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17 June 2013

County Counsel
County of Santa Barbara
105 E. Anapamu St.
Santa Barbara, CA 93101

Re: Proposed "government to government" meet and confer

To Whom It May Concern;

Although I have not received any official notification, I have been informed that Vince Armenta, the Chairman of the Santa Ynez Indian community, has requested that the County of Santa Barbara "meet and confer" on a government to government basis for the purpose of entering into an inter government agreement they have called a "Cooperative Agreement." This request is apparently being made in connection with the development of the 1,400 acres this group owns in fee located in the southeastern area of the Santa Ynez Valley which has come to be identified publicly as The Camp Four Property. It is worth noting no such request was made regarding the 6.9 acre parcel they are currently attempting to place in trust as well as the 5.8 acre parcel also proposed to be taken into federal trust.

The putative Santa Ynez Indian tribe often insists they are ***entitled*** to meet and confer on a government to government basis. They have no such right. President Nixon, in a special address to Congress in 1970, announced as a matter of policy, certain ***federal government agencies*** should deal with Indian tribal governments on a government to government basis. Other Presidents have made similar policy statements concerning relations of ***federal agencies*** and Indian tribal governments including Presidents Reagan and Bush.

The only current applicable "Presidential Directive," number 13175 was made by President Clinton. Presidential Executive Order 13175 Exhibit 1 (attached) and the former executive order 13084 Exhibit 2 ("repealed") also attached. As can be seen from a review of that Directive it instructs ***only non-independent federal agencies to engage in discussions with Indian tribal governments on a government to government basis*** when rules and policies may impact Indian tribes.

Although states and local governments were mentioned and defined in an earlier Executive order 13084 in section 1 sub. a. [copy enclosed], nothing in that prior order 13084, which defined state and local governments, ever actually affected them. When that order 13084 was expressly revoked by section 9.c. of this later Executive Order 13175 no comparable section even defining state and local governments was included. Executive Order 13175 ***is clearly directed only to non-discretionary federal agencies*** and its express purpose as set out in section 10. is that it only intended to improve internal management of the Executive branch of the federal government and creates no rights or duties upon states and local governments or their agencies. It is likely that clarification was included in Presidential Order 13175 to avoid any inference that the federal government was imposing any duties on state and local governments in violation of the 10th and even the 11th amendments of the U.S. Constitution.

President Clinton's existing Executive Order 13175 makes clear that these non-discretionary federal agencies should conduct such dealings with lawful Indian tribal governments as they would do with any other subordinate government, that is, on a government to government basis if they involve matters impacting tribal interests.

Furthermore Mr. Armenta often refers to the Santa Ynez Indian community as a "Sovereign Nation". It is not only not a "Nation," any such reference to any Indian tribe as a "sovereign nation" is a violation of federal law 25 U.S.C. 71. Also any "sovereignty" possessed by an Indian tribe which results in immunity from lawsuits was created by a series of common law case decisions beginning in 1921 and not by any statute. That common law immunity is now disfavored as a judicial anachronism. [See *Kiowa Tribe of Oklahoma v. Manufacturing Technologies, Inc.* [1998] 523 U.S. 751.]

As a minimum prerequisite to entering into any kind of contract or agreement with any Indian tribal government, it is necessary to insure that the tribal government being dealt with is a lawfully established Indian tribal government having all the necessary legal qualifications. When dealing with other municipal governments for example, like Carpinteria, Buellton or Lompoc, this generally poses no difficulty for the County. In dealing with any putative Indian tribal government this matter is far more difficult and complex.

County Counsel and the Board of Supervisors were previously furnished with information and documentation that the current "government" claiming to represent a Chumash tribe or the "tribe" now calling itself the Santa Ynez Band of Chumash Indians may have never lawfully been acknowledged, and properly recognized as an Indian tribe which is required by federal law. See the discussion in *Muwekma Ohlone Indian Tribe v. Salazar* [D.C. Circuit May 2013] ____ F.3d ____ [docket no. 11-5228] (affirming the U.S.D.C. 813 F.Supp.2d 2011).

Any agreement or contract with an Indian tribe must be approved by Secretary of Interior and that decision is subject to challenge by the affected parties, both community members or interested groups and persons [*Patchak v. Salazar* 567 U.S. _____ [SCOTUS docket no. 11-246] and also by an affected County government [*County of Amador v. Salazar* [D.C. Circuit 2011], 640 F.3d 373]. There is currently litigation challenging the lawful existence and federal acknowledgement of the putative Santa Ynez Band of Indians as a lawfully established "Indian tribe."

Even if the Santa Ynez Band were established as a lawfully acknowledged Indian tribe, any land it purchases or owns is merely fee land owned and held like any other land owner, public or private [*City of Sherrill, New York v. Oneida Indian Tribe of New York* [2005] 544 U.S. 197 and that land is subject to any and all ***ad valorem*** taxes based on that ownership. See *County of Yakima et.al. v. Confederated Tribes and Bands of the Yakima Indian Nation* [1992] 502 U.S. 251. In order to create sovereign land over which a lawfully created Indian tribe can then exercise governmental jurisdiction and control, it must either be transferred into Indian trust status [*City of Sherrill v. Oneida Indian Tribe supra*] or created by an Act of Congress creating specific reservation status of such land.[1]

In the case of land to be brought into Indian trust status by tribal application using the Administrative Authority granted the Secretary of Interior by the Indian Reorganization Act [IRA] 25 U.S.C. 465, et.seq. the affected tribe must have been in lawful existence and under the supervision and control of the federal government on or before 18 June 1934 when the I.R.A. was enacted. [See *Carcieri v. Salazar* [2009] 555 U.S. 379].

Part of the requirements to bring fee land into trust by a lawfully acknowledged Indian tribe under the I.R.A. [25 U.S.C. 465 et.seq.] are rules set out in 25 C.F.R.

[1] Some reservations or lands were set aside for specific named Indian tribes in California by Presidential Decree or "set-aside" sometimes called "Executive Reservations." See the discussion in *Matz v. Arnett* [1973] 412 U.S. 481 and *Donnelly v. United States* [1913] 228 U.S. 243 and for the limited character of such "Executive Reservations" see *Sioux Tribe v. United States* [1942] 316 U.S. 317.

151.110 and 151.111. These are instructive. Included in the requirements of part 25 C.F.R. part 151.110 and 151.111 are the following:

> *25 C.F.R. 151.110 Transfer to trust of fee owned lands located within a reservation.*
>
> *(c) Where the land is being acquired for business purposes, the tribe shall provide a plan which specifies the anticipated economic benefits associated with the proposed use.*
>
> *(e) If the land to be acquired is in unrestricted fee status, the impact on the State and its political subdivision resulting from the removal of the land from the tax rolls;*
>
> *(f) Jurisdictional problems and conflicts of land use which may arise;*

[also in addition to (c., e. and (f) above 25 C.F.R. 151.111 includes the additional conditions if the land being transferred is "off-reservation" lands under 25 C.F.R. 151.111 such as the Camp 4 property then these additional subsections apply.]

> *(b) The location of the land relative to state boundaries and its distance from the boundaries of the tribe's reservation shall be considered as follows: As the distance between the tribe's reservation and the land to be acquired increases, the secretary shall give greater scrutiny to the tribe's justification of anticipated benefits from the acquisition.* ***The Secretary shall give greater weight to the concerns raised pursuant to paragraph (d) of this section.***

[i.e., that subsection (d) in relevant part provides that "....contact with the state and local governments shall be completed as follows: ...state and local governments each will be given 30 days in which to provide written comments ***as to the acquisition's potential impacts on regulatory jurisdiction, real property taxes and special assessments."***

Subsection (c) under 25 C.F.R. 151.111 also requires a precise statement of the purpose for which the land will be used.

All of these provisions would apply to any fee to trust transfer proposed by the Santa Ynez Indian community seeking to transfer any land into trust.

Moreover the lawful existence of an Indian "tribe", asserted to have existed on or before 18 June 1934, has clear mandatory elements, including the existence of an identifiable homogeneous ancestry of the tribal members dating back to first contact

with non-native peoples. In addition it must be shown there was continuous existence of an internal tribal government exercising governmental control over those tribal members and tribal land since at least 1900, and that since at least 1900, such a tribe and tribal government had to have a continuing tribal government relationship externally with the federal government in order to fulfill the requirements of the Supreme Court's edict in *Carcieri v. Salazar supra* [See for example the extensive discussion in *Muwekma Ohelone Indians v. Salazar* ***supra***.]

You have been provided with documentation establishing that, although some families and Indian descendants were living on land licensed to them by a written agreement entered into 1905-1906 in connection with a judgment quieting title to that land in the lawful owners, the Catholic Archdiocese and Bishop, there was never any "Chumash" Indian tribal existence from that time around 1900 until well after June 18, 1934. Nor was there any evidence of an identifiable historic "tribe" in the Santa Ynez area in the last century or more. Even after voting in favor of becoming an Indian tribe under the provisions of the I.R.A., this group residing on church land never applied for acknowledgement and recognition under the I.R.A. by timely submitting their required application, their required base roll and did not even seek approval of a tribal constitution until 1964, some 30 years later.

Therefore before the County can consider entering into any kind of contract or agreement by any name, the lawful acknowledgement and existence of an Indian "tribe" and tribal government must first be established. In the case of a contract or agreement concerning the transfer of fee owned land into trust for this group through the Administrative Actions of the Secretary of Interior, the lawful existence and acknowledgement of the affected tribe and tribal government must be established as existing on or before 18 June 1934, in order to be eligible to transfer ***any land*** into trust. [*Carcieri v. Salazar* 555 U.S. 379 **supra**.]

It makes no sense to meet and confer with this "Chumash" tribal government unless and until these mandatory and basic prerequisites have been met.

As set out above even in a case where the tribal government is lawfully in existence as of June 18, 1934 or earlier, the Federal rules for transferring fee land into trust require mandatory consideration of the state and local government jurisdictional issues and other local impacts. See 25 Code of Federal Regulations part 151 **supra** which requires satisfying those important local issues.

In an effort to evade these difficult requirements, tribes seeking to bring land into trust will endeavor to enter into agreements with local ***governments[2] and thus claim they have resolved the requirements of 25 C.F.R. 151.110 (and 151.111) by virtue of such an agreement***. These tribal governments know that once the "agreement" is executed it is virtually unenforceable and by that time the land will already be transferred into trust. Furthermore such a trust transfer is irrevocable even if any tribe breaches the agreement and fails or refuses to make any payments due or otherwise comply with the terms of such an agreement. Waivers of the tribe's immunity from lawsuit [*Kiowa Tribe of Oklahoma v. Manufacturing Technologies, Inc.* 523 U.S. 751 **supra**], are often set out in such agreements to placate concerns, however they are largely unenforceable for a wide variety of reasons or excuses which I can furnish examples of if needed. Once the land is transferred to trust then the fact that a waiver of immunity is or isn't invalid or any term of any inter-government agreement is breached, that will not affect the trust status of the land in any way. [See for example the attached Exhibits "A", "B" and "C" where tribes simply reneged on agreements after the land was in trust.]

In other words once land is in trust, failed promises to build a museum, construct only housing or promises not to build a casino or for that matter any uses agreed to or uses claimed to be prohibited are all unenforceable.

Obviously the consequences of entering into any proposed agreement with any putative Indian tribe are significant and fraught with important legal consequences and impacts on the community not the least of which is the surrender of jurisdiction, authority and public control resulting where such an agreement involves land removed from County jurisdiction, control and tax liability. The fee to trust proposal for the Camp 4 Property, being offered by the Santa Ynez tribal government, has the likelihood of undermining and destroying the entire General Plan for the Santa Ynez Valley which took over 10 years to establish. I previously furnished you with a thumbnail sketch of many of the glaring problems with this "Cooperative Agreement" and its terms or matters omitted.

Unless and until the putative tribal government from Santa Ynez can establish their legitimacy then it is useless to discuss any meet and confer session on any level as noted by correspondence from County Administrative Office Chandra Wallar. Attached Exhibit "D". As set out above the very foundation of the principle behind government to government meet and confer sessions is the understanding each party is a lawful government negotiating on an even field of rights and duties enforceable

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[2] These are described by various names like an Municipal Service Agreement [M.S.A.] or Memorandum of Understanding [M.O.U.], etc., or, in this case, a "Cooperative Agreement" but in almost every case they do NOT adequately address the comprehensive and complex issues envisioned by 25 C.F.R. 151.110 or 25 C.F.R. 151.111 supra.

by law and ultimately by a lawsuit if necessary. As discussed earlier the County is under no legal duty to meet and confer with regard to this proposed "Cooperative Agreement" having as its primary objective a transfer of the Camp 4 Property into trust. The important issues involved would not arise until attempts were made to bring that land or any part of it into trust, and as set out earlier there is NO Presidential Directive that requires a government to government meet and confer session at this point between the County and the Santa Ynez "tribe." The strategy of this "Cooperative Agreement" is to use it as a tool to get the land placed irrevocably into federal Indian trust status.

Given the long history of the current Santa Ynez tribal government's ignoring the County and going behind the County government's back, in my view, there is also no moral or courtesy basis upon which such a meeting should be based.[3]

Since opening their new and vastly larger gambling casino and hotel without considering or mitigating numerous County concerns, the "Chumash" have deceived the County about entering into a mitigation agreement concerning the 6.9 acre transfer to trust in 2005 in order to get the County to abandon any appeal of that transfer. They have gone behind the County's back to obtain an honorary naming or renaming of state route 154 as the "Chumash Highway" and did so without any public disclosure and without obtaining a resolution by the Board of Supervisors approving the honorary naming of that road as the "Chumash Highway" as required by the California Streets and Highways Code.

The "Chumash" supported a bill that took the power away from local governments to decide how to distribute the money that was to be allocated to Indian casino communities from the Special Distribution fund established to mitigate the negative impacts on casino communities, a bill giving veto power and virtual absolute discretion to the tribal representative of any local committee through a grant process forcing the County or municipal government to come, hat in hand, for "gifts" instead of needed tax monies. They urged State Senator Flores to introduce an ill-conceived Bill to take their fee lands out of the limitations of the Williamson Act. A bill they lost because of objection from many attending the hearing, however no one was there from Santa Barbara County Government only local citizen groups. The Santa Ynez "Chumash" supported a Bill last year [which fortunately failed], a proposed law that was an attempt to prevent County and local governments from even objecting to fee to trust transfers for any reason if the tribal government simply claimed the land was to be used for housing or a historical museum, etc. (knowing

[3] Although tribal chairman Armenta publicly denied it, he privately admitted that the reasons to bring tribal fee owned land into trust was to evade all County jurisdiction and control and evade the many taxes needed to fund public services and infrastructure used by the tribe and it's businesses and paid for by all the non-Indian taxpayers. [See attached Exhibit 4]

full well that once the land was in trust any such statements of intent are not binding and agreements and promises concerning future uses [even a state law such as that one] are worthless and unenforceable).[4] See attached Exhibit "E" an article I wrote concerning Senate Bill 162 and other deceptive practices of the current government of the Santa Ynez Indian community.

Most recently they deceived the County and the Board of Supervisors as to where and under what circumstances they would have expanded alcohol sales at their hotel and casino complex. This expansion was sought despite the huge amount of drug, alcohol and criminal offenses occurring there and in nearby neighborhoods. As a result of this deception the County and County Sheriff agreed to withdraw the protests that had been properly lodged opposing this expansion on the basis that alcohol sales were to only occur "contemporaneously with the service of food" and then only in the areas of the hotel casino complex that were specified and identified for that contemporaneous service of food.

To gain some insight as to the real intention for the 1,400 acres Camp 4 land once it is in trust see the discussion in the tribal meeting minutes, some of which are set out in the attached Exhibit 4. It is worth noting in these many discussions about investments, land purchases, increasing profits and income, that there is a complete absence of any dialogue concerning the preservation of cultural resources or the construction of a cultural museum which could have been undertaken long ago on land the Santa Ynez band has owned.

All of these issues should be carefully considered in any dealing with this putative tribal government before any ***"meet and confer"*** session is contemplated. That is because the best interests, safety, welfare and quality of life for the 400,000 citizens and residents of Santa Barbara County should be placed above and ahead of the operation of a lucrative class III gambling casino by questionable tribe of 143 persons located on lands that are most likely ineligible for the lawful operation of a gambling casino and which is in violation of 25 USC 2703 (4) and 25 USC 2703 (5). See also 25 CFR 573.6 (13).

Respectfully submitted,

James E. Marino

James E. Marino

[4] Senate Bill 162 was clandestinely manipulated using the "Gut and Amend" process to sneak it through the Legislature on the hope the drastic last minute changes would go unnoticed and it would be unknowingly passed.

cc: County Administrator Chandra Wallace
Supervisor Doreen Farr
Supervisor Janet Wolf
Supervisor Steve Lavagnino
Supervisor Pete Adam
Supervisor Salud Carbajal
Clerk of the Board Mike Allen

INDEX TO EXHIBITS FOR
LETTER TO COUNTY RE:
MEET AND CONFER ON COOPERATIVE AGREEMENT

EXHIBIT "A":

Example of false promises made to facilitate transfer of fee-owned land into trust falsely stating the transfer proposed was to be for a "health clinic".

EXHIBIT "B":

Further example of false tribal government promises of intended use for "housing" in order to facilitate the transfer of Indian owned fee land into trust by stifling community opposition to any transfer to trust for casino uses.

EXHIBIT "C":

Example of the unenforceable nature of any purported waiver of tribal immunity from lawsuit included in a well-drafted contract between a bank and a tribe which contract contained a comprehensive "waiver of tribal legal immunity" clause.

EXHIBIT "D":

Memorandum from County Chief Executive Officer Chandra L. Wallar to the U.S. House Resources Committee responding to complaints from the Santa Ynez Indian community. CEO Wallar explained to that committee, that any meet and confer session proposed by the Santa Ynez Indian community regarding any inter-governmental agreement they had offered for a proposed fee land transfer into federal Indian trust status, was and still is premature, at best and inadequate.

EXHIBIT "E":

Published article from the Valley Journal discussing the pattern of behaviors engaged in by the current Santa Ynez Band's tribal government and the widespread manipulations of the California state legislature.

EXHIBIT "F":

Letter from California Governor's offices by Peter Siggins, Legal Secretary, sent to the U.S. Secretary of Interior pointing out the fact there was never a homogeneous "Chumash" tribe, only a number of small independent villages many of which spoke different languages and had different cultures and customs.

EXHIBIT "1"

A copy of the only active Presidential Directive #13175 dealing with the need for a policy to implement the policy that certain non-discretionary federal agencies should deal with and meet and confer with lawful tribal governments on a "government to government" basis on policies that could impact Indian tribes. [President Clinton 2000]

EXHIBIT "2"

Former Presidential Policy Directive #13084 [by President Clinton 1998] which did define both state and local governments but did not apply to them in any way. That directive was revoked in its entirety by the later directive #13175 set out in Exhibit "1".

EXHIBIT "3"

Photographic depiction of the earlier proposed 1,400 acre Camp 4 property development which was to be constructed on only ½ [700 acres] of the property. The development plan shows three housing areas planned for a total of 245 housing units, a hotel and a gambling casino complex and at least 1 golf course discussed in the minutes (Exhibit 4)

EXHIBIT "4"

Highlighted portions of Tribal Council Meeting Minutes discussing the reasons and need to transfer all fee-owned land into Indian trust status as soon as possible and a Dept. of Interior plan whereby the tribes seeking land into trust paid for employees of the Pacific Regional offices of the BIA to expedite their transfers of fee land into trust by a "consortium agreement". By the terms of that agreement the affected tribe applying for fee to trust transfer approval not only paid the salary of these federal BIA employees but hired and fired them, filled out their fitness reports and were able to give them "star bonus awards" if they did a "good job" processing the land into trust quickly. (***NO such tribal applications were ever rejected by these "federal employees"***). Exhibit 4 also evidences numerous development proposals including 500 residential units for sale (or lease) to the public once that Camp 4 property was transferred to trust.

