Alexander, Jacquelyne

From: kelly gray <dailylawma@gmail.com>
Sent: Wednesday, August 14, 2013 4:05 PM
To: SupervisorCarbajal
Cc: sbcob; Farr, Doreen; Adam, Peter; Lavagnino, Steve; Wolf, Janet
Subject: August 20 BOS Agenda Item #2 - Chumash / Camp 4

I have been a resident of the Santa Ynez Valley since 1997. I am very concerned about the potential loss of the County's control over water (and other) resources that are both located under and flow under the property known as "Camp 4" owned in fee by the SYV Band of Chumash Indians. A "Fee to Trust" application regarding Camp 4 was filed by the Chumash in July....after the Tribe asked the Board of Supervisors to engage in "government to government" discussions.

Is the County prepared for the Chumash to assert control over the water...in perpetuity?

Can the County afford the litigation costs it would be forced to incur defending the water rights of the non-tribal members of the County?

These are not frivolous questions. The Agua Caliente Band of Cahuilla Indians is asserting a legal claim to their ground water supply, asking that pumping for down-stream water delivery be prevented.

Thank you for your consideration of this email.

Respectfully -

Kelly Gray
--
Kelly B. Gray

Alexander, Jacquelyne

From: Marvin Johnson <jandm@silcom.com>
Sent: Wednesday, August 14, 2013 4:58 PM
To: sbcob
Cc: SYV Concerned Citizens
Subject: August 20, 2013 meeting RE: Dialogue with Chumash Tribe about annexation Camp 4 to reservation

I am writing as a concerned homeowner in Santa Ynez Valley asking you to refuse the request of the leaders of the Chumash tribe for dialogue regarding Camp 4 annexation. I have lived in the SYV over 30 years and STRONGLY OBJECT to the annexation of this large acreage. It would remove the property from local government control and from private citizens input allowing the tribe to develop this land in any way they desire. I feel this is potentially very harmful to the rural character and beauty of our unique valley. I feel the efforts by the Chumash to annex this land to their reservation is wrong when I consider all the possible negative impacts to the valley as a whole and to all the rest of the SYV residents as well as the local government.

Please DO NOT agree to enter into a dialogue with the Chumash tribe about the annexation of Camp 4. This could open the door for them to gain favorable leverage towards their goal of annexation of private land by having their efforts recognized by a local government entity. I have no objection to the Chumash tribe developing Camp 4 as private property under the rules and regulations of local government, but I do object to them annexing the property to the reservation and developing it without input from local government and private citizens.

Sincerely,
Jane Johnson
1329 Calzada Avenue
Santa Ynez, CA 93460
(805) 688-2006

Alexander, Jacquelyne

From: Richard&PamelaHarris <riverock@silcom.com>
Sent: Thursday, August 15, 2013 1:45 PM
To: SupervisorCarbajal
Cc: Wolf, Janet; Adam, Peter; Farr, Doreen; Lavagnino, Steve; sbcob
Subject: August 20th Meeting re: Preferential dialogue with SY Chumash Indians

Dear Supervisor Carbajal,

I am writing regarding the Santa Ynez Band of Mission Chumash Indians (Santa Ynez Band) continuing effort for special preference in their desire for dialogue with the County regarding their intent to take 1,400 acres into federal trust.

Fee-to-trust is a federal issue. Congress has established a process for this through the Bureau of Indian Affairs, and consequently anything negotiated with the County would not only be meaningless, it would show special treatment in favor of the Santa Ynez Band and discrimination to any other property owner in the community.

As you know, placing land into trust denies our County or community any oversight with respect to future development.

The use of "fee to trust" has gone way beyond its original intent and is being abused. Obviously the "need" which was inherent to this antiquated provision is not applicable to this case.

I do not deny any developer, which at this point the Santa Ynez Band must be considered, the right develop their privately owned properties within the guidelines that any other individual or company would be required to follow, but when attempts are made to skirt the process, that infringes on my rights with respect to safety, quality of life and property value and it is purely prejudicial.

Please consider my concerns, and cancel the August 20th meeting that you have arranged to discuss a special dialogue with the Santa Ynez Band.

