

Patrick D. Webb, Esq. Bar No. 82857  
Webb & Carey APC  
402 West Broadway Ste 1230  
San Diego CA 92101  
619-236-1650

Attorneys for Appellants

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

DEHESA VALLEY COMMUNITY	)	Docket No. IBIA (not yet assigned)
COUNCIL, INC., WALDON G. RIGGS	)	
AND CAROLYNN P. RIGGS,	)	
	)	<b>STATEMENT OF REASONS FOR</b>
Appellants,	)	<b>CONSOLIDATED APPEAL</b>
vs.	)	
	)	
SACRAMENTO REGIONAL	)	
DIRECTOR, BUREAU OF INDIAN	)	
AFFAIRS,	)	
	)	
Appellee.	)	
_____	)	

Sacramento Acting-Regional Director Bearquiver’s August 1, 2013 notice of decision has directly and indirectly, economically, environmentally and aesthetically, adversely affected the Appellants’ interests, including the loss and impairment and impediment of such interests, and the Appellants’ rights to due process and equal protection of law, and must be reversed for the following reasons:

1. The August 1, 2013 decision to take approximately 17.5 acres of land into trust constitutes a taking of Appellant’s private property without due process in violation of

the Fifth Amendment of the U.S. Constitution;

2. The August 1, 2013 decision to take approximately 17.5 acres of land into trust contains descriptions of easements that have never been granted, nor recorded, in San Diego County; See, the description in the NOD of PARCEL A1 (AN EASEMENT AND RIGHT OF WAY FOR ROAD AND PRIVATE UTILITY PURPOSES OVER THE NORTHERLY 20 FEET OF PARCEL 1 OF PARCEL MAP NO. 5227, AND THE EASTERLY 20 FEET OF PARCELS 1 AND 2 OF SAID PARCEL MAP NO. 5227). See also, PARCEL 3 of PM NO. 5227 and PARCELS 1 and 2 of PM NO. 5393), and PARCEL A2 (THE SOUTHERLY 20 FEET OF PARCEL 2 OF PM NO. 3915), PARCEL C1, PARCEL 1, and PARCEL 2;

Moreover, the Supervisory Realty Specialist in the Pacific Regional Office of the BIA has just recently admitted on August 26, 2013, that the August 1, 2013 notice of decision contains inaccurate descriptions of the property to be taken into trust. For example, there is no recorded easement described as PARCEL C3 (AN EASEMENT FOR INGRESS AND EGRESS, IN, OVER, ALONG AND ACROSS THE SOUTHELY 20 FEET OF PARCEL 2 OF PARCEL MAP NO. 5227, IN THE COUNTY OF SAN DIEGO, STATE OF CALIFORNIA, SAID MAP FILED IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY, OCTOBER 21, 1976, AS INSTRUMENT NO. 75-178658 OF OFFICIAL RECORDS). With regard to this non-existent easement, DVCC has not been provided the requisite time and due process to file its objections to such an improper taking.

The NOD also has documentation errors in PARCEL C2 (AN EASEMENT FOR

INGRESS AND EGRESS, IN, OVER, ALONG, AND ACROSS THE NORTHERLY 20 FEET OF PARCEL L OF PARCEL MAP NO. 5227, IN THE COUNTY OF SAN DIEGO, STATE OF CALIFORNIA, SAID MAP FILED IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY, OCTOBER 21, 1976, AS INSTRUMENT NO. 75-178658).

3. Because the Supervisory Realty Specialist in the Pacific Regional Office of the BIA only recently admitted on August 26, 2013, that the August 1, 2013 notice of decision contains inaccurate descriptions of the property to be taken into trust, and because the BIA distribution list for the August 1, 2013 notice of decision contains incorrect and undeliverable addresses, all interested parties, including the Appellants, have not been provided the requisite time and due process in which to object to the proposed taking of land into trust; and

4. Acting-Regional Director Bearquiver was without jurisdiction to issue the August 1, 2013 notice of decision in violation of 25 C.F.R. 151, *et seq.*, because the Secretary did not require the elimination of all liens, encumbrances or infirmities prior to taking final approval action on the acquisition, where he was required to eliminate all such liens, encumbrances and infirmities prior to such approval, because the liens, encumbrances, and infirmities make title to the land unmarketable, and therefore a taking, or an inverse condemnation, without due process and just compensation;