EXHIBIT "5"

Excerpts from development brochure furnished for the Camp 4 property and distributed as part of the effort to placate public opposition to transferring this 1,400 acre parcel of land into Indian trust status and out of the jurisdiction, authority and control of the County and the state, and also exempting it from all the taxes needed to fund public services and infrastructure provided by the County and the State which must be provided to any business or housing developed there. This brochure does not disclose the tax exempt status if the land were to be transferred to trust and also does not disclose that such trust status would render the property, any business there, as well as it's officers and employees, immune from complying with state and local laws (except those regulating alcohol) and all regulations enacted to protect the public and the community and to preserve the harmonious character and aesthetic values of the surrounding lands. Nor does Exhibit 5 inform the reader that trust lands and businesses situated on such lands become immune from any lawsuits for any misdeeds, violation of laws or breach of contracts by the tribal government it's agents officers and employees no matter how outrageous they may be.

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COPY

17 June 2013

Supervisor Doreen Farr
County of Santa Barbara
105 E. Anapamu St.
Santa Barbara, CA 93101

Re: Chumash proposal
to meet and confer

Dear Supervisor Farr;

You may have seen a guest editorial I wrote which was published in the News Press explaining to the public what occurred at a public meeting called by Vince Armenta, "tribal chairman" of the Santa Ynez Indian community. I also explained in some detail the dangers of transferring Indian owned land into trust.

The response by Mr. Armenta to the editorial was not to deny the facts set out in my editorial comment, but rather was nothing more than a scathing personal *ad hominem* attack on me to conceal the important issues involved.

You should have gathered by now that Mr. Armenta's tribal regime does not want the truth disclosed. In my enclosed letter to County Counsel, with supporting EXHIBITS, I mention just a few of the deceptive practices engaged in by the Santa Ynez Band's government, which I am furnishing you for your further edification. I hope you have also taken the time to review the report I furnished to the Board over a month ago including the evidentiary EXHIBITS included with it.

Respectfully,

James E. Marino

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17 June 2013

Supervisor Janet Wolf
County of Santa Barbara
105 E. Anapamu St.
Santa Barbara, CA 93101

Re: Chumash proposal
to meet and confer

Dear Supervisor Wolf;

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COPY

17 June 2013

Supervisor Steve Lavagnino
County of Santa Barbara
105 E. Anapamu St.
Santa Barbara, CA 93101

Re: Chumash proposal
to meet and confer

Dear Supervisor Lavagnino;

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James E. Marino

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17 June 2013 2013

Supervisor Pete Adam
County of Santa Barbara
105 E. Anapamu St.
Santa Barbara, CA 93101

Re: Chumash proposal
to meet and confer

Dear Supervisor Adam;

You may have seen a guest editorial I wrote which was published in the News Press explaining to the public what occurred at a public meeting called by Vince Armenta, "tribal chairman" of the Santa Ynez Indian community. I also explained in some detail the dangers of transferring Indian owned land into trust.

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17 June 2013

Supervisor Salud Carbajal
County of Santa Barbara
105 E. Anapamu St.
Santa Barbara, CA 93101

Re: Chumash proposal
to meet and confer

Dear Supervisor Carbajal;

You may have seen a guest editorial I wrote which was published in the News Press explaining to the public what occurred at a public meeting called by Vince Armenta, "tribal chairman" of the Santa Ynez Indian community. I also explained in some detail the dangers of transferring Indian owned land into trust.

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Respectfully,

James E. Marino

EXHIBITS "A" TO "F" AND "1" TO "5" FOR

LETTER TO COUNTY REGARDING THE MEET & CONFER REQUEST OF THE CHAIRMAN OF THE SANTA YNEZ CHUMASH TRIBAL GOVERNMENT

EXHIBIT
" A "

Ponca tribes bait and switch purchase of Carter Lake Iowa land and then their application to bring that land into trust on the public promise it was not to be used for a casino, but was to be used for a tribal medical clinic. Then once the land was successfully transferred into federal Indian trust status they removed the temporary clinic building located there and began building a gambling casino on that land.

State files suit over proposed Carter Lake Casino, Ponca Tribe responds

August 22, 2008 By admin

The State of Iowa has filed a lawsuit in Federal District Court to challenge the decision by the National Indian Gaming Commission (NIGC) that would allow the Ponca Tribe of Nebraska to build a casino in Carter Lake, Iowa. Bob Brammer is a spokesman for Iowa's Attorney General.

Brammer says their main argument is that the agency made a mistake and should not have come to the decision, and did not follow the correct procedures. Brammer says one of the main contentions in the state's case is the way the tribe represented how it would use the land. Brammer says the tribe had said several years earlier had promised that the land didn't qualify for use as a casino, but would be used for a health clinic and other tribal services.

Brammer says the A-G's office does not have an opinion on whether more gambling should be allowed in the state, it is simply acting on the legality of the decision involving the five acres in Carter Lake. Brammer says their dispute is with the Indian Gaming Commission and that the agency did not follow the correct procedures.

Ponca Tribe chairman, Larry Wright, says the move by the State of Iowa is an "unfortunate decision." Wright says the tribe believes the merits of the case looked at by the N-I-G-C are sound and the State of Iowa's move will only delay a project "that will happen." "An we find it unfortunate that we couldn't have more productive talks with Iowa," Wright says.

Wright says the tribe did nothing wrong in saying the land would be used for a clinic and then deciding to use it for a casino. Wright says there was

nothing legally binding to prevent the tribe from reassessing the situation and deciding on a different path. He says it is true they changed their mind, but there is now a different administration involved in the tribe leadership, and that is not any different than changing a mayor or governor and having different leadership.

Wright says the State of Iowa has changed its mind on gambling issues. Wright says the Iowa required casinos had to be on a boat that floated for a certain time when gambling was first approved, and then they changed to allow them to be land-based. He says the state changed its mind, but the Ponca Tribe is being held to a different standard. Wright says the state should drop its legal challenge and begin dialogue with Tribal Council immediately.

Filed Under: Crime & Courts, Politics & GovernmentTagged With: Gambling

Next PostAgriprocessors charged with more workplace violations

Previous PostFour to be inducted into Women's Hall of Fame

EXHIBIT
" B "

The fee to trust transfer of land for the Kumeyaay Indian tribe in Dehesa Valley California, which they asserted was needed for ***housing.*** Then once that land was successfully transferred into federal Indian trust status, they began building an addition to their existing gambling casino on that land, ignoring the reasons they had promised the community to obtain the transfer to trust.

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.

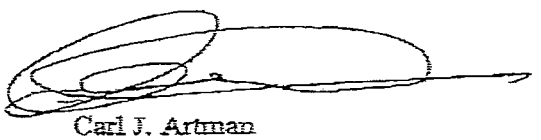
The Dehesa Community also questions whether the use of the 82.85-acre parcel for a parking lot is consistent with a provision of the Tribe's 1999 compact with the State of California which requires any portion of a gaming facility (including a parking lot) to be located on Indian lands on which gaming 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

EXHIBIT
" C "

One example of the basically worthless and unenforceable character of any purported waivers of tribal legal immunity from lawsuit for breaching any agreement or contract made in good faith with an Indian tribal government. There is an endless list of excuses and defenses to the validity of such waivers and, in the case of any agreement involving fee land into trust, once the land is in trust a breach of any term set out in any agreement cannot be used to avoid the transfer of the land already put into trust.

The Bellingham Herald

Next Story >

Ski to Sea organizers keep an eye on Nooksack River, say rest of race course

Nooksack tribe, banks settle casino loan dispute

Published: October 26, 2012

By JOHN STARK — THE BELLINGHAM HERALD

BELLINGHAM - The Nooksack Indian Tribe has reached an out-of-court settlement with a group of unnamed banks in a federal lawsuit stemming from millions of dollars in unpaid loans that were used to develop the tribe's two casinos.

Terms of the settlement have not been disclosed in court records. Tribal Chairman Bob Kelly and attorneys for the tribe and the banks have not responded to requests for comment.

During legal maneuvering in state and federal courts before the settlement was reached in early October, the tribe's attorneys contended that legal agreements covering about $39 million in loans were unenforceable because the tribe has sovereign immunity that protects it against lawsuits, even though the tribal council agreed to waive sovereign immunity as a condition of getting the loans before they were made in 2006 and 2007.

The tribe's attorneys also contended that even though the casino loan agreements were approved by the tribal council, those agreements surrendered too much casino management authority to the lenders. The attorneys said that made the loan agreements equivalent to a "management contract," which many tribes have used when they hire non-Indian firms to help operate their casinos.

Federal law says all such tribal casino management contracts must gain approval from the National Indian Gaming Commission. Because the Nooksack loan agreements never got that federal review, they are not valid and not enforceable, the tribe's attorneys argued in court documents.

According to court documents, Minnesota-based Marshall Bank and a predecessor, FirstBank, loaned millions to tribal business corporations, beginning in late 2006 with a $15.3 million loan to refurbish the tribe's original Nooksack River Casino in Deming, while paying off older loans.

In 2007, the bank provided another $26 million for the construction and furnishing of the tribe's second casino, on Northwood Road.

Marshall Bank then sold portions of the loan to other banks but continued to serve as loan servicer.

In August 2009, Marshall Bank filed a lawsuit in Whatcom County Superior Court alleging the tribe had stopped making payment on the Northwood loan.

In January 2010, the Federal Deposit Insurance Corp. shut down Marshall Bank and took over some of its operations, leaving the FDIC in the role of servicer on the tribal loans.

In March 2010, the tribe announced its attorneys had hammered out a settlement, and the Superior Court lawsuit was dismissed. But court documents indicate the tribe soon was unable to meet repayment terms in that settlement.

The unnamed banks that had helped finance the loans stepped in and, with FDIC approval, appointed Outsource Services Management to handle the unpaid debt on their behalf. The identity of those banks is nowhere revealed in court documents.

Outsource Services then went to Whatcom County Superior Court attempting to seize tribal bank accounts and casino revenues. Tribal attorneys went to U.S. District Court in Seattle attempting to block those moves, but the litigation was suspended when the two sides convened settlement talks.

Reach JOHN STARK at john.stark@bellinghamherald.com or call 715-2274.

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Hearing on Bellingham fireworks ban set for June 3

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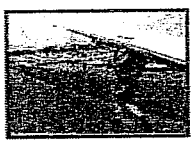
Ski to Sea organizers keep an eye on Nooksack River, say rest of race course is good to go

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EXHIBIT
" D "

Memorandum from County Chief Executive Officer Chandra Wallar explaining and commenting to the House Natural Resources Committee on the request from the Santa Ynez Indian Community to meet and confer regarding the transfer of a large parcel of land to Indian trust status and a proposed "CooperativeAgreement". Ms. Wallar explains the many negative impacts of the proposed transfer and that despite the tribal assertion that the County had not responded for over 370 days" that any such current consideration was premature unless and until the Santa Ynez Band actually applied to transfer the land into federal Indian trust.

County of Santa Barbara, California Comments of Hearing:

Request for Inclusion in Official Record

United States House of Representatives Committee on Natural Resources Subcommittee of Indian and Alaska Native Affairs

August 2, 2012 Oversight Hearing on Indian Lands: Exploring Resolution to Disputes Concerning Indian Tribes, State and Local Governments, Private Land Owners over Land Use and Development

Submitted By: Chandra L. Wallar, County Executive Officer, Santa Barbara County

Chairman Young and Ranking Member Lujan, on behalf of the County of Santa Barbara, I want to thank you for the opportunity to submit written testimony for the Subcommittee's oversight hearing regarding [illegible]

The County of Santa Barbara Board of Supervisors has adopted a legislative policy which formally supports government-to-government relations and recognizes the role and unique interests of tribes, states, counties, and other local governments to protect all members of their communities and to provide governmental services and infrastructure beneficial 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 members of our communities. The County supports the full involvement of local jurisdictions and all community members on issues and activities which may generate public health, safety or the environmental impacts.

Involvement of the local government, general public and technical consultants in matters pertaining to future land use and potential development is critical to the overall review of any project. This broad involvement provides thoughtful compliance with Community Plans and the County's General Plan. Failure to fully engage a diverse group of stakeholders in project development, and review, impairs the ability of a local government to seek appropriate mitigation and/or provide critical public services in an orderly fashion which may have long term deleterious impacts on a region as a whole.

The County of Santa Barbara continuously works with the California State Association of Counties (CSAC) as well as the National Association of Counties (NACo) to collectively improve upon processes to develop and continue government-to-government relationships between federal, tribal, state, and local governments. It should be recognized that the County of Santa

Barbara's position on the need for stakeholder and local government involvement is by no means unique. Both CSAC and NACo adopted policies consistent with that of the County of Santa Barbara in public engagement and stakeholder involvement as well as the following areas:

- Projects that impact off reservation land require review and approvals by the local jurisdiction to construct improvements consistent with state law and local ordinances including the California Environmental Quality Act.
- Tribal government mitigation of all off reservation impacts caused by projects for services including but not limited to traffic, law enforcement, fire, parks and recreation, roads, flood control, transit and other public infrastructure
- Projects will be subject to a local jurisdiction's health and safety laws and guidelines including but not limited to water, sewer, fire inspection, fire protection, ambulance service, food inspection, and law enforcement.

The County has continuously supported the CSAC and NACo policy positions stating that judicially enforceable agreements between counties and tribal governments be required to ensure that potential impacts resulting from projects are fully analyzed and mitigated to the satisfaction of the surrounding local governments in the long term. Such agreements ensure that tribal and local governments can fulfill their primary mandate; ensuring the health and safety of those we serve. Without such agreements, and the ability to fully mitigate local impacts of a tribal government's business and development activities, local government's ability to in fact ensure the health and safety of residents is severely compromised.

In addition it is important to note that, as a result of the severe economic issues facing the State of California, a critical mechanism providing local government with funding to mitigate the impacts of tribal development and business activities, the State Special Distribution Fund (SDF), has diminished by over 50%. This places both the health and safety of all in jeopardy. Santa Barbara County has lost over $760,000 used annually to sustain fire and law enforcements services as well as maintenance of transportation infrastructure to mitigate the impacts of tribal businesses including gaming. County policy is that private and public projects must mitigate the impacts of their development on public infrastructure and services. Mitigation is achieved through conditioning of the project to complete infrastructure improvements and/or payment of impact fees.

During the hearing, your committee respectfully posed multiple questions to the testifying witnesses to gain a thorough understanding of the Santa Barbara County land use process and the ability of the Santa Ynez Band of the Chumash Indians to access the land use process.

Additional questions were proffered on the nature and disposition of the cooperative agreement mentioned by the Tribe. I would like to provide you with the County's perspective on these key issue areas.

Land Use

Regarding the land use issues and the 6.9 acre parcel recently taken into trust by the Bureau of Indian Affairs (BIA) on behalf of the Tribe, the County of Santa Barbara did not appeal the BIA's decision. The County Board of Supervisors considered this item in open session on July 10, 2012, receiving testimony from 46 individuals both for and against an appeal, and voted not to appeal.

The 6.9 acres includes a 2.13 acre western portion of the property which is zoned for recreational uses. The remaining 6 parcels totaling 4.77 acres are zoned C-2/MU allowing commercial and commercial/residential mixed uses under the local Santa Ynez Community Plan. Therefore, a museum/cultural center and retail commercial uses are allowed in the C-2/MU zone district with approval of a Development Plan by the local Planning Commission. The steps in the process for all County residents begin with submittal of a complete application. After staff review of project scope and determination of environmental impacts and consistency with Community and County General Plan the project moves to the County Planning Commission for a public hearing and decision on approval of the project, including appropriate conditions for mitigating impacts. The Planning Commission's action can be appealed to the Board of Supervisors within 10 days of their action. If appealed, a public hearing would be scheduled at the Board of Supervisors. The County of Santa Barbara Planning Development has not received a project application for a project in question on the 6.9 acres owned by the Santa Ynez Band of the Chumash Indians.

The 1,400 acres that the Tribe desires to take into trust and referenced during the Subcommittee hearing is currently zoned AG-II-100 (Agriculture, with a minimum parcel size of 100 acres). This land is also in a multi-year Agricultural Preserve contract which limits the uses on the property to agricultural uses. Agricultural preserve contracts require the application and renewal of the property owner over a ten or twenty year period in exchange for reduced property taxes.

Under current zoning, the property can be developed with agricultural uses, including grazing and cultivated agriculture, without any planning permits. There are a number of conditionally permitted uses on agriculturally zoned land, including country clubs, golf courses, and schools. A permit for these land uses would be processed as described above for Development Plans.

In order to change the land use from agriculture to another use, such as the development of housing on the 500 acres, referenced in the Subcommittee hearing, the owner of the property

would request that the County initiate a General Plan Amendment. The Planning Commission would consider an application and determine whether or not it should be processed. The Commission would consider factors such as public benefit of the proposed use, consistency with County Plans and policies, and compliance with the site's agricultural preserve contract. The Commission's recommendation is forwarded to the Board of Supervisors for the final decision. It is important to note that, as of this date, the County has not received a project submission for the 1,400 acres in question.

This process allows local government to review potential impacts of a development which may need to be thoroughly analyzed and mitigated. The impacts may include sheriff and fire services, traffic and circulation as well as the continued viability of agriculture on a given property or surrounding properties. Ensuring that impacts are addressed in a manner which preserves the health and safety of any community, as well as the present and future quality of life, is at the foundation of local government.

The Cooperative Agreement

The County Executive Office received a draft cooperative agreement from the Santa Ynez Band of the Chumash Indians on June 1, 2011. For your reference, the draft agreement is attached to this correspondence. During the Subcommittee hearing, it was stated that this agreement was delivered to the County "over 370 days ago with no response." Given the parameters of the federal fee to trust process, it is premature to initiate an agreement prior to submittal of a formal application from the Santa Ynez Band of the Chumash Indians. This was stated to the tribal representative following receipt of the agreement. Furthermore, it is my belief, this proposal is lacking specific details on development plans for the 1,400 acres and the resulting impacts upon which both parties could thoughtfully consider or discuss appropriate mitigation.

As noted above, the County of Santa Barbara supports government-to-government relations and recognizes the role and unique interests of tribes, states, counties, and other local governments to protect all members of their communities and to provide governmental services and infrastructure beneficial 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 self-governance by counties to provide for the health, safety, and general welfare of all members of our communities. As a local government we welcome the opportunity to work collaboratively with the Tribe and engage those potentially impacted by future development in order to facilitate sound land use decisions that benefit all. Any process that does not provide for involvement of all stakeholders, including that of the representative local government does not provide sound long term land use decisions nor transparency in government decision-making.

Thank you again for the opportunity to submit written testimony for the Subcommittee's oversight hearing regarding [illegible]

Attachments

- Draft Cooperative Agreement
- County of Santa Barbara adopted Legislative Platform

EXHIBIT
" E "

An article published in the Santa Ynez Valley Journal discussing some of the most egregious actions and inactions of the Santa Ynez Band of Indians and their 143 tribal members in dealing with the County and County Government and all the citizens of the community in total disregard for the concerns of the County and affected municipal governments in the area, as well as the thousands of non-Indian citizens of the Valley Community who are affected by the actions of the Santa Ynez band and it's various businesses including a very large gambling casino placing tremendous demands upon all the public services and infrastructure, but without paying the taxes needed to fund services and infrastucture.