Thank you for listening.

Pamela Harris
3001 Calzada Avenue
Santa Ynez CA 93460

#1

Dear Chairman Carbajal and Board of Supervisors:

I am writing regarding the proposed meeting on August 20, 2013 to determine whether to proceed with a government-to-government discussion with the people currently operating a casino in the Santa Ynez Valley.

I know that by now you are familiar with the letter from the State of California Governor's Office dated August 26, 2005 stating the well-researched historical reasons why fee-to-trust applications were not to be accepted in this state, unlike in many other states. This letter made the very clear statements regarding the LACK of any cohesive "government" among the various villages in the Valley. The people were obviously from many different places as there also was no linguistic common thread either. Thus to say that the people looking to be called by a single "tribal" name has, to date, not been verified, only claimed.

By having a "government-to- government" meeting is to unwittingly validate something that perhaps is not true and, certainly, flies in the face of history. The research clearly makes this evident and I am not sure It would be wise for Santa Barbara County to ignore the historical facts.

Yes, unconstrained development across a small two lane street from San Lucas Ranch would be devastating to the agricultural operation that has been producing products for almost a century. Property value would also be negatively impacted but we are not the only ones to be affected by major development by a "foreign" government. You may not be aware of this but the local people applying for the Fee-to-trust status on Camp 4 have been investigating how to obtain "historic" water rights to water in the Santa Ynez Valley, including presumably the water in Lake Cachuma that feeds the entire county. An accounting of this effort has been published in the University of California's Hastings College of the Law in the summer of 2013.

The Camp 4 property sits over the largest aquifer in the valley and has the largest well pumping 1400 gallons per minute. I know this because my family drilled that well and another one across the road many years ago. I know the property well as we owned it for many decades. Drawing down that water supply for major development whether houses or resorts and golf courses will negatively impact all surrounding properties and it is fairly clear that there is no intent to be mindful of the needs of others.

Beyond that, this report states a new philosophy of merging creeks with underground aquifers that may or may not be connected. Thus, any water source "from Malibu to Monterey" could potentially be swept up in ground-breaking legislation taking total control of all for our water thereby devastating our state economy due to tens of thousands of acres being made valueless due to lack of water. California's water law is

EAST HIGHWAY 154
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info@sanlucasranch.com

quite different from other states and one's property lines set the water rights in most cases.

Thus, it is my opinion that to hold any discussions that are described as government-to-government is to set in motion a whole variety of undesirable consequences. To treat one group of people differently than another is discriminatory and not to be tolerated these days. I appeal to your understanding of what is good for the County and all its residents and ask you to cancel the August 20 meeting and decline to participate in any "government-to-government" discussions until that time when you can establish that you are, in fact, dealing with a legitimate government instead of just a claim.

Thank you for your attention to this critical matter.

Sincerely,

Nancy Crawford-Hall
Managing Member
San Lucas Ranch LLC

EAST HIGHWAY 154
MAILING ADDRESS: P.O. BOX 338, SANTA YNEZ, CA 93460
OFFICE: 805.688.4241 ▪ FAX: 805.693.1702
info@sanlucasranch.com

#1

August 13, 2013

Santa Barbara County Board of Supervisors
Attn: Mike Allen, Clerk of the Board
105 E. Anapamu Street
Santa Barbara, CA 93101

Re: August 20, 2013 Board of Supervisors Meeting Agenda Item: "government to government dialogue between the County of Santa Barbara and Santa Ynez Band of Mission Indians ("Tribe").

Dear Clerk of the Board:

Please find enclosed one original and seven copies of a letter addressed to the Board of Supervisors for their August 20, 2013 meeting. Please enclose these letters in their Board Packet for their review.

Sincerely

Santa Ynez Valley Resident

Sent via Federal Express, next morning delivery.

August 13, 2013

Santa Barbara County Board of Supervisors
Attn: Salud Carbajal, Chair
105 E. Anapamu Street
Santa Barbara, CA 93101

Re: August 20, 2013 Board of Supervisors Meeting Agenda Item: "government to government dialogue between the County of Santa Barbara and Santa Ynez Band of Mission Indians ("Tribe").

