



BOARD OF SUPERVISORS
AGENDA LETTER

Agenda Number:

Clerk of the Board of Supervisors
105 E. Anapamu Street, Suite 407
Santa Barbara, CA 93101
(805) 568-2240

Department Name: CEO
Department No.: 012
For Agenda Of: 10/15/2013
Placement: Departmental
Estimated Tme: 120 minutes
Continued Item: NA
If Yes, date from:
Vote Required: Majority

TO: Board of Supervisors

FROM: Department Chandra Wallar, County Executive Officer, 568-3400 *Ck*
Director(s):
Contact Info: Chandra Wallar, County Executive Officer, 568-3400

SUBJECT: Response to Camp 4 Fee to Trust Application

County Counsel Concurrence

As to form: Yes

Auditor-Controller Concurrence

As to form: NA

Recommended Actions:

That the Board of Supervisors:

- Receive and consider background on the attached *Application for Transfer of Title for Fee Lands Into Trust* (Application) submitted by the Santa Ynez Band of Chumash Mission Indians for the property commonly referred to as Camp 4;
- Consider options for responding to the Application;
- Provide direction on next steps, if any, to the County Executive Officer; and
- Determine pursuant to CEQA Guidelines Section 15378(b)(5) that the above actions involving potential providing responses to the Application are not a project subject to CEQA review.

Summary Text:

On September 23, 2013 the County of Santa Barbara officially received the *Application for Transfer of Title for Fee Lands Into Trust* (Application) submitted by the Santa Ynez Band of Chumash Mission Indians to the United States Department of the Interior (DOI), Bureau of Indian Affairs (BIA), in July 2013 for the property commonly referred to as Camp 4 (Attachment A). The BIA is seeking comments regarding the proposed trust land acquisition in order to obtain sufficient data that would enable an analysis of the potential impacts on County government, which may result from the removal of Camp 4 from the tax roll and local jurisdiction. The BIA originally indicated that comments must be received within thirty days of receipt of the notice, October 23rd. As your Board knows the proposed project is

substantial in size, scope and affected resources. Because of the significant concerns that could result from this fee to trust approval the County Executive Office requested a 60 day extension to review possible impacts and prepare comments. The BIA approved a 15-day extension for the County. With the extension, any possible County comments will need to be submitted prior to the close of business on November 7, 2013.

The Code of Federal Regulations pertaining to requests to have lands taken in trust, 25 CFR §151.10 addresses “on-reservation acquisitions” and 25 CFR §151.11 addresses “off-reservation acquisitions.” Sections 151.10 and 151.11 both allow the County to provide written comments about the proposed acquisition’s potential impacts on regulatory jurisdiction, real property taxes and special assessments.

This includes in more detail within:

- Section 151.10(e), both directly and through Section 151.11(d): impacts resulting from removal of the land from the tax rolls; and
- Section 151.10(f), both directly and through Section 151.11(d): as jurisdictional problems and potential conflicts of land use which may arise.

Staff will provide information to the Board on possible impacts of the fee to trust (FTT) approval and seek direction in providing County comments to the BIA for their consideration of the Chumash FTT application for Camp 4.

Background: The County of Santa Barbara (County) recognizes the role and unique interests of tribes, states, counties and other local government to protect all members of their communities and to provide governmental services and infrastructure benefits to all. In addition, the County recognizes and respects the tribal right of self-governance, to provide for tribal members and to preserve traditional tribal culture and heritage. In similar fashion, the County recognizes and promotes its own self-governance to provide for the health, safety and general welfare of all residents of our communities.

Fee to Trust (FTT) Process

Under the fee to trust (FTT) process (Code of Federal Regulations Section 151) tribes may request the federal government to take additional land owned by them into trust. This FTT transfer process converts land from private or individual title to federal title, holding it in trust for exclusive use by an American Indian Tribe and removing it from local regulatory jurisdiction. As a result, the land becomes exempt from State and local government taxes and land use regulations. In addition to the substantial financial losses to the County and other taxing entities, the status of trust land often creates jurisdiction confusion in law enforcement, land use planning, social service delivery and emergency services. Additionally, the loss of local control can result in land uses that conflict with the County’s General Plan, Community Plans, and surrounding uses. This loss of local control to regulate land uses without appropriate mitigation can congest County roadways, impact water quality in waterways, reduce water supply to adjacent properties, degrade habitat, air quality and the environment and create public nuisance complaints.