Archive » June 21, 2012

The lowdown on SB 162

By James Marino, Guest Columnist

- Email Article

There have been many "backdoor" efforts to thwart the rights of California citizens engineered by the governments of casino Indian tribes. Their partners in these efforts are often members of the Legislature who would pervert the public rights for monetary favors usually in the form of campaign contributions and a wide variety of "perks" showered on these representatives for "playing ball" with these casino tribes.

The Indian gambling tribes and their gambling investors succeeded in legislating a moratorium on non-Indian card clubs and recently getting that moratorium extended to suppress and eliminate any gambling competition. When the IRS informed them they could not issue tax-free bonds to build

casinos because the tax-free bond regulations were intended to fund public works, the tribe simply went to their Sacramento cronies and had the state issue the bonds getting around the IRS prohibition. They even succeeded in opposing efforts by the Catholic churches to conduct Bingo for money which was to be used for charitable purposes.

The Santa Ynez Valley has been the victim of many of these sleazy efforts. It started right after the enactment of Proposition 1A legalizing Indian casino gambling in California. That change in law created tribal state compacts that were "sweetheart/giveaway" deals signed by now deposed governor Grey Davis as payback to the Indian gambling interests who donated millions to his campaign for governor. These compacts ostensibly provided for the establishment of two funds, the Special Distribution Fund and the Revenue Sharing Trust Fund, into which casino tribes were to pay monies in the first fund to mitigate the many negative impacts of gambling casinos on host communities and in the other one, to provide income to "tribes" with no casinos or less than 300 slot machines.

Because the compacts did not provide a means of distributing the mitigation funds to impacted local communities the tribes went to their "friends" in Sacramento and had them pass a law which provided those mitigation funds, needed by casino communities to pay for infrastructure and public services funded by taxayers, were, under this system, to be distributed by a local committee controlled by the casino tribe causing those problems in need of mitigation in the first place. Local governments were then forced to come to that committee, hat in hand, to apply for grants to be given out at the discretion of the casino tribe.

In the Santa Ynez Valley most residents can recall how the Chumash tribal government engineered the renaming of Highway 154/San Marcos Pass Road to the "Chumash Highway" leading to and from their "Chumash Casino." This was accomplished without any local knowledge or support from the community. They went 300 miles away and made a contribution to Assemblyman Coto (D-San Jose), who then introduced a resolution to rename the roadway. The resolution then went to the Transportation Committee chaired by Assemblyman Nava, to whom the tribe had made a sizeable contribution. Not surprisingly, it flew through that committee in an

obscure hearing in Sacramento without any opposition and no local community notice or input. The resolution was then carried and introduced into the Senate by Sen. McClintock, who had received more than $50,000 in campaign contributions from the Chumash and the resolution sailed through the Senate in record time. Not only was there no local notification until the resolution was announced in the media by the tribe, it was also accomplished without a resolution by the Santa Barbara County Board of Supervisors as required by the California Streets and Highways Code.

Then there was the bill sought by the Chumash to evade responsibility to comply with the Williamson Act. The tribe has been seeking to bring some 1,400 acres of bucolic rural ranch land into trust for some time. They made a $15,000 contribution to State Sen. Dean Florez, then Speaker of the Senate and within weeks he introduced a bill to ostensibly relieve all California Indian tribes from complying with the Williamson Act protecting rural land from excessive development. The bill went to the Government Organization Committee, then chaired by the now deceased state Sen. Cox. The community groups, POLO and POSY, went to Sacramento to speak against the bill – and several other groups did also, including the California Association of County Governments, the Sierra Club and others. Only Sen. Florez and a representative of the Chumash appeared in favor of the bill. At the conclusion of a long hearing, Chairman Cox described the bill as a waste of time and told state Sen. Florez, the only reason he was there was because of the Chumash.

There are many examples of these attempts to manipulate and subvert the Legislative process at the behest of Indian gambling casino governments, but the latest is perhaps the most egregious example I think that I have ever seen. On Feb. 2, 2011, two state Senators from the San Diego area, home to numerous Indian gambling casinos, introduced a low-profile bill. This Bill originally proposed to amend the Business and Professions Code to add members to the Gaming Policy Advisory Committee and to protect non-Indian card clubs from liability for the activity of third party proposition players in their clubs.

SB 162 Bill languished in the Legislature in a process called "place holding." It popped up in the current session and was approved by the

Senate and was sent to the Assembly. (After all, it was a harmless and innocuous procedural bill). Then on April 30, 2012, this bill was amended in the Assembly in a process euphemistically called "gut and amend," much like the unscrupulous practice of inserting unrelated earmarks into appropriation bills to sneak them past careless or uncaring legislators. The "gut and amend" of SB 162 changed the bill from the original proposed amendment to the Business and Professions Code to one now amending section 11019.9 of the California Government Code. This new amendment began by claiming to be a bill to aid economic development of Indian tribes in California.

Reading further, it became clear it was an attempt to prohibit important state agency review and ability to oppose transfers of fee-owned Indian lands into federal Indian trust, which would remove all that land from responsibility for the state and local taxes needed by state and local governments to pay for all the public services and infrastructure these tribes and their businesses use daily, at the non-Indian public's expense. In addition, Indian trust status eliminates all state and local zoning and developmental controls needed to protect the character and quality of life in every community.

SB 162, by its terms, prohibits state agencies from opposing these fee-to-trust transfers if the tribe seeking transfer simply claims the transfer is for "housing," "cultural" or "environmental protection purposes."

Federal Indian law and policy does not recognize any restrictions or limitation on uses of any lands transferred into trust for an Indian tribe. The federal government will not enforce any limitation or restriction, even if they were put into a written agreement or MOU entered into and executed between the tribe and any state and local governments prior to the transfer to trust. The federal Quiet Title Act prevents anyone from suing the tribe or the federal governments if the tribe lied about what it intended the land to be used for, so the provision in section d of SB 162 is worthless and unenforceable. SB 162 can thus be used to silence state agencies until the land is in trust, after which nothing can be done to undo the transfer if it were put to another repulsive use, particularly addition casino gambling.

In addition, the bill includes a provision requiring the state to recognize any purported "Indian tribe" if their name simply appears on a list created by the federal government describing Indian tribes eligible to receive Welfare grants and services provided to Indian tribes. This provision is included despite the fact there are numerous "Indian tribes" in California on that list, many with only a handful of members, who do not qualify as a bona fide Indian tribe, meeting the seven mandatory requirements for federal recognition and lawful acknowledgment as an Indian tribe that are required by federal law.

The bill is probably illegal because it is an attempt to legislate into an area that is exclusively a federal question and pre-empted by federal law. Should this law foolishly get passed and become California law, it will no doubt be challenged as pre-empted by several exclusive and controlling federal laws and rules.

It should, however, be defeated out of hand and buried by our own State Assembly because if it is not defeated, it once again creates – at least the appearance in the Legislature – of being yet again another tool of the Indian gambling casino special interests, as so many Legislators have become so many times before, in recent years.

James E. Marino is an attorney and consultant on Indian gambling casinos and their impact on non-Indian communities.

- Email Article

EXHIBIT
" F "

Letter from Peter Siggins, legal secretary to Governor Arnold Schwarzenegger establishing the fact that there was no "Chumash Tribe" identifiable and situated in any village or on land in and around Santa Ynez, California and also identifying a number of other reasons why land should not be taken out of the control and jurisdiction of the State of California and the County of Santa Barbara for and on behalf of any ostensible "Santa Ynez Band" of Indians.

OFFICE OF THE GOVERNOR

August 26, 2005

Mr. James J. Fletcher, Superintendent
United States Department of the Interior
Bureau of Indian Affairs
Southern California Agency
1451 Research Park Dr., Suite 100
Riverside, California 92507-2154

Re: Notice of Non-Gaming Land Acquisition (5.68 Acres) Santa Ynez Band of Mission Indians

Dear Mr. Fletcher:

This is in response to a notice received by the Governor's Office regarding the Santa Ynez Band of Mission Indian's ("Tribe") pending application to have the United States of America accept the conveyance of approximately 5.68 acres of property located in Santa Barbara County in trust for the Tribe ("Trust Acquisition"). Though the Governor's Office received this notice in late June, at our request, your office courteously extended the time for comment to August 26, 2005

From the materials submitted with the application, it is our understanding that the proposed Trust Acquisition consists of 13 parcels. All 13 parcels are contiguous to one another and two of the parcels appear to be contiguous to the Tribe's existing trust lands. From the notice of application it appears that ten of the parcels are vacant properties and that three of the parcels have vacant houses or buildings on them. The application asserts that while no immediate change of use is planned as a result of the proposed Trust Acquisition, there may be commercial or residential development on these parcels in the future. Seven of the parcels, Assessor's Nos. 143-253-002, 003, 004, 005, 006, 007 and 008 are currently zoned as commercial lots. The other six, Assessor's Nos. 143-254-001, 005, 143-252-001, 002, 143-242-001, and 002 are currently zoned as commercial highway

In compliance with 25 C.F.R. section 151.10(b), the Tribe lists, in section 4 of its application, six Tribal needs this acquisition would purportedly fulfill. These are to help the Tribe: (1) meet its needs to have jurisdictional control over its land base; (2) meet its long-range needs to establish its reservation land base by increasing the land base; (3) meet the Tribe's need to preserve its land base; (4) meet its needs to "land-bank" property for future generations; (5) meet its needs to expand its Tribal government; and (6) meet its need to preserve cultural resources and protect the land from environmental damage, trespass or jurisdictional conflict.

In its essence, the Tribe's need for this acquisition amounts to a desire to fulfill what it concedes is a "top philosophical priority" – "the re-acquisition of its aboriginal lands." (Application ("App."), p. 8.) Secondarily, this acquisition appears to fulfill a Tribal goal to acquire more commercially viable land now so that it may be "land-banked" for future Tribal economic or residential development. (App., p. 10.) This is attractive to the Tribe because such land, if placed in trust, would allow the Tribe to argue that State and local land use regulation did not apply. Moreover, it would invest that land with the commercial advantage of being free of property tax, and potentially State income and State and local sales tax liability for certain types of economic activities. Additionally, the Tribe suggests that a trust acquisition at this time is necessary in order to protect Tribal cultural resources. (App., p. 11.)

In support of its claim that the Trust Acquisition would constitute re-acquisition of the Tribe's aboriginal lands, the Tribe appears to assert an entitlement to any lands that were part of the "Chumash cultural group's" territory prior to the first European contact. (App., p. 7.) Generally, this would encompass seven thousand square miles of land extending from Malibu in the South to Paso Robles in the North, to Kern County in the East and the Northern Channel Islands to the West. (*Id.*) More specifically, the Tribe seems to contend that the Trust Acquisition is part of lands that were purportedly granted by the Mexican Governor Micheltorena to certain "tribal leaders" of the "Santa Ines Indians." (*Id.*)

Underpinning the assertion of its need for additional developable land is the Tribe's claim that only 50 of its existing 139 acres of trust land is developable and that "much" but not all of that land has already been developed. (App., pp. 10-11.)

The Tribe's asserted justification for acquisition as a means of preserving Tribal cultural resources is the suggestion that because cultural resources were discovered on another site nearby, there might be cultural resources on these lands and that this possibility justifies a trust acquisition at this time. This suggestion is, of course, speculative.

The Department of Interior policy for trust acquisitions provides that land may be taken in trust when the Secretary of the Interior determines that the "acquisition is necessary to facilitate tribal self-determination, economic development, or Indian housing." (25 C.F.R. §

151.3(a)(3).) In this case, there has been no showing that the United States' failure to accept the proposed Trust Acquisition will: (a) preclude the Tribe from developing any needed housing for its members; (b) prevent the Tribe from proceeding with an economic development; or (c) leave Tribal cultural resources at risk. Similarly, there has been no showing that this trust conveyance is essential to the Tribe's ability to exercise sovereign authority.

In contrast to the absence of any immediate impact to the Tribe of a denial of its instant trust application, this Trust Acquisition, if approved, would have a significant individual and cumulative adverse impact on the State and its political subdivisions within the meaning of 25 C.F.R. section 151.10, subdivisions (e) and (f) and should, therefore, be denied.

A. The Tribe Has Failed to Provide the Demonstration of Immediate Need or Necessity Required by 25 U.S.C. Section 465 and 25 C.F.R. Section 151.3(a)(3).

The Tribe notes in its application that it currently exercises sovereign control over 139 acres of land including 12.6 acres of recently acquired land that allowed the Tribe to consolidate the northern and southern portions of its territory into a single geographic unit. The Tribe also notes that its current membership is 157. Despite the fact that this equates to more than .885 acres of land for each man, woman and child, or approximately 3.5 acres for each family of 4, the Tribe asserts that it does not have enough land. Its principal contention is that only 50 acres of the 139 are developable and that "most" of those acres have been taken up by its recently expanded and highly successful casino and hotel commercial venture and existing residential development. Though it concedes that there is land that can be developed for "small scale residential enhancements" (App., p. 11), the Tribe suggests that it needs additional land for possible future residential use or possible future commercial activities.

A desire for additional land, however, does not render an acquisition of land "necessary" within the meaning of 25 C.F.R. section 151.3(a)(3). Nothing in the legislative history of 25 U.S.C. section 465 ("IRA" or "Section 465") suggests any Congressional intent for the Secretary of the Interior to take land into trust for a tribe in the absence of a demonstrable immediate need. To the contrary, that history establishes that Section 465 was enacted in response to the immediate need to provide land for homeless Indians for the purpose of creating subsistence homesteads, consolidating areas within a reservation, for grazing and other similar agricultural purposes. (See House Report No. 1804, 73rd Cong. 2d. sess. (May 28, 1934) at 6-7; 78 Cong. Rec. at 9,269, 11,123, 11,134, 11,726-30, 11,743.) Neither the term nor the concept of "land-banking" for future generations or future speculative needs appears anywhere in Section 465, the Department of Interior's regulations or the legislative history of either. (See, for example, 25 C.F.R. section 151.11(c) which requires the submission of a business plan detailing the economic benefit to a tribe of a proposed economic activity where, as here, some of the parcels at issue are not contiguous to the Tribe's existing "reservation" as that term is defined in those regulations.)

Similarly speculative is the Tribe's assertion that some of its cultural resources might be at risk if this Trust Acquisition were not approved. In this regard, the Tribe argues that "[a] significant archaeological/cultural resource was recently discovered on property adjacent" to the Tribe's trust lands and that because of the "proximity" of the Trust Acquisition to that discovery, there is a "potential" that such resources might exist on the Trust Acquisition as well. (App., p. 11.) The Tribe has had control of the Trust Acquisition for more than two years and the complete ability to conduct an archaeological survey. The fact that the Tribe has not uncovered any sites on the property in this period of time suggests strongly that no such sites exist. In any event, the mere possibility that such a site might exist is not a valid basis for a trust acquisition.

Further, while the Tribe seeks to justify the acquisition as a re-acquisition of the "Chumash cultural group's" aboriginal territory, it has not demonstrated either a political entitlement to that territory or, assuming such an entitlement were established, that an acquisition of this nature is essential either to its existence as a tribe or to its ability to function.

While there are numerous discrepancies on details, historical accounts of the Chumash[1] agree that prior to European contact the Chumash did not constitute a single political entity but rather were an amalgam of peoples speaking roughly six to eight different but related languages in contiguous linguistic territories. Within each linguistic territory there were villages typically of 15 to 50 dwellings that constituted separate and independent political entities each controlled by a chiefdom (although some chiefdoms at various times may have controlled more than one village). Altogether it is estimated that there were about 150 such villages in all of these linguistic territories. The Tribe's trust lands are located in the territory of a single linguistic group that by some accounts could have contained up to 30 different politically independent villages. Thus, in the absence of a more detailed explanation from the Tribe, there does not appear to be any basis for a claim by the Tribe to all Chumash linguistic group aboriginal territory. Acceptance of such a claim by the United States could justify the acquisition in trust of seven thousand square miles of land now occupied by an overwhelmingly non-Native American population well beyond the needs of a 157 member tribe that already exercises sovereign authority over more land than it is currently utilizing.

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[1] See generally, California's Chumash Indians, Santa Barbara Museum of Natural History, EZ Nature Books 1996, Rev. Ed. 2002; The Chumash Indians After Secularization, Johnston, California Mission Studies Association, Nov. 1993; Anthropology and the Making of Chumash Tradition, Haley & Wilcoxon, Current Anthropology vol. 38, no. 5, Dec. 1997; Encyclopedia of North American Indians, Chumash, Houghton Mifflin.

The aboriginal political configuration of the Chumash linguistic territories, in which the Santa Ynez Valley was variously under the control of up to 50 independent tribal entities, was itself obliterated during the Mission era. Most sources appear to agree that very shortly after establishment of the Missions there were no politically independent villages in the Santa Ynez Valley, all Indians having been subsumed within the Spanish political system. Spain, the initial political successor to the aboriginal sovereigns after conquest, was succeeded in political authority by Mexico, neither of these sovereigns having recognized sovereignty in any aboriginal political entity. (See, Aboriginal Title: The Special Case of California, (1986) 17 Pac. Law Journal 391, 400.) Similarly, in the Treaty of Guadalupe Hidalgo, the United States recognized no sovereignty other than its own over the newly acquired land, and, upon admission of California into the Union, reserved no Indian lands from State jurisdiction as it had with other states. (See, California Admission Act of Sept. 9, 1850, 9 Stat. 452.)[1] Though the United States has subsequently compensated individual Indians for lost land in several acts (see, Aboriginal Title: The Special Case of California, supra, at pp. 400-415), the purpose of those enactments was not to recognize sovereign title by any government or title by any individual Indians. Instead, their purpose was to foreclose possible claims of aboriginal title altogether. (Id. at 419.) For the Secretary of the Interior to determine to add additional land to the Tribe's existing trust lands merely for the purpose of allowing the Tribe to re-acquire aboriginal lands would thus be contrary to established Congressional policy.

When the Tribe eventually received recognition from the United States, it was recognized as a new political entity comprised of the remnants of the many different independent villages – not as the continuation of any pre-existing political entity. Under the Mission Indians Relief Act of 1891, the Tribe was recognized and its reservation established in order to provide land for homeless Indians and a means by which those Indians could survive economically. When

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[1] Under the Land Claims Act of March 3, 1851, 9 Stat. 631, the United States determined, through a board of land commissioners, that the land in the Santa Ynez Valley had been granted to the Catholic Church and other private individuals. Additionally, in a report required by section 16 of the Land Claims Act, the board determined that Indians living in and around California Missions, though asserting grants to them by the Mexican Governor Micheltorena, could not provide sufficient documentation supporting any such claims. A subsequent suit by the Catholic Church in 1853 likewise did not validate any Indian claims to lands around the missions. Thus, subsequent to California's admission to the Union, the United States not only did not reserve any lands otherwise ceded to State sovereignty for the sovereign use of any tribe of Indians, but it also did not recognize non-sovereign title to any such lands by individuals Indians or groups of Indians.

Section 465 was subsequently enacted in 1934, it had a nearly identical purpose. That purpose was not to re-establish the aboriginal territory of any pre-existing tribe. Rather, it was to provide a secure place for Indians to live and to become financially independent.

Simply put, in pre-contact times there was no Santa Ynez Band of Mission Indians or any single independent political entity constituting a collection of the many different villages in the Santa Ynez Valley. The Santa Ynez Band's, territory is the territory assigned to it by the federal government because of United States' policy to provide land for homeless Indians whose survival depended upon the provision of such land.