Dear Chairman Carbajal and the Board of Supervisors:

To put it succinctly, I am writing you today to urge you to "table" any Board action that would officially open a government to government dialogue between the County of Santa Barbara and the "Tribe" In support of this request; I would like to bring to your attention the following:

Attached you will find a letter from the Office of California Governor Schwarzenegger to the United Sates Department of Interior, Bureau of Indian Affairs; dated August 26, 2005 regarding the fee-to-trust acquisition application by the Santa Ynez Band of Mission Indians for 5.68 acres of land in the Santa Ynez Valley.

The letter is signed by Peter Siggins, Legal Affairs Secretary. The Honorable Judge Peter Siggins is currently an Associate Justice on the California 1st District Court of Appeals.

Please read the attached letter in its entirety for a detailed explanation of the reasons the Governor's Office opposed the Trust Acquisition **many of which are centered on an inability of the Tribe to justify their claim to be the sovereign government of the Chumash People.**

In particular, please see page 4 where the following is stated:

"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 was established, that an acquisition of this nature is essential either to its existence as a tribe or its ability to function".

The letter goes on to state on page 5:

"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."

"Though the Unites States has subsequently compensated individual Indians for lost lands 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)."

"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 did not recognize non-sovereign title to any such lands by individual Indians or groups of Indians".**

And on Page 6:

"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 many different villages in the Santa Ynez Valley".

And on Page 9 the letter states in its CONCLUSION:

"For the foregoing reasons, the Governor's Office opposes the Trust Acquisition at this time and requests the Bureau deny the Tribe's proposed Trust Acquisition. This acquisition does not seem justified under the requirement of, or in accord with the intent underlying the IRA" (Indian Reorganization Act).

The fee-to-trust application for the 5.68 acres was never granted by the Department of Interior.

Again, I urge you to review the Governor's letter and consider its findings. I believe that the findings cited in this letter regarding the 5.68 acre fee-to-trust application and the subsequent recommendation to deny the application by the Governor's Office, would apply to any and all subsequent applications by the Tribe such as the current 1400 acres of agricultural land (known as Camp 4) which is now in process. Additionally, the Santa Ynez Band has made clear their intent to take the additional 1400 acres out of "Williamson Act" and has filed with the County of Santa Barbara to do so.

While a 3rd District Supervisor to Tribal leader dialogue is encouraged, an official "government to government" dialogue would give the Tribe unwarranted status and powers that would result in unintended consequences, such as encouraging a legislative act to take land in to trust, and furthermore be in direct conflict with the position of the Governor's Letter dated August 26, 2005 – a position that remains unchanged. Please be reminded that the county is a subsidiary of the State and should act accordingly.

In closing, let me be clear that this is not my argument rather it is the findings and conclusions of the State of California Governor's Office in 2005 and is presented for your consideration and further review.

Sincerely,

Santa Ynez Valley Resident

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 those 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 Michelorena 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 or details, historical accounts of the Chumash 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 chieftain (although some chieftains 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 on the territory of a single linguistic group that by some accounts could have contained up to 50 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 1986, Rev. Ed. 2002; The Chumash Indians After Secularization, Johnson, California Mission Studies Association, Nov. 1995; 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.)[2] 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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[2]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]

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[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.3d at p. 1404.)

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 undersell 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. Peterson* (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

Alexander, Jacquelyne

From: Stacey Glasgow <sglasgow@gazos.com>
Sent: Wednesday, August 14, 2013 9:14 PM
To: SupervisorCarbajal
Cc: sbcob; Steve Kiss
Subject: OPPOSED - to annexation of Camp 4 and OPPOSED to any negotiations between the BOS and the tribe regarding Camp 4

Dear Supervisor Carbajal,

I am writing this letter to OPPOSE two items:

1) Annexation of Camp 4 to the Chumash Reservation
2) Negotiations between the BOS and the tribe regarding Camp 4

Thank you,

Stacey Glasgow
Buellton, CA
(805) 708-3747

Alexander, Jacquelyne

From: Steven Battaglia <steve@battagliare.com>
Sent: Wednesday, August 14, 2013 3:03 PM
To: sbcob
Cc: Gretchen Battaglia; jb@battagliare.com
Subject: Chumash application for fee to trust transfer of Camp 4

To the Santa Barbara County Board of Supervisors,

I wanted to express my concerns and urge you not to provide any support, approvals, or even official dialogue with the Chumash Tribe as government to government, for the Tribe's application to take the "Camp 4" property off our county tax roles and annex the property into their reservation. I object to the tribe taking this property into Trust for the following reasons.

1. Annexation of the land will irrevocably take this property off the county tax roles and deprive local agencies of the funds that they need to support the community. Although the tribe has made sporadic donations to local agencies I don't believe that it comes close to covering the cost to our fire department, police department, and other agencies that support and respond to the needs of the Tribe and Casino. Therefore, the cost of the increase in services to our community as a whole is left to the rest of us tax payers to pay. Again, this is a never ending cost to the county its taxpayers that can not be reversed.
2. Annextion of the land will irrevocably remove local control for the planning and development of the property. Once the property is part of the tribe, the board of supervisors and citizens of the Santa Ynez Valley will no longer have any input to help ensure that they property is developed in harmony with the rest of the Valley. There will be no zoning controls to ensure the use will be compatible with neighboring properties. There will be nothing stopping the tribe from erecting enormous unsightly buildings, using the property for noisy industrial uses, or expanding their gaming to this site. Even if we have a promise from the current tribal leaders, there is nothing to stop subsequent tribal leaders from developing the property with buildings and uses that are incompatibly with the peaceful Santa Ynez Valley. This property is one of three Gateways to the Santa Ynez Valley and we can't afford to lose control of it.
3. The tribe has stated that they want to develop homes on the property that will blend in the community. If their proposed use is fitting with the community, there is no reason that can't leave the property on the tax roles and develop it as any other developer would. If there intent is to develop something that is not compatible with our community then they would have to annex it. This simple fact gives me great concern.
4. I think this will set a bad precedence for the tribe annexing non-contiguous property to Reservation. If this is permitted, then the Tribe would be free to remove their other lands, hotels, and office buildings, from the tax roles and re-develop and run them without any local control or input.

Again, I urge you to oppose this annexation on behalf of the residence of the Santa Ynez Valley and Santa Barbara County as a whole.

Best Regards,

Steven R. Battaglia

2138 Creekside Dr
Solvang, CA 93463

Alexander, Jacquelyne

From: Victor G Zilinskas <victorgzilinskas@gmail.com>
Sent: Thursday, August 15, 2013 1:05 AM
To: sbcob
Subject: Camp 4

Dear Supervisors:

I oppose entering in to any negotiations with the Chumash tribe to alter the legal status of Camp 4. That property has to remain farm land and not subject to uncontrolled development by the Chumash. I will oppose the re-election of any supervisor that votes for or acts in favor of changing that property to tribal territory and will actively support any supervisor or candidate that opposes such attempt. Victor G Zilinskas, Attorney At Law, Santa Barbara.

Sent from my iPad

Alexander, Jacquelyne

From: Alexander Power <ampower@silcom.com>
Sent: Wednesday, August 14, 2013 1:43 PM
To: SupervisorCarbajal
Subject: August 20th Agenda

Please, dear Supervisor Carbajal, CANCEL and reject the dialog with Chumash re 1400 acres into Federal Trust.

The Chumash Santa Ynez Band are rich and modern enough to comply with Santa Barbara County regulations for future development of this parcel, without taking shelter from them by their devious scheme to claim to be some sort of elite. sovereign body, enclaved among us neighboring, but "lesser" US citizens !!

Thank you. Alexander M. Power
Solvang

Alexander, Jacquelyne

From: Barbara Shuler <shuler@aol.com>
Sent: Wednesday, August 14, 2013 4:34 PM
To: sbcob
Subject: CHUMASH CAMP 4

Newspaper reports of the Chumash attempts to annex the Camp 4 property has alarmed us all in the vicinity. It has since been brought to our attention that The Board of Supervisors is meeting with Tribal Leaders. This is alarming in that it appears to initiate a "government to government" dialogue regarding private property. As you well know, this is not the proper process.

We have been advised of the following:

1. Legally, a tribe has 'government to government' status only when dealing with tribal properties, ie a reservation, an annexed property. Camp 4 *is not* tribal property. It is privately owned (by the Chumash tribe) land, just as our home properties are privately owned by us. The tribe does not have a legal base for requesting a 'government to government' discussion with the county on this privately owned land.

2. To be able to annex (remove from county jurisdiction and become tribal property) Camp 4 through a "legislative (in Washington DC) procedure" (which the Chumash have been attempting for some time now), the Chumash tribe *must* be able to show they have local governmental support for this annexation. To date, all local governmental bodies (city councils, county groups) that have been approached by the Chumash have refused to support the annexation. We are told that if the BOS agrees to dialogue with the Chumash a congressman stands ready to submit legislative proceedings for annexation of Camp 4.

The Chumash have already illustrated the type of neighbors they are, with strong arm tactics and threats being used to block access to stepping onto their property. This is property that previous owners have allowed free access to neighbors for hiking and walking. This has ended with the current ownership. One can only imagine what would happen if they were to annex it into a "sovereign nation". There is no evidence that any consideration would be given regarding pollution, (environmental, light, and/or noise), traffic generation, events, commercial activities, and over development. It is only within the confines of current oversight by our elected officials that this land will conform to Valley standards.

Camp 4 is the gateway into the scenic splendor of the Santa Ynez Valley. Let's hope that our elected officials will truly represent the people of the valley and not just a well funded entity looking to avoid oversight.

Alexander, Jacquelyne

From: BobZeman@aol.com
Sent: Wednesday, August 14, 2013 8:15 PM
To: sbcob
Subject: Fee to trust

I am opposed to the Chumash proposal of annexing the land under fee to trust. Once the Indians move onto this land, they will be exempt from income taxes on dividends received from the tribe. As a CPA, all of my clients pay income taxes on dividends received. But I do not have any Indian clients. Also, the improvements made on the property will be exempt from property taxes forever.

This is not fair to other taxpayers.

By approving this annexation, you are approving a separate tax system for a small group.

Bob Zeman

Alexander, Jacquelyne

From: Byron Countryman <bec@cargolaw.com>
Sent: Thursday, August 15, 2013 10:04 AM
To: SupervisorCarbajal
Cc: Wolf, Janet; Farr, Doreen; Adam, Peter; Lavagnino, Steve; sbcob
Subject: Request for postponement of August 20th Meeting regarding dialogue with the Santa Ynez Band of Mission Chumash Indians (Santa Ynez Band)

Dear Supervisor Cabajal:

Please postpone the above referenced meeting, the results of which adversely affect the rights of landowners and taxpayers throughout the entire county, as well as wrongfully remove land from county tax rolls. Stated intentions for land use relative to fee-to-trust are unenforceable and therefore meaningless.

Respectfully,

Byron Countryman
Jami Countryman

Cc: Supervisors Doreen Farr, Janet Wolf, Peter Adam, Steve Lavagnino, Santa Barbara County Clerk of the Board

Alexander, Jacquelyne

From: Doneen DellaValle <drdellavalle@verizon.net>
Sent: Wednesday, August 14, 2013 2:42 PM
To: sbcob
Subject: camp 4

Dear Santa Barbara County Supervisors,

I am writing to you to express my opposition to the transfer of Camp 4 from County jurisdiction.

As You know, the Board of Supervisors is not authorized to grant "fee to trust" transfers and that the intent of the tribal leadership in initiating a supposed "government to government" dialogue regarding Camp 4 is solely to facilitate a legislative process for placing the Camp 4 property in trust. I, along with many other concerned citizens of the Santa Ynez Valley have voiced concerns about this very issue.

The Board is well aware that the tribe does not have a legal basis for requesting a 'government-to-government' discussion with the county on Camp 4 since this is "privately" owned land by the Chumash organization. They continue to state that they want to annex this land so that they may provide better housing for tribal members living on the reservation. The Chumash may develop that land for tribal members' residences at any time since they own the land. Any attempt to annex this land is only an effort to circumvent the state and county regulations that all citizens need to comply with, and to avoid paying taxes and fees that are required of all citizens.

Legally, a tribe has 'government to government' status ONLY when dealing with tribal properties, which Camp 4 is not. Additionally, to annex Camp 4, remove it from county jurisdiction and have it become tribal property, the Chumash tribe must be able to show they have local governmental support for this annexation. To date, all local governmental bodies including the city councils, and county groups that have been approached by the Chumash, have refused to support the annexation.

I am opposed to the transfer of Camp 4 from County jurisdiction and believe there is no compelling reason whatsoever for our County Board of Supervisors to relinquish this element of the property and tax base.

Sincerely,

D. R. DellaValle

Solvang, CA

805-693-9922

Alexander, Jacquelyne

From: Jane Overbaugh <janeokr@wildblue.net>
Sent: Thursday, August 15, 2013 11:59 AM
To: sbcob
Subject: FW: Camp 4

From: Jane Overbaugh [mailto:janeokr@wildbue.net]
Sent: Thursday, August 15, 2013 11:55 AM
To: 'SupervisorCarbajal@sbcbos1.org'
Cc: 'dfarr@countyofsb.org'; 'jwolf@sbcbos2.org'; 'peter.adam@countyofsb.org'; 'steve.lavagnino@countyofsb.org'
Subject: Camp 4

Dear Supervisor Carbajal,
It disturbs me greatly that you would elect to place discussion of this item on the August 20 Board agenda when it is quite clear that your colleague, Supervisor Farr, is opposed to the tribe's effort to take this land, which is in her disctrict, into trust. I could understand your actions if the tribe was interested in taking land into trust in the middle of Montecito, Carpinteria or the east side of Santa Barbara instead of in a district you do not represent. But, having lived in SB for 25 years before moving up here, I suspect your constituents would be very unhappy if you were opening a dialogue about such activity in their neighborhoods and, for that reason I feel quite confident that you would not be doing it. As you know, there is significant opposition to the tribe taking this land into trust due to the significant negative impact that it will have on many aspects of life in this valley. If the tribe's stated goal is to build housing on this land, I feel confident they could do that without taking the land into trust. They could adhere to zoning requirements and go through the same process we all do to build a home. They did not pay the amount of money they did for this land simply to build housing. Their latest quiet move to apply to the BIA for fee to trust consideration tells me that they may be saying housing now but their long range plans can include many things that will destroy the quality of life in our valley and bring more revenue to the tribe. It is mindboggling to think that the actions of a tribe of roughly 200 members can have such a major impact on the lives of thousands of people who live in the Santa Ynez Valley. It is equally mindboggling that the county would do anything to further discussions that would result in this land being taken out of local control.
I ask that you please cancel this agenda item or, at the very least, significantly postpone this discussion until a more appropriate time.
Thank you for your consideration,
Jane Overbaugh

Alexander, Jacquelyne

From: Kate Bennett <kate@katebennett.com>
Sent: Wednesday, August 14, 2013 8:57 PM
To: SupervisorCarbajal
Cc: sbcob
Subject: please cancel or postpone this meeting

Supervisor Carbajal, Chair of the Santa Barbara Board of Supervisors, has placed on the AUGUST 20th Board of Supervisors agenda an item regarding the Santa Ynez Band of Mission Chumash Indians and dialogue regarding government to government discussions. Chairman Armenta has stated his purpose of taking the 1,400 acres into federal trust, and has also claimed entitlement to lands from Morro Bay to Malibu.

Unfortunately, even well meaning intentions by the County can be used against them as tribal governments suggest that discussions are participation and cooperation with the tribal governments purpose's. This occurred in P.O.L.O.'s 6.9 litigation.

Many community groups in the Santa Ynez Valley, and in Montecito and Santa Barbara, are requesting that Supervisor Carbajal cancel, or at the least postpone/continue this meeting.