

Friday, 2013.0817.1500

To: Santa Barbara County Board of Supervisors

Regarding: Chumash Request for Expanded Sovereign Nation Status

From: Two Very Concerned Residents of the Santa Ynez Valley

Document Message: **Be one in Union, Be One as a Nation . . . Be Americans***

INTRODUCTION: P.O.L.O. has obtained the Santa Ynez Band's application to take 1,400 acres ("Camp 4"), into federal trust. Their stated purpose is to remove the land from local and state jurisdiction and place it under their tribal jurisdiction.

In addition to the impact of this 1,400 acre fee-to-trust application, we would like to call your attention specifically to page 6 of the application, last paragraph referring to an "approved Tribal Land Consolidation and Acquisition Plan (TCA)" and Exhibits C and D. Exhibit C includes "Approval of Proposed Land Consolidation and Acquisition Plan Santa Ynez Band of Chumash Indians". Exhibit D is a map that overlays thousands of acres of land in this TCA . . . Thus, it is imperative that each Board Member closely study, and realistically understand, the undoubtedly negative impact it portends. **

***/**Note:** *What is absolutely alarming about the above is that we (my wife and I) do actually have to be concerned that duly elected governmental representatives (Federal, State or Local) would actually give, EVEN A HINT, of credence, to select population behavior that would weaken our SYV community, the County of Santa Barbara, our State and most importantly . . .*
Our America. *Do you, the Santa Barbara Board of Supervisors, not understand that the Chumash 'Super Sovereign Nation' application represents a rejection of: OUR Beloved SYV Community, OUR Beautiful County of Santa Barbara, OUR Grand State of California and OUR . . . Singularly Great Nation? The Tribe seeks to be arrogantly - Sovereign and Exclusive - ultimately flaunting a self styled government of its own choosing! Board of Supervisors - Have you lost all sense of your responsibility to serve the total community? You were elected by all the voters of the County of Santa Barbara to safeguard our collective interests – not grant unique privileges to a small segment of the population. Work to restore our (The voter's) faith in the political process . . . at this juncture, we feel a sense of distrust about the stated reasons for your so called 'government' to government meeting being held Tuesday, August 20th. To have any credibility the Board of Supervisors must be adamant that the Chumash Tribe functions within the same officially recognized process as any other developer is required to do.*

ALSO, (An Apriori)

MR. CARBAJAL - CANCEL the Tuesday meeting and thus regain SOME CREDIBILITY and TRUSTWORTHINESS for YOURSELF and the SANTA BARBARA COUNTY BOARD OF SUPERVISORS.

STATEMENT: Rather than make our communiqué a long discourse about the evils of balkanization in the United States, let us simply provide you, the Santa Barbara Board of Supervisors, with a document that was handed down from our Great Great Grandmother (see attachment). You will find the message is as relevant today . . . as when it was written.

AFFIRMATION: It is our absolute opinion that if you **genuinely** believe in the primal good of our United States, as embodied in our 'Incomparable Constitution' you could not accept any destructive balkanization of our nation, whatsoever. However, if you are an antagonist of the United States, you would eagerly embrace all that would weaken, divide and subdue her. The 'Super Sovereign Nation Process' would clearly be one of your desired tools - Indeed, it ought to be your premeditated and strategic 'Weapon of Mass Destruction'. Therefore, we implore you, our duly elected representatives . . . *let your every decision **unite** America, not Disable and Divide Her!*

Stop the 'Super Sovereign Nation' Process
God bless a United States of America

Respectfully Yours,
Gary M. & Judith A Cory

gmcory@msn.com
805-688-8396
1675 Linda Vista Dr.
Santa Ynez, CA 93460

PS - We have enclosed some information that we presented to our SYV Rancho Estates Mutual Water Board. We presented it from the perspective that we could lose control over our water source if **expanded** 'Super Sovereign Nation' status would ever be achieved by the 'Chumash Tribe'. For sake of brevity, we referenced only one tribe's attempt to control water rights. We chose the *Gila River Indian litigation Process* and the legal point the Tribe used (as has many others) - Their focus is on the federal reserved rights doctrine that states - 'First in Time, First in Right'. We present this to you, the Board of Supervisors, suggesting that ever expanding 'Super Sovereign Nation' status is simply the detonator of what will become at some 'point in time' the **BOMB** of contentious, lengthy, debilitating, divisive - **AND SO VERY EXPENSIVE** - litigation (about water rights, other diverse legal rights, and beyond) between the 'Chumash Tribe' (more accurately, their covert business partners) and the County of Santa Barbara.