In summary, the Tribe has not demonstrated an entitlement to seek sovereignty over the aboriginal lands of Chumash villages in linguistic territories outside of the Santa Ynez Valley and has not demonstrated that it is the successor in interest to any of the independent political villages of the pre-contact Santa Ynez Valley. In any event, the objective of re-acquisition of aboriginal lands is not a valid basis for approval of a trust acquisition under the IRA. Certainly nothing in the IRA suggests that the establishment of tribal political control over land overwhelmingly populated by non-Indians is a valid basis for a trust acquisition. The United States Supreme Court recognized in *City of Sherrill, New York v. Oneida Indian Nation of New York* (2005) 125 S.Ct. 2290, 161 L.Ed.2d 1103, that the long passage of time and the creation of vested non-Indian political and private interests on former Indian territory argue strongly against any *legal* right to that territory. The ability to bring such territory under the sovereign control of the Tribe through the trust acquisition process exists only in the IRA. Where, as here, the Tribe has made no showing of an immediately cognizable need for the acquisition and has failed to show that the acquisition of purported aboriginal territory would not create intense adverse inter-jurisdictional conflicts as required by the IRA, its application should be denied.[3]

[3]As the Supreme Court noted:

> Recognizing these practical concerns, Congress has provided a mechanism for the acquisition of lands for tribal communities that takes account of the interests of others with stakes in the area's governance and well being. Title 25 U.S.C. § 465 authorizes the Secretary of the Interior to acquire land in trust for Indians and provides that the land "shall be exempt from State and local taxation." See *Cass County v. Leech Lake Band of Chippewa Indians*, 524 U.S. 103, 114-115, 118 S.Ct. 1904, 141 L.Ed.2d 90 (1998). The regulations implementing § 465 are sensitive to the complex interjurisdictional concerns that arise when a tribe seeks to regain sovereign control over territory. Before approving an acquisition, the Secretary must consider, among other things, the tribe's need for additional land; "[t]he purposes for which the land will be used"; "the impact on the State and its political subdivisions resulting from the

B. Any Benefit to The Tribe From this Proposed Trust Acquisition is Far Outweighed by the Adverse Individual and Cumulative Adverse Effects Approval of this Trust Application Would Have on the State.

Approval of the Tribe's application absent a showing of immediate need or necessity could have potentially severe adverse cumulative impacts on California. There are 108 federally recognized tribes in the State. If this Tribe is permitted to acquire land in trust when it has no immediate need for that land, other tribes in the State may claim entitlement to the same treatment by the Department of the Interior pursuant to the provisions of 25 U.S.C section 476, subdivisions (f) and (g) which provide that no agency of the United States shall make a determination under the IRA that "classifies, enhances, or diminishes the privileges and immunities available to an Indian tribe relative to other federally recognized tribes by virtue of their status as Indian tribes" and that any decision that does discriminate in that fashion "shall have no force or effect." Allowing up to 108 federally recognized tribes in California to place into trust land for which they have an aboriginal claim could involve more than 75 million acres—the amount of land many tribes in this State have claimed would have been theirs had the United States ratified 19th century treaties granting that acreage. Congress rejected those treaties because of the impact that granting tribes that amount of land would have had on California in the 1850s. Whatever impact those treaties might have had on California in the 19th Century pales in comparison to the impact of contemporary removal of a comparable amount of land from the State's authority over land use and taxation—both of which are fundamental attributes of its sovereignty. Such a result would constitute federal interference with the powers reserved to the State in a manner patently at odds with the intent of the Tenth Amendment.

Further, the Tribe's claim that there would be no jurisdictional conflicts if this land were taken into trust is belied by the County of Santa Barbara's present inability to complete an agreement with the Tribe over land use restrictions on its pending 6.9-acre trust acquisition and the appeal of the Bureau's decision to approve that application by adversely affected residents in the surrounding community. It is also belied by the County's request (in its August 10, 2005, comment letter on the Trust Acquisition) that the Bureau refrain from approving this application pending execution of an agreement between the County and the Tribe over land use and other matters affecting the Trust Acquisition.

Additionally, as the County's comment letter demonstrates, and contrary to the Tribe's assertions, there are tremendous tax implications for local government should this property be taken into trust. The property is commercially zoned for the most part. In its application, the

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removal of the land from the tax rolls"; and "[j]urisdictional problems and potential conflicts of land use which may arise." 25 CFR § 151.10 (2004).

(*City of Sherrill, New York v. Oneida Indian Nation of New York*, 161 L.Ed.2d at p. 1494.)

Tribe calculates only the current assessed value of the property in calculating the tax loss to the County. However, the County's comment demonstrates that if the property were commercially developed, the potential loss to the County would be over forty million dollars. (See, County comment attached hereto as Exhibit A.) The comment also demonstrates that even if the property were not developed, the loss to the County over the next 50 years for land that could be immune from taxation in perpetuity would be more than 2.3 million dollars.

Similarly, there are significant implications for non-Tribal businesses located in the adjacent business district. Freed from the requirement to pay State and local property, sales and income taxes, Tribal businesses could plainly undercut non-Tribal businesses to an unfair commercial advantage. That this concern is real is demonstrated by the newspaper article attached hereto as Exhibit B. Simply put, there is no basis in the IRA for continuing to grant the Tribe the political, regulatory and economic advantages of trust status when the Tribe's political and economic survival is no longer an issue. The Tribe does not claim that its casino and hotel business, which is exempt from State and local taxation, is insufficient to allow the Tribe to function as a tribal government or to provide for the economic well-being of its 157 members. Indeed, the Tribe's income from those two businesses alone by all accounts is able to provide income distributions to Tribal members that substantially exceed the average individual income in Santa Barbara County. The IRA combined with the Indian Gaming Regulatory Act has accomplished its purpose with respect to this Tribe.

C. NEPA Requires that the Bureau not Make a Decision on a Trust Application Until it has Examined All Reasonably Foreseeable Individual and Cumulative Adverse Impacts an Approval Might Have on the Environment.

The Tribe's application indicates that it has no plans to perform an analysis of the potential individual and cumulative adverse impacts this acquisition might have on the environment. Instead, the Tribe claims that this project is entitled to a categorical exclusion. A transfer of regulatory authority from the State to an Indian tribe that may have the consequence of eliminating regulatory preclusion of a development that is reasonably foreseeable compels the preparation of an environmental impact statement. (*Anacostia Watershed Soc. v. Babbitt* (D.D.C., 1994) 871 F. Supp. 475, 482-483; *Conner v. Burford* (9th Cir. 1988) 848 F.2d 1441, 1450-1451; *Sierra Club v. Pearson* (D.C.Cir. 1983) 717 F.2d 1409, 1412-1415.) In this case, while the Tribe has no apparent immediate plans to develop the Trust Acquisition, it has indicated that it may develop the property in the future for commercial or residential purposes. Thus, such development, without full federal or State regulatory control, is a reasonable foreseeable consequence of the approval of this Trust Acquisition and the potential individual and cumulative adverse impacts of such development must be analyzed in an environmental

impact statement. Further, as noted by the County in its comment letter, the Bureau has an obligation to consider the impact of the various trust acquisitions the Tribe has pursued and is pursuing on a collective rather than a piecemeal basis. The Bureau should not consider the Tribe's current application in isolation but rather in the context of its apparent intention to pursue further acquisitions for the sake of the "re-acquisition of its aboriginal lands."

CONCLUSION

For the foregoing reasons, the Governor's Office opposes the Trust Acquisition at this time and requests that the Bureau deny the Tribe's proposed Trust Acquisition. This acquisition does not seem justified under the requirements of, or in accord with the intent underlying, the IRA. Thank you for the opportunity to comment on this application.

Sincerely,

PETER SIGGINS
Legal Affairs Secretary

Attachments

EXHIBIT

" 1 "

Current Presidential Directive number #13175 [Clinton November 6, 2000] Instructing only non-discretionary ***federal agencies*** to discuss matters impacting Indian tribes on a government to government basis, not state or local municipal governments or agencies

(relevant excerpts highlighted)

Statement on Signing the Executive Order on Consultation and Coordination With Indian Tribal Governments

November 6, 2000

Today I am pleased to sign a revised Executive order on consultation with Indian tribal governments. This Executive order, itself based on consultation, will renew my administration's commitment to tribal sovereignty and our government-to-government relationship.

The first Americans hold a unique place in our history. Long before others came to our shores, the first Americans had established self-governing societies. Among their societies, democracy flourished long before the founding of our Nation. Our Nation entered into treaties with Indian nations, which acknowledged their right to self-government and protected their lands. The Constitution affirms the United States' government-to-government relationship with Indian tribes both in the Commerce Clause, which establishes that "the Congress shall have the Power To . . . regulate commerce . . . with the Indian Tribes," and in the Supremacy Clause, which ratifies the Indian treaties that the United States entered into prior to 1787.

Indian nations and tribes ceded lands, water, and mineral rights in exchange for peace, security, health care, and education. The Federal Government did not always live up to its end of the bargain. That was wrong, and I have worked hard to change that by recognizing the importance of tribal sovereignty and government-to-government relations. When I became the first President since James Monroe to invite the leaders of every tribe to the White House in April 1994, I vowed to honor and respect tribal sovereignty. At that historic meeting, I issued a memorandum directing all Federal agencies to consult with Indian tribes before making decisions on matters affecting American Indian and Alaska Native peoples.

Today, there is nothing more important in Federal-tribal relations than fostering true government-to-government relations to empower American Indians and Alaska Natives to improve their own lives, the lives of their children, and the generations to come. We must continue to engage in a partnership, so that the first Americans can reach their full potential. So, in our Nation's relations with Indian tribes, our first principle must be to respect the right of American Indians and Alaska Natives to self-determination. We must respect Native Americans' rights to choose for themselves their own way of life on their own lands according to their time honored cultures and traditions. We must also acknowledge that American Indians and Alaska Natives must have access to new technology and commerce to promote economic opportunity in their homelands.

Today, I reaffirm our commitment to tribal sovereignty, self-determination, and self-government by issuing this revised Executive order on consultation and coordination with Indian tribal governments. This Executive order builds on prior actions and strengthens our government-to-government relationship with Indian tribes. It will ensure that all Executive departments and agencies consult with Indian tribes and respect tribal sovereignty as they develop policy on issues that impact Indian communities.

Executive Order 13175—Consultation and Coordination With Indian Tribal Governments

November 6, 2000

By the authority vested in me as President by the Constitution and the laws of the United States of America, and in order to establish regular and meaningful consultation and collaboration with tribal officials in the development of Federal policies that have tribal implications, to strengthen the United States government-to-government relationships with Indian tribes, and to reduce the imposition of unfunded mandates upon Indian tribes; it is hereby ordered as follows:

Section 1. *Definitions.* For purposes of this order:

(a) "Policies that have tribal implications" refers to regulations, legislative comments or proposed legislation, and other policy statements or actions that have substantial direct effects on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution

of power and responsibilities between the Federal Government and Indian tribes.

(b) "Indian tribe" means an Indian or Alaska Native tribe, band, nation, pueblo, village, or community that the Secretary of the Interior acknowledges to exist as an Indian tribe pursuant to the Federally Recognized Indian Tribe List Act of 1994, 25 U.S.C. 479a.

(c) "Agency" means any authority of the United States that is an "agency" under 44 U.S.C. 3502(1), other than those considered to be independent regulatory agencies, as defined in 44 U.S.C. 3502(5).

(d) "Tribal officials" means elected or duly appointed officials of Indian tribal governments or authorized intertribal organizations.

Sec. 2. *Fundamental Principles.* In formulating or implementing policies that have tribal implications, agencies shall be guided by the following fundamental principles:

(a) The United States has a unique legal relationship with Indian tribal governments as set forth in the Constitution of the United States, treaties, statutes, Executive Orders, and court decisions. Since the formation of the Union, the United States has recognized Indian tribes as domestic dependent nations under its protection. The Federal Government has enacted numerous statutes and promulgated numerous regulations that establish and define a trust relationship with Indian tribes.

(b) Our Nation, under the law of the United States, in accordance with treaties, statutes, Executive Orders, and judicial decisions, has recognized the right of Indian tribes to self-government. As domestic dependent nations, Indian tribes exercise inherent sovereign powers over their members and territory. The United States continues to work with Indian tribes on a government-to-government basis to address issues concerning Indian tribal self-government, tribal trust resources, and Indian tribal treaty and other rights.

(c) The United States recognizes the right of Indian tribes to self-government and supports tribal sovereignty and self-determination.

Sec. 3. *Policymaking Criteria.* In addition to adhering to the fundamental principles set forth in section 2, agencies shall adhere, to the extent permitted by law, to the following criteria when formulating and implementing policies that have tribal implications:

(a) Agencies shall respect Indian tribal self-government and sovereignty, honor tribal treaty and other rights, and strive to meet the responsibilities that arise from the unique legal relationship between the Federal Government and Indian tribal governments.

(b) With respect to Federal statutes and regulations administered by Indian tribal governments, the Federal Government shall grant Indian tribal governments the maximum administrative discretion possible.

(c) When undertaking to formulate and implement policies that have tribal implications, agencies shall:

(1) encourage Indian tribes to develop their own policies to achieve program objectives;

(2) where possible, defer to Indian tribes to establish standards; and

(3) in determining whether to establish Federal standards, consult with tribal officials as to the need for Federal standards and any alternatives that would limit the scope of Federal standards or otherwise preserve the prerogatives and authority of Indian tribes.

Sec. 4. *Special Requirements for Legislative Proposals.* Agencies shall not submit to the Congress legislation that would be inconsistent with the policymaking criteria in Section 3.

Sec. 5. *Consultation.* (a) Each agency shall have an accountable process to ensure meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications. Within 30 days after the effective date of this order, the head of each agency shall designate an official with principal responsibility for the agency's implementation of this order. Within 60 days of the effective date of this order, the designated official shall submit to the Office of Management and Budget (OMB) a description of the agency's consultation process.

(b) To the extent practicable and permitted by law, no agency shall promulgate any regulation that has tribal implications, that imposes substantial direct compliance costs on Indian tribal governments, and that is not required by statute, unless:

(1) funds necessary to pay the direct costs incurred by the Indian tribal government or the tribe in complying with the regulation are provided by the Federal Government; or

(2) the agency, prior to the formal promulgation of the regulation,

(A) consulted with tribal officials early in the process of developing the proposed regulation;

(B) in a separately identified portion of the preamble to the regulation as it is to be issued in the *Federal Register*, provides to the Director of OMB a tribal summary impact statement, which consists of a description of the extent of the agency's prior consultation with tribal officials, a summary of the nature of their concerns and the agency's position supporting the need to issue the regulation, and a statement of the extent to which the concerns of tribal officials have been met; and

(C) makes available to the Director of OMB any written communications submitted to the agency by tribal officials.

(c) To the extent practicable and permitted by law, no agency shall promulgate any regulation that has tribal implications and that preempts tribal law unless the agency, prior to the formal promulgation of the regulation,

(1) consulted with tribal officials early in the process of developing the proposed regulation;

(2) in a separately identified portion of the preamble to the regulation as it is to be issued in the *Federal Register*, provides to the Director of OMB a tribal summary impact statement, which consists of a description of the extent of the agency's prior consultation with tribal officials, a summary of the nature of their concerns and the agency's position supporting the need to issue the regulation, and a statement of the extent to which the concerns of tribal officials have been met; and

(3) makes available to the Director of OMB any written communications submitted to the agency by tribal officials.

(d) On issues relating to tribal self-government, tribal trust resources, or Indian tribal treaty and other rights, each agency should explore and, where appropriate, use consensual mechanisms for developing regulations, including negotiated rulemaking.

Sec. 6. *Increasing Flexibility for Indian Tribal Waivers.*

(a) Agencies shall review the processes under which Indian tribes apply for waivers of statutory and regulatory requirements and take appropriate steps to streamline those processes.

(b) Each agency shall, to the extent practicable and permitted by law, consider any application by an Indian tribe for a waiver of statutory or regulatory requirements in connection with any program administered by the agency with a general view toward increasing opportunities for utilizing flexible policy approaches at the Indian tribal level in cases in which the proposed waiver is consistent with the applicable Federal policy objectives and is otherwise appropriate.

(c) Each agency shall, to the extent practicable and permitted by law, render a decision upon a complete application for a waiver within 120 days of receipt of such application by the agency, or as otherwise provided by law or regulation. If the application for waiver is not granted, the agency shall provide the applicant with timely written notice of the decision and the reasons therefor.

(d) This section applies only to statutory or regulatory requirements that are discretionary and subject to waiver by the agency.

Sec. 7. *Accountability.*

(a) In transmitting any draft final regulation that has tribal implications to OMB pursuant to Executive Order 12866 of September 30, 1993, each agency shall include a certification from the official designated to ensure compliance with this order stating that the requirements of this order have been met in a meaningful and timely manner.

(b) In transmitting proposed legislation that has tribal implications to OMB, each agency shall include a certification from the official designated to ensure compliance with this order that all relevant requirements of this order have been met.

(c) Within 180 days after the effective date of this order the Director of OMB and the Assistant to the President for Intergovernmental Affairs shall confer with tribal officials to ensure that this order is being properly and effectively implemented.

Sec. 8. *Independent Agencies.* Independent regulatory agencies are encouraged to comply with the provisions of this order.

Sec. 9. *General Provisions.* (a) This order shall supplement but not supersede the requirements contained in Executive Order 12866 (Regulatory Planning and Review), Executive Order 12988 (Civil Justice Reform), OMB Circular A–19, and the Executive Memorandum of April 29, 1994, on Government-to-Government Relations with Native American Tribal Governments.

(b) This order shall complement the consultation and waiver provisions in sections 6 and 7 of Executive Order 13132 (Federalism).

(c) Executive Order 13084 (Consultation and Coordination with Indian Tribal Governments) is revoked at the time this order takes effect.

(d) This order shall be effective 60 days after the date of this order.

Sec. 10. *Judicial Review.* This order is intended only to improve the internal management of the executive branch, and is not intended to create any right, benefit, or trust responsibility, substantive or procedural, enforceable at law by a party against the United States, its agencies, or any person.

William J. Clinton

The White House,
November 6, 2000.

[Filed with the Office of the Federal Register, 8:45 a.m., November 8, 2000]

NOTE: This Executive order was published in the *Federal Register* on November 9.

Statement on Signing the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2001

November 6, 2000

Today I am pleased to sign into law H.R. 4811, the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2001. As I have often said, there is a right and a wrong way to conduct budget negotiations. When we have worked together, we have unfailingly made progress. When there is a genuine spirit of cooperation and compromise, we can accomplish great things for our people. This Act, the result of just such a bipartisan effort, supports our efforts to promote peace and stability around the world, in turn helping to make our Nation more safe and secure.

I am particularly pleased that this legislation funds our landmark initiative to provide debt relief to the poorest of the world's nations. By fully funding our commitment to debt relief, the bill supports this historic effort to give these poorest countries a critical opportunity to effect reform while using funds to reduce poverty and provide basic health care and education for their people. I commend the bipartisan efforts in the Congress to fund this vital program, as well as efforts of all those across the political spectrum who joined forces to secure this critically important funding.

Likewise, I am pleased that this legislation dramatically increases funding to fight HIV/AIDS. In nations around the world, HIV/AIDS is a leading cause of death and is undermining decades of effort to reduce mortality, improve health, expand educational opportunities, and lift people out of poverty. The funds provided by the bill will significantly expand our prevention and treatment efforts in Africa and other regions of the world to turn the tide against this deadly pandemic.

