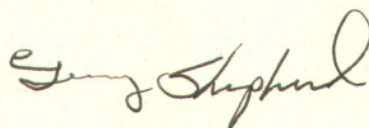
The property that the Chumash have proposed for trust status is in fee status. There are several easements and public rights on the properties that were specifically identified in the application. Also the Notice of Land Acquisition Application included copies of past litigation that identified potential monetary claims, private interests and public rights in the property. The Secretary of the Interior must ensure and stipulate in any final decision that easements, public rights on the properties remain in force on the trust parcels.

Regional Director Dutschke must require the elimination of all liens, encumbrances or infirmities prior to taking final approval action on this fee to trust acquisition. Transferring this land into trust without directly contacting easement owners, addressing the issues of public rights represents a "taking or inverse condemnation" without due process or just compensation. Additionally, loss of access to private properties would devalue and make

specific properties unmarketable creating further *irreparable harm* without just compensation.
The Application does not fully or wholly address or resolve these real issues.

This application as it is, must be denied for all of the aforementioned reasons.

Sincerely,

 by 
Gregory Simon, Chair
Santa Ynez Valley Concerned Citizens