

Stand Up For California!
“Citizens making a difference”

www.standupca.org

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December 31, 2013

Amy Dutschke, Regional Director
Pacific Regional Office
Bureau of Indian Affairs
2800 Cottage Way, Room W-2820
Sacramento, CA. 95826
Fax: 916 978 6099

**RE: Final Environmental Impact Statement (FEIS) for the Soboba Band of Luiseno Indians Proposed
534 Acre Trust Acquisition and Casino Project Riverside County California**

Dear Regional Director Dutschke,

Stand Up For California submits this letter of comment to be included in the administrative record for the Soboba Band of Luiseno Indians 534.91 acre application for trust in the City of San Jacinto in Riverside County, California. Thank you for granting an extension of time to comment. (See- attachment)

The Soboba Band of Luiseno Indians (Soboba/Tribe) has requested the Bureau of Indian Affairs (BIA) take approximately 534.91 acres into trust. In addition to the comments *Stand Up For California* submitted August 25, 2009, we wish to adopt and incorporate by this reference, the comments submitted by the State of California on September 15, 2009 regarding the DEIS and on March 14, 2012 regarding the Fee to Trust application. These comments are important and should be fully addressed when evaluating the FEIS and considering the Soboba FEIS and Fee to Trust (FTT) application.

The Notice of Availability for the initial DEIS first appeared in the Federal Register: July 2, 2009 (Volume 74, Number 126). The notice failed to state the following: (1) whether this would be an off-reservation casino, (2) whether it is being performed pursuant to an Act of Congress or under existing fee-to-trust authority under the IRA, and (3) the justification for it, i.e. purpose/need --- gaming application for second casino, or (4) that it will encapsulate three well established non-tribal housing communities and the nearby Calicinto Ranch which provides camp services to disadvantaged youths and the Pirelli Properties hosting 300 children as islands within a reservation.

Stand Up For California asserts that the Regional Director did not properly determine whether the 34 parcels of land were contiguous to the reservation and thus whether the acquisition should be evaluated under the lesser standard of an on-reservation acquisition. The Regional Director did not explain the rationale for an on-reservation acquisition notwithstanding the separation of a road which is supported by the public easement of Lake Park Drive. None of this was in the federal notice issued on July 2, 2000.

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For the land to be eligible for gaming as an exception under the Indian Gaming Regulatory Act (IGRA) the land must be contiguous, the parcel boundaries must touch. Thirty-three of the 34 parcels do not meet the standard of contiguous lands. The parcels of land have been owned historically by separate private parties and have a history of separate parcel boundaries. These lands are not contiguous.

The term “contiguous” is not defined in the 151 process. However the term “Indian reservation” does have a definition, those lands that are under the governmental jurisdiction of the Tribe. Only a small section of one parcel touches the reservation boundary. Only one parcel out of 34 may be considered an on-reservation acquisition. The remaining 33 parcels must be considered off-reservation. ***The FEIS does not place the casino complex on the parcel that is contiguous to the reservation.***

The Soboba FEIS encompasses 534.91 acres, yet the evaluation is only for 55 acres of land to develop a 300 room hotel, casino, restaurants, retail establishments, a convention center an events area and a spa and fitness center within a 729,599 square foot complex. The proposed action also includes a Tribal Fire Station and a 12 pump gas station with a 6,000 square foot convenience store. ***The FEIS fails to meet the NEPA requirements of evaluating all the significant impacts that are planned or will occur in the foreseeable future.***

- What will the Tribe develop on the remaining 480 acres of land?
- When will the Tribe develop the remaining 480 acres?
- What cumulative impacts will occur in the foreseeable future?

Off-reservation applications must include a detailed business plan that supports the need for the acquisition of land. ***That business plan must be supported by a National Environmental Policy Act (NEPA) review that includes all of the significant impacts that affect the human environment and the cumulative impacts on those developments which in turn affect the purpose and intent of the fee to trust acquisition. The FEIS fails on multiple levels to accurately evaluate the proposed project or its alternatives. The purpose and need of 534.91 acres of land remains deficient under the NEPA review.***

It appears the Tribe’s goal is to ensure that future developments will be a piece-meal event providing no mitigation to local government or affected parties. In essence the Tribe is “*land banking*”, placing land in trust for some future development to avoid and circumvent any and all regulatory processes. Since the BIA is obligated to accommodate tribes, it would be wise to have an independent 3rd party be appointed as the lead agency managing the NEPA process. This will assure all affected parties a fair, objective and transparent process. ***We believe the FEIS should be corrected and recirculated.***

This fee to trust acquisition will create islands of city/county/state jurisdiction within the trust lands. These islands include three well established non-tribal housing communities, the nearby Calicinto Ranch which provides camp services to disadvantaged youths and the Pirelli properties which provide services to some 300 children. The aggregate of citizens represent approximately 1200 persons; homeowners, residents, families, guests. This created isolation of non-tribal residents on state land within trust land presents significant life safety and quality of life concerns for citizens living within the trust lands. The majority of these citizens are elderly and have nowhere to move. The concerns are grave as these residents, if the fee to trust acquisition is approved will be isolated in the middle of trust land governed by a Tribe that has over the years according Riverside County Sheriff Stanley Sniff, Jr. had a “history of crime incidents on the reservation”.

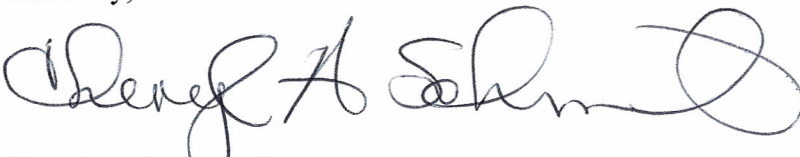
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Placing aside the issue of public safety related to crime that has occurred on this particular reservation, what happens to these citizens in the event of a natural disaster such as an earthquake, fire or flood. There has been no consideration of the increased response time of health services from paramedics or ambulances to address the needs of this at risk population of citizens. Access on Lake Park Drive if allowed to be taken into trust could easily be restricted or realigned as the Tribe has discussed. *The FEIS in the Transportation Management Plan (TMP – Appendix AC) fails to address these significant life safety and quality of life concerns.*

Stand Up For California adopts and incorporates by this reference the City of San Jacinto letter of comment to the FEIS submitted on December 26, 2013. Specifically, in this letter I note item “D” Law Enforcement/Fire Protection. The FEIS claims there is a MOU with the Sheriff’s Department. The MOU appears to be nothing more than *window dressing* seeking to influence the outcome of the FEIS giving the appearance that there is meaningful mitigation. *There is no meaningful mitigation if a MOU can be unilaterally terminated at any time.*

The FEIS is fatally flawed on multiple levels. It must be corrected to reflect an environmental evaluation of an off reservation acquisition and recirculated. Likewise the Fee to Trust application must be corrected to reflect an off reservation acquisition for gaming and the need for gubernatorial concurrence.

Sincerely,



Cheryl A. Schmit – Director
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Attachment: Email from John Rydzik, granting an extension of time to submit comment