This legislation also helps strengthen our efforts to support democracy and stability in Southeastern Europe, the Newly Independent States, and other key regions. In particular, it includes increased funding for our continued efforts to support democracy and reform in Kosovo, and to support the

EXHIBIT
" 2 "

Former Presidential Directive number # 13084, defining state and local agencies in subsection (a), but the directive having no application to state or local agencies only federal agencies.

[President Clinton May 14, 1998]
(repealed in its entirety by paragraph 9. (c) in Presidential Directive # 13175)

(relevant excerpts highlighted)

THE WHITE HOUSE

Office of the Press Secretary
(Birmingham, England)

For Immediate Release May 14, 1998

EXECUTIVE ORDER 13084

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CONSULTATION AND COORDINATION WITH INDIAN TRIBAL GOVERNMENTS

The United States has a unique legal relationship with Indian tribal governments as set forth in the Constitution of the United States, treaties, statutes, Executive orders, and court decisions. Since the formation of the Union, the United States has recognized Indian tribes as domestic dependent nations under its protection. In treaties, our Nation has guaranteed the right of Indian tribes to self-government. As domestic dependent nations, Indian tribes exercise inherent sovereign powers over their members and territory. The United States continues to work with Indian tribes on a government-to-government basis to address issues concerning Indian tribal self-government, trust resources, and Indian tribal treaty and other rights.

Therefore, by the authority vested in me as President by the Constitution and the laws of the United States of America, and in order to establish regular and meaningful consultation and collaboration with Indian tribal governments in the development of regulatory practices on Federal matters that significantly or uniquely affect their communities; to reduce the imposition of unfunded mandates upon Indian tribal governments; and to streamline the application process for and increase the availability of waivers to Indian tribal governments; it is hereby ordered as follows:

Section 1. Definitions. For purposes of this order:

(a) "State" or "States" refer to the States of the United States of America, individually or collectively, and, where relevant, to State governments, including units of local government and other political subdivisions established by the States.

(b) "Indian tribe" means an Indian or Alaska Native tribe, band, nation, pueblo, village, or community that the Secretary of the Interior acknowledges to exist as an Indian tribe pursuant to the Federally Recognized Indian Tribe List Act of 1994, 25 U.S.C. 479a.

(c) "Agency" means any authority of the United States that is an "agency" under 44 U.S.C. 3502(1), other than those considered to be independent regulatory agencies, as defined in 44 U.S.C. 3502(5).

Sec. 2. Policymaking Criteria. In formulating policies significantly or uniquely affecting Indian tribal governments, agencies shall be guided, to the extent permitted by law, by principles of respect for Indian tribal self-government and sovereignty, for tribal treaty and other rights, and for responsibilities that arise from the unique legal relationship between the Federal Government and Indian tribal governments.

Sec. 3. Consultation. (a) Each agency shall have an effective process to permit elected officials and other representatives of Indian

tribal governments to provide meaningful and timely input in the development of regulatory policies on matters that significantly or uniquely affect their communities.

(b) To the extent practicable and permitted by law, no agency shall promulgate any regulation that is not required by statute, that significantly or uniquely affects the communities of the Indian tribal governments, and that imposes substantial direct compliance costs on such communities, unless:

(1) funds necessary to pay the direct costs incurred by the Indian tribal government in complying with the regulation are provided by the Federal Government; or

(2) the agency, prior to the formal promulgation of the regulation,

(A) in a separately identified portion of the preamble to the regulation as it is to be issued in the Federal Register, provides to the Director of the Office of Management and Budget a description of the extent of the agency's prior consultation with representatives of affected Indian tribal governments,a summary of the nature of their concerns, and the agency's position supporting the need to issue the regulation; and

(B) makes available to the Director of the Office of Management and Budget any written communications submitted to the agency by such Indian tribal governments.

Sec. 4. Increasing Flexibility for Indian Tribal Waivers.

(a) Agencies shall review the processes under which Indian tribal governments apply for waivers of statutory and regulatory requirements and take appropriate steps to streamline those processes.

(b) Each agency shall, to the extent practicable and permitted by law, consider any application by an Indian tribal government for a waiver of statutory or regulatory requirements in connection with any program administered by that agency with a general view toward increasing opportunities for utilizing flexible policy approaches at the Indian tribal level in cases in which the proposed waiver is consistent with the applicable Federal policy objectives and is otherwise appropriate.

(c) Each agency shall, to the extent practicable and permitted by law, render a decision upon a complete application for a waiver within 120 days of receipt of such application by the agency. The agency shall provide the applicant with timely written notice of the decision and, if the application for a waiver is not granted, the reasons for such denial.

(d) This section applies only to statutory or regulatory requirements that are discretionary and subject to waiver by the agency.

Sec. 5. Cooperation in developing regulations. On issues relating to tribal self-government, trust resources, or treaty and other rights, each agency should explore and, where appropriate, use consensual mechanisms for developing regulations, including negotiated rulemaking.

Sec. 6. Independent agencies. Independent regulatory agencies are encouraged to comply with the provisions of this order.

Sec. 7. General provisions. (a) This order is intended only to improve the internal management of the executive branch and is not

intended to, and does not, create any right, benefit, or trust responsibility, substantive or procedural, enforceable at law or equity by a party against the United States, its agencies or instrumentalities, its officers or employees, or any other person.

(b) This order shall supplement but not supersede the requirements contained in Executive Order 12866 ("Regulatory Planning and Review"), Executive Order 12988 ("Civil Justice Reform"), OMB Circular A-19, and the Executive Memorandum of April 29, 1994, on Government-to-Government Relations with Native American Tribal Governments.

(c) This order shall complement the consultation and waiver provisions in sections 4 and 5 of the Executive order, entitled "Federalism," being issued on this day.

(d) This order shall be effective 90 days after the date of this order.

WILLIAM J. CLINTON
THE WHITE HOUSE,
May 14, 1998.

# # #

EXHIBIT

" 3 "

Photographic depiction of the Chumash development plan for only ½ (700 acres) of the Camp 4 property in a venture with the late owner Fess Parker. This first development plan depicted 3 housing tracts of 120, 75 and 50 lots respectively, at least one golf course and a hotel and gambling casino complex at the center.


73 RESIDENTIAL LOTS
40 ACRES
3 LOTS PER ACRE

EXHIBIT
" 4 "

Minutes of tribal council meetings in which Chairman Armenta admits the reasons he wants the land removed from all County jurisdiction, taxes, regulation and control and placed in federal Indian trust status and a number of different plans for all of the Camp 4 property to be implemented when the land was later transferred into trust status.

Chairman Armenta – If it is not 100% useable, the reason for acquiring number 5 is to make it a part of number 3 and 4 if we decide to get those. This way everything is connected. That is the reason for it. Everything should be, as far as the bureau is concerned, easier on us if everything is connected.

Elise - Is that a gas station, too? Is that what I see? John Volk on there?

Chairman Armenta– John Volk is on there.

Elise – Just so we are aware because then we would be within regulations with accounting because of the gas station. We would have to abide by regulations.

Chairman Armenta- No, there is a fine line. I don't know why we wouldn't want to do anything that wasn't in the best interest of the public.

Reggie – You mentioned about expediting the land into trust. Should we go with all of the selected properties? One thing you did mention in regards to the bureau, and I know you and I have been part of the discussion and felt that the general council should know, that the bureau currently doesn't have the manpower to help expedite. That is a real key to doing this by turning back money that we get from the bureau right now for tribal administration, allowing that signed back as a grant and actually what they refer to as a personnel action. You can actually designate that money to be someone who handles your property issues. We can help expedite and pay for that person's position. That is what they are suppose to do, is take care of our land. By doing that it will help expedite because we paid for the personnel specifically, the money the bureau has targeted for us for tribal administration. We now assign somebody to the bureau to take care of the property and take care of all the aspect and put it into trust and we will be able to do it within one to two years. I just wanted to add to your statement to that which would help us in expediting this entire process very quickly.

NOTE

THIS IS THE "CONSORTIUM AGREEMENT"

Chairman Armenta– Right, exactly. So really quick because this could get very long. Rudy, now that you understand -- well, you just told me that you didn't understand what I was talking about owning title free and clear.

Rudy has made a motion to buy the property that is adjoining across the street and get it into trust, that would be number 6. Do we have a second to Rudy's motion? Nobody has seconded the motion. Junior has made a motion to go forward for all the property that we have outlined on the map. Do we have a second on that? Bea Marcos has the second. The map is to show what is available. Can we have a little bit of order, please?

The intent is not to purchase every piece that was put there for information. If the pieces of property are not feasible or are too expensive, I don't believe anybody on this committee will even agree to make an offer. The idea of the map is to show what is available and try to acquire the pieces that are available, but if it is not a reasonable offer then we won't do it. The properties that I'm mainly talking about are number 3, 4, 5, and 6. If we run into a problem, which we may, perhaps number 2, which would allow us to jump back and forth across the highway, which we could do. The other one is the upper portion at Gainey's. There is no number on it; it is just

the one at the bottom of the page that is white-lined in. We are running just a little over 1,000 acres. It stops right near the end of the pavement on the reservation -- is where the last lot there stops. Mr. Gainey has made it very clear that if this goes public, he won't do anything with it. That is why I'm saying we have to be very quiet about it. He will not go through with it. I do have a meeting set up with Mr. Gainey; the business committee is aware that we have a meeting. If it gets out, I'll tell you what we won't be able to buy anything. If we do, the prices will be so inflated that we will have to sell our casino to buy property. Rudy, I want to buy the property that is feasible for the reservation. If Guy Walker's is not feasible, we will not buy it. If Mooney's is not feasible and the price is inflated, we will not buy it. We can jump back and across the highway and buy individual lots that are better priced for the reservation that is what we will buy. We will leave anything out that is going to take advantage of the tribe.

Rudy is talking but not able to understand.

Chairman Armenta - Rudy, I said three times you know when we bought the property. I don't know why you are asking me how long it has been sitting there. It has been sitting there for almost four years. If we don't buy additional property and get the application submitted to the bureau to get the property into trust, then any future property we purchase will have county regulations on it. That is what we are trying to avoid. We do not want the county telling us what we can do specifically with our property. That is the intent here.

The intent isn't to buy property and let it sit; the intent isn't to take all the money from the casino. The intent isn't to buy every piece of property that is available throughout California. It is very specific-- buy property that is useful to our reservation and submit applications to the bureau to get the land into trust so that we are not strictly regulated; that is the intent. We will never get it into trust without county jurisdiction unless we do it now, unless we do it by mid-summer. That is why every other piece of property is important. The county is going to tell us what we can do with it until we get it into trust. If we don't get application into trust shortly, then the county will be able to tell us for the next 200 years what we can do with it and I don't think the tribe wants that. That is why I said we need to sit down with Gainey, our accountant, and everybody after we review this report and get it back and after we do an expansion. My thought is, and I'm sure it is everybody's thought, that if we were to put 2000 machines in there, which everybody I've talked to says the market will allow, our per capita would double.

Talking, but not able to understand.

Chairman Armenta - That was what the motion was for; Bea Marcos seconded it. Okay, let's take a vote from in the house. All in favor, raise your hand. I'm sorry, let's do a roll call.

Unidentified woman – Can't we just send it all out to ballot to everybody because some of the people are not here though.

Chairman Armenta – No, let's save some money in postage. We are going to send it to ballot.

Unidentified woman - I know, but since some of the people left that have signed in.

SANTA YNEZ BAND OF MISSION INDIANS
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SANTA YNEZ, CA 93460
PHONE 805-688-7997 FAX 805-686-9578

May 31, 2000

SUBJECT: GENERAL COUNCIL MEETING, SUNDAY, June 11, 2000 @ 10:00 a.m.

Dear General Council Members:

The next General Council meeting will be held on June 11 at 10:00 a.m. Your attendance is appreciated, as we must address a few very important issues.

Land Acquisition:

We received confirmation for licenses to operate an additional 1240 video machines, which must be in operation within 12 months. In two years the Tribe will begin paying an assessment (percent to be determined) to the state, as stated in our Compact. The Tribe must act now to maximize our profits and to build a future for our tribe through diversification, yet maintain our per capita allotment.

A marketing firm was hired to prepare a market study on the impact the operation of increased machines could have, and how we as a tribe could benefit from the growth. The results of the report will determine how large a casino can be built, what size of a parking facility can be built and how large of a hotel complex can be built, if our Tribe decides to do so.

We sent 5 proposals to various architects to prepare a preliminary design (at no cost to the tribe), of a new casino, parking facility, and a hotel complex. When all designs are submitted at the end of June, you will ultimately make the decision on what architect firm the Tribe will use *if they decide to proceed with the expansion.*

Recently you have been asked to vote for land purchases off Hwy 246 and the Gainey property. It is imperative we increase our land base and take advantage of placing all newly acquired property into trust this year, before the laws change and make the trust process more difficult by requiring that the Tribe obtain approval from the County.

The casino and parking lot will remain on current Reservation land, as we cannot interrupt our gaming operation. If the land acquisition ballots succeed, the property off Hwy 246 (3400 Numancia) could be used to house our tribal hall, cultural center/theatre, administrative offices, day care center, tutoring facility, etc. and the Gainey property could be used for a hotel, spa, golf course, etc. If the Gainey property ballot passes, we have an opportunity to acquire the Sanja Cota Road and the Tribe can choose whether or not to reconstruct the road without obtaining permission from the County and/or Gainey.

5/21/2000 Executive Summary

Casino Management

The new casino general manager was introduced. Jonathan Gregory spoke and told the general council a little about himself.

Ballot Results

Gaming ordinance passed with alternative 1 (re-elect five new members for staggered terms).
Youth project failed.
Road construction passed.
Purchase of land failed.

Land into Trust

Bureau is starting a program that would allow us to reallocate grant monies back to the bureau. Santa Ynez needs a tribal resolution to give the grant money back to the bureau from tribal government operations. Other tribes, Viejas, Morongo, gaming tribes have done it. Giving the money back to the bureau will let the bureau staff their offices and expedite the land into the trust process. It would be about $70,000 a year; the project will last three years, 2000, 2001, and 2002. The tribe currently receives $107,000. It would return $70,000 to the government so they can start the land-into-trust offices and its expenses.

If Santa Ynez decides to buy more land, the process would be expedited. The money does not go to Washington, DC. It stays here in California. Some tribes are waiting 5 to 10 years to get their land into trust. The land into trust is beneficial to the tribe. It does not benefit any one tribal member. Some tribes are giving back every thing; some nothing. It depends on the circumstances of that tribe. Virgil Townsend of the BIA originally asked for $100,000 from Santa Ynez. He then lowered the amount to $70,000. The money is pooled from all of the tribes for staff, office and expenses.

Ballot Counting Concerns

Purchase Lands

Mr. Ganey is concerned about selling the land to Santa Ynez. He doesn't want the public to know about it. This is the largest piece next to the reservation. The tribe will have to consider jumping across the street if it can't purchase it. All of the tribal attorneys agree that contiguous land is best for the tribe to purchase and put into trust. Through the acquisition of other lands, it would all be contiguous.

Discussion was held about building a resort versus a hotel. The point was made that the land *must* be purchased first before anything can be done so it can be placed into trust. The new machines from the pool selection – 1,240 – bringing the total to 2,000 – those machines must be operating within a year. The parking and hotel are all an issue. It will help if the tribe will purchase more land. The tribe is trying to get land that is all centrally located to the existing land.

It was suggested to use the sprung for some of the new machines, to cut back on bingo.

It was emphasized that if the tribe did not purchase the land and start the process to get it into trust, then the opportunity would soon be lost.

Interest rates were raised as a concern. Who will lend the tribe money? And at what rate? The tribe will shop for the best rate and/or use tax-free bonds. The regulations will be changing soon on the land-into-trust process and the tribe wants to beat the deadline so the county cannot assess taxes on it. The end of August is the deadline.

Tax–free bonds were explained as an investment that is tax-free to the person putting up the money and therefore the interest rate is lower. It's cost effective. Tax-free bonds cannot be used for the casino only infrastructure/golf course. The money for the casino will come from banks or other financial institutions.

The land across the street is in escrow; the period ends tomorrow. Without approval from the general council, the tribe will not buy it and the realtor must be told. Any land the tribe is looking to purchase is for the benefit of the tribe, not any individual member.

A discussion was held to motion sending the land purchase out again to ballot. The delays were discussed in doing that – possibly as long as 10 weeks. If the tribe is interested, though, we'll continue with looking into the purchases. There are reports that will have to be completed if the tribe goes ahead with the purchase, the Alta and the EA. They will have to be paid for at a cost of around $16,000. The ballot needs to be a little more specific as to the purpose of buying the land, how much will the lending cost be, where a loan could come from, percentage rates, etc.

Remember that revenues will increase with the new machines and that will help. The business committee has been elected to represent the tribe to the best of its

ability. A ballot will go out tomorrow with a letter of explanation. It will cost for the Alta and EA reports. A motion was made to continue trying to purchase the property already in escrow across the highway and do the Alta and EA reports. It was seconded with no one opposed the motion. A motion was then made to purchase a portion of the Ganey property, around 300 acres. It was seconded without opposition.

Marketing Study
Urban Marketing Studies is completing a market study now. It will be a tool for the Santa Ynez Tribe to evaluate and make a decision on Chumash Casino. Urban Marketing is one of the largest and most reputable companies. The deadline is running short. We have to take into effect the tourism in the surrounding areas.

The Chairman emphasized that a lot would come out in the market study about the golf course and hotel; that something will not be built that cannot bring the tribe increased revenues. The brief market study report supported getting the maximum machines (2000). It will take longer for the full report.

The general manager, Jonathan Gregory, will determine where the machines go and what type. He has been very involved in everything at other casinos. He knows the online systems and the machine vendors. He's completed studies. The Urban Systems report will tell us what type of machines are best for Chumash Casino. Discussion was held about changes in per capita payments and income statements, especially during the three-month period when everything was changed over.

Nominations for Gaming Agency
The floor was opened to nominations.
Gilbert Cash, Vince Gomez, Charity (?) Romero, Rudy Romero, Julio Carrillo, Millie Meaux, George Armenta, Raul, Reggie, Lydia, Manuel Kahn, Virginia Ochoa. The number of votes received will determine the staggered terms. If two family members are nominated, then the family member with the least number of votes received would step out. Family members cannot be on the same committee but they can both run; they can be nominated, but only the one with the most votes can serve on the board.

Staffing the Tribal Hall
It seems to take a long time to do things because the tribal hall is understaffed. Since the existing tribal hall land is vital for any casino expansion, the tribe can move the other offices somewhere feasible and re-staff if necessary. Some

committees are being run out of the trunks of cars. A discussion ensued about buying more trailers or waiting for the expansion to start.
A motion was made to set up an office trailer in the back on the rocks behind the existing education trailer. The goal is not to intrude on the main operation of the casino or parking area. These tribal offices would include enrollment, education, elders, business committee and tribal hall staff. One could also be used for general council meetings. Not just for business committee for all of the tribal operations. The motion was made and a second received. Motion carried with one in opposition.

Architectural firms
The Santa Ynez tribe sent out requests for proposals (RFPs) from five architectural firms throughout California and the United States. They will now complete a design competition in order to qualify to get Santa Ynez' business. They'll submit quotes for the design. The deadline is the 15th of June. It will include a casino, parking structure and hotel. These RFPs are free to the tribe and will decide which one it wants to use. The company that submitted a plan before is one of the firms bidding.

It was noted that DesignARC, Mike Holliday, who once did a design for the tribe that cost money, admittedly is not a casino designer. The bids will include everything – a preliminary design of the exterior, casino, hotel, and parking. The interior will come later.

The project would be a year and half from design to finish; could be two. The tribe needs to address adequate parking for the 2000 machines. The community will not support a hi-rise hotel. The tribe needs to buy the land to place it; not enough reservation land now.

Accounting issues/Credit card update
Kate Walker in charge of tribal finance is out ill. The records are now in accounting. Five people from there spent 10 days trying to get the report done. The report still doesn't reflect if any money was paid back to the tribe for personal use. The report is 500 pages long and goes back to 1994. Progress is being made on the report.

Road Construction
A grant is available that will pay for the majority of the road construction -- $129,000. That will pay for the majority and then the rest will come out of

economic development. The budget is approved for $170,000 and as long as that figure is not exceeded, it's okay.

Water Quality Grant/Monitoring Grant

A grant is available to monitor water on the Santa Ynez Reservation. The grant will fund the sampling of the creek water and determine its quality. The water quality program would ensure that people are not dumping raw materials into the creek. If people are dumping above the reservation, then the EPA will address it with them. It will permit the tribe to know what is being dumped in the water off the reservation. This is a grant. There is no money out of Santa Ynez' pocket. The grant will permit the program to be set-up. The EPA will go after anyone polluting the creek upstream. Motion passed.

Restraining Order on Torres

Attorney Larry Steadham advises the tribe to pass a resolution barring him from the Santa Ynez Reservation. In past, the tribe has tried to work with him about liens and invoices, that is now in Larry's hands. Motion was passed to ban Torres from reservation.

Two General Council Meetings a month

It was discussed to hold two general council meetings a month to permit more time for people to ask questions.

Tutorial Center Update by Geraldine Lewis: The Youth Center is at the new location on Via Juana. Some of the activities in progress are developing a garden area and a summer program including field trips. The Center is equipped with a computer room for younger and older students. The director is working on setting up a fall program to not only help children with homework, but also to work on problem areas.

Clinic Update by Laura Ray: The director is working on re-establishing the health board. Submitted a grant for $300K, spread over a three year period, to establish a health board. Physicians, a dentist, and other medical affiliated personnel will sit on the Health Board. Seven to nine persons will be the governing body of the clinic. The time line for the first year will be education, hiring, recruiting, the 2nd year will consist of training and creating by-laws. The creation of a new health board will take at least 6 months.

Another grant for a podiatrist (to help diabetic patients) is in process. Three or four construction grants are in process. Expansion of the clinic is necessary. The clinic director is applying for a grant $300K (over three years) for circle of care. This is for the children of the tribe through the age of 22. The object of the grant is to foster the care of youth to prepare them, mentally and physically, to become our next leaders.

Mailings to the Tribal members asking for suggestions for improving the Clinic will be sent out shortly.

Expansion Update:
Completed the agreement with the Sewer District last Monday for more capacity. This additional capacity will allow us to continue our Casino expansion. If the Tribe decides to build its own sewer treatment plant, we will have the opportunity to sell back to the District the sewage capacity not being used.

We installed underground sewage tanks at our cost—a mitigation measure for the sewer district. The district maintains the tanks; we own the tanks and the easement. Now the district can permit additional growth in the valley. The cost for installation of these tanks is approximately $60-70K.

The 4 underground sewer tanks, for a total of 24,000 gpd capacity, are capable of handling approximately 2 hours of overflow sewage collection.

Working with the Water District is more difficult. We drilled wells on the Reservation and the water from those wells will be used for fire protection. The tanks are located behind the metal building. The water tanks will serve the new building and the parking structure. Per the Water District regulations, because we drilled our own wells, we are required to install back flow devices on all the water meters on the lower reservation, tribal hall, clinic, and casino. The cost of the back flow devices will be covered through the Casino. Water hookup in the new facility will not happen until the back flow devices are installed.

The cost for the water wells were approximately $20-25K and installation and cost of the tanks are approximately $32-34K per tank.

County Update

Bottom line, the county feels we should pay them $7 million now and a little over a $1 million per year thereafter. In summary, $4.5 million was for affordable housing. We are doing a study that shows that the majority of the people who are working at the Casino already live in the valley. $290.7K is for outdoor activities—the tribe continues to contribute to school programs, YMCA, etc. The County is requesting new administrative facilities fees of $209.4K. Fire protection of $302K—They would like the Tribe to purchase a fire truck. $341K for schools—the Tribe already donates to schools. $540K for air quality control. They want to purchase clean air emission busses. $150K for regional traffic. This is a Cal Trans jurisdiction and not the County. $800K for highway improvements. The Tribe will be funding the improvements. Electrical power lines $320K. The tribe already has an agreement with PG&E. Total of one time costs that the County is asking for is $7,226,202. At a recent meeting with the County Board of Supervisors, our Tribal Chairman asked, "Show us where we will impact the community with our expansion and we will address those issues only". The Business Committee will be meeting with Mike Brown, County Administrator, on Thursday to discuss the county analysis.

Recurring costs the county feels the Tribe should pay is $486,335 per year. The costs consist of $7K for park maintenance for the only park in Santa Ynez. The Tribe is planning to build a cultural center/museum, which will be open to the public. $315K for fire dept. and paramedics. This is a reoccurring cost that we the Tribe are obligated to pay. Sheriff protection $30,866—to handle the calls from the Casino to the Sheriff department. The Casino has an impact on the Sheriff and Fire Departments. Regional traffic maintenance of $100K. This is a Cal Trans jurisdiction. We already paid $170K to repair a county road (Sanja Cota). Once the development starts on the 6.9 acres across the street, the Numancia Road will be the obligation of the Tribe—it serves the County. The County asked that we offset the cost for SY Valley Transit of $33K per year.

A portion of the revenue sharing fees which the Tribe will pay to the State will be funded back to the County.

Gail Marshall is calling a town meeting, on the 30th of May at 7:00 pm at the Vets Building in Solvang. She is claiming that the Tribe's gaming expansion will include development on the Reservation as well as across the street. The BIA granted the County a one-month extension (June 17th) to respond to the EA for the 6.9 acres across the street. The County input will not have an affect on our application for fee to trust. In order to keep the design of the new Casino building to a minimum height, we will need to move the tribal hall and the clinic across the street.

The Business Committee did cancel a couple of meetings with the County—they wanted us to sign a paper stating we would meet with them every 2 weeks and then asked us to sign a document stating everything will be confidential—we did not sign anything. The next day after a meeting with the Business Committee, the Supervisor went to Sacramento to complain about what SYIR is doing.

Responses to Casino Expansion newspaper articles are in progress.

When we start Phase II, the County will definitely ask for more money. The County hired an Indian attorney from CILS for consulting.

The proposed development project is designed to deliver the following: generate additional revenue, provide tribal housing for every enrolled Tribal Member, and enhance the existing Casino Resort. This would diversify our income and position us for the future and the uncertainty of the monopoly on Indian Gaming and the fact that in the year 2020, the compact expires. [EXHIBIT "3

A rendering of the proposed project was shown. The price of the property (745 acres)is $12M and the cost of the proposed development of the property is between $200M and $250M. Development includes a 300 room resort hotel / spa, two eighteen hole golf courses, support facilities, infrastructure for roads, utilities, water, gas, waste water, and storm drains. Approximately 150 tribal homes based on an average of 2800 square feet each in addition to the homes for the public. The full potential of the development could accommodate up to 500 homes.

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NOTE

This project was introduced by Fess Parker who has established a reputation as a very insightful and successful property developer. He wishes to develop a partnership with the Tribe. It would be a 49-51 percent joint venture and the Tribe to hold 51 percent and Fess Parker to hold 49 percent. The property is located on the corner of highway 154 and Armour Ranch Road. The project will be financed 100% through third party debt, i.e., the bond market with portions of the debt to be secured by the Tribe and other portions by Parker and the partnership. He has offered the property to us for $12M with a 90 day escrow. Tribal housing would be a separate development from the joint venture partnership, of which the Tribe would control. We would transfer the land into trust. Mr. Parker and his family would be the managing partner but we maintain certain approval rights under the 49-51 percent partnership. The available market data indicates there is adequate visitation to the area to support such a project.

Strategy of the best method to purchase the property is yet to be determined. The Tribe could pay cash, which would deplete all our cash resources and decrease the liquidity of the Tribe, or we could leverage the finances the Tribe currently has by using 90% of it at a 2.1% interest rate, or use traditional bank financing using the property itself as collateral and secure a loan on it. Just before it goes into trust we pay it off and transfer the deed.

Investors who bought the Tribes bonds say the Tribe can leverage the facility for 5 times the amount of its value which means the Tribe could go to the open market and borrow $450M at a much lower rate than is being paid on the existing loan. The anticipated interest would be 6 or 7 percent.

THIS IS ON THE CAMP 4 PROPERTY [EXHIBIT "3]

It is estimated the hotel itself would generate $25M to $30M per year. The public housing would be released through the joint venture and would be sold at the fair market rate for the Santa Ynez Valley which is currently $750K to $900K and would be on leased property. The long term venture, has the potential for generating significant amounts of income outside of the Casino. It provides diversification. It reduces our risk of relying only on the Casino. It puts us in a better position for our financial future. It allows us to use our ability to borrow money and increase our earnings.

there would be all kinds of penalties, taxes and interest penalties, if the IRS decides there was something wrong. Glenn continued by saying that is probably why the Business Committee has been so careful about this and insists a Private Letter Ruling supports this particular plan. Glenn thinks there is some reason for concern.

Compact Update. Glenn stated the Governor has signed new compacts with five tribes. Under this compact, the State of California is going to float a one billion dollar bond. The five tribes who signed under this new compact have agreed to pay off that billion dollar bond issue, $100M per year for 18 years. As a result of that, the tribes can acquire an unlimited number of machines, paying the State a sliding scale per machine per year. The term of the new compacts was extended for ten additional years.

NOTE THE COURT DECISION IN T RINCON CASE H THE STATE GO NOT COLLECT TH MONEY BECAU IT WAS CONSIDERE A TAX

Under the new compacts union organizing activities are made easier. The other major non-economic issue is the environmental provisions. Under the existing compacts the Tribe has an obligation, to have some public input (study, public hearing, comments), but at the end of the day, the decision on whether to proceed is the Tribe's decision. In the new compact, before the tribes proceed, they must have written binding contracts with the county. An arbitrator will make the decision if the county and tribes cannot reach an agreement.

What the five tribes have done does not affect our compact in any way. The Governor cannot change our compact. Class II machines are not covered under any compact.

Proposition 68: sponsored by race tracks and card rooms. Basically, certain race tracks and card rooms want slot machines, and they will share revenue with the state.

Proposition 70: sponsored by Agua Caliente. It extends the term of the compact for 99 years, lift all limits of gaming (casinos and slot machines). The tribes would revenue share with the State 8.8% (the same corporate tax rate). Special distribution fund will probably go away, but the non-gaming tribes will get their money.

NOTE THEY PA NOTHING THE COUN

Revised Reservation Sales Tax Ordinance No. 12. The Tribe adopted this ordinance a couple of years ago which created the Tribal Sales Tax on food and beverage. We now need to add the hotel bed tax, which is the same rate charged in the County. Under the existing ordinance, there are two funds for distribution, a percentage for the county and the City of Buellton and the other percentage of the fund for tribal government. Under the new ordinance, the two funds will be combined into a single fund. The General Council will approve funds for the county and/or local government. The other part of the funds could be used for normal Tribal purposes (for example, tribal government administrative expenses, furniture, fixtures, equipment and maintenance of tribal buildings and facilities, infrastructure, capital improvements, etc.) which are normally approved by the Business Committee. A request was made to amend the Ordinance to read that the General Council will approve all expenditures.

MOTION: Elise Tripp made a motion to approve the revised Ordinance 12 as amended, to have General Council approve all expenditures. The motion was seconded by Christine Viar, motion carried.

Minutes: Special General Council Meeting
Tuesday, August 30, 2005

The Chairman opened the meeting and welcomed those in attendance. He stated reason for calling this special meeting is because we have a very short period of time remaining for comment regarding the 5.8 acre Fee-To-Trust application. There may be some benefits for the Tribe to look at in regards to the 5.8 acres. The Chairman identified the location of the parcels comprising the 5.8 acres and added that they are located across the highway and are opposite from the 6.9 acres.

There are pros and cons to removing the 5.8 acres from the Fee-To-Trust application. The decision must be made by the General Council as to whether or not we should remove certain parcels from the existing application which would leave Mooney, Escobar and the property right next to Escobar.

Some of the pros are that it would remain a liquid asset for the Tribe. It provides assistance for the Tribe in negotiations with county. In a meeting with the county two weeks ago, the Chairman made it very clear to the county that the Tribe is still looking for land to put into trust to build houses. Similar to something we were going to do with Parker but we will do it with or without Parker. We are still looking at that. If the Tribe chooses to pull these parcels off the application, the General Council can direct the Business Committee to resubmit to the Bureau on another application.

NOTE

As we are looking at the development of the 6.9 acres, we are currently doing a market study that will tell us what businesses would be successful and how much interest there would be in the businesses, not only on the retail and offices on the 6.9 but also on the 5.8 acres. We are taking a look at everything as one big picture rather than looking at each parcel independently.

THE ARE T
LANDS TH
ARE ALWAYS
CLAIMED TO BE
NEEDED FOR
CULTURAL
MUSEUM

One reason we are looking at removing some parcels from the FTT application is that once the parcels are accepted into trust it is that it would take an act of Congress to take them off. That would be difficult to do. It can also help the tribe in negotiations with the county. They are will aware we are looking for additional property. Pulling these parcels off should not result in any concerns or arguments with the county regarding the parcels remaining on the application. Not only has the county commented on the 5.8 acres but two days ago we found out the state has now submitted a 9 or 10 page document to the Bureau of Indian Affairs on the 5.8 acres as well. It gives us leverage on both sides. It shows that we are working with the county and to help with any future trust acquisitions. Again, it could be placed into trust at a later date. All the studies are complete for those parcels. It is just a matter of pulling those parcels out of the existing application. If the Tribe decides at a later date to put it into trust, in say 3 to 5 months or in a year, all the work is completed and it simply putting into another application.

There are some negative aspects in leaving it on the county tax roll. We have to pay taxes on it yearly and not only as bare land but if we decide to develop it it would be subject to county regulations, county zoning which is currently commercial highway with a mixed use overlay. We would pay taxes on the development as well.

Our current property taxes on the parcels is $5,840.63 annually. That is only on the parcels across the street, the yellow house lot, the Verizon lots, and the corner lot. It would remain under county jurisdiction under their policies. It is commercial highway zoning as it stands right now. Our application was submitted as a categorical exemption meaning we are not going to change the use of the property. It is consistent with what the county has it zoned for. It has a mixed use overlay which means businesses may be built and apartments built on top of them.

In conclusion, the Chairman stated, we would remove those three parcels and move forward with the Fee-To-Trust with the remainder of the parcels currently on the application.

In response to a question from the floor, the Chairman stated the application is submitted and is currently in the comment period. The county has filed a comment. The Concerned Citizens have filed comments against and POLO (Property Owners of Los Olivos), POSY (Property Owners of Santa Ynez) filed comments against and now the governor's office.

In response to a question from the floor, the Chairman said that we have not yet received a copy of the letter written by the State of California but the Bureau contacted us and said they would send us a copy of the letter. The state is siding with the county and it is about the tax issue, $5,800 a year.

The question was asked about why no one else purchased the lots in question and developed them commercially. The Chairman responded that he did not know and would not know what commercial development might be valuable there until the marketing study data was available. Ken Kahn added that we, the Tribe, owns all three parcels and they were owned by three separate owners before. The question was asked again if the property was so valuable, why anyone hasn't purchased the land and developed it before now.

The question was asked if the county could stop the Tribe from developing the land. The Chairman said they could slow us down in the process. The only way they could stop us is if we go for something like a conditional use permit. They can stop that. It being zoned is basically a land use permit for that zone. It is different than if you wanted to just build apartments there.

The question was asked from the floor if the other parcels included in this application would be 'picked on' by the county, too. The Chairman responded that the county only addressed these parcels. The county's complaint has always been the loss of taxes. One of the biggest advantages here is that it gives us an opportunity to say we pulled this off the application. Number one, we want support on the remaining parcels on this side of the highway which are all landscaping except for the vacant lot on the southeast corner. Number two, it tells them they can work with us on the larger parcel of land. It also shows good faith on the part of the tribe and the Chairman will ask them to withdraw their opposition to the remaining or larger piece of the property.

The Chairman reiterated the purpose of this meeting was to get approval from the General Council for the Business Committee to be able to offer the county a proposal to remove the 2.7 acres from the FTT application. The Business Committee does not have the authority to do so without the approval of the General Council. Whether or not the county agrees to work with us on this is yet to be determined. If they do not, we can tell the state and federal government

agencies we attempted in good faith to work with the county on the land issues but they would not work with us.

Rudy Romero commented the tribe did not want any more flack and this is why the consideration is being made to not take these parcels into trust now. This might stop most of the flack. He added there was nothing wrong with developing the land even if it is not in trust. If we are going to diversify, we are going to diversify. We will abide by county rules. If we are sincere in what we are doing, diversify. What is wrong with developing the land under the county auspices? There is nothing wrong with that. We are going to have trouble taking that parcel into trust anyway. If years from now, once it's developed, why are going to take it into trust?

The Chairman said that was a decision the General Council needs to make. We talked about diversification. This could be a saleable asset to the tribe. Where does the value lie; in the asset or in trust? The study that is coming in will determine that.

Mr. Romero responded that if we take it into trust, we avoid paying taxes and that is a big issue. We can stop that by not taking it into trust. That will not stop us from developing that piece of land. The Chairman commented that taxes would increase with development on the land. Rudy Romero said we would never go wrong holding on to real estate especially in that area.

Maxine Littlejohn commented it would be an asset to develop the land and make money off of it and buy more land. The Chairman said just because we own it doesn't mean we have to develop it. It needs to make sense to develop it.

A comment was made from the floor about the overlay showing apartments. The question was asked if that would be tribal housing or housing for just anybody. The Chairman answered that if we are going to use any land for tribal housing, it is a good idea to have it in trust. This is such a small parcel. Mixed housing is going up all over the county. There is some in town and there is some in Santa Barbara.

Reggie Pagaling made the motion to withdraw the 5.8 acres from the current application. The Chairman said there 7 (seven) parcels facing Numancia Street. They total about 2.7 acres. The 5.8 also includes Mooney's, Escobar's, and Daniel's and they will stay on the application. The value of the property is about $600,000 per lot or about $4.5M. We paid about $680,000 for the Verizon lot and about $600,000 for each of the others. These are the lots north of Highway 246 and facing Numancia Street. The Chairman read the parcel numbers. There was additional discussion about the total acreage, 5.8 acres and the 2.7 acres, to be withdrawn from the application, the development of those parcels and the potential negotiation leverage with the county, and the benefits of withdrawing the parcels and the potential development options. The tribe could submit an application at a future date to have these parcels placed into trust.

The Chairman stated this action would have no impact on the 6.9 acre application. Removing these parcels from the current application for the 5.8 acres would open or extend the comment period for an additional 30 days.

There was a comment from the floor about where the tribe's funds are going and accounting of the money should be provided to the tribe. The Chairman said there was no secret account and they could discuss the accounts later.

There was additional discussion about withdrawing the seven parcels from the FTT application and the pros and cons of doing so. The Chairman said all the information would be sent out with the ballot.

