

ATTACHMENT C

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COUNTY OF SANTA BARBARA'S COMMENTS ON THE ENVIRONMENTAL ASSESSMENT FOR CAMP 4

INTRODUCTION

The County of Santa Barbara ("County") requests that the United States Department of the Interior, Bureau of Indian Affairs, ("BIA") prepare a complete Environmental Impact Statement for the Santa Ynez Band of Chumash Mission Indians' Camp 4 Fee-to-Trust Proposed Federal Action ("Camp 4"). The August 2013 Environmental Assessment is inadequate because there are substantial questions as to whether Camp 4 may cause significant environmental impacts. Since an Environmental Assessment is appropriate only "where no effect on the environment is possible," the National Environmental Policy Act ("NEPA") requires preparation of an Environmental Impact Statement. (*Natural Resources Def. Council v. Duvall* 777 F.Supp. 1533, 1538 (E.D. Cal. 1991.))

BACKGROUND ON PROPOSED FEDERAL ACTION: CAMP 4

In March 2013, the Santa Ynez Band of Chumash Mission Indians ("Tribe") submitted the Proposed Tribal Consolidation and Acquisition Plan ("Consolidation Plan") to the BIA. The Consolidation Plan includes approximately 11,500 acres of the Santa Ynez Valley, including Camp 4. (EA p. 1-6.) The BIA approved the Consolidation Plan on June 17, 2013.

In July 2013, the Tribe submitted an Application for Transfer of Title for Fee Lands into Trust for Camp 4. Camp 4 is 1,433 acres located in the middle of the Santa Ynez Valley in Santa Barbara County, California, directly off of State Highway 154 between Baseline Avenue and Armour Ranch Road. The 1,433 acres includes 21.9 acres of rights-of-way. The property is zoned exclusively for agriculture. The project proposes 143 residential dwellings ranging from

3,000 to 5,000 square feet as well as an on-site wastewater treatment plant, roads, and other infrastructure on a largely pristine set of parcels that are home to an intact, self-sustaining oak woodland and active agriculture. (EA p. 2-14.)

The Tribe currently has an approximately 138-acre Reservation located on the south side of highway 246 in the Santa Ynez Valley, approximately 1.6 miles west of the intersection of highways 246 and 154. Of the 138 acres, at least 26 acres currently has residential capacity, and 16 acres has economic development capacity. (EA p. 1-6.) The Tribe has 136 tribal members and approximately 1,300 lineal descendants. The stated purpose of Camp 4 is to provide housing for tribal members because the current Reservation is claimed to be insufficient in size. Camp 4 is located 1.75 miles from the Tribe's Reservation and does not have any shared boundaries with the Reservation.

Camp 4 is under an existing Williamson Act Contract which is a 10-year rolling contract. The property has been preserved for agricultural use by a Williamson Act Contract since at least 1971. In August 2013, the Tribe submitted an application for non-renewal, meaning the contract will expire in December 31, 2022. On July 1, 2013, the Tribe passed Resolution 931 which requires compliance with the existing Williamson Act contract until the contract expires. (EA p. 4-22.)

In August 2013, the BIA released an Environmental Assessment for public review and comment. The Environmental Assessment identifies two Alternatives. Alternative A consists of 1,433 acres to be converted to 143 five-acre residential lots. A total of 793 acres would be covered by residential homes and transportation infrastructure. The project site would also include 300 acres of vineyards (256 existing and 44 acres dedicated for expansion), 206 acres of

open space/recreational, 98 acres of riparian corridor and 33 acres of oak woodland conservation and 3 acres of Special Purpose Zone for utilities.

Alternative B consists of 143 one-acre residential lots for tribal members. The residential lots and roadways would cover approximately 194 acres of the project site. The project site would include 775 acres of open space/recreational use and 30 acres of Tribal Facilities and the same acreages of vineyard, riparian corridor and oak woodland conservation, and utilities. (EA p. 2-3.) The Tribal Facilities include a Community Center with a Banquet Hall/Exhibition Facility, an office complex and tribal community space. (EA p. 2-13, 2-14.) The Community Center proposes 100 special events per year with potentially up to 1000 attendees at each of the special events. This equates to events two nights a week, with an increase of 2000 visitors to the Valley each week. (EA p. 2-12; Appendix C, p. 3-1.)

Comments were due on September 19, 2013, but the County requested an extension of time to comment. The BIA granted the County's request and extended the comment period to October 7, 2013. The Environmental Assessment was reviewed by operational County Departments including Planning and Development ("P & D"), Santa Barbara County Fire District ("Fire" or "County Fire"), Santa Barbara County Sheriff ("Sheriff"), Public Works ("PW"), Agricultural Commissioner's Office, Assessor, and the County Executive Office ("CEO"). The Discussion section below incorporates all of the comments and expertise of those Departments and cites to a primary source department as appropriate.

DISCUSSION

An Environmental Impact Statement must be prepared. The August 2013 Environmental Assessment is inadequate because it fails to take the required “hard look” at potential significant impacts, fails to disclose all project components, uses an inaccurate baseline, contains inadequate mitigation, incorrectly describes Camp 4 as an “On-Reservation” acquisition request, and provides insufficient discussion and analysis of alternatives.

Camp 4 is substantial in size, scope, and may have significant environmental impacts on land use, agriculture, public services including fire and sheriff, water resources, biology, air quality, traffic, and visual resources. Camp 4 is inconsistent with land use regulations including the County Comprehensive Plan, Santa Ynez Valley Community Plan, the Williamson Act and the County Uniform Rules, County zoning ordinance, and County codes including Agricultural Buffer and Grading. The project would remove land from the County’s jurisdiction and reduce tax revenues necessary to provide public services.

An Environmental Impact Statement is necessary to do the following:

- Disclose all project components and correct a number of factual errors;
- Establish a clear and accurate baseline from which to analyze potential environmental impacts;
- Analyze all potentially significant direct and cumulative impacts;
- Require substantial measures to mitigate or avoid all potential significant impacts; and,
- Evaluate a full range of alternatives.

Without an Environmental Impact Statement that provides the correct information, neither the BIA nor the public can make a proper, informed evaluation of the environmental impacts of Camp 4.

I. AN ENVIRONMENTAL IMPACT STATEMENT IS NECESSARY BECAUSE THE ENVIRONMENTAL ASSESSMENT FAILS TO DISCLOSE MAJOR COMPONENTS OF THE PROPOSED FEDERAL ACTION.

An Environmental Impact Statement is necessary to disclose and analyze the reasonably foreseeable uses of Camp 4 including level of residential development and the proposed Tribal Facilities. NEPA requires the study of what is “reasonably foreseeable” from the proposed action. Agencies conducting NEPA review must also consider the indirect effects of the proposed project – i.e. effects caused by the agency action that are later in time or farther removed in distance, but are still reasonably foreseeable. (*Center for Environmental Law and Policy v. US Bureau of Reclamation* (9th Cir. 2011) 655 F.3d 1000, 1011.) The Camp 4 project description is not adequate because it fails to disclose components of Camp 4 that are vital to evaluating the impacts and what is reasonably foreseeable.

Camp 4 includes 1,433 acres but 21.9 acres are rights-of-ways, and the Environmental Assessment does not adequately address County ownership of those rights-of-way. To establish County ownership of the rights-of-way, chain of title research must be conducted. In the short time frame available for comment on the Environmental Assessment, the County did not have adequate time to complete this research. If, however, the research shows that the County owns the rights-of-way, then the 21.9 acres of rights-of way cannot be taken into trust and the

Environmental Impact Statement will need to be revised to reflect that. (*County of Amador v. City of Plymouth*, 149 Cal. App. 4th 1089, 1100-1101 (Cal. App. 3d Dist. 2007))

In addition, both Alternatives A & B mention the development of one single-family dwelling per proposed residential lot, but do not indicate whether additional residential development would be constructed. Without this information, it is not possible to estimate the increase in future residents or to adequately identify potential impacts. In addition, the project description fails to fully explain the proposed Tribal Facilities, making it impossible to accurately evaluate the proposed impacts from the increase in employees, increase in visitors and large commercial structural development in an agricultural setting.

A. Residential Development

Camp 4 proposes 143 new residential lots. The project description is unclear whether the project includes 143 single-family homes or 143 multi-family homes and unclear whether residential structures include any accessory structures. (EA p. 2-4.) Potential accessory structures on the lots include a residential second unit, agricultural structures, and residential accessory structures, greenhouses under 300 square feet, or an artist studio or guesthouse. (P&D.) Additionally, for Alternative A, the lots would also be able to apply for approval of a farm employee dwelling in addition to the above structures. (P&D.)

All of these components dictate the number of new residents that will be accessing the site and that will be in need of public services. Without adequate detail of the residential development, the BIA and the public cannot analyze or fully evaluate the potential impacts of Camp 4.

B. Tribal Facilities

The BIA's NEPA Handbook states at page 16, section 4.4(D), that "[t]he discussion of the proposed action should clearly answer the questions: Who? What? Where? and When?" The Environmental Assessment does not answer these questions for the proposed conference center. The Environmental Assessment states that there will be 100 events per year, and in the Appendix C Wastewater study, estimates the attendees to be 1,000 people per event. (EA p. 2-12; Appendix C, p. 3-1.) It is unclear if the 1,000 people per event is part of the project description or an estimate used only for wastewater analysis; however, it is clear that this estimate is not used throughout the Environmental Assessment to evaluate potential impacts of the influx of visitors to the Santa Ynez Valley two days per week, all year long. The Environmental Assessment lacks details such as the timing of the events, day or night, how often the events are open to the public, how large each event will be, and what types of events are anticipated. (EA p. 2-12.) All of these details impact the evaluation of such things as increases in traffic, need for public services, night lighting, impacts to on-site agricultural uses, impacts to surrounding agricultural and rural residential uses, noise and compatibility with land use plans. (EA pp. 4-46; 4-44.)

II. THE ENVIRONMENTAL ASSESSMENT BASELINE IMPROPERLY ASSUMES THAT NO NEW PEOPLE WILL MOVE TO THE VALLEY.

The Environmental Assessment has a flawed baseline because it improperly assumes that there will be no increase in residents to the Santa Ynez Valley. The flawed logic is that the tribal members that will move into Camp 4 already live in the Santa Ynez Valley so there will be no increase. However, even if that is accurate, as the tribal members vacate their current

residential accommodations, new residents will move to the Santa Ynez Valley to occupy the newly vacant residential units. This incorrect baseline assumption leads to false and unsupported conclusions for multiple impact areas, including Traffic, Air Quality and Public Services including Fire, Sheriff, Solid Waste, Schools, Parks and Recreation. (EA pp. 4-25; 4-47; 4-26; 4-47; 4-46; 4-24.)

The stated purpose of Camp 4 is to provide “housing within the Tribal Consolidation Area to accommodate the Tribe’s current members and anticipated growth” and “all current land assignments on the existing Reservation shall continue to be maintained unchanged as it is difficult to cancel any existing land assignment on the Reservation.” (EA p. 1-6, emphasis added.) Yet, the Environmental Assessment concludes that minimal impacts will occur in a number of areas because people moving into the houses already live in the area. The Environmental Assessment fails to take the required “hard look” at the fact that this project will construct 143 new homes bringing new residents to the area and potentially construct a Banquet Hall/Exhibition Facility that will both employ people and bring large numbers of visitors to the area for events.

III. AN ENVIRONMENTAL IMPACT STATEMENT IS REQUIRED BECAUSE THERE ARE SUBSTANTIAL QUESTIONS THAT CAMP 4 MAY CAUSE A SIGNIFICANT IMPACT TO LAND USE, AGRICULTURE, PUBLIC SERVICES, WATER RESOURCES, BIOLOGY, AIR QUALITY, TRAFFIC, AND VISUAL RESOURCES.

NEPA requires the BIA to take a “hard look” at the environmental consequences of Camp 4. (*Robertson v. Methow Valley Citizens Council* 490 U.S. 322, 350, 109 S.Ct. 1835

(1989).) An Environmental Assessment is only appropriate “in those obvious circumstances where no effect on the environment is possible.” (*Natural Resources Def. Council v. Duvall* 777 F.Supp. 1533, 1538 (E.D. Cal. 1991) emphasis added.) As discussed below, Camp 4 has the potential to cause many significant impacts to the environment. Thus, NEPA requires the BIA to prepare an Environmental Impact Statement because there are substantial questions about whether Camp 4 may have a significant effect on the environment. (*Greenpeace Action v. Franklin* (9th Cir. 1992) 14 F.3d 1324; *Blue Mountain Biodiversity Project v. Blackwood* (9th Cir. 1998) 161 F.3d 1208.

A. Land Use and Agriculture

The Land Use section of the Environmental Assessment is fatally flawed because it fails to take the required “hard look” at the following:

- Agricultural Resources, including existing grazing operations;
- Applicable policies of the County Comprehensive Plan and Santa Ynez Community Plan;
- Camp 4’s inconsistency with the Williamson Act, County Uniform Rules, and the Tribe’s Williamson Act Contract which does not expire until 2023; and,
- County zoning, agricultural buffer and grading ordinance.

1. Agriculture

The 2012 Santa Barbara County Agricultural Production Report indicated gross farm production to be \$1.3 billion. Agriculture is the leading contributor to the County’s economy and has a positive local impact to the County through the multiplier effect in excess of \$2.5 billion. (P&D.) Despite the importance and necessity of protecting agriculture in the County, there is no mention of agriculture in the entire Land Resources section. (EA p. 4-1 – 4-3.) The

brief discussion of agriculture in the Land Use section addresses the impact from the perspective of compliance with local land use plans, rather than the direct impact to existing on-site and neighboring off-site operations. The Environmental Assessment contains inaccurate statements and flawed conclusions and completely fails to address the impact of Camp 4 on Agricultural Resources, including existing grazing operations. Thus, an Environmental Impact Statement is necessary.

2. Conversion of Agricultural Land

Camp 4 and both Alternatives will result in the conversion of prime agricultural farmland acreage to a residential subdivision. Both project alternatives will convert large amounts of farmland acreage (793 or 194 acres), that will result in a significant unavoidable impact. In particular, Alternative B's 1-acre sites constitutes the "urbanization" of an existing agricultural area. (County Comprehensive Plan, Land Use Element p. 148.) The Environmental Assessment states additional acreage (206 or 775 acres), is proposed to be used as Open Space/Recreational Area. The conversion of the acreage to Open Space/Recreational Area will add to the loss of farmland acreage to a total of 999 or 969 acres. (EA pp. 2-3, 3-56 – 3-63.) There is no mention of the historical or current cattle grazing operation on the project site that will be totally eliminated. Any loss of prime farmland is a significant impact that cannot be mitigated.

3. On-site Grazing Operations

Of the 1433 acres of Camp 4, 704 acres have historic and current primary use as a grazing operation. Grazing operations are agriculture, and the Environmental Assessment fails to recognize this fact. As a result of this flawed baseline, the Environmental Assessment

incorrectly concludes that Camp 4 and both Alternatives will not impact on-site agricultural operations. (EA p. 4-20.)

The project proposes most of the development on existing grazing land yet there is no description of the cattle grazing operation or analysis of impact resulting from the conversion of 704 acres of grazing land. There are multiple inconsistent statements in the EA regarding impacts to agriculture: for example, the EA states:

- “With the implementation of Alternative A, land currently being used for agricultural production will continue to operate and will not experience a change in land use” (EA p. 4-20.);
- “Alternative A would impact approximately 704 acres of the total 1,041.1 acres of grazing land” (EA p. 4-20.);
- “This land is non-prime farmland and is not currently being used for agricultural purposes therefore, impact to agricultural on these parcels would be minimal”. (EA p. 4-22.); and,
- “The current agricultural and grazing land uses would be maintained on these parcels with the exception of three acres on Parcel 1 which would be developed into a wastewater treatment plan (WWTP).” (EA p. 4-1.)

These statements are inconsistent because the cattle grazing operation is agricultural production, and the proposal is to convert all of it to residential uses and non-grazing land uses. Because the majority of the existing agricultural operation is grazing and the Environmental Assessment dismisses grazing as agricultural use of the land, the Environmental Assessment grossly underestimates the impacts. (EA Figure 4-1.)

The Environmental Assessment's failure to recognize grazing operations is further exacerbated by the reliance on the Farmland Conversion Impact Rating system (Form AD-1006). The completed form is provided, however, there are no instructions showing how the points are assigned and the public cannot assess whether the analysis is accurate. (EA, Appendix G.) Based on County Planning staff's research, it appears the Farmland Conversion Impact Rating system does not include grazing land in the assessment because the definition of "Farmland" only includes Prime Farmland, and Farmland of Statewide, Unique or Local Importance, which includes the vineyard. Grazing lands are not considered "farmland" according to the model. This flaw is illustrated in Part VI, Percent of Site Being Farmed (Factor #3) of the Form. Only 1 of 20 points was assigned to each of the sites. The Environmental Assessment should fully assess impacts to the onsite grazing operation as a result of the project through a rangeland study or other analysis that uses a threshold of significance such as the number of animal units that the land can support.

4. Off-site Agricultural Operations

The Environmental Assessment fails to analyze whether Camp 4 is compatible with the adjacent properties to the southeast, south, and west. Camp 4's proposed high density residential development in the middle of an exclusively agricultural community and a potential Banquet Hall/Exhibition Facility in Alternative B are not compatible with agriculture. (P&D)

Camp 4 would create the potential of impacts to neighboring agricultural production such as trespassing, vandalism, nuisance complaints, and decreased farming potential. Fencing to deter trespassers is costly and may hinder the movement of equipment and crops out of fields.

The close proximity of a residential development to agricultural operations will require special management practices and may result in loss of crop productivity and add additional time, cost, and labor to agricultural production.

Additionally, the Environmental Assessment does not analyze the potential impacts to agriculture as a result of the proposed Open Space/Recreation Zone. (P&D) Open Space/Recreational Areas provide a potential segway for the public to access adjacent agricultural areas, which may be likely to lead to trespassing, theft, littering, grass fires, and vandalism. County staff reports that with easy access farm equipment that is not locked while not in use and may become a target for theft and vandalism. (P&D) The high value of recycled metal has resulted in an increase in the number of cases of sprinklers and copper wiring being stolen. According to Planning and Development staff, one grower in Santa Maria had over 80 sprinkler heads stolen from his field overnight. (P&D)

The Banquet Hall/Exhibition Facility would likely cause significant impacts to the surrounding agriculture. The increases in traffic, noise, and proximity of attendees at special events would necessitate changes to the surrounding agricultural operations and should be analyzed more extensively in an Environmental Impact Statement.

5. County Comprehensive Plan and Santa Ynez Valley Community Plan

The County Comprehensive Plan, including the Santa Ynez Valley Community Plan (SYVCP), governs appropriate land use types and densities within the inland Rural Area. The proposed plan for the Camp 4 property greatly exceeds allowable uses and densities currently allowed for in the area and is inconsistent with the County's land use plans. Despite that the

County has a community plan specifically for the Santa Ynez Valley as well as many County-wide agricultural policies, the Environmental Assessment fails to consider any County Comprehensive Plan policies. The Santa Ynez Community Plan is attached as Exhibit A.

The EA states, “Adverse impact of land use would result if an incompatible land use within Alternative A would result in the inability of the County to continue to implement existing land use policies. In addition, adverse impacts to land use would result if the implementation of Alternative A resulted in the conversion of a significant percentage of county designated prime agricultural lands or other protected agricultural lands.” (EA p. 4-19.) This statement sets a threshold of significance for land use impacts, and in applying this threshold, it is clear that Camp 4 will have significant impacts to land use. If Camp 4 moves forward, the County will be unable to apply Comprehensive Plan policies and land use plans to the site because the County will lose land use jurisdiction, and as discussed above, the project will result in a conversion of a significant percentage of agricultural grazing land.

Camp 4 conflicts with numerous Comprehensive Plan policies including the following:

- *GOAL LUA-SYV: Protect and Support Agricultural Land Use and Encourage Appropriate Agricultural Expansion.*
- *Policy LUA-SYV-2: Land designated for agriculture within the Santa Ynez Valley shall be preserved and protected for agricultural use.*
- *Policy LUA-SYV-3: New development shall be compatible with adjacent agricultural lands.*

- *Policy LUG-SYV-3: The urban boundary line surrounding the townships of Santa Ynez, Los Olivos and Ballard shall distinguish principally urban land uses from rural and/or agricultural uses. These boundaries shall represent the maximum extent of urban area in the Santa Ynez Valley. These boundaries shall not be moved except as part of a County-initiated update of the Plan. (Santa Ynez Community Plan)*

Camp 4 proposes significant residential development of a higher density than anticipated by the Comprehensive Plan in a rural area. Other nearby small lot subdivisions that exist outside the urban area were developed prior to the adoption of the Comprehensive Plan. The proposed Alternatives A & B propose five-acre and one-acre residential lots, respectively. This contravenes rural area policy countywide, including the Santa Ynez Valley Community Plan.

6. Williamson Act, Uniform Rules and the Tribe's Williamson Act Contract

The Environmental Assessment dismisses Camp 4's inconsistency with the Williamson Act, the County's Uniform Rules, and the Tribe's existing Williamson Act Contract as less than significant. However, the Environmental Assessment misstates the requirements of the Williamson Act, does not address the County's Uniform Rules which implement the Williamson Act, and provides conflicting information about the Tribe's compliance with the existing Williamson Act Contract.

The Williamson Act enables the County to enter into a contract to restrict the Camp 4 parcels to agricultural use. (Gov. Code § 51200 et. seq.) In return, the Tribe and previous landowners receive property tax assessments which are much lower than fair market value because they are based upon farming. The Camp 4 parcels have been subject to a Williamson

Act Contract since 1971. Under the County Uniform Rules, all land under contract must be in agricultural production except for 2 acres, wherein all non-agricultural use must occur including all residential and personal use. (Uniform Rule 1-4.1.)

The Tribe has applied for non-renewal of their contract, but the contract has a 10 year rolling term and is not set to expire until 2023. The Environmental Assessment states that the property would comply with the Williamson Act contracts until they expire in 2023. (EA p. 4-22.) As evidence of this, the Environmental Assessment states that in July 2013, the Tribe passed a Resolution requiring compliance with the existing Williamson Act Contract. (EA p. 4-22.) However, the construction date for the project is projected to be 2014, completely in conflict with the Williamson Act and the Tribe's existing contract. (EA p. 2-9.) Camp 4 and both Alternatives are not consistent with the Williamson Act or the local Uniform Rules because they fail the 2-acre minimum for non-agricultural development, including the 143 residential units and the Tribal Facilities. Any construction of Camp 4 would be in violation of the Williamson Act contract and Uniform Rules.

7. County Codes (Zoning, Agricultural Buffer, and Grading)

Camp 4 is inconsistent with current Agricultural zoning, the County zoning ordinance, and other County Codes such as the Agricultural Buffer and Grading ordinances. The proposed Camp 4 plan greatly exceeds the allowable uses and densities for the area. The land use designation of the property is Agricultural Commercial (AC) and the Zone is Agriculture II, 100 acres minimum lot size. The maximum theoretical subdivision/development potential for the property, after expiration of the Williamson Act contract, is 14 lots with 14 main residences, which could only be realized if environmental review indicated such development was

appropriate when considering the carrying capacity of the land and the suitability and productivity of the resultant parcels could sustain agriculture. (P&D) An increase from 14 lots to the proposed 143 lots is a substantial increase and should be analyzed more thoroughly.

The Environmental Assessment completely fails to analyze Camp 4's impact on night and outdoor lighting which is regulated by the County zoning ordinance. County's Outdoor Lighting Regulations for the Santa Ynez Valley Community Plan Area contains requirements that "minimize light pollution, glare and light trespass" and preserve the night sky. (County Land Use and Development Code section 35.30.120.) Camp 4's residential proposal as well as the potential Banquet Hall/Exhibition Facility will likely cause substantial light pollution and interfere with the night sky throughout the Santa Ynez Valley. These impacts should be analyzed in an Environmental Impact Statement.

The Environmental Assessment also incorrectly states that that Residential Agricultural Units are allowed on agricultural land. However, the ordinance permitting Residential Agricultural Units expired on July 6, 2008 and is no longer an option for landowners. (EA p. 3-59.)

The Environmental Assessment claims the proposed housing development would be similar in nature to existing low density, rural residential development but does not address the fact that rural residential development on surrounding parcels is on larger parcels. Adjacent rural residential lots to the east are 5 acres in size and adjacent rural residential lots to the north are a mixture of 5, 10, and 20 acres in size. (EA p. 4-31.) There are no lots less than 5 acres in

the area. The proposed 1- acre lots in Alternative B, as well as the Banquet Hall/Exhibition Facility are in no way compatible with the existing land uses.

Proposed residential uses adjacent to farmland do not include agricultural buffers and are not sited to minimize potential land use conflicts. (P&D.) County's Agricultural Buffer ordinance requires a 100-300 foot buffer between the incompatible residential or commercial uses and the property line of the agricultural parcel. (P&D; County Land Use and Development Code § 35.30.025.) The Environmental Assessment fails to analyze the increased pest risk and threat to crops from insects, diseases, and weeds spreading from residential uses that would no longer be regulated by the Agricultural Buffer ordinance. (P&D.) Buffer zones that are created to mitigate complaints about farming operations can result in a reservoir of pests if not adequately maintained. (P&D.) Noxious weeds and harmful insects and diseases can spread into adjoining agricultural fields and lead to crop losses or an increased use of pesticides. (P&D.) The Environmental Assessment does not address how the public safety benefits of the California pesticide regulatory program – which protects people and the environment from unsafe pesticide use – would be accomplished if the land is taken into trust. Additionally, agricultural/residential conflicts create a financial drain on public agencies due to the amount of time spent investigating associated complaints and it is unclear who will deal with those complaints if taken into trust. (P&D)

Camp 4's proposed grading, including all cut and fill, should be completely explained. Alternative A says the total amount of cut is 180,000 cubic yards and the total amount of fill is 190,000 cubic yards, therefore 10,000 cubic yards of fill would be sourced from the proposed

on-site drainage basins. (EA p. 4-2.) The total amount of cut should include the cut necessary to construct the drainage basins. Similarly, Alternative B says the total amount of cut is 75,000 cubic yards and the total amount of fill is 160,000 cubic yards, therefore 75,000 cubic yards of fill would be sourced from the proposed on-site drainage basins. (EA p. 4-2.) The total amount of cut should include the cut necessary to construct the drainage basins. Additionally, it is unclear how Alternative B, which has smaller drainage basins can produce the larger amount of fill material necessary for construction.

B. Public Services

The Environmental Assessment fails to take the required “hard look” at Camp 4’s impact on public services. There are substantial questions that Camp 4 may cause a significant impact on Fire, emergency medical services, Sheriff, solid waste, schools, and parks and recreation. Thus, a complete Environmental Impact Statement is required.

1. Fire Protection and Emergency Medical Services

The Environmental Assessment’s analysis of the impact of the project on fire protection services is inadequate because it is incorrect in several important aspects and fails to evaluate a number of issues including an increase in need for services and an increase in the number of residents in the valley both permanent and temporary for special events which impacts the firefighter ratio. Because the project’s increase in population and infrastructure would increase call load and thus increase the possibility that emergency responders will be committed to an incident when another emergency occurs, both Alternatives have a significant impact on the

delivery of emergency fire and medical services provided by the Santa Barbara County Fire Department (“County Fire”).

First, the Environmental Assessment errs in stating that County Fire will provide structural fire protection services to the project site. (EA p. 2-7.) If the project moves forward and Camp 4 is taken into trust, it would no longer be located in the Santa Barbara County Fire Protection District, and County Fire would not have jurisdictional or response authority. There is currently no agreement in place giving County Fire permission to access the Reservation or tribal trust land for emergency response or fire prevention purposes. Because the County would no longer be able to collect taxes on the project site and due to the project’s size and potential negative impact on response resources and County revenues, the historical response services provided to Camp 4 parcels in emergencies would need to be reevaluated.

Second, the Environmental Assessment incorrectly states that wildland fire protection for the project would be primarily served by County Fire through an existing service agreement with California Department of Forestry and Fire Protection (“CAL FIRE”). (EA p. 4-25.) Although County Fire contracts with CAL FIRE to protect State Responsibility Areas (“SRA”), the California Master Cooperative Wildland Fire Management and Stafford Act Response Agreement *specifically prohibits* County Fire from assuming CAL FIRE’s role of assisting federal agencies such as the BIA. (Fire.) The Environmental Assessment fails to consider that the Tribe would need to establish a separate local agreement with County Fire to provide wildland fire protection to the project site. (Fire.)

Third, the Environmental Assessment falsely states that the County Fire employs a firefighter-to-population ratio and a response time standard (EA p. 3-66); whereas, the County

Fire in fact uses a more prescriptive method from the Center for Public Safety Excellence as the basis to determine Standards of Cover. (Fire.) Moreover, the response time standard in the Environmental Assessment does not apply to the project site due to the distances involved and because the Santa Ynez Valley is not an urban area. (Fire.) An Environmental Impact Statement is necessary to fully evaluate the current level of fire protection services in the Santa Ynez Valley and whether capacity exists to serve the project site.

Fourth, the Environmental Assessment acknowledges that the use of the site for residential purposes could create additional demand for fire protection and would require more frequent responses from local firefighters, but makes no attempt to quantify that increase or determine if the increased need is significant. (EA p. 4-25.) Also, the Environmental Assessment says the fire trucks operated by County Fire in the vicinity of the project site can typically handle small structural fires such as residential fires, but does not address whether the fire trucks have the ability to serve the much larger, potentially multi-story, and unique to the Santa Ynez Valley Banquet Hall/Exhibition Facility. (EA p. 3-66.) Although the Environmental Assessment makes reference to stored water and a water system meeting residential demand, the Environmental Assessment does not address the fire protection capabilities of the water supply system or the details of the system. (Fire.) Additionally, it is unclear whether the suppression system meets the fire flow requirements for the Banquet Hall /Exhibition Facility, the most demanding structure in the development. (Fire.)

Additionally, the Environmental Assessment makes the faulty assumption that because a majority of the project's expected future residents currently live in the Santa Ynez Valley, no significant adverse impact of emergency calls to 911 would occur. (EA p. 4-25.) Regardless of

where the future residents of the project site may relocate from, the purpose of the project is to “provide *new* tribal housing” (EA p. 1-1 (emphasis added)), not *replacement* tribal housing and the EA must consider all impacts related to the project’s creation of 143 new residential units, and potentially a Banquet Hall /Exhibition Facility, in the Santa Ynez Valley without considering where future residents will be relocating from. It is logical to assume that as tribal members move into Camp 4, new residents will move into the members’ existing housing. Either way, there will be an increase in residents to the Santa Ynez Valley.

Finally, County Fire recommends the Tribe adopt the Santa Barbara County Fire Code or at the very least the California Fire Code to address specific local needs. The International Fire Code (“IFC”) is merely a model code and suggested template for jurisdictions to use when determining what standards are necessary to serve their unique needs and the California State Fire Marshall’s Office adopts certain applicable sections of the IFC along with many other referenced documents to form the California Fire Code (“CFC”). The Santa Barbara County Fire Code consists of the CFC as well as additional requirements designed to address specific local needs. Examples of more restrictive Santa Barbara County Fire Code requirements include those related to: automatic sprinkler systems; fire protection water supplies; fire apparatus access roads; photovoltaic systems; prohibition of fireworks; and defensible space.

The Environmental Assessment should, at minimum, require compliance with National Fire Protection Association Standards, fire flow requirements in Appendix BB of the 2013 California Fire Code, fire hydrant flow rates and spacing based on the Santa Barbara County Fire Department Development Standard #2, meet Santa Barbara County Fire Department Development Standard #3 regarding Stored Water Fire Protection Systems, the defensible

space/vegetation management requirements of California Public Resources Code 4291, that interior roadways follow Santa Barbara County Fire Department Development Standard #1, and that all fire protection sprinkler systems comply with National Fire Protection Association Standard 13. (Fire.)

2. Law Enforcement

The Environmental Assessment discusses whether calls for service from the project would be “disproportionate” to other residential or commercial development in the County, but fails to discuss the actual consideration – whether the project will *increase* the need for law enforcement services (EA p. 4-46.) and thus fails to take the required “hard look” at Camp 4’s impact on law enforcement services.

As with the fire protection analysis, the Environmental Assessment makes the faulty assumption that because future residents are expected to relocate from existing housing in the Santa Ynez Valley, no significant adverse impact to law enforcement would occur. (EA p. 4-24.) Regardless of where the future residents of the project site may relocate from, the purpose of the project is to “provide *new* tribal housing” (EA p. 1-1 (emphasis added)), not *replacement* tribal housing. The Environmental Assessment must consider all impacts related to the project’s creation of 143 new residential units, and potentially a Banquet Hall/Exhibition Facility, in the Santa Ynez Valley without considering where future residents will be relocating from.

The Environmental Assessment is incorrect that County Fire provides search and rescue assistance for incidents in the Santa Ynez Valley (EA p. 3-65) or that the Santa Barbara County Emergency Medical Services Agency is the local 911 dispatch provider (EA p. 3-67); both services are provided by the Sheriff’s Office. (Sheriff.)

To ensure that events do not interfere with roadway operations, the Environmental Assessment includes a mitigation measure requiring that the Tribe contract with CHP for speed enforcement, lane closures, traffic breaks, and queuing control (EA p. 4-46); however, there is no consideration of the potential need for additional law enforcement services to serve the needs of the event itself, and the EA fails to consider that law enforcement services for events at the Banquet Hall/Exhibition Facility would need to be provided through a specific contract for services for each event. (Sheriff.) Because the specific uses of the Banquet Hall/Exhibition Facility are so poorly defined by the EA, the Sheriff's Office is unable to determine whether a significant amount of law enforcement services would be needed to serve the project and the public because of the project. (Sheriff.)

3. Solid Waste

The Environmental Assessment fails to accurately describe the existing State requirements regarding waste diversion, the ability of the Tajiguas Sanitary Landfill to accept additional solid waste, or the total solid waste expected to be generated by Camp 4; therefore, an EIS is necessary to correct these errors and adequately analyze the impact of the project's generation of solid waste on the environment.

Among other errors, the Environmental Assessment incorrectly states throughout the document that the management of non-hazardous solid waste in the County is prescribed by AB 939, when in fact the Environmental Assessment should refer to and consider the more recently adopted AB 341, which requires the diversion of 75% of total waste stream from landfill disposal by 2020. (EA p. 3-64; PW.) Additionally, the existing diversion rate should be included as a benchmark to analyze the impact of the project. The Environmental Assessment

also incorrectly states that the daily average intake at the Tajiguas Sanitary Landfill is 650 tons per day, when it is actually 796 tons per day, and that the Tajiguas Sanitary Landfill is estimated to reach its capacity in 2032, when it is actually expected to reach capacity 6 years earlier, in 2026. (EA pp. 3-64;4-24; PW.)

The Environmental Assessment claims the Tribe would recycle as much of the construction waste as possible, making the impact of non-recyclable construction waste minimal; however, the EA makes no attempt to quantify the total amount of construction waste that will be generated, nor the percentage of construction waste that the Tribe can realistically recycle. (EA p. 4-24.) The conclusion that the non-recyclable construction waste will be minimal is unsupported by any facts or analysis.

The Environmental Assessment's discussion of solid waste only includes the residential waste in Alternatives A and B and the waste generated by the full time employees in Alternative B, but fails to consider any other project elements, for instance the solid waste expected to be generated by the agricultural operations. (EA pp. 4-24; 4-46.) The EA also fails to quantify the amount of solid waste generated by events at the Banquet Hall/Exhibition Facility other than to conclude that the waste would be collected and "collected at the time of the event . . . and disposed of accordingly." (EA pp. 4-46.) With up to 100 events a year of up to 1,000 attendees, the generation of additional solid waste would be significant, an issue which the EA fails to analyze. (EA p. 2-12.)

Additionally, the Environmental Assessment makes the faulty assumption that because expected future residents already live within the County, no significant adverse impact to solid

waste disposal would occur. (EA p. 4-46.) However, with 143 new residential units, this increase in residents to the Santa Ynez Valley must be analyzed.

4. Schools, Parks, and Recreation

The Environmental Assessment makes the faulty assumption that because expected future residents are expected to relocate from existing housing in the Santa Ynez Valley, no significant adverse impact to schools, parks, and recreation would occur. (Page 4-25; 4-26; 4-47.) However, as discussed previously, the project is to “provide *new* tribal housing” (Page 1-1 (emphasis added)), not *replacement* tribal housing and the EA must consider all impacts related to the project’s creation of 143 new residential units.

Based on the methodology in the Santa Ynez Valley Community Plan, projected student growth from the project is estimated to be 22.78 elementary students, 15.73 middle school students, and 25.74 high school students. (P&D.) The Santa Ynez Valley Community Plan includes a discussion of school enrollment issues, but because Santa Ynez Valley Community Plan is four years old, an Environmental Impact Statement is necessary for an updated analysis of the capacity of nearby schools to serve the project. (P&D.) Similarly, the increase in residents in the Santa Ynez Valley will lead to an increase in the need for parks and recreation, and this impact should be fully analyzed in an Environmental Impact Statement.

C. Water Resources

The Environmental Assessment contains inadequate analysis of Camp 4’s potential impact to groundwater resources, groundwater quality, and wastewater. An Environmental Impact Statement is necessary to evaluate all potential significant impacts to Water Resources.

1. Groundwater Resources

The EA acknowledges the past designation of an overdraft in the Santa Ynez Uplands Groundwater Basin, but fails to analyze the potential for Camp 4 to exacerbate that overdraft. (P&D.) Moreover, the Santa Barbara County Environmental Thresholds and Guidelines Manual, attached as Exhibit B, defines the withdrawal of 61 acre-feet-per-year (“AFY”) or more to be significantly adverse (Santa Barbara County Environmental Thresholds and Guidelines Manual, Table 2; pg. 61). Yet, the Environmental Assessment concludes that use of a projected 335 AFY in Alternative A and 110.3 AFY in Alternative B – five times or two times that threshold -- are not significant. (EA pp. 4-5; 4-34.) And without any proposed well locations, it is unclear whether the necessary new wells can be located so as to prevent adverse impacts to neighboring wells. Therefore, there is no analytical support for the conclusion that the new wells “would cause minimal to no off-site impacts.” (P&D; EA p. 4-6.) Additionally, the pump tests on irrigation well # 2 and #3 were performed in 1984 and 1999 (EA, Appendix. C, p. 2-8.) and are no longer relevant due to potential changes in pressure head, well condition, and other factors. (PW.)

An EIS is necessary to properly consider that supplemental supplies currently obtained from the State Water Project, that the Cachuma Project does not constitute an additional water source, and that any additional water extracted from the basin (minus return flows) will increase the magnitude of any existing overdraft. (P&D.) The EA fails to analyze long-term water supply or that water supply within the basin depends on the availability of supplemental sources including State Water and Cachuma. (P&D.) The EA should include a more thorough

discussion of water sources including the reliability of State Water, climate change considerations, and the long term reliability of the Santa Ynez River reservoirs. (PW.)

2. Groundwater Quality

The Environmental Assessment acknowledges that severe septic problems in the Uplands Basin have “led to significant nitrate contamination of the main groundwater body of the southern portion of the basin.” (EA p. 3-15.) However, water quality samples for Baseline Avenue Well #2 were obtained in 1999 (EA p. 3-16) and are no longer indicative of water quality as there has been ample time for changes in land use, accumulation of selected contaminants, and other factors to impact the results. (PW.) The lack of current and accurate information about water quality in the project area makes it unclear whether filtering or treatment facilities would be necessary to ensure United States Environmental Protection Agency standards regarding maximum contaminant levels can be met. An Environmental Impact Statement is necessary to fully study the water quality, and if the water quality is poor, the potential methods to bring water to the site which could have significant environmental impacts.

3. Wastewater

The Environmental Assessment fails to address that the Wastewater Treatment Plant will generate some solid waste from screenings and liquid sludge which will need to be hauled away and the environmental impacts of this waste. (PW.) An Environmental Impact Statement is necessary to address Camp 4’s impact to wastewater in the Santa Ynez Valley.

D. Biology

1. Oak Trees

The Environmental Assessment fails to take the required “hard look” at the potential biological impacts of Camp 4. There are substantial questions that Camp 4 may cause significant biological impacts, but the Environmental Assessment contains insufficient information and analysis to make this determination. The Environmental Assessment does not address the biological impact of removing the oak trees or that the number of oak trees proposed to be removed under either Alternative may cause significant biological impacts.

Oak trees “support a diverse wildlife population, and offer abundant resources to wildlife including food sources, shade in summer, shelter in winter, perching, roosting, nesting, and food storage sites.” (Santa Barbara County Environmental Thresholds and Guidelines Manual, page 32.) The Environmental Assessment does not consider the biological value or location of particular trees, the potential for habitat fragmentation, the removal of understory, alteration of drainage patterns, disruption of the canopy, disruption of animal movement through the woodland or whether any trees are native specimen trees. Also, under the current proposal, the removal of oak trees is based on the construction footprint of the proposed development (EA p. 5-4), not the health, age, or type of oak tree. Additionally, the Tribal Ordinance Regarding Oak Tree Preservation for the Santa Ynez Band of Chumash Indians provides little to no assurance that the biological impacts of the removal of oak trees will be considered because the Ordinance permits the loss of oak trees if they “pose a threat to human health or *impede development of Tribal facilities.*” (EA p. 3-28 (emphasis added).) With that definition, depending upon the

proposed project, any or all of the oak trees on the property could be removed without considering the resulting impact to biological resources.

Based on an aerial photo, there are estimated to be 333 oak trees on the project site. (P&D.) Alternative A's proposed removal of 70 trees is a 21% reduction of oak trees on the project site, and Alternative B's removal of 50 trees is a 15% reduction of oak trees on the project site, both of which may cause significant biological impacts that are not adequately analyzed in the Environmental Assessment. The Environmental Assessment fails to assess the impact of the removal of oak trees to the biological resources of the property. (Santa Barbara County Environmental Thresholds and Guidelines Manual, page 32.)

2. Vernal Pool Fairy Shrimp

Under Alternative A, 330.11 acres of critical habitat for Vernal Pool Fairy Shrimp would be removed from designation, and under Alternative B, 65.28 acres would be removed from designation. (EA pp. 4-13; 4-39.) The southern portion of the project site occurs within an area designated by United States Fish and Wildlife as Critical Habitat Unit 31 (EA p. 3-41) and the Environmental Assessment acknowledges that Vernal Pool Fairy Shrimp are considered to have the potential to occur within the project site, but the Environmental Assessment makes no attempt to do standard Vernal Pool Fairy Shrimp sampling to determine the presence or absence of federally listed species. (P&D.) Because the project site is located within a core area of the Vernal Pool Recovery Plan (EA p. 3-39) and the Environmental Assessment fails to identify the nature and severity of potential impacts to Vernal Pool Fairy Shrimp, an Environmental Impact Statement is necessary to fully analyze the project's impacts to Vernal Pool Fairy Shrimp. (P&D.)

3. Western Pond Turtle- A State Listed Species

The Environmental Assessment briefly mentions that a California Species of Special Concern, the Western Pond Turtle, has the potential to occur within the project site, but states that because state listed species do not receive protection when land is taken into trust and are not necessarily afforded protection under the Federal Endangered Species Act, the Environmental Assessment dismisses the state listed species as “not further addressed within this EA.” (EA p. 3-42.) Exactly because this state listed species will no longer receive protection if the project site is taken into trust, the Environmental Assessment should discuss the impact to biological resources including to this currently-protected and state listed species. The Environmental Assessment also fails to address that this California Species of Special Concern is also considered a Species of Concern by the United States Fish and Wildlife Services and that the greatest single threat to this species is habitat destruction. An Environmental Impact Statement is necessary to fully analyze the impact of the project on this biological resource and the baseline in the Environmental Impact Statement should take into consideration the current protection that western pond turtles receive under State law.

E. Air Quality

The Environmental Assessment refers to a County 2010 Climate Action Strategy document, as well as Environmental Protection Agency Greenhouse Gas (GHG) Reporting Program Requirements, but makes no attempt to analyze the potential significance of GHG impacts. (P&D.) The Environmental Assessment relies merely on conclusory statements based on vaguely described measures from a County Climate Action Strategy

document. (P&D.) Although this County document is a report on potential approaches to a strategy, the County has not yet adopted a Climate Action Strategy. (P&D.)

F. Traffic

The Environmental Assessment lacks enough specific information on Camp 4 to fully evaluate traffic impacts. However, it is apparent that Camp 4 would increase traffic and congestion on County roads, particularly under Alternative B's special event proposal of 100 events with up to 1,000 attendees per event. (EA p. 2-12; Appendix C, p. 3-1.) There are substantial questions that Camp 4 may cause a significant impact on traffic such that NEPA requires preparation of an Environmental Impact Statement.

Camp 4 parcels are currently accessed by County roads, Baseline Avenue and Armour Ranch Road, and Camp 4 will be creating new connections to those County roads. Yet, the Environmental Assessment fails to include any discussion about County regulatory setting on the roads accessing the project site. (EA p. 3-52.) For instance, the new access points which would serve Camp 4 usually require an Encroachment Permit from the County and must be designed in coordination with the County Traffic Engineer to assure safe turning movements and sight distance. (PW.) Additionally, County Oversize Load Permits and/or Haul Permits would be necessary for hauling oversize loads on Baseline Avenue and Armour Ranch Road. (PW.)

The Environmental Assessment discusses the project's fair share contribution to traffic improvements related to the state highway system, yet fails to address how the project will contribute its fair share to any improvements to County roads made necessary as a result of the

project. (EA pp. 5-8; 5-9.) The traffic study fails to analyze the impacts of the new connections to Baseline Avenue and Armour Ranch Road and the study should be revised to include appropriate analysis as well as turn lane warrants. (PW.) All analyses should be done for both daily operations as well as times when the Banquet Hall/Exhibition Facility holds events. (PW.)

Because the specific uses of the Banquet Hall/Exhibition Facility are so poorly defined by the Environmental Assessment, the Environmental Assessment fails to adequately analyze potential traffic impacts from the Banquet Hall/Exhibition Facility. (PW.) The project description and traffic study should be refined to provide a more detailed explanation of what will occur at the Banquet Hall/Exhibition Facility as well as the anticipated peak times of use. (PW.) For instance, if concerts, conventions, or other uses become part of the scope of the project, the trip generation estimates based on its use as a “Recreational Community Center” would not be appropriate. (PW; EA, Appendix. I, p. 11.)

The Environmental Assessment states that to ensure visitor access to the site does not interfere with roadway operations, the Tribe will be required to contract with the California Highway Patrol for speed enforcement, lane closures, traffic breaks, and queuing control during special events. (EA pp. 4-46; 5-10.) However, this mitigation measure is in fact meant to reduce adverse impacts to *law enforcement services* and the mitigation measure *interferes* with roadway operations by providing for lane closures, traffic breaks, and queuing control. Additionally, should lane closures be necessary on County roads for any construction or event, a County traffic control plan and permit would need to be obtained. (PW.)

G. Visual Resources

There is a substantial question that Camp 4 may cause significant impacts to visual resources. Camp 4 is located adjacent to State highway 154, and there is a scenic design overlay over and surrounding Highway 154. Adding 143 residential units and potentially 80,000 square feet of Tribal Facilities, including an office complex and potentially multi-story Banquet Hall/Exhibition Facility will likely cause significant visual impacts.

The Environmental Assessment claims the proposed housing development would be similar in nature to existing low density, rural residential development but does not address that rural residential development on surrounding parcels are on larger lots, and some development is subject to review by the County design review board. (EA p. 4-31.) Adjacent rural residential lots to the east are 5 acres in size. (P&D.) Adjacent rural residential lots to the north are a mixture of 5, 10, and 20 acres in size. (P&D.) There are no lots less than 5 acres in the area. (P&D.) The Environmental Assessment in no way addresses how 1-acres lots are similar in visual character to surrounding development. (EA p. 4-49.)

The Environmental Assessment completely fails to address the visual impact of a 79,164 square foot Banquet Hall/Exhibition Facility which is not similar to any surrounding agricultural uses or rural residential uses. (EA p. 4-49.) The EA identifies that the Community Center is proposed to have an agricultural/equestrian theme but there is no additional discussion as to whether the building will be one or multiple stories tall or whether it will be compatible with the visual resources of the surrounding area. (EA p. 2-12.) No mitigation measures are in place to ensure development on the property is consistent with the distinctive style of the Santa Ynez Valley so as to be consistent with surrounding visual resources. (EA p. 5-11.)

The Environmental Assessment also neglects to analyze Camp 4's impact on night and outdoor lighting which is regulated by County's Outdoor Lighting Regulations for the Santa Ynez Valley Community Plan Area. (County Land Use and Development Code section 35.30.120.) Camp 4's residential proposal as well as the potential Banquet Hall/Exhibition Facility will likely cause substantial light pollution, interfere with the night sky throughout the Santa Ynez Valley and cause a significant impact to visual resources.

The Environmental Assessment is completely inadequate in its analysis of visual resources, both in the lack of detail and the lack of recognition of the significant change that this project will cause to the relatively undisturbed, agriculturally centered Santa Ynez Valley. Thus, a full EIS analysis is required for visual resources.

IV. THE ENVIRONMENTAL ASSESSMENT'S GENERALIZED AND CONCLUSORY STATEMENTS REGARDING CUMULATIVE IMPACTS DO NOT CONSTITUTE THE "HARD LOOK" REQUIRED BY NEPA.

The Environmental Assessment's discussion of cumulative impacts consists of perfunctory general statements about possible effects and fails to provide a useful analysis of the cumulative impacts of past, present, and future projects. (*Ocean Advocates v. United States Army Corps of Eng'rs*, 402 F.3d 846, 868 (9th Cir. Wash. 2005).) The Environmental Assessment fails to provide quantified and detailed information regarding cumulative impacts and thus does not constitute the "hard look" required by NEPA. (*Id.* at 864-865; *Kern v. US Bureau of Land Management*, 284 F.3d 1062, 1075(9th Cir. 2002).) Additionally, the Environmental Assessment's cumulative impact section incorrectly focuses on the impacts of the project, rather than the *combined* impacts resulting from the activities of the project along

with past, present, and reasonably foreseeable projects. (*Te-Moak Tribe of Western Shoshone of Nev. v. United States DOI*, 608 F.3d 592, 603-604 (9th Cir. Nev. 2010).) An Environmental Impact Statement is necessary to fully analyze and mitigate the cumulative impacts of all applicable past, present, and reasonably foreseeable projects.

A. Generalized Conclusory Statements

The Environmental Assessment's "generalized conclusory statements that the effects are not significant or will be effectively mitigated" are the type of statements that "do not constitute a hard look." (*Bering Strait Citizens for Responsible Res. Dev. v. United States Army Corps of Eng'rs*, 511 F.3d 1011, 1027 (9th Cir. Alaska 2008); *Neighbors of Cuddy Mtn. v. U.S. Forest Serv.*, 137 F.3d 1372, 1380 (9th Cir. 1998).) Consideration of cumulative impacts "requires some quantified or detailed information" in order to result in a useful analysis. (*Center for Environmental Law and Policy v. U.S. Bureau of Reclamation*, 655 F.3d 1000, 1007 (9th Cir. 2011).) Without such information, "neither the courts nor the public . . . can be assured that the [agency] provided the hard look that it is required to provide." (*Te-Moak Tribe of Western Shoshone of Nev. v. United States DOI*, 608 F.3d 592, 603 (9th Cir. Nev. 2010) (quoting *Neighbors of Cuddy Mt. v. United States Forest Serv.*, 137 F.3d 1372, 1379 (9th Cir. Idaho 1998).) The Environmental Assessment's cumulative impact section consists largely of conclusory statements and contains little quantified or detailed information.

For instance, the Environmental Assessment's Land Use subsection concludes that "The proposed development of residential and governmental uses on land that is currently zoned for agriculture would not contribute to the conversion of surrounding agricultural land. Existing

agricultural operations in the area would not be converted; therefore, implementation of Alternative A or Alternative B would not contribute to cumulatively considerable impacts to agriculture in the region.” (EA, p. 4-64.) Another example is the Environmental Assessment’s Public Services subsection which states “the combined need for public services may create a cumulative impact.” (EA, p. 4-67.) Such discussions are insufficient under NEPA because they consist entirely of conclusory statements and contain no quantified or detailed information to result in a useful analysis.

Additionally, in almost every subsection the Environmental Assessment states that compliance with codes, standards, or ordinances means that no potential cumulative impacts would occur. For instance in the Visual Resources subsection, the Environmental Assessment concludes that because surrounding lands are subject to local land use regulations and lighting ordinances “the approved and pending projects that would occur in the immediate area would not result in substantial impacts to visual resources or result in significant new sources of light or glare.” (EA, p. 4-68.) However, the “incremental impact[s]” of past, present, and reasonably foreseeable future actions, even if all development complies with codes, standards, and ordinances, are exactly what the Environmental Assessment is required to consider. (40 C.F.R. 1508.7.)

B. The Environmental Assessment Only Considers the Impacts of the Project

A cumulative impact is defined as “the impact on the environment which results from the incremental impact of the action *when added to* other past, present, and reasonably foreseeable future actions regardless of what agency (Federal or non-Federal) or person undertakes such

other actions. Cumulative impacts can result from individually minor but collectively significant actions taking place over a period of time.” (40 C.F.R. 1508.7 (emphasis added)). Throughout the cumulative impact section, not only does the Environmental Assessment fail to identify any past activities in the project area, the Environmental Assessment only considers the impacts of the particular project in isolation, not environmental impacts that result from the project when added to other projects. For instance, the Air Quality subsection only discusses that *this project* would not result in adverse effects to the regional air quality environment or California’s GHG reduction goals. (EA, p. 4-55–4-58.) Another example comes from the Public Services subsection, which concludes “Alternatives A or B would not result in significant cumulative impacts to public services.” (EA, p. 4-67.) An Environmental Impact Statement is necessary to fully analyze and mitigate the cumulative impacts of all applicable past, present, and reasonably foreseeable projects.

**V. MITIGATION MEASURES ARE INADEQUATE BECAUSE THEY LACK
DETAIL AND CONTAIN NO DISCUSSION OF EFFECTIVENESS.**

The mitigation measures identified in the Environmental Assessment are inadequate because they are a “mere listing” of mitigation measures and are insufficient to qualify as the reasoned discussion required by NEPA. (*Neighbors of Cuddy Mt. v. United States Forest Serv.*, 137 F.3d 1372, 1380 (9th Cir. Idaho 1998); *Okanogan Highlands Alliance v. Williams*, 236 F.3d 468, 473 (9th Cir. Or. 2000).) The Environmental Assessment discussion of mitigation fails to contain “sufficient detail to ensure that environmental consequences have been fairly evaluated.” (*Robertson v. Methow Valley Citizens Council*, 490 U.S. 332, 350, 109 S. Ct. 1835, 104 L. Ed. 2d 351 (1989).) Additionally, the Environmental Assessment fails to provide an estimate of

how effective mitigation measures would be if adopted, or give a reasoned explanation as to why such an estimate is not possible. (*Neighbors of Cuddy Mt, supra*, 137 F.3d at 1381.)

A. Mitigation Measures that Purport to Minimize Impact

The definition of mitigation includes “[m]inimizing impacts by limiting the degree or magnitude of the action and its implementation” (40 C.F.R. § 1508.20(b)), which the Environmental Assessment purports to do in the areas of Water Quality, Air Quality, and Public Service Resources (fire).

For Water Quality, the Environmental Assessment acknowledges that severe septic problems in the Uplands Basin have “led to significant nitrate contamination of the main groundwater body to the southern portion of the basin,” (EA p. 3-15) yet inexplicably relies on water quality samples from 1999. Since 1999, there may have been changes in land use, accumulation of selected contaminants, and other factors that impact the results. (EA, p. 3-15; 3-16.) Water Quality mitigation measures lack sufficient detail to ensure that environmental consequences have been fairly evaluated and lack any data as to the effectiveness of the measures.

For Air Quality, the Environmental Assessment says the mitigation measures in Section 5.3 would minimize criteria air pollutants under the cumulative year 2030 (EA, p. 4-55), but the mitigation measure merely refers to the Best Management Practices section which lists a number of general measures such as siting buildings to take advantage of shade, without providing an estimate of how effective the mitigation measures would be if adopted. (EA, p. 5-3; 2-10.) The Environmental Assessment also states the Tribe would assist the City of Solvang in expanding

the current public transportation system, but the mitigation only vaguely says “[t]he Tribe shall work with the Santa Ynez Valley Transit to extend public transportation to the project site and construct public transportation stops on Baseline Road east of SR-154.” (EA, p. 5-4.) The Environmental Assessment merely lists this mitigation measure, making it insufficient to qualify as the reasoned discussion required by NEPA. Additionally, regarding climate change, the Environmental Assessment says the Tribe will increase diversion from landfills by recycling 50% of the solid waste generated on-site; however, compliance with this measure does not meet the current 75% diversion goal required by AB 341. (EA, p. 4-57; 5-3.) This mitigation measure fails to contain sufficient detail to ensure that environmental consequences have been fairly evaluated.

For Public Service Resources, the Environmental Assessment states that for Alternative A, structural fire protection would be provided through compliance with a tribal ordinance and an assurance that appropriate water supply and pressure would be available for emergency fire flows (EA, p. 2-11). For Alternative B, fire protection for the tribal community facilities would be addressed through an early detection system that ensures an initial response to any fire alarm as well as smoke detection and automatic sprinkler systems. (EA, p. 2-14.) Code compliance does not mitigate the need for emergency fire response services to the project, and illustrates that the impact on local fire and emergency medical services responders has not been fairly evaluated or mitigated.

B. Mitigation Measures that Purport to Compensate for Impact

The definition of mitigation includes “[c]ompensating for the impact by replacing or providing substitute resources or environments” (40 C.F.R. § 1508.20(e)), which the

Environmental Assessment purports to do in the areas of Biological Resources (oak trees) and Public Services (law enforcement, fire).

For Biological Resources, the Environmental Assessment states that the impact of the removal of oak trees will be compensated for by a future Arborist Report which will provide a re-vegetation plan including proposed planting locations to ensure a “no net loss” of oak trees (EA, p. 5-4); however, the Environmental Assessment provides no estimate of how effective this measure would be to compensate for the biological impacts of habitat fragmentation, the removal of understory, alteration of drainage patterns, disruption of the canopy, or disruption of animal movement through the woodland.

For Public Services, the Environmental Assessment states that the impacts of special events on law enforcement will be compensated for by the Tribe entering into contracts with California Highway Patrol for speed enforcement, land closures, traffic breaks, and queuing control during special events (EA, p. 5-10); however, the Environmental Assessment’s mitigation looks only to road impacts and provides no estimate of how effective this measure would be to compensate for the increased call load requesting law enforcement services anticipated with special events. The Environmental Assessment incorrectly states that there will be no impact to law enforcement or fire services because the Tribe will continue to fund the Sheriff and County Fire. (EA pp. 3-65; 3-66; 4-24.) In fact, past and future contributions to the Indian Gaming Special Distribution Fund may only be released by the Indian Gaming Local Community Benefit Committee for grant applications that “mitigate impacts from *casinos* on local jurisdictions.” (Gov. Code § 12715(h) (emphasis added).) Therefore, the impacts of the project on law enforcement and fire services are not mitigated through current financial support

from the Tribe and would not be mitigated by increased financial support through the Tribal-State Gaming Compact.

VI. THE ENVIRONMENTAL ASSESSMENT INACCURATELY DESCRIBES CAMP 4 AS AN “ON-RESERVATION” ACQUISITION REQUEST; HOWEVER, CAMP 4 IS NOT CONTIGUOUS TO THE EXISTING RESERVATION AND MUST NOT BE TREATED AS “ON-RESERVATION.”

The Environmental Assessment inaccurately describes Camp 4 as a contiguous, “On-Reservation” acquisition. However, this is a fatal error that creates a misunderstanding throughout the Environmental Assessment. This error underlies the evaluation of impacts and creates an inaccurate analysis by implying that a contiguous acquisition has less impacts than a non-contiguous acquisition. In reality, Camp 4 is located 1.75 miles from the Tribe’s existing 138-acre Reservation, and there are no shared boundaries. On September 11, 2013, the County filed a Notice of Appeal of the BIA’s decision to approve the Consolidation. A copy of the County’s Notice of Appeal (“Notice”) is attached as Exhibit C.

VII. THE ENVIRONMENTAL ASSESSMENT SHOULD PROPERLY DESCRIBE THE NO-ACTION AND OTHER REQUIRED ALTERNATIVES.

NEPA requires agencies to study, develop, and describe appropriate alternatives to recommended courses of action which involve unresolved conflicts concerning alternative uses of available resources. (42 USC § 4332(2)(E).) Consideration of alternatives is critical to the goals of NEPA even where a proposed action does not trigger an Environmental Impact Statement. (*Bob Marshall Alliance v. Hodel* (9th Cir. 1988) 852 F.2d 1223, 1228-1229.) NEPA

requires an Environmental Assessment to include a brief discussion of the need for the proposal, of alternatives as required by 42 U.S.C. section 4332(2)(E), and of the environmental impacts of the proposed action and alternatives. (*Native Ecosystem Council v. US Forest Services* (9th Cir. 2005) 428 F.3d 1233, 1245.) Section 4332(2)(E) requires all agencies of the Federal Government to “study, develop, and describe appropriate alternatives to recommended courses of action in any proposal which involves unresolved conflicts concerning alternative uses of available resources.” “The scope of reasonable alternatives that an agency must consider is shaped by the purpose and need statement articulated by that agency.” (*‘Ilio’Ulaokalani Coalition v. Rumsfeld* 464 F.3d 1083, 1097-1098 (2006).) An agency “must consider all reasonable alternatives within the purpose and need it has defined.” NEPA requires that alternatives be given full and meaningful consideration. (*Native Ecosystem Council v. US Forest Services* 428 F.3d at p. 1245).

The Environmental Assessment failed to adequately analyze the “No Action” Alternative and failed to analyze reasonable project alternatives such as an off-site, re-build, clustered development, or reduced acreage fee-to-trust acquisition.

A. No-Action Alternative

The Environmental Assessment improperly assumes that under the No-Action Alternative “the 1,433± acre project site would not be placed into trust for the benefit of the Tribe and the property would not be developed as identified under Alternatives A and B. As described in the EA, the Tribe would retain ownership of the properties in fee title, and jurisdiction would remain with Santa Barbara County. The existing vineyard would continue to operate on the project site.” (EA p. 2-15.) That assumption describes the baseline, not the No-

Action Alternative. The No-Action Alternative should analyze the development that is reasonably foreseeable on the site if the proposed project does not go forward.

The Environmental Assessment states that if the property is not taken into trust, it would not be developed in the near future due to land use restrictions (EA p. 4-51); however, development on the property is not barred. Under current County regulations of the project area, even without seeking a rezoning or lot split, two additional single family dwellings could be constructed onsite, one each on two undeveloped parcels and the remaining parcel would be allowed up to four agricultural employee dwellings so long as justification is provided for the use of onsite employees. (P&D.)

An EIS should be prepared to investigate and assess the extent to which the true No-Action Alternative would meet the project's stated purpose and need, either by itself or in conjunction with other, off-site residential development. The EIS should further disclose that such development would not only be consistent with the adopted policies of the County, it could reduce both the cost of site improvements and the environmental consequences of the proposed development.

B. Off-Site, Re-build, Clustered Development, and Reduced Fee-to-Trust Alternative

An Environmental Impact Statement is required to correct the errors of the Environmental Assessment and analyze off-site alternatives, a re-build alternative on the current Reservation, a clustered development alternative, and a reduced acreage fee-to-trust acquisition. The purpose of the proposed action is "providing housing within the Tribal Consolidation Area to accommodate the Tribe's current members and anticipated growth." (EA p. 1-6.) When the purpose of a project "is not, by its own terms, tied to a specific parcel of land", off-site

alternatives are reasonable and should be considered as part of the EIS. (*See 'Ilio'ulaokalani Coalition v. Rumsfeld*, 464 F.3d 1083, 1098 (9th Cir. Haw. 2006).)

The Tribal Consolidation Area encompasses approximately 11,500 acres and housing for tribal members could be met by far more limited development on the project site itself, and/or in conjunction with nearby residential development consistent with local general plans and zoning. Such development could avoid land use conflicts, the removal of oaks and productive agriculture, the need for a site-specific wastewater treatment plant, and other significant adverse impacts. An EIS should be prepared to identify and analyze off-site locations that can accommodate housing development or other project components.

A re-build alternative should be analyzed that would study the impacts of redeveloping the existing residential area on the Reservation with a mixed-use, higher density 143 unit housing development with pedestrian and multi-modal transportation connections to the urban area of Santa Ynez and the Chumash casino. This would accomplish the stated purpose of providing more housing for tribal members and greatly reduce the identified significant impacts to the Camp 4 site and surrounding areas.

The Environmental Impact Statement should also consider a clustered development Alternative. Alternative A attempts to cluster development; however, with large 5-acre sites, it is difficult to reduce the impacts. Alternative B, which includes 1-acre home sites, does not cluster the sites and instead distributes the proposed lots across the entire property, which results in significantly more impact to biological and agricultural resources than if the lots were clustered. This alternative should be revised or replaced with a 1-acre clustered lot alternative.

The Environmental Impact Statement should consider an Alternative which takes less land into trust. To accomplish the goal of providing more tribal housing, it is unnecessary to take all 1,433 acres into trust. This alternative was mentioned but rejected in the Environmental Assessment without adequate explanation. (EA p. 2-1.) Even with one-acre sites, which are large for many Santa Barbara County subdivisions, the needed acreage is only 143 acres, with perhaps a few more acres to accommodate circulation but not all 1,433 acres. The existing Reservation already provides open space, economic development, recreation and commercial enterprise – other stated goals of Camp 4.

In summary, the Environmental Assessment's analysis of alternatives is completely inadequate. Alternative projects are possible and reasonable to accomplish the goals of Camp 4 without causing so many significant impacts to the environment and to Santa Barbara County residents.

CONCLUSION

Prior to any decision on Camp 4, the BIA, the County, and the public need to be fully informed about all potential significant environmental impacts. Therefore, the County respectfully requests that the BIA prepare a complete Environmental Impact Statement for Camp 4.

Environmental Assessment
Comment Letter Exhibits

available at

<http://www.countyofsb.org/ceo/default.aspx?id=44068>