

ATTACHMENT A

County Of Santa Barbara

Mona Miyasato
County Executive Officer



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Executive Office

February 11, 2015

Mr. Joe Dhillon
Senior Advisor for Tribal Negotiations
The Office of the Governor
State Capitol Building
Sacramento, CA 95814

Sent via email: Joe.Dhillon@GOV.CA.GOV

Re: Santa Ynez Band of Chumash Indians Casino Expansion/Proposed Camp 4 Fee-to-Trust

Dear Mr. Dhillon:

Thank you very much for speaking with representatives of the County of Santa Barbara on December 11, 2014. I greatly appreciate both you and Sara Drake of the Attorney General's Office spending time with us. In addition, I appreciate your genuine desire to assist the County in matters stemming from the Proposed Santa Ynez Band of Chumash Indians Casino Expansion and the Camp 4 Fee-to-Trust project.

As we discussed, the County of Santa Barbara is very interested in working with the Governor's Office and the Santa Ynez Band of Chumash Indians to craft compact language that improves intergovernmental relationships and addresses the impacts of tribal gaming. As you are aware, the 1999 Compacts fail to provide meaningful and enforceable mechanisms to prevent or mitigate impacts. The County respects and promotes tribal self-governance, and correspondingly, the County must fulfill mandates of local government to provide for the public health, safety, and general welfare of all residents in the County of Santa Barbara. Therefore, an enhanced framework must be developed to better address the overall needs of the communities we serve. Therefore, we appreciate your invitation to provide information on provisions we believe would enhance future compacts.

The following information is based on the County's adopted Legislative Platform on Tribal Gaming Compacts, and outlines our request to improve future compact language. The most critical elements are described below and include citations from the 2013 State of California and the Fort Independence Indian Community of Paiute Indians Compact and the 2013 State of California and the Karuk Tribe Compact.

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- **Mitigation of off-reservation impacts to the same degree as required by state and federal laws.** In order to ensure consistent regulation, public participation, and environmental protection, compacts must require tribal governments operating a casino or other related business to fully analyze and mitigate all off-reservation impacts to the same degree as required by state and federal environmental laws. Further, compacts must provide a process to fairly determine whether the Tribal Environmental Impact Report (TEIR) is consistent with NEPA and CEQA standards and provide adequate information to fully assess the impact of a project.
 - Language The Fort Independence Compact authorized by Gov. Brown in 2013, Sections 11.8.1 through 11.8.7, specifically set forth requirements for tribal environmental impact reports and the need to consider existing baseline data and environmental setting as well as the need for a tribe to provide "good faith" response to comments.
 - Use of the "Off-Reservation Environmental Impact Analysis Checklist," referenced within Attachment B of the Fort Independence Compact, should be included in order to accurately address the comprehensive impacts associated with any proposed project.

- **Tribal governments operating a casino or other business must be subject to the authority of local and state regulations concerning public health and safety issues.** This must include, but not be limited, to water sewer, fire inspection and protection, ambulance, food and building inspection, and critical law enforcement services.
 - Section 12 of the Fort Independence Compact specifically identifies and addresses the County of Santa Barbara's needs regarding compliance with all state and local standards.
 - Section 6.4.2 (b) – (h) requires compliance with the California Building Code and the California Public Safety Code with pertinent references to building, electrical, energy, mechanical, and fire safety systems.
 - Section 9.4 of the Fort Independence Compact states that all state and local law-enforcement agencies and state courts should exercise jurisdiction to enforce the state's criminal laws on Indian lands including a gaming facility, and all similar structures, as exercised to the fullest extent of the decisions of the US Supreme Court.

- **Judicially enforceable agreements must be required to ensure impacts are fully analyzed and mitigated.** Compacts must also contain provisions to impose binding arbitration on the Tribe and County if the parties cannot agree on the terms of a mutually-beneficial enforceable agreement related to mitigation of the impacts of a new or expanded casino or related project.
 - Section 11.8.8 of the Fort Independence Compact provides appropriate language to foster government to government relationships yet also provides for binding arbitration as a means to resolve disputes. In order to fully implement the principles referenced throughout this correspondence it is essential to secure a judicially enforceable agreement with a local government before a new or extended compact becomes effective.
 - The Fort Independence Compact Sections 11.8.7 and 11.8.8 provide requested language; specifically, Section 11.8.8 (b) includes a waiver of sovereign immunity to enforce the obligation to arbitrate, enforce any arbitration award and to enforce a

judgment based on the arbitration award. Such language is essential if good faith negotiations and thoughtful resolution of disputes are to occur between the Tribe and the County.

- **Finally, it is essential that tribal governments operating casinos or other related businesses pay a local government the Tribe's fair share or appropriate cost of local government services.** Means for reimbursement include, but are not limited to payments equivalent to property tax, sales tax, benefit assessments, appropriate fees for services, development fees and other similar costs typically paid by businesses to offset impacts. It is critical that the now defunct Indian Gaming Special Distribution fund not be the exclusive source of mitigation for such impacts.

In addition to the items specifically referenced within this correspondence, the County of Santa Barbara also supports the efforts of the California State Association of Counties (CSAC) in continuing to work on behalf of all counties to promote local agreements, improve the integrity of tribal environmental review documents, insure off-Reservation impacts of tribal casinos are fully mitigated, and that adequate time is provided to local governments to both comment on environmental documents and conduct meaningful negotiations. We are very hopeful that this work, coupled with CSAC's ongoing dialog with the Governor's Office, will also inform the development of language for a future Santa Ynez Band of Chumash Indians Tribal-State Compact.

Thank you once again for your time and consideration of our requests for improved, future compact language. We look forward to continuing to work with your office to develop mutually agreeable compact language to meet the needs of all and within Santa Barbara County.

Sincerely,



Mona Miyasato
County Executive Officer

cc: Members, County of Santa Barbara Board of Supervisors
Mike Ghizzoni, County Counsel
Terri Maus Nisich, Assistant County Executive Officer