Tribal applications to take land into federal trust often do not specify and limit the uses for the proposed site, and even when they do, a tribe is not bound to those uses once the land is taken into trust. This is the case with the Camp 4 project. Per the Tribe, the proposed uses include both development of a portion for housing as well as land-banking and holding land for future development. The development contemplated by the tribe is likely the largest and most impactful in the entire Santa Ynez Valley. It should be noted that the uses specified in the application by the Tribe may be achieved, with the property remaining in fee, via the County’s land use process. It should also be recognized that the tribe

may choose to change the uses on the site, and once in trust the County has no regulatory authority to play a role in the approval of such uses.

Need for an Environmental Impact Statement

Factors to be considered with the Camp 4 FTT application should include the extent of the impacts from the proposed project and any proposed mitigation measures, as well as, the tribe's commitments to reimburse the County for lost tax revenue and willingness to enter into an agreement related to the future uses of the trust land. To adequately evaluate the impacts, the County has identified the need for the environmental document to be elevated from the current level proposed by the BIA of an Environmental Assessment (EA) to an Environmental Impact Statement (EIS) (Attachment B). An EIS is necessary to disclose all project components, accurately analyze all the project's potentially significant direct and cumulative impacts, and require substantial measures to mitigate or avoid them. An EIS is also necessary to evaluate a full range of alternatives including use of the County's standard land development process for property held in fee. Without an EIS that provides correct and complete information, neither the BIA nor the public can make a proper, informed evaluation of the proposed project. At a minimum, impacts to be considered should include:

- Compatibility with the County's General Plan, Santa Ynez Community Plan, and County land use regulations;
- Conversion of Agricultural Land and Agricultural Preserve (Williamson Act) contract requirements;
- Provision of public safety services including law enforcement, fire protection, and emergency medical services;
- Provision of other public services including schools, parks and recreation;
- Avoidance of negative impacts to water supplies, storm water quality, wastewater or solid waste management, biology, and air quality, and
- Traffic capacity and circulation for vehicles, bicycles, and pedestrians;
- Loss of taxes and special assessments used to fund countywide services.

Property Characteristics

The proposed project encompasses over 1,411 acres and is zoned AG-II-100 (Agriculture, with a minimum parcel size of 100 acres). This property is also in a multi-year Agriculture Preserve (Williamson Act) contract. Additionally, the Santa Ynez Valley Community Plan includes guidance that the County shall oppose the loss of jurisdictional authority over land with the Plan area where the intended use is inconsistent with the goals, policies and development standards of the Plan or in the absence of a satisfactory legally enforceable agreement. Finally the property is located approximately 1.75 miles from the existing reservation. Therefore the BIA should utilize the process for off-reservation discretionary trust acquisition.

Tribal Consolidation Area (TCA) Appeal

It should be noted that the County has appealed the recent BIA decision to approve an 11,500 acre Tribal Consolidation Area (TCA) (Attachment C). Prior to BIA consideration of the Camp 4 property, which is included within the boundaries of the TCA, consideration of the County's appeal and a final decision on the validity of the TCA should be made.

Conclusion

After consideration of the above information and attachments, staff seeks Board direction on preparing a response on behalf of the County to the fee to trust application for Camp 4.

Fiscal and Facilities Impacts:

Approval of the Camp 4 FTT application, without a legally enforceable mitigation agreement, will result in loss of local taxes associated with current use and future development of the property. Concurrently there will be increased County costs necessary to provide services and infrastructure to the property.

Staffing Impacts:

Legal Positions: 0 FTEs: 0

Special Instructions:

Attachments:

- A - Application for Transfer of Title for Fee Lands Into Trust
- B – Notice of Application from Bureau of Indian Affairs
- C – County response to Environmental Assessment (EA) for transfer of Camp 4 from fee to trust (FTT)
- D – County appeal of BIA approved Tribal Consolidation Area (TCA)

Authored by: Chandra Wallar

cc: