United States Department of the Interior

OFFICE OF THE SECRETARY
WASHINGTON, D.C. 20240

TAKE PRIDE IN AMERICA

MAY 12 2008

The Honorable Duncan Hunter
U.S. House of Representatives
Washington, D.C. 20515

Dear Mr. Hunter:

Thank you for your letter of April 1, 2008, regarding a dispute between the Sycuan Band of the Kumeyaay Nation (Tribe) and the Dehesa Valley Community Council (Dehesa Community) concerning a Tribe's land acquisition program. You have enclosed with your letter copies of a January 10, 2006, letter from the Dehesa Community, and of a January 29, 2007, letter from the Tribe. These letters address the issues of concern that the Dehesa Community has raised with you.

The Dehesa Community would like the Department of the Interior to re-examine a fee-to-trust application for an 82.85-acre parcel of land that was taken into trust for the Tribe in 2004 because the actual use of the land (parking lot for casino) is different from the proposed use at the time of acquisition (housing). We understand that the Dehesa Community is very unhappy with what it is calling the "bait and switch" tactic employed by the Tribe. Although we understand the Community's concern, once land is taken into trust, the Department is not authorized to reconsider its decision because land cannot be taken out of trust without Congressional authorization. In addition, current land acquisition regulations in 25 CFR Part 151 do not authorize the Department to impose restrictions on a Tribe's future use of land which has been taken into trust. *See City of Lincoln, Oregon v. Portland Area Director*, 33 IBIA 102 (1999). To do so would require amending existing regulations in 25 CFR Part 151. The Department is not currently in the process of amending these regulations. In addition, the Department has been reluctant in the past to take any action to eliminate the flexibility that Indian tribes enjoy to change the use of trust lands both because it is an aspect of tribal sovereignty and because it is a needed tool to adapt to changed economic conditions.

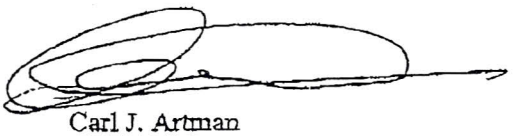
The Dehesa Community also questions whether the use of the 82.85-acre parcel for a parking lot is consistent with a provision of the Tribe's 1999 compact with the State of California which requires any portion of a gaming facility (including a parking lot) to be located on Indian lands on which gaming may lawfully be conducted under the Indian Gaming Regulatory Act (IGRA). Since the 82.85-acre parcel of land is contiguous to the Tribe's Indian Reservation as it existed on October 17, 1988, gaming on the parcel would be authorized under Section 20(a)(1) of IGRA, 25 U.S.C. 2719(a)(1).

The Dehesa Community would also like the Department to "pay attention" to the Tribe's potential future trust acquisition of a specific 1,600-acre parcel because that parcel is identified in the Tribe's 2007 class III gaming compact with the State of California. At this

time, the Department of the Interior has not received an application to take the 1600-acre parcel into trust for the Tribe. If and when that happens, the Department will be vigilant in reviewing the application, especially because the 2007 compact specifically lists that parcel as potentially eligible for gaming.

We hope this information is helpful. Thank you for your interest in this important matter.

Sincerely,



Carl J. Artman
Assistant Secretary – Indian Affairs