The question was asked from the floor that when the bonds are paid, will there be an increase in per capita distributions. The Chairman said the General Council can do what they want. There are options to purchase property and to diversify. We will get into that.

Action Reggie Pagaling restated his motion; Reggie Pagaling made the motion to withdraw 2.7 acres from the 5.8 acres in the Fee-To-Trust application. Parcel numbers: 143-253-002 through 008. The motion was seconded by Norma (Levan or Comastra). The motion carried and will go out to ballot.

The meeting was adjourned.

televising of poker play. It is not a big money maker and it occupies some very expensive retail space right next to the high limit room. The other part is that we could add poker tables to add to the poker revenue and at the same time we have the ability to expand the high limit room. It is a critical area for us in terms of driving revenue for the facility. Our players come in and really light up those machines in there. We would like to increase the number of slots we have committed to that area. We think we can increase the revenue from that room by about $2M a year.

Mr. Brents then announced they would like to seek the approval of the General Council to acquire the Frederico's property in Buellton. It is a 15,000 square foot building plus a restaurant. It has 144 parking spaces which are critical to us. It is a 44 acre site and is on and off the 101 and has good access on McMurray Road. The estimated purchase price is $3.35 million and the renovation cost somewhere in the one to two million dollar range depending on the engineers' determination. We think it is a strong piece of property for the tribe and a strong holding in the long term and will add revenue right away to the Casino. Our goal is to maximize that.

There was then some discussion about the property. Some due diligence will need to be completed to be sure we are not in violation of any use restrictions for the property in Buellton. There is no gaming violation involved as long as the records are not taken off site. The revenue impact after the expenses of modifications including those at the Casino will be about $3 million per year. This would be very short recovery period and is one of the few areas we can convert non-gaming area to gaming area.

We need three to four hundred hotel rooms on permanent basis. A conservative estimate of impact on revenue would be between 20 and 40 million dollars a year in additional revenue to the Casino. Our request would be to evaluate some properties and get approval to tie them up subject to approval by the Tribe and subject to due diligence, appraisals, etc. This makes sense for the business and is a way to grow the business as we are limited in increasing revenue by the supply of hotel rooms we have.

There was then some discussion about the modifications to the Casino and moving administrative activity off site and reallocate the Casino space.

Frederico's investment is about $5M. The returns are about 50%. It is a short payback. The hotel rooms are somewhere in the 15 to 40 million dollar range depending on how much you can acquire. We thing the returns is somewhere in the 20 to 40 percent range based upon the gaming. Our assumption is that we could fill about 75% of the rooms with gamblers worth about $250 per night.

For current debt, we are at $80M on our bonds. We have an upgraded rating from Standard and Poors. Our intention would be to call in the bonds. The first call date on the bonds is July. We have been acquiring bonds back as they become available. We could refinance with lower cost debt and we have a much stronger balance sheet and income statement than we did in 2002 when the bonds were sold. We can refinance the bonds and there is some flexibility to fund the additional projects. It still leaves a conservative structure in place. There is a small level of debt compared to the income assets in the equity.

Mr. Brents then responded to questions from the floor. Regarding availability of rooms, the best candidate hotels in the area are those with at least one hundred rooms. With the General Council's

approval, he will look into that possibility. We are not sure what is available but properties that are prospects are the Royal Scandinavian Inn, the Marriott, and the Holiday Inn Express are good candidates. This area is becoming the next Napa and we need to be able to have that capacity. If we don't get the approval, we will probably be going in and buying big blocks of rooms. That is speculative but it makes sense. We need to turn on the marketing in Los Angeles and we need to take care of the guests when they get here.

In response to another question from the floor, the Chairman stated that the only other properties the Tribe has is the 6.9, Mooney, Escobar, and the Numancia. Perhaps a hotel could be built on it. There is about 6 acres total for development. It will take 3 or 4 years or perhaps longer, hopefully less, to get that land into trust. There are restrictions there and if we went to the county there would be density issues. The only candidate property is the Numancia. The Carlson property is under 5 acres and includes part of the hillside.

Mr. Brents said the reason for buying additional hotel space is the urgency of capturing the revenue and the need to take advantage of the opportunity. The Chairman added that acquiring a hotel is an additional source of revenue for the Tribe. It is diversification and is an asset we could buy. Our compact is good through 2020. We don't know what is going to happen after 2020. We have a museum going on and now the youth center that was just approved. After the compact is over, we are going to have additional expenses for all these facilities. As we go into this, we should look at what invest our money in that will give us a return in the future that is not based on gaming.

Elaine Schneider commented that she would have liked to have this information before voting on the 20 some million dollars for the youth center if we need 20 million dollars for a hotel. Reggie Pagaling commented about the cost of hotel rooms and the income it would generate.

Reggie Pagaling made a motion to purchase the Frederico's property. The Chairman said there was more discussion to complete.

The Chairman responded to a question from the floor and stated the Royal Scandinavian Inn was up for sale for about $5M. Hotels in the area have been up for sale. Currently none of them are on the market. Everything is for sale for a price. One hotel did approach us a couple of months ago and asked if were interested in buying. Frederico's is for sale and was recently appraised at $3.5M.

There was additional discussion about the Frederico's property, parking and additional hotel rooms.

David Dominguez commented that if we had a hotel such as what is being proposed, the Tribe could focus on hosting Indian Health, housing, ICWA rather than just gaming.

The Chairman stated you need to be worth $800 a day to get a room comp here at our resort. He added that we do not have 500 rooms that would allow us to comp the $250 per day player. David Brents said the 'A' player is $800 and above, 'B' is between $500 and $800 and the 'C' player is between $250 and $500 a day. A typical Casino visit is 6 hours. If you take a typical visit and add a hotel room, you get two days from the guest. Hotels make money on an average room rate of $120 to $150 per room. Mr. Brents believes we could add significant incremental value to that. The Hospitality industry in the valley should be controlled by the Tribe.

NOTE

In response to a question from the Chairman, Mr. Brents provided the estimated number of Players Club members and levels of play. We have a huge data base from which we can market directly to the guest, give them a high value experience and create significant revenue. The Casino in the very near term is not get bigger so we need to get more revenue per guest. Hotel rooms would be one way to do that. There us a large group we are not reaching out to. This is an incredibly successful property. It would be realistic to target taking the revenue to the $300M plus per year level.

Ted Ortega commented this is a good start but to maintain the current income level we need $1B in income receiving a 10% return. The Chairman confirmed this was correct. He stated San Manuel will be breaking ground for a new hotel in Sacramento. They have a hotel in Washington, DC. Tribes are buying things now with their gaming revenue to diversify and assure their income for the future. We can start small and grow. We could look at a 10% rate of return but we could realistically get 15% would be better. A bank told us recently they would loan us half a billion dollars.

We would complete the preliminary title work for having the property placed in trust and complete due diligence in case the Tribe ever wanted to place into trust but our objective here is not to place the property in trust but to build outside assets that will eventually generate revenue for the Tribe.

Maxine Littlejohn commented that space in the lower part of the parking structure is used for storage. This is space could be used for parking. Mr. Brents says every department has extra stuff. These spaces in the basement area and are spaces that are very difficult to use. We use the spaces across the front row for parking but we try to get more use out of it. It is like having a basement. The good news is that we are just busting at the seams.

Ted Ortega asked if there has been any more discussion about expanding the Casino floor. It had been proposed at some point in the past some expansion over the creek might be done. Mr. Brents said they are constantly looking at that. The creek might not be the best way to go. We could use more space. We could use more machines. The Chairman says the return and the finances need to be looked at and relative to the time frame you are looking at. Perhaps using the office space in the building would be preferable to a major expansion. If we had 30 years left on the compact, we would look at it differently. We have just outgrown our space. The Chairman said we have the maximum number of machines, 2000. It might be possible to negotiate with the governor for additional machines.

There was a comment about the lines at Game Cash. Mr. Brents says there are some service issues with Game Cash and their employees. He says they are being addressed.

Carol Clearwater responded to a question about the revenue for Education from Game Cash. She says the fees negotiated on this change go up about $1M. You should get more money than you used to, not less. The ATM fee is increased and the fee on all transactions is higher. The Tribe will be getting more, not less. We also expect our volume to be higher. Ms. Clearwater will bring the exact percents/figures to the next meeting. Fees for Tribal Members will be waived.

Comments were made about how busy it is in the Casino and the absence of cashiers and working kiosks. Mr. Brents says they are working on the problems and the kiosks will soon have an upgrade or fix applied and problems corrected. There will probably be additional kiosks installed. The

In response to a question from the floor, the Chairman said the attorneys working for the Tribe are Glenn Feldman, Larry Stidham, fee-to-trust and the liquor licenses were handled by Brenda Tomaras and Kathy Ogas and Sam Coffman. Sam Cohen is also an attorney.

The new constitution was sent from the Southern California Agency office to the Pacific Regional office in Sacramento and it is in their Government Operations office. We are waiting to hear back from Fred.

On the 6.9 acres, the Chairman reported the concerned citizens' appeal, POLO and POSY, has been dismissed. They have now hired a law firm to and will be filing a law suit in federal court to challenge this decision. They have 30 days in which to file a suit. They have hired an attorney, Theodore Olsen. We are still working on a plan.

Sam Cohen reported on the 5.8 acres and said it is going into trust as undeveloped land and qualifies for a categorical exclusion from having to do an environmental document under NEPA. We have some biologists coming out tomorrow to finish up the CAD-EX and have that sighed of by the Pacific Regional Office Director, Clay Gregory. Then hopefully the Regional Director will sign off the fee-to-trust application.

Ted Ortega commented he has now completed the forms four times. He asked what was going on with them. The Chairman said the IRS gave us wrong instructions for the Form 4469. The Forms must be submitted for the LLC's and the non-LLC's. The old forms were destroyed. Belinda Gaddy gave us wrong instructions and we must complete new forms.

Rudy Romero made a motion to adjourn. The motion carried and the meeting was adjourned.

interest rates are going up. What we did here protects the Tribe from rising rates by locking in the lower rates last year.

Mr. Brents reviewed the upcoming schedule of entertainment and said they were still working on the summer calendar for entertainment. It will be exciting. We will be mailing out the program as soon as it is ready. Check cashing commissions are up significantly. This is due to some changes we made and we now doing this in house. As a result, check cashing commissions to the Tribe are up about $100,000 from this same period last year. The Management Trainees graduated the first part of April. We are very proud of them. They are very excited about their prospects for the future. The response to the program has been overwhelming and a new group will be coming in.

Our focus for 2006 is to increase revenue by 10% and increase service to a gold standard. We should be able to differentiate ourselves from other casinos in Nevada and California with our level of service. We continue to work on it every day. We would like to grow the business in the middle of the week. We have expanded our promotional outreach to the Sacramento Valley. We also want to maintain a top quality facility. We want to maintain a four diamond rating for the facility. Not just the hotel but the entire facility. Mr. Brents then showed some of the marketing material being published in the Los Angeles area. The potential customer from the San Fernando Valley area is worth more per visit than the average Santa Barbara customer. There is a lot of competition in that area but it is a market worth going after. A new concept has been introduced on the floor. The theme is Jurassic Park and they are progressive slots.

Mr. Brents then asked for questions from the General Council. In answer to a question from the floor, Mr. Brents says they are able to gauge response to the marketing effort by measuring play by zip code and may use coupon redemption as another gauge. Because gaming is one of the 10 leading markets to advertise in the US, we need to know the results of our marketing and do have methods to track it.

In response to another question, Mr. Brents says the hourly wage for slot clerks is being lowered from a starting wage of $9 per hour to $5 per hour in an attempt to make it more equitable. The average income for a slot clerk on the floor is $70K per year. He could not quote the exact number of floor clerks who actually make that amount per year and said he would get that information back to the General Council. He stated that on average they do very well. The best and brightest, those employees with the personalities and people skills gravitate to the high tip positions and do really well and to average $60K to $70K per year. He believes he has the study data for this and will get to the General Council.

NOTE A.B.C ? LICENSE EXPANSI

Those moving to the Federico's property will be the pre-hire staff and applicants and training will be conducted there. Gaming will remain on the Casino property. The policy for having a drink at the Willows was questioned. Customers go into the Willows, order fries to go and have a drink. Who knows if they eat the fries or just toss them? Others go in to the Willows, order dessert and also order a drink. When the dessert arrives, they give it to someone else. Mr. Brents said he would look into this.

Ballot Results - The Chairman then reported the ballot results. The first ballot was for the Tribe to approve a budget, not to exceed $80,000, for a retirement party for Larry Spanne. 96 ballots were counted;

Absentee Ballot of November 2, 2006

Ballot Item #1:

Shall the Tribe approve the purchase of the Royal Scandinavian Inn (RSI) for $19,500,000?

Explanation:

We have to turn away about 1,000 guests per month because we don't have rooms. We need more rooms than we have at our hotel, the Chumash Resort Hotel and Spa. A hotel guest staying overnight at our hotel on site is worth about $1,000 per day. A conservative estimate a guest staying at one of our rooms off site would be worth is about $200 per day. Having more hotel rooms could contribute substantially to our gaming revenue.

Three existing hotel properties were looked at in the valley that met our current, basic needs which are quantity or greatest number of rooms and close proximity to our Casino. The Royal Scandinavian Inn (RSI), by far, meets those needs. It has 133 rooms and is six miles from our Casino. Close proximity is key to capturing casino business. The RSI also has a restaurant, the Meadows, a lounge, 4,000 square feet of meeting space and comes with a liquor license. It also has retail space, a small fitness area, swimming pool and is located on 3.35 acres.

A purchase price of $19,500,000 for the Scandinavian Inn (RSI) was negotiated, down from an original asking price of $25,000,000. The hotel is about 20 years and would need some renovation to bring it up to a four diamond property. We estimate that cost to be between five and seven million dollars. We will need some engineering studies to verify that. To add on to our existing facility would take a minimum of three years and we need additional rooms now. To build a new hotel would take much longer, from seven to ten years. We estimate the cost of new hotel construction to be between $300,000 and $500,000 per room. We spent approximately $300,000 per room to build our hotel. The full investment in this property or the total cost per room for the Royal Scandinavian Inn would be about $200,000. Acquiring this hotel now could actually facilitate revenue growth in 2007.

Owning this property would contribute about $4,400,000 per year to our gaming cash flow. This estimate was arrived at using a 60% occupancy rate and $200 per room per day. The actual occupancy rate for the RSI is running at about 75%. The capital gain over a 15 year period would be about $58,000,000. The rate of return would be around 27%. This adds significant value to what we are able to create for our property.

EXHIBIT
" 5 "

Excerpts from the current development proposals publicly identified to be those constructed on the Camp 4 property and containing several non-binding proposals to create, among other things, 143 5 acre lots and unspecified "special purpose" zones with no specifications for roads, sidewalks and curbs, lighting, storm drainage, sewer systems, underground utilities or other infrastructure needed or mitigation fees for regional impacts to schools, roads, emergency services, etc.

SANTA YNEZ BAND OF CHUMASH INDIANS

The Santa Ynez Band of Chumash Indians

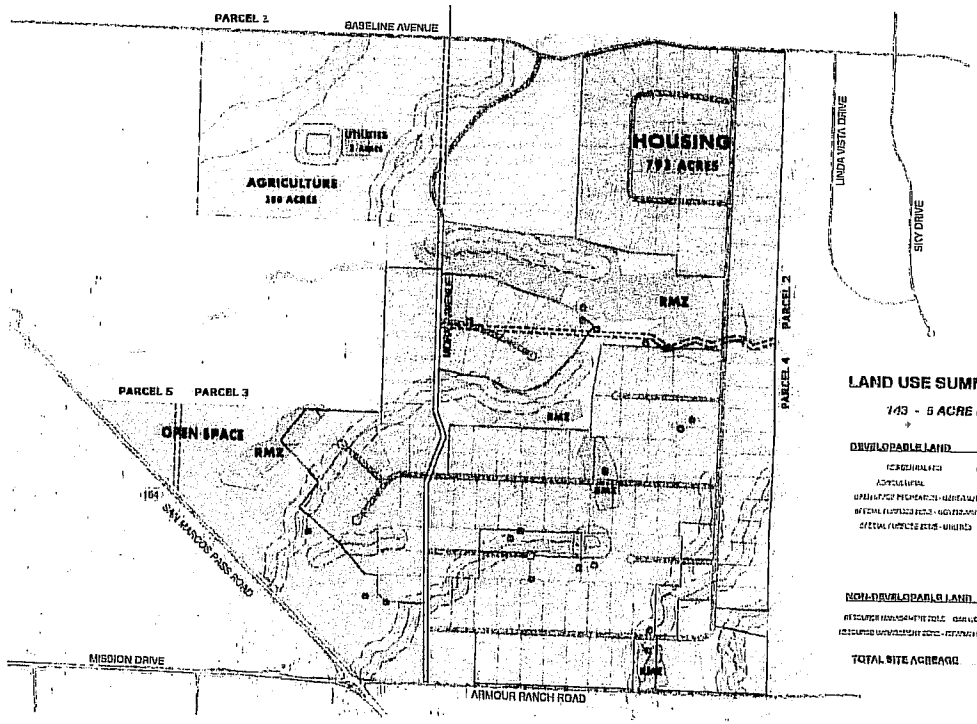
Camp 4 Update

Chumash Camp 4 Public Meeting

January 21, 2013

SANTA YNEZ BAND OF CHUMASH INDIANS

SANTA YNEZ BAND OF CHUMASH INDIANS
LAND USE PLANNING



LAND USE SUMMARY - Q

143 - 5 ACRE LOTS

DEVELOPABLE LAND 1,303 ACRES

NON-DEVELOPABLE LAND 181 ACRES

TOTAL SITE ACREAGE 1,483 ACRES

LEGEND

- RESIDENTIAL ZONE
  LOW DENSITY PLANNED RESIDENTIAL DEVELOPMENT
- AGRICULTURAL ZONE
  AGRICULTURAL 1
- OPEN SPACE / RECREATION ZONE
  PASSIVE TRAILS, EQUESTRIAN TRAILS
- RESOURCE MANAGEMENT ZONE (RMZ)
  OLD WOODLAND
- RESOURCE MANAGEMENT ZONE (RMZ)
  RIPARIAN CORRIDORS
- SPECIAL PURPOSE ZONE
  GOVERNMENT CENTER
- SPECIAL PURPOSE ZONE
  PUBLIC UTILITIES - WWTP
- ROADS
- VIEW CORRIDOR
- CULTURAL RESOURCES

CONCEPT PLAN - OPTION Q

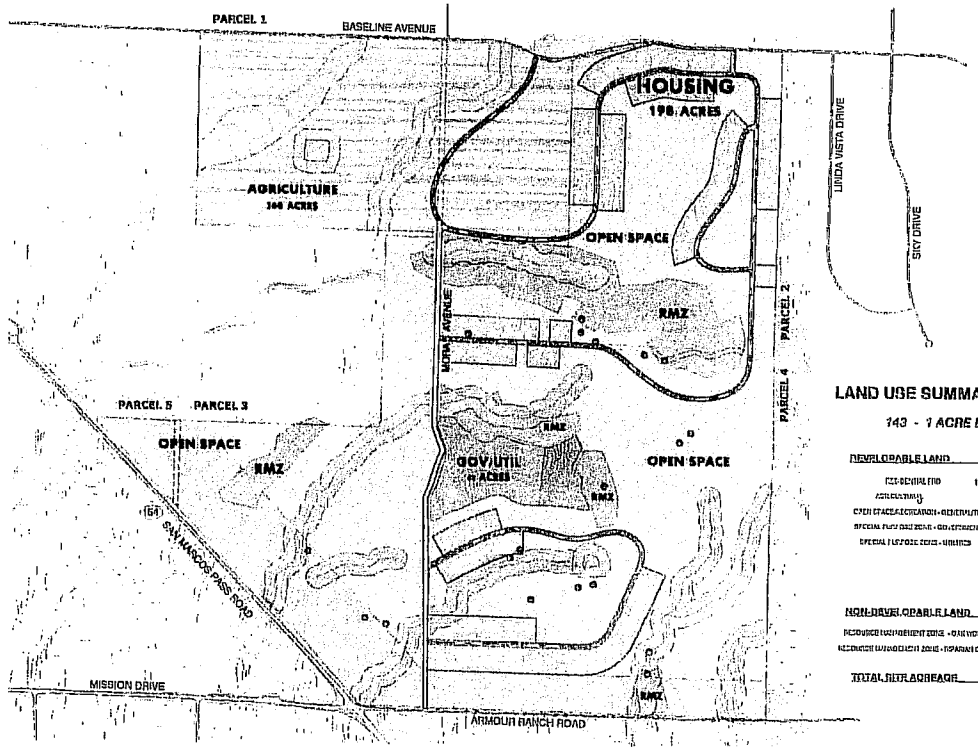
1" = 500'

Summit project management

SANTA YNEZ BAND OF CHUMASH INDIANS

SANTA YNEZ BAND OF CHUMASH INDIANS

LAND USE PLANNING



LAND USE SUMMARY - M.2.1

143 - 1 ACRE LOTS

DEVELOPABLE LAND 1,302 ACRES

NON-DEVELOPABLE LAND 131 ACRES

TOTAL SITE ACREAGE 1,433 ACRES

LEGEND

- RESIDENTIAL ZONE
  LOW DENSITY PLANNED RESIDENTIAL DEVELOPMENT
- AGRICULTURAL ZONE
  AGRICULTURAL 1
- OPEN SPACE / RECREATION ZONE
  PASSIVE TRAILS, EQUESTRIAN TRAILS
- RESOURCE MANAGEMENT ZONE (RMZ)
  OLD WOODLAND
- RESOURCE MANAGEMENT ZONE (RMZ)
  RIPARIAN CORRIDORS
- SPECIAL PURPOSE ZONE
  GOVERNMENT CENTER
- SPECIAL PURPOSE ZONE
  PUBLIC UTILITIES - WWTP
- ROADS
- VIEW CORRIDOR
- CULTURAL RESOURCES

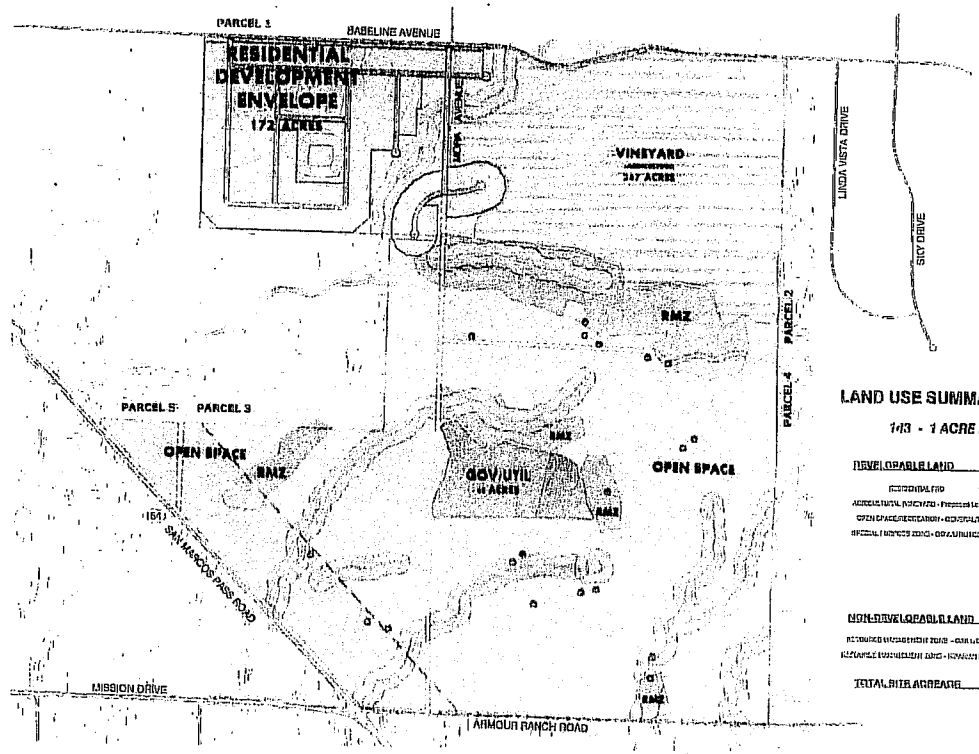
CONCEPT PLAN - OPTION M.2.1

1" = 500'

summit project management

SANTA YNEZ BAND OF CHUMASH INDIANS

SANTA YNEZ BAND OF CHUMASH INDIANS
LAND USE PLANNING



LAND USE SUMMARY - S.D.1

1/3 - 1 ACRE LOTS

DEVELOPABLE LAND 1,302 ACRES

RESIDENTIAL RD	172 ACRES
AGRICULTURAL RESERVE - Proposed Vineyard	347 ACRES
OPEN SPACE/RECREATION - EQUESTRIAN TRAILS	523 ACRES
SPECIAL PURPOSE ZONE - GOV./UTILITIES	40 ACRES

NON-DEVELOPABLE LAND 161 ACRES

RESOURCE MANAGEMENT ZONE - OAK WOODLAND	93 ACRES
RESOURCE MANAGEMENT ZONE - RIPARIAN CORRIDORS	68 ACRES

TOTAL SITE ACREAGE 1,463 ACRES

LEGEND

- RESIDENTIAL ZONE
  LOW DENSITY PLANNED RESIDENTIAL DEVELOPMENT
- AGRICULTURAL ZONE
  AGRICULTURAL 1
- OPEN SPACE / RECREATION ZONE
  PASSIVE TRAILS, EQUESTRIAN TRAILS
- RESOURCE MANAGEMENT ZONE (RMZ)
  OLD WOODLAND
- RESOURCE MANAGEMENT ZONE (RMZ)
  RIPARIAN CORRIDORS
- SPECIAL PURPOSE ZONE
  GOVERNMENT CENTER
- SPECIAL PURPOSE ZONE
  PUBLIC UTILITIES - WWTP
- ROADS
- VIEW CORRIDOR
- CULTURAL RESOURCES

CONCEPT PLAN - OPTION S.D.1

1" = 500'

summit project management
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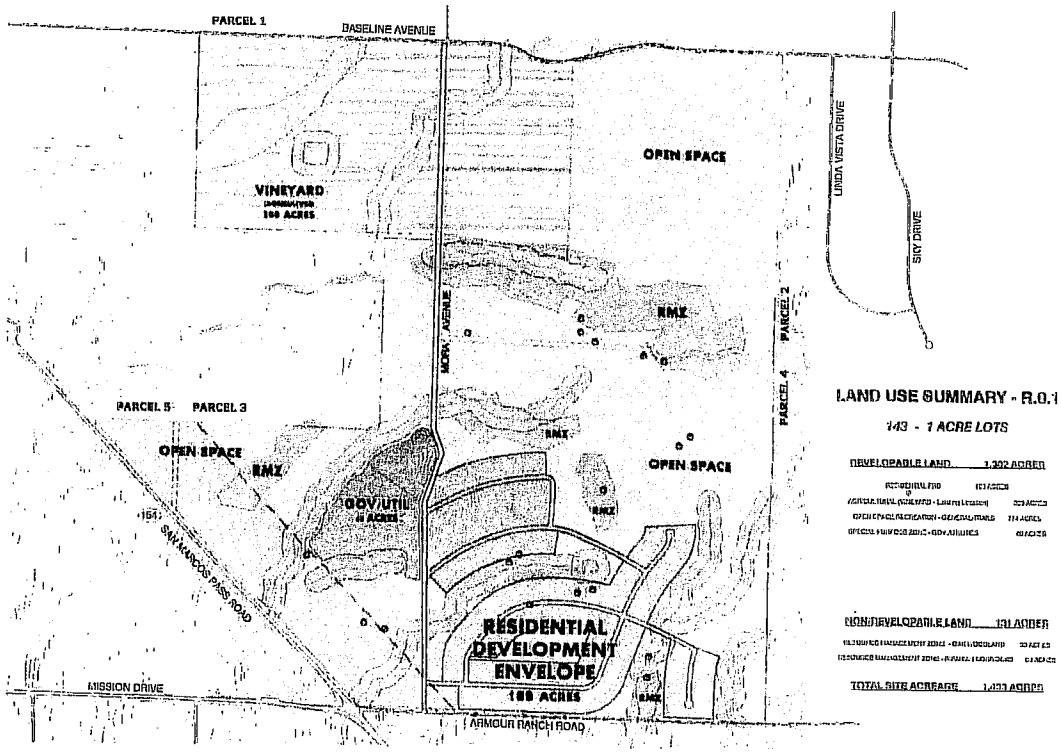
SANTA YNEZ BAND OF CHUMASH INDIANS

SANTA YNEZ BAND OF CHUMASH INDIANS
LAND USE PLANNING



LEGEND

- RESIDENTIAL ZONE
  LOW DENSITY PLANNED RESIDENTIAL DEVELOPMENT
- AGRICULTURAL ZONE
  AGRICULTURAL 1
- OPEN SPACE / RECREATION ZONE
  PASSIVE TRAILS, EQUESTRIAN TRAILS
- RESOURCE MANAGEMENT ZONE (RMZ)
  OLD WOODLAND
- RESOURCE MANAGEMENT ZONE (RMZ)
  RIPARIAN CORRIDORS
- SPECIAL PURPOSE ZONE
  GOVERNMENT CENTER
- SPECIAL PURPOSE ZONE
  PUBLIC UTILITIES - WWTP
- ROADS
- VIEW CORRIDOR
- CULTURAL RESOURCES

CONCEPT PLAN - OPTION R.D.1
1" = 500'

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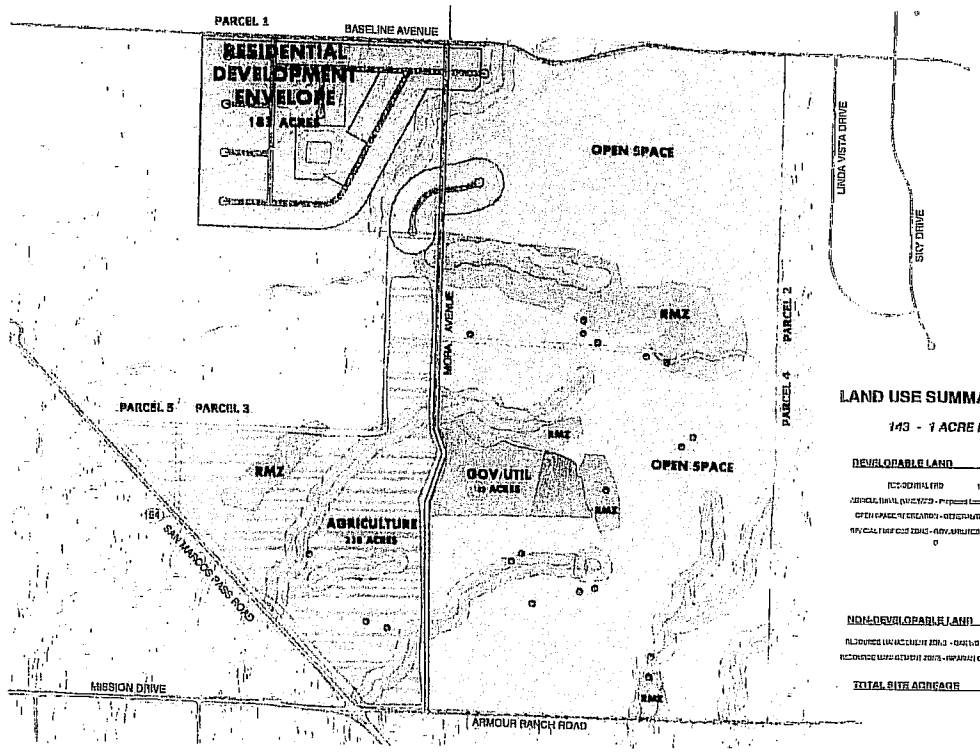
LAND USE PLANNING



LAND USE SUMMARY - T.0.1

143 - 1 ACRE LOTS

DEVELOPABLE LAND 1,302 ACRES

RESIDENTIAL 183 ACRES

AGRICULTURAL (INCLUDES - Proposed Ranch) 233 ACRES

OPEN SPACE/RECREATION - OPEN/TRAILS 581 ACRES

SPECIAL PURPOSE ZONE - GOV./UTILITIES 40 ACRES

0

NON-DEVELOPABLE LAND 131 ACRES

RESOURCE MANAGEMENT ZONE - OAK WOODLAND 63 ACRES

RESOURCE MANAGEMENT ZONE - RIPARIAN CORRIDORS 68 ACRES

TOTAL SITE ACREAGE 1,433 ACRES

LEGEND

- RESIDENTIAL ZONE
  LOW DENSITY PLANNED RESIDENTIAL DEVELOPMENT
- AGRICULTURAL ZONE
  AGRICULTURAL 1
- OPEN SPACE / RECREATION ZONE
  PASSIVE TRAILS, EQUESTRIAN TRAILS
- RESOURCE MANAGEMENT ZONE (RMZ)
  OLD WOODLAND
- RESOURCE MANAGEMENT ZONE (RMZ)
  RIPARIAN CORRIDORS
- SPECIAL PURPOSE ZONE
  GOVERNMENT CENTER
- SPECIAL PURPOSE ZONE
  PUBLIC UTILITIES - WWTP
- ROADS
- VIEW CORRIDOR
- CULTURAL RESOURCES

CONCEPT PLAN - OPTION T.0.1

1" = 500'

chumash project management

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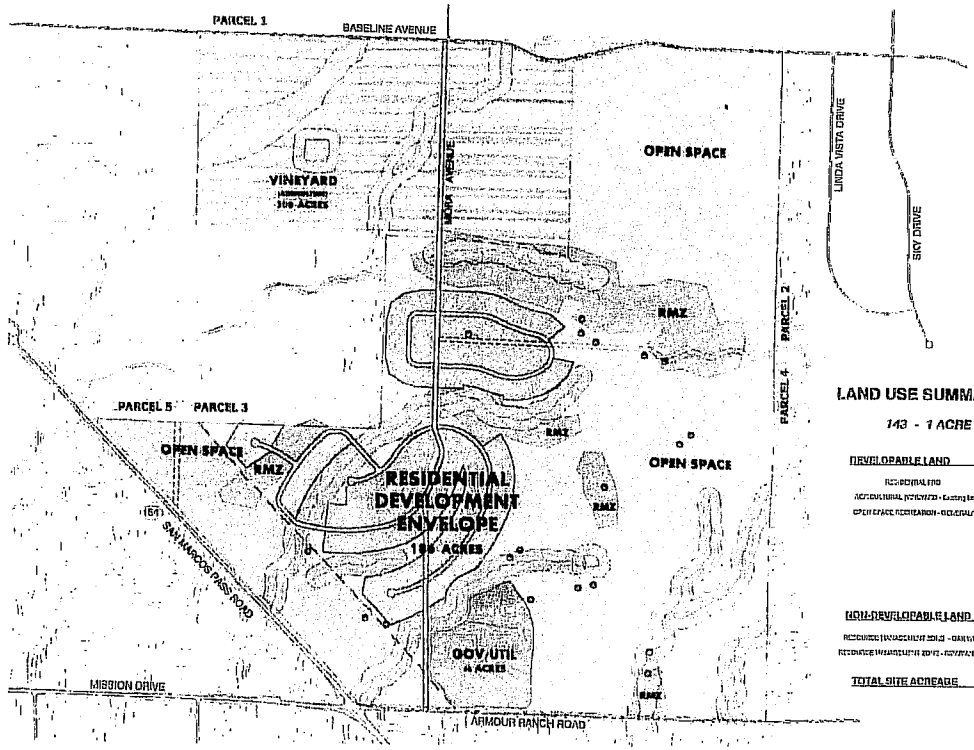
LAND USE PLANNING



LAND USE SUMMARY - U.0.1

143 - 1 ACRE LOTS

DEVELOPABLE LAND 1,302 ACRES

RESIDENTIAL 106 ACRES

AGRICULTURAL (CROPS) - Existing Vineyard 200 ACRES

OPEN SPACE/RECREATION - RECREATIONAL 696 ACRES

NON-DEVELOPABLE LAND 131 ACRES

RESOURCE MANAGEMENT ZONE - OAK WOODLAND 65 ACRES

RESOURCE MANAGEMENT ZONE - RIPARIAN CORRIDOR 67 ACRES

TOTAL SITE ACREAGE 1,433 ACRES

LEGEND

- RESIDENTIAL ZONE
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  GOVERNMENT CENTER
- SPECIAL PURPOSE ZONE
  PUBLIC UTILITIES - WWTP
- ROADS
- VIEW CORRIDOR
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CONCEPT PLAN - OPTION U.0.1

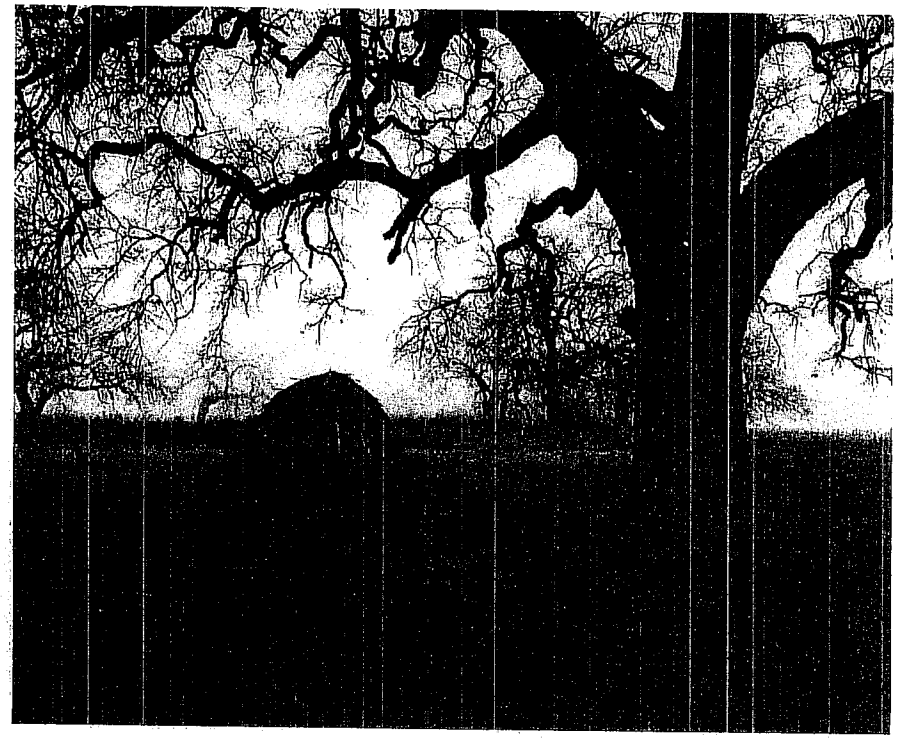
1" = 500'

summit project management

SANTA YNEZ BAND OF CHUMASH INDIANS

Thank You

Any Questions?



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