Excerpt From our letter sent to the Santa Ynez Rancho Estates Mutual Water Company, Inc. dated 2013.0429

To repeat, if the Water Board were to be more proactive in this matter we could get more people to understand what calamitous harms the future could hold. Give this some thought as you read the documentation below about the Gila River Indian litigation.

2007] INDIAN WATER SETTLEMENTS 443

I. THE PROBLEM: AN INADEQUATE WATER SUPPLY AND THE TRIBES' SENIOR CLAIMS UNDER THE FEDERAL RESERVED RIGHTS DOCTRINE

A. The Federal Reserved Rights Doctrine

Water rights for Indian reservations are generally based on the federal reserved rights doctrine. The doctrine essentially provides that when the federal government reserves and sets apart land for an Indian reservation or other federal purposes, it also impliedly reserves "appurtenant water, then unappropriated," for use on the reservation to the extent necessary to accomplish its primary purpose.⁴ The priority date for the Indian reserved right dates back to the date of the reservation by treaty, by act of Congress, or by executive order.⁵ Given the early dates of creation of many Indian reservations, this "implied reservation of water" has the practical effect of giving the tribes a right that is senior to most of the water rights of neighboring water users based on the prior appropriation doctrine.

The federal reserved rights doctrine was first applied to Indian tribes by the United States Supreme Court in the case of *Winters v. United States*.⁶ In *Winters*, the federal government brought suit on behalf of the Assiniboine and Gros Ventre Indian Tribes of the Fort Belknap Reservation to halt upstream diversions from the Milk River by non-Indians. The Fort Belknap Reservation was created by a treaty executed in 1888 between the tribes and the United States. The treaty did not mention water rights. Nevertheless, the Supreme Court concluded that, in entering into the treaty, the federal government and the tribes impliedly reserved sufficient water from the Milk River (which formed one border of the Reservation) to make the Reservation lands usable for agricultural purposes.⁷

This implied reservation of water, dating back to 1888, took precedence over the nonIndian appropriators' more junior water rights.⁸ The implied reservation of rights principle articulated in *Winters* is applicable to all Indian reservations, whether such reservations were created by

4. *Cappaert v. United States*, 426 U.S. 128, 138 (1976) (quoted in *United States v. New Mexico*, 438 U.S. 696, 700 (1978)). 5. *Id.* 6. 207 U.S. 564 (1908). 7. *Id.* at 575–77.

8. In the western United States, water rights under state law are generally governed by the doctrine of prior appropriation. **The doctrine may best be summarized by the maxim "first in time, first in right," meaning that the person who first appropriates and uses water in compliance with procedures prescribed by state law has the better right to use that water against all persons who subsequently appropriate water.** In *Winters*, the Supreme Court found that the Fort Belknap Reservation's water rights were based on the 1888 Treaty, and that the Tribes were exempt from the state law requirements for perfection of a water right. The priority date for the Tribes' reserved rights was 1888, the date of the treaty. Because the Tribes' rights pre-dated the priority dates of the non-Indian appropriations in the case, these appropriators were required to cease upstream diversions from the Milk River until the Tribes' rights were satisfied. *Id.* 444 ARIZONA LAW REVIEW [VOL. 49:441

treaty, statute, or executive order.⁹ Unlike appropriative rights, federal reserved rights are not subject to abandonment or forfeiture for non-use.¹⁰ Litigation over the attributes of federal reserved rights often focuses on the purposes of the reservation and the quantity of water needed to satisfy those purposes. Cases decided by the United States Supreme Court since *Winters* have provided more guidance to the courts regarding the legal principles to be used in making these determinations. In *Arizona v. California*, the Court concluded that for Indian reservations on the Colorado River, which were created to permit the Indians to maintain a livelihood as farmers, the amount of water reserved was that sufficient to irrigate all of the “practicably irrigable acreage” (“PIA”) on those reservations.¹¹ The quantification of Indian rights under this standard made actual or past use of water on the reservation irrelevant, and left open the very real possibility that the full exercise of a tribe’s reserved water rights could necessitate a “gallon for gallon” reduction in water use by appropriators relying upon the same source.¹²

B. Arizona Litigation to Determine Tribal Reserved Rights

In the years following the decision in *Arizona v. California*, Indian tribes in Arizona, as well as their non-Indian neighbors, undertook concerted efforts to institute litigation to attain an adjudication of the tribes’ water right claims. Two water rights adjudications initiated during that period, the Gila River Adjudication and the Little Colorado River Adjudication, remain pending before the Arizona state courts to this day. **As summarized below, thousands of claims to water have been filed in the adjudications since their inception; yet, the quantities of water claimed by Indian tribes, standing alone, exceed the annual flow of these rivers. The Gila River Adjudication covers the central and southern portions of . . .**

The above progresses to a very lengthy document and goes on to cite other adjudicated proceedings that possibly give Native American Tribes the right to all the water they need for Tribal Business success (NOT just agricultural purposes).

Our summation (opinion) is that if the 'Chumash Tribe' can get 'Fee to Trust' status (the so called Super Sovereign Nation status) for their reservation (Camp4) and then decides to have three hotels, with 3 golf courses, and five lakes, etc., they can attempt to lay legal claim to all the water needed for these *Tribal Sustaining Business Ventures*. Any water allocation that the Rancho Estates (and other local water users) needed - potentially at subsistence levels - would/could come . . . **At A Very High Price.**

End of Excerpt

"Be Americans. Let there be no sectionalism,
no North, South, East or West; you are all
dependent one on another and should be one
in union. In one word, be a nation, be
American and be true to yourselves."

. . . George Washington

Alexander, Jacquelyne

From: Gary Nett <syvgary@verizon.net>
Sent: Monday, August 19, 2013 12:16 PM
To: Farr, Doreen
Cc: Adam, Peter; SupervisorCarbajal; Wolf, Janet; 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 Farr:

My wife and I are long-time residents of Santa Barbara County and of the Santa Ynez Valley, and we first wish to thank you for tireless efforts in protecting the future of the Santa Ynez Valley consistent with the prescriptions of the Santa Ynez Valley Community Plan that so many of our valley neighbors worked so long and so diligently to assure the best quality of life and environment for those who make their homes here in the Santa Ynez Valley, and for those who will make their homes here in the future. Thank you for advocating for fair and equal treatment of every resident and every property owner, respectful of our community plan.

We have received a copy of the letter dated August 13, 2013 written to Supervisor Carbajal by the Board of POLO, which you have also received,...and we believe that the case made in this letter for the postponement or cancellation of the scheduled public meeting regarding the Santa Ynez Band is persuasive. Further, we found equally persuasive the letter submitted by G.B. Shepherd, representing Santa Ynez Valley Concerned Citizens, published on page G1 of the SB News-Press yesterday (August 18, 2013), providing multiple compelling reasons for postponement of the meeting scheduled for tomorrow. (I am confident that you, and your BOS colleagues, are very familiar with the specific points and arguments made in each of these letters,...so that it is not necessary for me to restate them here.)

Please stand with the citizens of Santa Barbara County who have (with good reason) very serious concerns about the potential harm that will be inflicted upon all of us if the Santa Ynez Band is permitted to be exempt from the due process and land use regulation that every other citizen is subject to and entitled to. Please ask your four Supervisor colleagues to stand with us, all residents of SB County as their constituents, as well.

Thank you.

Gary Nett
1810 View Drive
Santa Ynez, CA 93460
syvgary@verizon.net

Alexander, Jacquelyne

From: Joanne clark <joannewclark5@gmail.com>
Sent: Tuesday, August 20, 2013 3:41 AM
To: sbcob
Subject: expansion

Please do not allow any expansion of the casino-it's bad enough already. Any more will be even more of an eye sore and is completely foriegn to what the Vally has always been. You can't cut down an oak tree-but something like this can be considered? Something is really wrong with that.

Joanne Clark-Solvang

Alexander, Jacquelyne

From: Kelley Brennan <kelbrennan@comcast.net>
Sent: Monday, August 19, 2013 4:48 PM
To: sbcob; SupervisorCarbajal; Wolf, Janet; Farr, Doreen; Adam, Peter; Lavagnino, Steve
Subject: fee to trust application for Camp 4

Dear Santa Barbara County Board of Supervisors,

I'm writing today to ask you to vote "no" on any motion to move the "Camp 4" land into the Chumash Indian's sovereign nation (fee to trust). I have lived in the Santa Ynez Valley for 19 years and have seen many changes that have been directly related to the expansion of indian gaming here. We treasure our rural setting, as do so many tourists who visit regularly. As avid hikers and cyclist who enjoy the backroads of this lovely place, please help us preserve what we have.

The band of Chumash Indians can follow all the rules the rest of us follow in the use of this pristine gateway land. The impact of their multiple developments is having a detrimental effect on life here, please help us preserve what we treasure. I'm personally so thankful that Doreen Farr really understands all that I've expressed in this letter and wants to do all she can to preserve this special Valley.

Thank you so much,
Kelley C. Brennan
658 Pine St.
Solvang, CA 93463
805 688-5625

Alexander, Jacquelyne

From: LINDA KASTNER <lkast6945@aol.com>
Sent: Monday, August 19, 2013 11:43 AM
To: SupervisorCarbajal; Farr, Doreen; Adam, Peter; "jwolf\\""@sbcbos2.org; Lavagnino, Steve; sbcob
Subject: property tax and camp 4

Dear Board of Supervisors,

I wish that we could attend tomorrow's meeting regarding your discussion of starting talks with the Santa Ynez Band of Mission Indians. We are out of the state of California at this time but will watch via the live stream provided on the internet. It comes to mind that I neglected to mention property taxes in my last letters.

Now the the Tribe has requested to opt out of the Williamson act, taxes on a property purchased for \$40,000,000.00 would be in excess of \$4,000,000.00 a year.

The thought of offering to pay the County of Santa Barbara \$1,000,000.00 for ten years is laughable..

Remember the \$40,000,000.00 paid for this property is undeveloped..Just what would developed property bring to the coffers of the County?

There should be absolutely no dialog with the Tribe by the County of Santa Barbara. A government to government is just that....Federal Government to Tribal Government.

Please don't be duped by disingenuous offers.

Linda Kastner
6945 Happy Canyon
Santa Ynez Ca. 93460

Alexander, Jacquelyne

From: mpross@juno.com
Sent: Monday, August 19, 2013 3:46 PM
To: SupervisorCarbajal
Cc: sbcob; jwolf@sbcbos.2.org; Adam, Peter; Lavagnino, Steve; Farr, Doreen
Subject: Mr. Armenta

Dear Supervisor Carbajal,

Re: Mr. Armenta

I am following up the message I left with your office with this e-mail. I have the following concerns:

1. Mr. Armenta has a public record of dishonesty - please keep that in mind.
2. It appears that Mr. Armenta is preparing to claim rights to all the water that we rely on here in the Santa Ynez Valley. Perhaps this could affect Santa Barbara as well.
3. I agree with P.O.L.O.'s assessment that the only reason to place 1,400 acres into trust is for further casino operations - which, of course, would require a much greater access to water.
4. Removing 1,400 acres from the county tax rolls will represent a tremendous loss in revenue which the county cannot afford!
5. I am concerned that interests and rights of county residents/tax-payers could be negatively impacted if our County Supervisors are not paying attention.

I do believe that the Board of Supervisors should have conversations with Mr. Armenta. However, I agree with P.O.L.O. that Mr. Armenta should not be given a special status above any other resident/business owner before the Board of Supervisors.

Thank you for your time and consideration.

Sincerely,

Marcia Ross
Los Olivos

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

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Alexander, Jacquelyne

From: Alexander, Jacquelyne
Sent: Monday, August 19, 2013 9:45 AM
To: Alexander, Jacquelyne
Subject: August 20th, 2013 BOS Meeting

Dear Board of Supervisors, CEO Chandra Wallar & County Council:

In summary (should this Agenda Item mover forward)

Given the facts below, it would be imprudent and dangerous for the county to officially open (by motion and majority vote) an official government to government dialog with the "Tribe". To do so, would open the door for giving the Tribe unwarranted status and powers to move forward with aggressive acts such as seeking to take the 1390 acres (known as Camp 4) in to Trust via a political legislative act that would "cut out" the input and ability to weigh in from of the State of California and County of Santa Barbara resulting in enormous damages to the property owners of this County and the State of California. Moreover, opening an official government to government dialog would empower "The Tribe" to file a **federal priority water rights claim** giving them priority to the under ground water supply in the county over the residents and local governments.

The Tribe already has access to an open dialogue with the 3rd District Santa Barbara County Supervisor who has an office less than 5 miles from the Casino; it is not necessary for the Board take any further action as that line of communication is already open.

Thank you for your consideration of my comments.

Steve Pappas

From: Steve Pappas [<mailto:stevepappas@earthlink.net>]
Sent: Friday, August 16, 2013 6:46 AM
To: 'scarbaja@co.santa-barbara.ca.us'; 'Doreen Farr'; 'Janet Wolf'; 'peter.adam@countyofsb.org'; 'Steve Lavagnino'
Cc: 'Wallar, Chandra'; 'Marshall, Dennis'
Subject: August 20th, 2013 BOS Meeting

Re: Santa Barbara County Board of Supervisors Meeting for August 20th, 2013. Agenda Item Public Hearing # 1: Consider the letter to the Board of Supervisors received by Chairman Carbajal from the Santa Ynez Band of Chumash Indians Chairman Vincent Armenta requesting a government to government dialogue and provide direction.

Dear Board of Supervisors, CEO Chandra Wallar & County Council:

I have reviewed the Board packet for the August 20, 2013 meeting Agenda Item Public Hearing #1, and would like to bring to your "specific attention" the following 3 items contained in the packet. Furthermore, based on the contents of these 3 specific Items, **I strongly urge you to cancel Agenda Item Public Hearing #1** for the reasons stated below after each item:

Item # 1) Fee-to-Trust Application submitted by the Santa Ynez Band of Mission Indians (the "Tribe") to the Bureau of Indian Affairs.

A copy of this Application was just received by the County a few days ago and a link to it is provided below. This Fee-to-trust application is over 200 pages long and contains an enormous amount of complex and alarming information. It is inconceivable that the CEO, County Council and the Board of Supervisors can review, analyze and absorb the very important issues and claims raised by the Tribe in this document prior to the August 20, 2013 Board Meeting; to do so would be ludicrous and reckless. Amongst the alarming issues raised in this document is the **Land Consolidation and Acquisition Plan** (“The Plan”) which states that the Tribe is staking an “aboriginal claim” to 11,500 acres in the Santa Ynez Valley which includes the 1390 acres known as camp 4 and “way beyond the entire area surrounding it”. Please note the following quote from page two of “The Plan” contained in the Fee-to-trust application:

“The Tribe’s plan includes the geographical area....., encompassing 11,500 acres of the College Rancho (“Tribal Consolidation Area”). [The link to the Fee-to-trust application follows:](https://www.dropbox.com/s/ewqx7xtnn8404i3/Fee%20to%20trust%20application%20-%20Chumash%20-%20July%202013.pdf)

<https://www.dropbox.com/s/ewqx7xtnn8404i3/Fee%20to%20trust%20application%20-%20Chumash%20-%20July%202013.pdf>

Item #2) Letter to the Board of Supervisors submitted and signed by “Santa Ynez Valley Resident”.

This letter focuses on State of California’s clear and unambiguous position that the claim by the Tribe to be the “Representative Government of the Aboriginal Chumash People” is unsubstantiated. Therefore, it begs the question: “How can the County of Santa Barbara open a Government to Government dialog with and entity that is, per the state of California, not that Government? **The actual letter from the Governor of the State of California to the Bureau of Indian affairs is attached in its entirety and in your Board Packet.**

As an example, please note the following quotes from the attached Governor’s Letter:

“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 United States has subsequently compensated individual Indians for lost lands in several acts (see, Aboriginal Title: The Special Case, 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).

Item #3) The current litigation “POLO VS Bureau of Indian Affairs decision to approve a 6.9 acre Fee-to-trust application by the Santa Ynez Band of Mission Indians (Case No. IBIA 05-050-A)”.

This Litigation is on-going and addresses a plethora of legal issues. **It would be imprudent for the County to circumvent the judicial system process by opening a government to government dialog with the “Tribe”** while this litigation and its final outcome are pending. To do so, would open the door for giving the Tribe unwarranted status and powers to move forward with aggressive acts such as seeking to take the 1390 acres (known as Camp 4) in to Trust via a political legislative act that would “cut out” the input and ability to weigh in from of the State of California and County of Santa Barbara. Such a successful legislative fee-to-trust action would exempt the Tribe from Land Use and zoning restrictions dictated by the Santa Ynez Community Plan as well as exempt them from

certain taxes such as property tax. **Moreover, once the land is taken in to trust, the Tribe may stake a claim for federal priority water rights, priority over the citizens and residents of Santa Barbara County,**

Please note that these are not my personal arguments rather those of the Sate of California and the Citizens of Santa Barbara County that have submitted comments and documents for your review and are part of your Board Package, please consider them carefully,

Steve Pappas