5. Such an unlawful taking also violates the Tenth Amendment of the U.S. Constitution, and constitutes federal interference with the powers reserved to the State in a manner patently at odds with the intent of the Tenth Amendment. The State of California has not consented to such a taking by the federal government of state land under Art. 1 Section 8, cl. 17 of the U.S. Constitution. Once these formally public domain

lands were acquired by the United States from Mexico and then conveyed to California and private ownership in 1850, the United States retained no regulatory authority over such public domain lands. *Hawaii v. Office of Hawaiian Affairs*, 556 U.S. 163, 176 (2009). “A long line of cases have consistently held that part of the residue of sovereignty retained by the states, a residue insured by the Tenth Amendment, is the power to determine...who may be made beneficiaries,” of a deed to the United States. *U.S. v. Burnison* 339 U.S. 87, 91-92 (1950). “Without the State’s ‘consent’ The United States does not obtain the benefits of Art. I, Section 8, cl. 17, its possession being simply that of an ordinary proprietor.” *Paul v. U.S.* 371, U.S. 245, 264 (1963); and

6. Appellants incorporate all of the reasons opposing taking the approximately 17.5 acres into trust stated by the State of California in Kamala D. Harris, Attorney General, State of California, Department of Justice, comment letter dated December 7, 2011;

7. Appellants incorporate all of the reasons opposing taking the approximately 17.5 acres into trust stated by the County of San Diego, Land Use and Development Group letter dated November 18, 2011;

8. Appellants incorporate all of the reasons opposing taking the approximately 17.5 acres into trust stated by the County of San Diego, Assessor/Recorder/county Clerk, providing 2011-2012 tax information;

9. Appellants incorporate all of the reasons opposing taking the approximately 17.5 acres into trust stated by the Crest/Dehesa/Granite Hills-Harbison Canyon Sub-regional Planning Group letter dated November 15, 2011;

10. Appellants incorporate all of the reasons opposing taking the approximately 17.5 acres into trust stated by the Dehesa Valley Community Council, Inc.’s letter dated

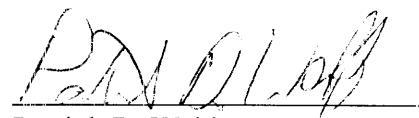
November 17, 2011; and

11. The August 1, 2013 notice of decision of the Bureau of Indian Affairs is arbitrary and capricious, violates federal law, and breaches the fiduciary obligations under the U.S. federal government's "General Trust Responsibility" over Indians.

For all of these reasons the Sacramento Acting-Regional Director's August 1, 2013 notice of decision must be reversed.

Dated: September 27, 2013

**WEBB & CAREY APC**

A handwritten signature in black ink, appearing to read "P. Webb", is written over a horizontal line.

Patrick D. Webb  
Attorneys for Appellants

**DECLARATION OF SERVICE BY MAIL**

I, the undersigned, am a citizen of the United States, a resident of the County of San Diego, State of California, over the age of eighteen years.

On September 28, 2013, I served the attached Statement of Reasons for Consolidated Appeal upon the parties in interest in said action by placing a true copy thereof, enclosed in a sealed envelope with postage thereon fully prepaid, in a United States Postal Service box at El Cajon, California, addressed as follows:

Office of Hearings and Appeals  
Interior Board of Indian Appeals  
801 North Quincy Street  
Suite 300  
Arlington VA 22203

Asst. Secretary of Indian Affairs  
U.S. Department of the Interior  
MS 4141 - MIB  
1849 C. Street, N.W.  
Washington D.C. 20204

Associate Solicitor – Indian Affairs  
Office of the Solicitor  
MS 6513-MIB  
U.S. Department of the Interior  
1849 C. Street, N.W.  
Washington, DC 20240

Pacific Southwest Regional Solicitor  
Office of the Solicitor  
U.S. Department of the Interior  
2800 Cottage Way, Room E.-1712  
Sacramento, CA 95825

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed on September 28, 2013 at El Cajon, California.

---

Carolynn P. Riggs